KPMG

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FINRA 2020 Risk Monitoring and Examination Priorities

Key points

- FINRA's 2020 Priorities Letter highlights new areas of regulatory focus related to:
  - Sales practices and supervision, including Regulation Best Interest
  - Market integrity, including best execution
  - Financial management, including digital assets and the LIBOR transition
  - Firm operations, including technology governance
- FINRA encourages firms to use the 2020 Priorities Letter in conjunction with other FINRA reports to enhance their compliance, supervisory, and risk management programs.
- FINRA has identified multiple priority areas consistent with the SEC's 2020 Examination Priorities, including Regulation Best Interest and Form CRS, the LIBOR transition, digital assets, and cybersecurity.

KPMG regularly assists clients in the review and/or remediation of compliance issues across the examination areas prioritized by FINRA, including sales practices/Regulation Best Interest, best execution, liquidity management, and Bank Secrecy Act/AML requirements. KPMG can assist firms with efforts to document controls, conduct strong and regular risk assessments, and develop reasonably designed policies and procedures that help to maintain compliance and should aid in defense of supervision and failure to have reasonably designed processes.

FINRA has released its 2020 Risk Monitoring and Examination Priorities Letter (2020 Priorities Letter) highlighting "new and emerging" areas where it will focus on risk monitoring, surveillance, and examination programs in addition to "ongoing priority" areas (as discussed in previous FINRA letters). The identified new and emerging areas include:

Sales practice and supervision

- **Regulation Best Interest and Form CRS**. In the first part of the year, FINRA will review firms' preparedness for Regulation Best Interest (Reg BI) to gain an understanding of implementation challenges they face and, after the June 30, 2020 compliance date, will examine firms' compliance with Reg BI, Form CRS and related SEC guidance and interpretations. FINRA staff expects to work with SEC staff to ensure consistency in examining broker-dealers and their associated persons for compliance with Reg BI and Form CRS.
- **Communications with the public**, including how firms:
  - Review, approve, supervise, and distribute retail communications regarding private placement securities via online distribution platforms as well as traditional channels
  - Review, approve, supervise, and retain retail communications through digital channels.
- **Cash management and bank sweep accounts**, including compliance with FINRA and SEC rules

covering change in ownership, standards of commercial honor and principles of trade, communications with the public, net capital, and customer protection.

— **Sales of initial public offering shares**, including procedures to detect and address potential instances of flipping or "spinning," controls to prevent allocations to restricted persons, and procedures to verify customer information.
— **Trading authorization,** including supervisory systems relating to trading authorization, discretionary accounts and key transaction descriptors, such as solicitation indicators.

Ongoing sales practices areas of focus will include complex products, variable annuities, private placements, fixed-income mark-up/mark-down disclosures, representatives acting in certain positions of trust or authority, and senior investors.

Market integrity

— **Direct market access controls,** giving consideration to controls for monitoring and responding to aberrant behavior by trading algorithms, adjusting customer credit limit thresholds, and implementing and monitoring vendor tools.
— **Best execution,** focusing on whether firms use reasonable diligence to determine that customer order flow is directed to the best market given the size and types of orders, and the terms and conditions of orders, giving particular attention to routing decisions, odd-lots handling, U.S. Treasury Securities pricing, and options orders.
— **Disclosure of order routing information,** in compliance with Regulation National Market System (NMS) Rule 606, which requires broker-dealers to provide new customer-specific reports for not held orders in NMS stocks.
— **Vendor display rule,** and in particular, the adequacy of firms' controls and supervisory systems to provide their customers with the current consolidated National Best Bid or Offer (NBBO) as required by Regulation NMS Rule 603.

Ongoing obligations discussed in prior years' letters including market manipulation, Trade Reporting and Compliance Engine (TRACE) reporting, short sales, and short tenders.

Financial management

— **Digital assets**, including a firms' presentation of digital assets in marketing materials and retail communications, particularly with regard to investment risks and affiliated entities
— **Liquidity management**, including stress testing and contingency funding plans
— **Contractual commitments related to underwriting activities**
— **LIBOR transition** – FINRA will engage with firms outside the examination program to understand how the industry is preparing

Firm operations

— **Technology governance**, including change- and problem-management practices that may impact customer-facing activities, trading, operations, back-office and compliance programs, such as business continuity planning.

FINRA will continue to assess firms' supervisory controls relating to Customer Confirmations and firms' anti-money laundering compliance program. Firms should also expect that FINRA will assess whether their policies and procedures are reasonably designed to protect customer records and information against cybersecurity threats.

For additional information please contact Tracy Whille or Stefan Cooper.

Related KPMG Regulatory Alerts include:

— FINRA's 2019 Report on Examination Findings and Observations
— SEC's 2020 Examination Priorities
— SEC Regulation Best Interest
— 2020 Supervisory Priorities of the FRB, OCC, and FSOC

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Regulatory Alert

Regulatory Insights

January 2020

SEC 2020 Examination Priorities

Key points

- The 2020 Examination Priorities of the SEC's Office of Compliance Inspections and Examinations are generally consistent with last year's examination priorities and include:
  - Retail investors, including concerns related to seniors, disclosures, and conflicts of interest
  - Specific focus areas for RIAs, investment advisers, broker-dealers, and municipal advisers
  - Information security, including cybersecurity
  - Fintech and innovations, including digital assets and "robo-advisers"
  - Anti-money laundering programs, including SARs
  - Critical market infrastructure providers, such as clearing agencies and transfer agents
  - FINRA and MSRB operations
- Examinations related to Regulation Best Interest will focus on preparation and implementation, including disclosures and delivery of the new Form CRS
- The SEC notes that it will be reviewing firms' preparations and disclosures regarding their readiness for the LIBOR transition, particularly in relation to its effects on investors.

KPMG regularly assists clients in the review and/or remediation of compliance issues across the examination areas prioritized by the SEC, including retail investors and Regulation Best Interest, information security, implementation of new technologies, and Bank Secrecy Act/AML requirements. KPMG can assist firms with efforts to document controls, conduct strong and regular risk assessments, and develop reasonably designed policies and procedures that help to maintain compliance and should aid in defense of supervision and failure to have reasonably designed processes.

The SEC's 2020 Examination Priorities preview the areas—practices, products, and services—that it believes present potentially heightened risk to investors or to the integrity of the U.S. capital markets. The priorities will drive many of the Office of Compliance Inspections and Examinations' (OCIE) upcoming examinations; the SEC adds that the scope of individual examinations as well as the selection of registered entities for examination will generally be determined through a risk-based approach. Highlights of the individual priority areas follow.

