



Weekly Newsletter

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Bank & Thrift

Fed Releases Methodology for CCAR 2012 Stress Tests; Published CCAR Results Expected March 15

On March 12, 2012, the Federal Reserve Board ("Fed") released a paper describing the methodology used in the stress tests conducted for the 2012 Comprehensive Capital Analysis and Review ("CCAR") as well as the templates for disclosure of the summary results. Nineteen large bank holding companies participated in CCAR 2012 and summary results, including projected capital ratios, revenues, and losses in the supervisory stress scenario, are expected to be released on March 15. .

The Fed describes the CCAR as a "rigorous exercise to evaluate the capital planning processes and capital adequacy of the largest bank holding companies." This exercise includes a supervisory stress test to evaluate whether firms would have sufficient capital in times of severe economic and financial stress to continue to lend to households and businesses. The Fed estimated revenue and losses under the stress scenario based on detailed data provided by the firms and verified by supervisors. While unlikely, the stress scenario is intended to show what might occur if the U.S economy were to experience a deep recession at the same time that economic activity in other major economies contracted significantly.

The supervisory stress scenario for CCAR 2012 depicts a severe recession in the United States, including a peak unemployment rate of 13 percent, a 50 percent drop in equity prices, and a 21 percent decline in housing prices.

The Fed evaluates institutions' capital plans across a range of criteria, including the stress test that examines whether a firm could make all the capital distributions included in its plan—such as dividends and stock repurchases—while still maintaining capital above the Fed's standards in a hypothetical supervisory stress scenario. Other considerations for capital distributions include an evaluation of the firms' capital planning processes and plans to meet international capital agreements as new requirements are phased in beginning in 2013.

The Fed notes that following CCAR 2011, those financial institutions with well-developed capital plans and capital positions that would remain strong even under adverse conditions were allowed to increase distributions, but at a pace that would ensure continued increases in capital. The 19 institutions (the same as those participating in CCAR 2012) paid out 15 percent of net income in common dividends in 2011 compared to paying out 38 percent of net income in 2006. They also raised more in common equity than they repurchased in 2011.

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BIS Working Paper Considers Prediction of Financial Volatility

The Bank for International Settlements ("BIS") released Working Paper No. 374, "*A Comprehensive Look at Financial Volatility Prediction by Economic Variables*," on March 6. The authors summarize that the paper investigates the question of whether asset return volatility is predictable by macroeconomic and financial variables as well as the economic drivers of financial volatility. They state they found that "proxies for credit risk and funding liquidity consistently show up as common predictors of volatility across asset classes. Variables capturing time-varying risk premia also perform well as predictors of volatility."

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OCC Schedules Bank Director Workshop

The Office of the Comptroller of the Currency ("OCC") announced that it had scheduled a workshop for directors of nationally chartered community banks and Federal savings associations on April 2, 3 and 4 in Springfield, Illinois. The workshop is entitled "*A Director's Challenge: Mastering the Basics*," and is intended primarily for directors of national community banks and Federal savings associations with assets of less than \$5 billion who are interested in reviewing the fundamental requirements of their position.

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Enterprise & Consumer Compliance

CFPB Expands Intake of Consumer Complaints to Private Student Loans

The Bureau of Consumer Financial Protection ("CFPB") has announced that, beginning March 5, 2012, it will accept consumer complaints, questions and general stories about private student loans. The new complaint system supplements the CFPB's ombudsman for private student loans, as well as its online tool, the *Student Loan Repayment Assistant*, and its *Know Before You Owe* initiative for student loans - a draft "financial aid shopping sheet" designed for schools with the purpose of clarifying the loan information they provide to students.

The CFPB began taking consumer complaints for checking and savings accounts on March 1, 2012, mortgage complaints in December 2011 and credit card complaints in July 2011.

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Agencies and the CDFI Host 2012 National Interagency Community Reinvestment Conference

The Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve Bank of San Francisco, and the Community Development Financial Institutions Fund ("CDFI") have jointly announced they will host the 2012 National Interagency Community Reinvestment Conference in Seattle, Washington, from March 25 to 28. The biennial conference offers participants the opportunity to learn about the *Community Reinvestment Act* ("CRA") and its regulations, as well as the chance to discuss best practices and emerging challenges in community development.

The conference will feature three tracks: CRA Compliance; the National Community Development Lending School; and Community Development in Practice. The agencies state the sessions will "focus on how loans, investments, and services can have a positive and lasting effect in low- and moderate-income communities and result in strong CRA performance. " In addition, they will give awards to financial institutions they determined have exhibited innovative approaches to strengthening small businesses.

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Fed Releases Mortgage Servicer Action Plans and Independent Contractor Engagement Letters

The Federal Reserve Board ("Fed") publicly released the action plans of three mortgage servicers subject to the April 2011 enforcement actions directed at certain mortgage servicing and foreclosure issues. The Fed released similar information for nine other mortgage servicers on February 27. In general, the action plans address:

- Strengthening communications with borrowers;
- Limiting foreclosures where loan modifications have been approved;
- Establishing third-party vendor controls; and
- Strengthening compliance programs.

The Fed also released engagement letters between the mortgage servicers and independent consultants retained by the servicers to review foreclosures that were in process in 2009 and 2010. The engagement letters describe the procedures that will be followed by the independent consultants in reviewing servicers' foreclosure files to determine whether borrowers suffered financial injury as a result of servicer error.