Retail investors. Examinations will focus on matters of importance related to retail investors, with emphasis on seniors and retirement savers. OCIE will prioritize examinations of 1) intermediaries that serve retail investors, including Registered Investment Advisers (RIAs), broker-dealers, and dually-registered firms, and 2) investments marketed to, or designed for, retail investors, including mutual funds and exchange-traded funds (ETFs), municipal securities, and microcap securities. Examination areas highlighted by OCIE include:

— **Disclosures** relating to fees and expenses and conflicts of interest, including compensation arrangements. Registered firms must implement controls and systems to ensure disclosures are made and that the firm's actions match the disclosures.
— **Recommendations and advice** to 1) seniors, and 2) teachers and military personnel, with a focus on higher risk products, including private placements and securities of issuers in new and emerging risk areas (i.e., complex or non-transparent, high fees and expenses, where the issuer is affiliated with the recommending firm). OCIE will continue to assess whether firms have fulfilled their duties of care and loyalty, as appropriate.
— **Practices related to mutual funds and ETFs** including financial incentives provided to financial services firms and professionals that may influence the selection of mutual fund share classes, and the disclosure and application of certain fee discounts.
— **Broker-dealer trading activity in municipal and corporate bonds,** for compliance with best execution obligations, fairness of pricing, mark-ups and mark-downs, commissions, and disclosures.
— **Broker-dealer and transfer agent activity in smaller market capitalization companies** (under $250 million), including, as appropriate, sales practices, supervision of high risk registered representatives, compliance with certain regulatory requirements (Rule 15c2-11 Exchange Act, Regulation SHO, SAR reporting), and distributions and share transfers.
— **Standards of Care related to Regulation Best Interest.** OCIE will engage with broker-dealers during examinations prior to the June 30, 2020 compliance date for Regulation Best Interest and the Form CRS Relationship Summary regarding their progress with implementation. After the compliance date, OCIE will assess implementation of Regulation Best Interest, including policies and procedures regarding conflicts disclosures for broker-dealers and RIAs, and content and delivery of Form CRS.

RIAs and Investment Companies. Additional areas of examination focus will include:

— The design, implementation, and maintenance of the compliance program, as well as the effectiveness of that program to address best execution, prohibited transactions, fiduciary advice, or disclosure of conflicts.
— Due diligence practices, policies, and procedures covering third-party asset managers providing investment advice to the RIAs' clients.
— The activities of RIAs to mutual funds and ETFs, including the use of third-party administrators and RIAs to private funds that also manage a registered investment company with a similar strategy.
— Compliance risks for RIAs to private funds, including controls to prevent misuse of material non-public information and conflicts of interest.
— RIAs and mutual funds and ETFs that have not been previously examined.

Broker-dealers and Municipal Advisors. Additional areas of examination focus will include:

— The safety of customer cash and securities, in accordance with the Customer Protection Rule and the Net Capital Rule.
— Trading and risk management practices, including best execution, controls around the use of automated trading algorithms (as well as the development, testing, implementation, maintenance, and modification of the computer programs that support automated trading).
— Registration and professional qualifications of municipal advisors as well as standards of conduct (fiduciary duty, fair dealing) and disclosure of conflicts of interest.

Information security, including cyber risks. Examinations in all of the SEC's programs will prioritize information security, focusing on proper configuration of network storage devices, information security governance generally, and retail trading information security.

— Specific to RIAs, examinations will focus on protection of clients' personal information, including governance and risk management, access controls, data loss prevention, vendor management, training, and incident response and resiliency.
— Third-party and vendor risk management examinations will include cloud-based storage practices as well as controls surrounding online access and mobile applications, and safeguards around disposal of retired hardware.

Fintech and innovation. Examinations will focus on firms' use of new sources of data—"alternative" data sets—and new technologies to interact with and provide services to investors, firms, and other service providers, including:

— **Digital assets**. SEC states the rapid growth of digital assets presents risks to retail investors who may not adequately understand the differences between these assets and traditional products. OCIE will continue to identify SEC-registered market participants offering, selling, trading, and managing these products to assess: 1) investment suitability, 2) portfolio management and trading practices, 3) safety of client funds and assets, 4) pricing and valuation, 5) effectiveness of compliance programs and controls, and 6) supervision of employee outside business activities.

— **Electronic investment advice.** Focus on RIAs providing services to clients through automated investment tools and platforms, including: 1) SEC registration eligibility, 2) cybersecurity policies and procedures, 3) marketing practices, 4) adherence to fiduciary duty, including disclosure adequacy, and 5) compliance program effectiveness.

Anti-money laundering. The OCIE will continue to prioritize examining broker-dealers for compliance with their anti-money laundering (AML) obligations, including establishing appropriate customer identification programs, conducting due diligence on customers, complying with beneficial ownership requirements, satisfying Suspicious Activity Report (SAR) filing obligations, and "conducting robust and timely independent tests of their AML program."

Critical market infrastructure. Examinations of firms that provide services critical to the functioning of capital markets will focus on:

— **Clearing agencies**' compliance with applicable SEC regulations and federal securities laws, timely corrective action in response to prior examinations, and other areas such as liquidity, collateral, investment, and default risk management, cyber security and resiliency, and recovery and wind down procedures.

— **National securities exchanges**' operations and reactions to market disruption as well as efforts to protect marketplace integrity from abusive, manipulative, and illegal trading.

— **Transfer agents**' transfers, recordkeeping, safeguarding of customer funds and securities, and reporting. The SEC specifically identifies transfer agents that serve as paying agents for issuers, are developing blockchain technology, or are providing services to issuers of microcap securities, private offerings, crowdfunded securities or digital assets, as examination candidates.

— **Entities subject to Regulation SCI**'s (Systems, Compliance and Integrity) implementation, maintenance, and effectiveness of written policies and procedures, IT inventory management, IT governance, incident response, and third party vendor management, including cloud services.

FINRA and MSRB. The SEC identified select areas and programs of FINRA and the MSRB (Municipal Securities Rulemaking Board) as one of its examination priorities. Such examinations will be based on risk assessments and focused on:

— FINRA operations, and examinations of broker-dealers and municipal advisors

— The effectiveness of MSRB operations, internal policies, procedures, and controls.

For additional information please contact Tracy Whille or Stefan Cooper.

Related KPMG Regulatory Alerts include:

— SEC's 2019 Examination Priorities

— SEC Regulation Best Interest

— FINRA's 2020 Risk Monitoring and Examination Priorities

— 2020 Supervisory Priorities of the FRB, OCC, and FSOC

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Focus on ESG

ESG-related risks (environmental, social, and governance) are evolving from "emerging" risks to foundational factors that must be considered by all companies in all industries across their core risk areas (e.g., scenario model analyses, credit risk, operational risk, reputation and compliance risks). The attention focused on ESG concerns at the World Economic Forum has prompted heightened attention and action from corporations, public policy makers, and regulators alike.

Key points

- Increasing pressure from investors, employees, customers, and the general public drives companies to commit to and act upon an ESG strategy, even in the absence of specific regulatory requirements.
- Investment funds designed to address investor preferences/concerns for ESG factors have grown exponentially, prompting U.S. regulators to focus on whether the fund investments match their stated strategy.
- ESG-related disclosures are guided by a variety of voluntary frameworks and ratings systems; multiple interpretations exist regarding what "ESG" means as well as what comprises each of the individual components leaving broad discretion to companies and investment advisers.
- The focus on sustainability and climate-related risks at the 2020 World Economic Forum has spotlighted these issues.

The following items highlight the primary focus currently being trained on environmental, social, and governance (ESG) concerns.

- "Stakeholders for a Cohesive and Sustainable World" is the theme of the 2020 World Economic Forum (WEF) convened in Davos, Switzerland the week of January 20, 2020; environmental challenges, and in particular climate-related challenges, were identified as top concerns. A key development included the introduction of a whitepaper by the WEF's International Business Council (IBC), which outlined recommendations for a core set of metrics and disclosures related to companies' ESG performance and contributions to the United Nations sustainable development goals (SDG).

The WEF IBC Initiative is supported by KPMG, as one of the Big Four Professional Services firms, and aims to develop a set of base level, industry agnostic requirements incorporating both financial and non-financial criteria that are primarily relevant for investors. The WEF ESG Reporting Scorecard is clustered around four pillars: prosperity, people, planet, and principles of governance. It is designed to help companies measure and disclose their progress to investors and other stakeholders in a consistent and comparable way.

— Multiple individual companies have publicly announced commitments to ESG strategies that range from how they will interact with their customers to how they will operate their businesses. Examples include:
  - Pledging to reduce reliance on fossil fuels and related products
  - Pledging to reduce carbon emissions
  - Expanding product offerings that meet ESG expectations/standards
  - Promoting ESG disclosures aligned with the Sustainability Accounting Standards Board (SASB) and the Task Force on Climate-related Disclosures (TCFD)
    - SASB is an independent, non-profit organization that sets voluntary reporting standards for companies to convey financially material information on ESG topics to their investors. The standards are industry-specific and were first released in November 2018.
    - TCFD operates under the auspices of the Financial Stability Board (since 2015) and has set a voluntary framework of climate-related financial disclosures.
  - Forming industry coalitions to work on ESG issues.

— The SEC's 2020 Examination Priorities states that the Office of Compliance Inspection and Examination (OCIE) has a particular interest in the accuracy and adequacy of disclosure provided by Registered Investment Advisers (RIA) offering clients new types or emerging investment strategies, such as strategies focused on sustainable and responsible investing, which incorporates ESG criteria. In addition:
  - The SEC is questioning certain advisers' criteria for determining an investment to be environmentally or socially responsible, whether they follow well-known policies such as the United Nations' Principles for Responsible Investment, and how they voted as proxy on ESG issues. The agency is also looking to ensure that funds are investing in a manner that is consistent with the principles they represent to investors (e.g., an "ESG mandate").

— The CFTC established a Climate-Related Market Risk Subcommittee to identify and examine climate change-related financial and market risks. The subcommittee will consider a variety of topics and issues including: integrating climate-related scenario analysis, stress testing, governance, and disclosures into risk assessments and reporting; policy initiatives and best practices for risk management and disclosure in support of financial stability; and the use of data and analytics to assess potential impacts on financial stability indicators such as agricultural production, energy, food, insurance, and real estate. The 35 members of the subcommittee were named in November 2019.

— The Federal Reserve Bank of San Francisco sponsored a research conference to facilitate discussions on quantifying the climate risk faced by households, firms, and the financial system; measuring the economic costs and consequences of climate change; accounting for the effects of climate change on financial asset prices; and understanding the potential implications of climate change for monetary, supervisory, and trade policy.

— The Bank for International Settlements (BIS) published a paper outlining ways in which central banks can address climate-related risks through their financial stability mandate, including developing forward-looking scenario-based analysis and coordinating policy actions among "governments, the private sector, civil society, and the international community" in areas such as carbon pricing, integrating sustainability into financial practices and accounting frameworks, and developing new financial mechanisms at the international level.

Though not specifically intended to meet ESG concerns, actions by the Treasury and federal banking regulators would serve to promote ESG considerations.

— The Treasury Department and the Internal Revenue Service jointly published final regulations implementing the Opportunity Zone tax incentive, which was created by the Tax Cuts and Jobs Act and offers capital gains tax relief for investments in economically distressed areas. Qualified investments in Opportunity Zones may also serve as ESG investments through their social impact, such as real estate re-development and start-up businesses.
  - The OCC and FDIC suggest their recently proposed revisions to the Community Reinvestment Act (CRA) would encourage banks to conduct more CRA activities and to serve more of their communities, including those areas with the greatest need for economic development, investment, and financing, "such

as urban and rural areas and opportunity zones." Under the proposal, the agencies would:

- Recognize community development activities providing financing for or supporting qualified opportunity funds that benefit low- and moderate-income opportunity zones.
- Clarify the criteria to incentivize banks to meet the affordable housing needs of their communities through activities including workforce housing (a qualified Opportunity Zone investment) that would allow public employees, such as teachers, police officers, and firefighters, to live close to the communities they serve.

For additional information please contact Amy Matsuo or one of KPMG's ESG Network of professionals: Ruth Tang (Audit), Joanne Beatty (Advisory), or Orla O'Connor (Tax).

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Regulatory Alert

Regulatory Insights

March 2020

Federal Reserve finalizes rule on control determinations

The Federal Reserve Board adopted its final rule on control determinations; the final rule is substantially similar to the rule proposal released in April 2019. The tiered framework clarifies and codifies the factors and thresholds that trigger control. In this regard, the framework helps companies to assess control at the point of diligence (i.e., M&A, third party, joint venture, etc.) as well as ongoing with control changes. In application, the framework serves both bank and nonbank transactions.

Key points

— The Federal Reserve finalized, substantially as proposed, a tiered framework for determining whether a company exercises a controlling influence over another company; under this framework, as an investor's ownership of the voting securities of a company increases, other relationships and factors, such as directorships, must decrease in order to not trigger control.

— The Federal Reserve considers the framework to be generally consistent with its current practice, including the criteria considered most relevant in control determinations and the combinations of factors that trigger control. As such, the final rule does not grandfather existing investments or provide a transition period for companies to conform existing investments.

— The statutory threshold of control, whereby a company that controls 25 percent or more of any class of voting securities of a second company is deemed to control the second company, will not change.

The Federal Reserve Board (Federal Reserve or Board) finalized a rule (effective April 1, 2020) that revises its regulations governing determinations of whether a company has the ability to exercise a controlling influence over another company for purposes of the Bank Holding Company Act (BHCA) and the Home Owners Loan Act (HOLA). The final rule is largely consistent with the proposed rule (see KPMG's previous Regulatory Alert here) except for certain modifications, including:

— **Changes to the presumptions of control:**
  - When considering business relationships, the Board will only take into account the significance of business relationships from the investee company's perspective rather than the perspectives of both investor and investee.
  - A single total equity threshold will be established for investors independent of their voting interests. Under the BHCA, BHCs will be subject to a total equity threshold of 33 percent (one-third) while, pursuant to the HOLA, SLHCs will be subject to a total equity threshold of 25 percent. (The difference is attributed to the definition of "control" under the HOLA.)
  - The proposed exclusion (i.e., presumption of noncontrol) for SEC-registered investment companies has been eliminated.

— **Changes to control related terms and other items including:**

  – A narrower definition of "Director Representative" to include an individual that represents the interests of a first company [investor] through service on the board of a second company [investee].
  – A requirement that total equity must be measured only when the first company makes an investment in a second company rather than also when the investment is reduced.

Historically, the Federal Reserve has made determinations of control on a case-by-case basis. A company that controls a bank or bank holding company, or a savings association or savings association holding company, is subject to the Federal Reserve's regulations and oversight.

The final rule codifies the factors and thresholds that the agency considers most relevant when assessing control. It introduces a tiered framework that is based on a company's ownership of any class of voting securities of another company. As the first company's ownership percentage in the second company increases, additional relationships and other factors through which the investor could exercise control (i.e., the presumptions) generally must decrease in order to avoid triggering the application of a presumption of control (please refer to the following table).

Summary of Tiered Presumptions

(Presumption of control is triggered if any relationship exceeds the amount in the table)

	Less than 5% voting	**5.00-9.99% voting**	**10.00-14.99% voting**	**15.00-24.99% voting**
Directors	Less than half	Less than a quarter	Less than a quarter	Less than a quarter
Director Service as Board Chair	N/A	N/A	N/A	No director representative is chair of the board
Director service on Board Committees	N/A	N/A	A quarter or less of a committee with power to bind the company (audit, compensation, executive)	A quarter or less of a committee with power to bind the company (audit, compensation, executive)
Business relationships	N/A	Generate less than 10% of revenues or expenses **of the second company**	Generate less than 5% of revenues or expenses **of the second company**	Generate less than 2% of revenues or expenses **of the second company**
Business terms	N/A	N/A	Market terms	Market terms
Officer/Employee interlocks	N/A	No more than 1 interlock, never CEO	No more than 1 interlock, never CEO	No interlocks
Contractual powers	No management agreements	No rights that significantly restrict discretion	No rights that significantly restrict discretion	No rights that significantly restrict discretion
Proxy Contests (directors)	N/A	N/A	No soliciting proxies to replace more than permitted number of directors	No soliciting proxies to replace more than permitted number of directors
Total equity	**BHCs – Less than one-third SLHCs – 25% or less**	**BHCs – Less than one-third SLHCs – 25% or less**	**BHCs – Less than one-third SLHCs – 25% or less**	**BHCs – Less than one-third SLHCs – 25% or less**

Source: Federal Reserve Board
Note: bolded text highlights modifications from the proposed rule

The provisions of the final rule include additional presumptions of control and related definitions, most of which were adopted as proposed.

Also consistent with the proposal, the final rule does not change the statutory threshold of control, whereby a company that controls 25 percent or more of any class of voting securities of a second company is deemed to control the second company. Similarly, the final rule does establish a formal presumption of noncontrol for a company that controls less than 10 percent of each class of voting securities of a second company and is not presumed to control the second company under any of the other presumptions.

Notwithstanding the presumptions of control or noncontrol, the Board allows that it may or may not find a first company to have a controlling influence based on the facts and circumstances presented by a particular case.

Lastly, the final rule applies only to questions of control under the BHCA and the HOLA; it does not extend to the Change in Bank Control Act, Regulation O (Transactions with insiders), or Regulation W (Transactions with affiliates).

KPMG's Regulatory Alert on the proposed rule for control determinations is available here.

For additional information please contact Deborah Bailey or Tim Johnson.

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Regulatory Alert for Financial Services

Regulatory Insights

March 2020

CARES Act: Financial Services Impacts

The CARES Act is intended to help mitigate financial services providers' retail and commercial losses and repayment risks. The Act comes at a time of incredible staffing and capacity strain to service and operational centers in terms of transactions, customer calls, and trading volumes, which will likely increase as the servicing and default activity increases. There will be both direct and indirect portfolio implications to financial services organizations given the pandemic implications across all industries. As such, the Act also looks to add to credit and liquidity facilities, while also allowing for potential short-term financial services regulatory relief.

KPMG's view, based on lessons learned following the 2008 financial crisis, would suggest that financial institutions will need to focus on such areas as credit modeling, operational and compliance execution of loan modification programs, adherence to federal program integrity, and fraud mitigation and alert risk activity. Regulators and financial institutions anticipate impacts from certain of the relief provisions will likely need additional policy steps (such as additional credit facility extensions) to take place in the coming weeks.

The Coronavirus Aid, Relief, and Economic Security Act – or the CARES Act –provides more than $2 trillion in emergency aid to individuals and businesses in various forms including loans, direct payments, and insurance benefits intended to cushion the economic impact of the coronavirus outbreak, or COVID-19.

The following summary looks across key provisions in each of the titles that specifically impact the financial services industry. The areas affected include small businesses, education loans, retirement plans, and mortgage credit.

Title I – Keeping American Workers Paid and Employed Act

Provides $349 billion in direct appropriations for Small Business Administration (SBA) loan guarantees and additional funding for SBA programs and relief to small business borrowers and lenders. Highlights include:

— A new "Paycheck Protection Program" under the SBA's Section 7(a) Loan program. Features include:

- A maximum loan amount of $10 million (based on payroll costs) and a maximum interest rate of four percent. Allowable uses for the loans would be expanded to include employee salaries, medical leave, insurance premiums, mortgage, rent, and utility payments; the loans will receive a 100 percent government guarantee through December 31, 2020.
- Expanded eligibility to include certain nonprofits organizations, veterans' organizations, or Tribal businesses as well as sole proprietors and independent contractors. Borrower eligibility would consider whether the borrower was operational on February 15, 2020 rather than repayment ability.
- Deferred payments of principal, interest, and fees for up to one year.
- Delegated authority to all current SBA Section 7(a) lenders and lenders who join and make loans under the program.

- A zero percent regulatory capital risk weight and temporary relief from troubled debt restructuring (TDR) disclosures. *Section 1102.*
- Limited loan forgiveness for amounts spent on payroll costs, rent and utilities payments, and interest payments on mortgages for borrowers that apply. The amount forgiven will be reduced by any reduction in employees retained. *Section 1106.*

— Expanded eligibility for Economic Injury Disaster Loans (EIDL). *Section 1110.*

— A requirement for the SBA to pay principal, interest, and any associated fees that are owed on existing section 7(a) loans, section 504 loans, or microloan products, for a six month period starting on the next payment due date. Loans on deferment will also receive six months of payment by the SBA, as will loans made up to six months after enactment. Loans provided under the Paycheck Protection Program are not included. Lenders are encouraged to further provide payment deferments and maturity extensions when appropriate. *Section 1112.*

— Increases to the eligibility threshold to file under subchapter V of chapter 11 of the U.S. Bankruptcy Code to include businesses with up to $7.5 million of indebtedness; the increase will terminate after one year. *Section 1113*.

Title II – Assistance for American Workers, Families and Businesses

To provide individuals with additional access to cash, the CARES Act allows individuals to access retirement accounts. Select provisions allow:

— The ten percent early withdrawal penalty to be waived for distributions of up to $100,000 from qualified retirement accounts for coronavirus related purposes made after January 1, 2020. Taxes attributable to coronavirus related distributions would be subject to tax over three years and could be recontributed to an eligible retirement plan within three years.

— Required minimum distribution rules for certain defined contribution plans and IRAs for calendar year 2020 to be waived.

Title III – Supporting America's Health Care System in the Fight Against the Coronavirus

Relief for college students and graduates with outstanding federal debt includes:

— Temporary relief for federal student loan borrowers that permits payments of principal and interest to be deferred for 6 months, through September 30, 2020, without penalty to the borrower for all federally owned loans.

— No penalty for students that fail to complete the semester or term as a result of COVID-19 such that the semester or term that was not completed would not count toward lifetime subsidized loan eligibility; would not be included in the student's Federal Pell Grant Duration limit; and the funds received as Pell grants or federal student loans would not be required to be returned to the Secretary of Education.

Title IV – Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy

Provisions in this section are directed toward providing credit and liquidity to small business and the markets. Many are temporary in nature and generally will expire on the earlier of December 31, 2020 or the date on which the national emergency is terminated. Some provisions codify actions taken previously by federal agencies.

Highlights include:

— A total of $500 billion to be provided to the Treasury's Exchange Stabilization Fund (ESF) for loans, loan guarantees, and other investments. The bulk of these funds, $454 billion, will be provided to the Federal Reserve Board (FRB) to support its credit and liquidity facilities for eligible businesses, states, and municipalities.[1] The remainder will be available as direct loans to passenger and cargo air carriers and related businesses, and other businesses deemed important to national security. If those funds are not fully used, the Treasury may make loan and loan guarantees, or other investments in, programs or facilities of the FRB.

- Lending through any of the FRB facilities must be broad-based, with verification that each participant is not insolvent and is unable to obtain adequate financing elsewhere. Loan forgiveness is not permissible in any such credit facility.
- Treasury will "endeavor to seek the implementation of a program or facility" through

[1] Includes Commercial Paper Funding Facility (CPFF), Primary Dealer Credit Facility (PDCF), Money Market Mutual Fund Liquidity Facility (MMLF), Primary Market Corporate Credit Facility (PMCCF), Secondary Market Corporate Credit Facility (SMCCF), and Term Asset-Backed Securities Loan Facility (TALF).

the FRB that provides financing to banks and other lenders that make direct loans to nonprofit organizations and eligible businesses with between 500 and 10,000 employees. The terms would include a requirement that the funds be used to retain at least 90 percent of the organization's workforce. This would be separate from and would not impact the FRB's Main Street Lending Program.

– Direct lending loan terms include sufficient loan security; loan duration of not more than 5 years; stock buyback and dividend restrictions; at least 90 percent retention of March 24, 2020 employment through September 30, 2020; no loan forgiveness; U.S. domiciled business with predominantly U.S. employees. *Section 4003.*

An Office of Inspector General for Pandemic Recovery will be established within the Treasury to conduct, supervise, and coordinate audits and investigations of the making, purchase, management, and sale of loans, loan guarantees, and other investments made by the Treasury Secretary under this Title. *Section 4018.* In addition, a Congressional Oversight Commission will be created; the Commission will terminate on September 30, 2025. *Section 4020.*

— Authority for the FDIC to temporarily establish, through December 31, 2020, a debt guarantee program to guarantee debt of solvent insured depository institutions and depository institution holding companies. Noninterest-bearing transaction account may be treated as a debt guarantee program. Similarly, the NCUA may temporarily increase the share insurance coverage for non-interest-bearing transaction accounts. *Section 4008.*

— Authority for the OCC to temporarily except nonbank financial companies from the OCC's lending limits as well as exempt transactions from the lending limits if they are in the public interest. Temporary relief expires on the earlier of December 31, 2020 or the end of the national emergency. *Section 4011.*

— A requirement that the Community Bank Leverage Ratio for qualifying community banks be reduced from 9 percent to 8 percent via interim final rule expiring on the earlier of December 31, 2020 or the end of the national emergency. *Section 4012.*

— Permissibility for financial institutions, including credit unions, to elect to suspend U.S. GAAP for loan modifications related to COVID-19 that would otherwise be categorized as a troubled debt restructuring. The suspense would apply to loan modifications for loans that were not more than 30 days past due as of December 31, 2019 for the period beginning March 1, 2020 and lasting no later than 60 days after the lifting of the national emergency. *Section 4013.*

— Permissibility for insured depository institutions, including credit unions, bank holding companies, or any of their affiliates to opt to temporarily delay compliance with the FASB Current Expected Credit Losses (CECL) methodology. Such an option will expire at the earlier of December 31, 2020 or the date on which the national emergency is terminated.[2] *Section 4012.*

— Temporary suspension of the statutory limitation on the use of the ESF for guarantee programs for U.S. money market mutual fund industry. *Section 4015*.

— Temporary enhancements to credit union access to the Central Liquidity Facility. *Section 4016*.

— A requirement that furnishers of information to credit reporting agencies who agree to an accommodation on an account of a consumer impacted by COVID-19 to report the account as "current" or as the same status as before the accommodation. Such credit protection is available beginning January 31, 2020 and ending at the later of 120 days after enactment or 120 days after the national emergency is terminated. *Section 4021*.

— A moratorium on foreclosures of federally-backed mortgage loans for not less than 60 days beginning March 18, 2020. *Section 4022.* A moratorium on eviction filings or charges related to nonpayment where the landlord's mortgage is federally-backed. *Section 4024.*

— Temporary forbearance for federally-backed 1-4 family mortgage loans experiencing financial hardship due, directly or indirectly, to COVID-19. Borrowers may request up to 180 days as well as an extension of a second 180 days. *Section 4022.* Temporary forbearance of up to 90 days is also available for federally-backed multifamily mortgage loans, subject to renter protections during the forbearance period including no tenant evictions or late fee charges. *Section 4023*.

[2] The FRB, FDIC, and OCC issued an interim final rule on March 27, 2020 that gives banking organizations that implement CECL before the end of 2020 the option to delay for two years an estimate of CECL's effect on regulatory capital followed by a three-year transition period.

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Regulatory Alert

Regulatory Insights

March 2020

Regulatory expectations for COVID-19

Regulators are looking for financial services companies to demonstrate that they have pandemic preparedness plans in place and that the plans have been activated and are working. These plans must address resilience to market volatility, technology, operations (including products, third parties, and employees), customer/investor protections, and regulatory compliance.

KPMG is prepared to assist clients now and in the near term to respond to challenges from the current pandemic, including contingency planning and technology readiness; employee policies and procedures, including remote working; enterprise risk management; supply chain and third-party provider management; cybersecurity services, including fraud and data privacy; oversight/surveillance controls; financial impact analysis and capital management assistance; and services that support internal audit, tax efficiency, insurance claims, cost optimization, and new product development.

Key points

— Federal financial services regulators are focused on the efforts of supervised entities to have and execute on business continuity and pandemic plans.

— Key risks to financial services entities include constraints on staffing, technology, and operations/facilities as well as supervision of remote employees/locations, call center capacity, customer/investor forbearance, cybersecurity/fraud threats, and market volatility.

— Congress and the Administration are taking steps to protect the financial services industry and the financial markets, including focusing attention on the federal regulatory agencies to minimize adverse impacts to customers/investors through forbearance and disclosure.

Regulatory Action

The World Health Organization has officially designated COVID-19 as a pandemic with broad scale health and economic impacts. Regulators are looking for financial services entities to demonstrate that they have pandemic preparedness plans in place and that the plans have been activated and are working. Key points include:

— Board awareness and approval of the pandemic plan and its execution, including reporting and updates related to operational changes, business continuity, and market volatility.

— Specific plans for and response, at the enterprise and legal entity level, to:

  – Technology, including increased demand for online banking, customer/investor complaints/inquiries, employee remote access (capacity constraints, available tools, authentication mechanisms, infrastructure

limitations, surveillance), and cybersecurity threats
  - Operational capacity, including on- and off-site staffing, supervision/oversight/surveillance, facilities
  - Business continuity, including facilities, remote locations, shared locations, third-party providers, product and service offerings
  - Employee health and safety, including re-entering employees
  - Customer/investor protection and relief, including communication (direct and through social media), forbearance (e.g., interest rate reductions, payment relief)
- Any need for regulatory relief regarding supervision, including examinations and reporting requirements.

Federal regulatory agencies are taking individual and collective action to provide guidance and regulatory relief to the financial services industry.

- The Federal Financial Institutions Examination Council (FFIEC – comprised of the FRB, OCC, FDIC, NCUA, and CFPB):
  - Released an updated interagency Statement on Pandemic Planning. The guidance identifies actions financial institutions should take to minimize the potential adverse effects of a pandemic. The guidance states pandemics pose different challenges than more traditional business interruptions, which are typically limited in duration, scope, and/or geography.
  - Released a statement jointly with the Conference of State Bank Supervisors encouraging financial institutions to "work constructively" with borrowers and other customers in areas affected by COVID-19 to help meet the customers' financial needs. The regulators stated they "will provide appropriate regulatory assistance to affected institutions subject to their supervision." In addition, in cases in which operational challenges such as staffing constraints persist, they will expedite, as appropriate, any request to provide more convenient availability of services in affected communities and will schedule examinations or inspections to minimize disruption and burden.
- FINRA:
  - Issued a Regulatory Notice outlining guidance for Pandemic-Related Business Continuity Planning.
  - Issued a Technical Notice to alert members to its efforts to maintain business continuity with respect to its Trade Reporting Facilities and its Alternative Display Facility as well as to remind members of their obligations with regard to OTC trading and reporting in the event the members experience systems issues in their own or their vendor's systems.
- The SEC:
  - Issued an order that provides publicly traded companies an additional 45 days to file certain disclosure reports that would have been due between March 1, 2020 and April 30, 2020. The relief is conditional on companies meeting certain requirements, including an explanation of why the relief is needed.
  - Issued a statement on the effects of Coronavirus on Financial Reporting that encouraged firms to work with their audit committee and auditors to disclose potential exposure to the effects of COVID-19, including how they plan for and will respond to unfolding events and disclosure of subsequent events. Disclosure of material risks to business and operations is intended to keep investors and markets informed of material developments.
  - Became the first federal agency to require all employees in DC to telecommute following an employee diagnosis.

Pandemic Planning/Business Continuity

The pandemic planning guidance provided by the FFIEC and FINRA anticipates that financial services firms have business continuity plans that specifically address pandemics and provide:

- Board approval and input from senior management across all functional, business, and products areas (administration, HR, Legal, IT, key product lines)
- An ongoing program to monitor potential outbreaks, educate employees, and communicate and coordinate with critical service providers and suppliers
- A documented strategy scaled to the stages of a pandemic outbreak, as identified by the Centers for Disease Control and Prevention (CDC), with flexibility to address ranging possible effects
- A comprehensive framework of facilities, systems, and procedures to ensure the continuance of critical operations, including minimizing staff contact, providing telecommuting options, establishing visitor

procedures, providing customer support (redirecting to electronic banking services, ATMs, call support). The framework should be incorporated in ongoing business impact analysis and the risk assessment process (including projections of employee absenteeism, third party disruptions, trigger events, remote controls)

— A testing program that assesses the effectiveness of the planning practices, including roles and responsibilities, key assumptions, increased reliance on online banking, telephone banking/investor call center services, remote access and telecommuting, and supervision of remote employees and activities

— An oversight program to ensure the plan is reviewed regularly and updated based on the monitoring program and direct experience.

Financial services firms should update their Pandemic Plan and other areas of their business continuity plan, as appropriate, for lessons learned following the end of the COVID-19 outbreak.

Congressional and Administrative Action

— The House Financial Services Committee addressed letters to Administration officials, prudential regulators, financial services organizations, and credit reporting agencies expressing concerns about risks related to COVID-19 and the steps they are taking to prevent harm to customers and the financial system. The letters directed to the financial services regulators (FRB, FDIC, OCC, NCUA, CFPB, and SEC) addressed efforts to provide flexibility to affected consumers, disclosure of risk exposures, and consumer/investor protection against fraud and financial exploitation.

— During a hearing on the CFPB's Semi-Annual Report to Congress, the Senate Banking Committee questioned the Bureau's efforts to address the impacts of COVID-19 on customers, the financial services entities that it regulates, and its own employees and operations, including forbearance and preparedness planning. Some Senators questioned the role of the Financial Stability Oversight Council (FSOC) and the need for coordinated action.

— The Administration met with the heads of multiple large banks to discuss preparedness for economic slowdown in the United States and globally due to COVID-19 and ways to support businesses.

KPMG's financial services professionals are prepared to assist our clients with responding to the risks posed to their operations and customers/investors by COVID-19. For additional information, please contact us:

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KPMG

Regulatory Alert for Financial Services

Regulatory Insights

March 2020

Financial services regulatory expectations for COVID-19: #2

Financial services responses from public policy makers, regulators, and firms continue to grow and evolve. Early responses from the financial services regulators focused on preparedness, business continuity, and pandemic planning. (See KPMG Regulatory Alert here.) More recently, the responses by federal and state regulators are directed toward supporting ongoing credit and liquidity (and insurance coverage, as appropriate) to individuals and businesses, including through select changes to regulatory and financial accounting. Regulations imposed since the 2007-2008 financial crisis are intended to strengthen the capital and liquidity positions of U.S. banking organizations. These new actions are intended to address potential strains on portfolios that may develop; regulators and other agencies also encourage efforts to assist affected customers through foreclosure moratoriums, payment accommodations, loan modifications, and expanded CRA credit consistent with consumer protections and safe and sound practices. Though in the spirit of consumer and commercial protection, evolving state regulatory activity increases the potential for divergent regulation.

KPMG recognizes this is a difficult time. We are prepared to provide our clients assistance in developing strategies to manage disruption stemming from COVID-19.

Key points

— The FRB has established six new facilities to support the availability of credit to households and businesses.

— The federal banking agencies advocated the use of capital and liquidity buffers and amended their capital rules to simplify the capital framework in this regard.

— The federal financial services regulatory agencies provided guidance and targeted regulatory relief to address remote workplace and "social distancing" constraints.

— Other federal agencies with authorities related to financial services products and services took actions to address impacts to the financial well-being of individuals and businesses caused by COVID-19, including a HUD and FHFA suspension of foreclosures and evictions, and the Department of Education's suspension of interest accruals on federal student loans.

Federal Regulatory Actions

Banking Regulators

In its role as a central bank, the **FRB** established multiple facilities to support the flow of credit to households and businesses, including:

— A Commercial Paper Funding Facility (CPFF) to purchase unsecured and asset-backed commercial paper rated at least A1/P1/F1 (as of March 17, 2020) directly from eligible companies, defined to be U.S. issuers of commercial paper, including U.S. issuers with a foreign parent company. Purchases under the CPFF will continue through March 17, 2021 unless extended by the FRB.

— A Primary Dealer Credit Facility (PDCF) to offer overnight and term funding with maturities up to 90 days to Primary Dealers of the New York Federal Reserve Bank. Credit extended to primary dealers under this facility may be collateralized by a broad range of investment grade debt securities, including commercial paper and municipal bonds, and a broad range of equity securities. The PDCF will be in place for at least six months and may be extended as conditions warrant.

— A Money Market Mutual Fund Liquidity Facility (MMLF) that will make loans available to eligible financial institutions secured by high-quality assets purchased by the financial institution from money market mutual funds. "Eligible financial institutions" are defined as U.S. depository institutions, U.S. bank holding companies, and U.S. branches and agencies of a foreign bank. High-quality assets include unsecured and secured commercial paper, agency securities, and Treasury securities. Certain categories of state and municipal debt and other securities were subsequently added here and here. Credit extensions under the MMLF will be available through September 20, 2020 unless the facility is extended by the FRB.

On March 23, 2020, the FRB established additional facilities, including:

— The Primary Market Corporate Credit Facility (PMCCF) for new bond and loan issuances. This facility is open to investment grade companies and will provide bridge financing of four years. Borrowers may elect to defer interest and principal payments during the first six months of the loan, extendable at the Federal Reserve's discretion, in order to have additional cash on hand that can be used to pay employees and suppliers.

— The Secondary Market Corporate Credit Facility (SMCCF) to provide liquidity for outstanding corporate bonds. The SMCCF will purchase in the secondary market corporate bonds issued by investment grade U.S. companies and U.S.-listed exchange-traded funds whose investment objective is to provide broad exposure to the market for U.S. investment grade corporate bonds.

— The Term Asset-Backed Securities Loan Facility (TALF), to support the flow of credit to consumers and businesses. The TALF will enable the issuance of asset-backed securities (ABS) backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration (SBA), and certain other assets.

The FRB noted that the **Department of Treasury** would add funding to these facilities through the Exchange Stabilization Fund (ESF). In addition, the FRB stated that it also expects to establish a Main Street Business Lending Program to support lending to eligible small-and-medium sized businesses, complementing efforts by the SBA.

The **federal banking agencies**, including the FRB, OCC, and FDIC have individually and collectively taken the following actions:

— Encouraged banking entities to:

  – Use the Federal Reserve's discount window. The FRB later indicated a notable increase in discount window borrowing.

  – Use Capital and Liquidity Buffers to make credit available and undertake "other supportive actions" in a safe and sound manner.

— Modified regulatory capital requirements through:

  – An interim final rule to "neutralize" the effect of participating in the MMLF for regulatory capital purposes, including risk-based and leverage requirements. Under the interim final rule, eligible financial institutions may exclude exposures acquired pursuant to a non-recourse loan provided as part of the MMLF from total leverage exposure, average total consolidated assets, advanced approaches total risk-weighted assets, and standardized total risk-weighted assets, as applicable. Further, the institution's liability under the MMLF must be reduced by the purchase price of the assets acquired with funds advanced from the facility. Comments are requested on this interim final rule for 45 days following publication.

  – An interim final rule to modify the definition of "eligible retained income" in order to "strengthen the incentives for a banking organization to use its capital buffers in adverse conditions." Under the interim final rule, "eligible retained income" is defined as the greater of (1) a banking organization's net income for the four preceding calendar quarters, net of any distributions and associated tax effects not already reflected in net income, and (2) the average of a banking organization's net income over the preceding four quarters. This definition will apply with respect to all of a banking organization's buffer requirements, including the fixed 2.5 percent capital conservation buffer, and, if applicable, the countercyclical capital buffer, the GSIB surcharge, and enhanced supplementary leverage ratio standards. It will also apply to all parts of the Stress Capital Buffer requirement when they become effective. Comments are requested on this interim final rule through May 4, 2020.

— Issued a joint Statement on Loan Modifications and Reporting that indicates the agencies will not criticize institutions for working with borrowers in a safe and sound manner, and will not direct supervised institutions to automatically categorize loan modifications as troubled debt restructurings (TDRs). They add that short-term (such as, six months) modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not TDRs. These would include modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant.

  The FDIC has also urged the Financial Accounting Standards Board (FASB) to delay certain accounting rules including implementation of the Current Expected Credit Losses (CECL) methodology, which would also impact regulatory capital. The FDIC asked FASB to permit financial institutions currently subject to CECL an option to postpone implementation, and to impose a moratorium on the effective date for those financial institutions not yet subject to CECL.

— Expanded consideration of CRA credits to include retail banking services and retail lending activities in a financial institution's assessment areas that are responsive to the needs of low- and moderate-income individuals, small businesses, and small farms including waiving certain fees (e.g., ATM, overdraft, late payment), providing "alternative service options" in light of limited branch access, and payment accommodations to avoid delinquencies or negative credit bureau reporting. In addition, during the national emergency, financial institutions will receive credit for community development activities, including loans, investments, or services that support digital access or access to health services, the provision of food supplies, and activities to sustain small business operations.

Capital Markets Regulators

Recognizing that compliance with certain regulatory requirements will be challenging or impossible due to the national emergency declaration, which requires that personnel will be displaced from normal business sites and large gatherings of individuals will be prohibited:

— The **CFTC**:

  – Provided no action relief from recording of oral communications related to voice trading and other telephonic communications as well as certain time-stamping requirements for a variety of entities, including futures commission merchants, introducing brokers, swap dealers, retail foreign exchange dealers, floor brokers, swap execution facilities, and certain designated contract markets. The letters are available here and here.

  – Provided targeted relief by extending, for one year, the initial margin compliance deadline for market participants with the smallest uncleared swaps portfolios.

— The **SEC** provided:

  – Guidance for conducting annual shareholder meetings, including provisions to for changing the date and location, use of new technologies (e.g., "virtual" meetings), and alternative means, such as by telephone, for shareholders to present proposals.

  – Relief to certain investment funds and investment advisers related to requirements for in-person board meetings and certain filing and delivery requirements, such as certain in person board votes, annual and semi-annual filings, and client disclosures.

  – No-action relief regarding enforcement of the Consolidated Audit Trail (CAT) compliance rules through May 20, 2020, effectively extending the CAT filing deadline.

Other Federal Regulators

— The Department of **Housing and Urban Development** announced a foreclosure and eviction moratorium for single family homeowners with FHA-insured mortgages for 60 days. Separately, the **Federal Housing Finance Agency** (FHFA) announced that Fannie Mae and Freddie Mac (together, the GSEs) will similarly suspend, for at least 60 days, foreclosures and evictions on single-family mortgages backed by the GSEs.

— The Department of **Education** suspended interest accruals on federal student loans for at least 60 days.

— The Department of **Justice** announced a series of temporary changes to its civil merger investigation processes, including additional time to review transactions and rescheduling of meetings in favor of videoconferencing.

State Regulatory Actions

Individual States are taking action to address the impact of the COVID-19 outbreak on financial services businesses, including insurance-related businesses, under their supervisory jurisdiction. In some cases, such as in New York and California, they have dedicated web pages to announce and document State actions to address COVID-19.

Banking Regulators

Working collectively through the **Conference of State Bank Supervisors** (CSBS), individual States participated in releasing joint interagency guidance with the federal financial services regulators, including:

— Releasing a statement encouraging financial institutions to "work constructively" with borrowers and other customers in areas affected by COVID-19 to help meet the customers' financial needs. The Agencies committed to providing appropriate regulatory assistance to affected institutions, working to minimize disruption and burden related to examinations and inspections, and expediting reviews of requests to provide more conveniently available services to affected customers.

— Releasing a statement on loan modifications and reporting (jointly with the federal banking regulators).

— Updating a Statement on Pandemic Planning, which identifies actions financial institutions should take to minimize the potential adverse effects of a pandemic.

Insurance Regulators

— The National Association of Insurance Commissioners (NAIC) issued a brief outlining the types of insurance that may have provisions and exclusions triggered by the COVID-19 outbreak, including health, travel, life, business continuity, workers compensation, and general liability and directors and officers insurance.

— New York Department of Financial Services provided guidance to insurance companies to "do their part to alleviate the adverse impact caused by COVID-19 on those consumers and small businesses that can demonstrate financial hardship caused by COVID-19," including offering payment accommodations, increasing resources for claims, and proactively reaching out to customers.

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