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Securities & Investment Management

BIS Working Paper Considers Collateral Requirements for Mandatory Central Clearing of OTC Derivatives

The Bank for International Settlements ("BIS") released Working Paper No. 373, *Collateral Requirements for Mandatory Central Clearing of Over-the-Counter Derivatives*, on March 6, 2012. The authors summarize the paper estimates the amount of collateral that central counterparties ("CCPs") should demand to clear safely all interest rate swap and credit default swap positions of the major derivatives dealers. The estimates are based on potential losses using a set of hypothetical dealer portfolios that replicate aspects of the way that derivatives positions are distributed within and across dealer portfolios in practice. The authors state their results suggest that:

- Major dealers already have sufficient unencumbered assets to meet initial margin requirements, but that some of them may need to increase their cash holdings to meet variation margin calls;
- Default funds worth only a small fraction of dealers' equity appear sufficient to protect CCPs against almost all possible losses that could arise from the default of one or more dealers, especially if initial margin requirements take into account the tail risks and time variation in risk of cleared portfolios; and
- Concentrating clearing of OTC derivatives in a single CCP could economize on collateral requirements without undermining the robustness of central clearing.

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CFTC Seeks Interested Parties for Designation as the Provider of CFTC Compliant Identifiers

On March 9, 2012, the Commodity Futures Trading Commission ("CFTC") announced that it was requesting submissions from industry participants that want to be considered by the CFTC for designation as the provider of CFTC Interim Compliant Identifiers ("CICIs"), which will be used in the CFTC's final rule requiring swap counterparties to be identified in recordkeeping and swap data reporting by a legal entity identifier ("LEI"). The identifier requirement in the final rule becomes effective July 16, 2012. Submissions must be received by the CFTC no later than March 16, 2012.

The CFTC notes submitters should be aware that the:

- Designation process will include an on-site, live demonstration for CFTC staff of the process to be used for issuance of CICIs;

- CFTC's designation will have a limited term of two years, and be terminable on six months notice if a different central utility for the global LEI is chosen later through the Financial Stability Board ("FSB") process and becomes operational; and
- CFTC's designation will require the designated utility to make public all CICI data, operations, identity validation processes and audit trail, and to pass to any successor utility, free of charge, all CICI data and all CICI intellectual property rights.

The CFTC's final rule requires any utility formed to issue such identifiers to be subject to international supervision. The CFTC is participating in an international process, coordinated by the FSB, to establish governance principles and reference data requirements for a global LEI.

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Enforcement Actions

The Securities and Exchange Commission ("SEC") and the Commodity Futures Trading Commission ("CFTC") recently announced the following enforcement actions:

- The SEC charged a former executive of a U.S. firm with insider trading based on information learned while working.
- The SEC charged a company and its Chief Executive Officer with conducting a fraudulent pump and dump scheme. The SEC also charged several consultants with illegally selling shares of the company
- The SEC charged an investment adviser with defrauding investors in offshore funds and misappropriating the proceeds.
- The CFTC filed a civil enforcement action against an individual and charged him with fraudulently operating a commodity pool, making false statements to pool participants, misappropriating pool funds, and failing to register as a commodity pool operator.
- The CFTC issued an order and simultaneously settled charges with a futures commission merchant for confirming the execution of a prearranged trade of futures, which was a fictitious sale and noncompetitively executed on the Chicago Board of Trade.
- The CFTC issued an order and simultaneously settled charges with an investment management firm for engaging in prearranged trades that were noncompetitively executed and fictitious sales in futures on the Chicago Board of Trade.

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Recent Supervisory Actions against Financial Institutions

Last Updated: March 12, 2012

Agency	Institution Type	Action	Date	Synopsis of Action
Federal Reserve Board	Bank Holding Company	Written Agreement	02/23	The Federal Reserve Board entered into a Written Agreement with a Minnesota-based bank holding company to address allowance for loan and lease losses, dividends and distributions, and debt and stock redemptions to ensure that it serves as a source of strength for its state nonmember bank and nonbank subsidiaries.
Federal Reserve Board	Bank Holding Company	Written Agreement	02/07	The Federal Reserve Board entered into a Written Agreement with a South Carolina-based bank holding company to address dividends and debt and stock redemptions to ensure that it serves as a source of strength for its state nonmember bank subsidiary.
Federal Reserve Board	Bank Holding Company	Written Agreement	02/07	The Federal Reserve Board entered into a Written Agreement with a Wisconsin-based bank holding company to address dividends and distributions and debt and stock redemptions to ensure that it serves as a source of strength for its state nonmember bank and nonbank subsidiaries.
Federal Reserve Board	Bank Holding Company	Written Agreement	02/07	The Federal Reserve Board entered into a Written Agreement with an Iowa-based bank holding company to address dividends and distributions, debt and stock redemptions and capital to ensure that it serves as a source of strength for its national bank and nonbank subsidiaries.
Federal Reserve Board	Bank Holding Company	Written Agreement	01/19	The Federal Reserve Board entered into a Written Agreement with a Tennessee-based bank holding company to address dividends and distributions, debt and stock redemptions and capital to ensure that it serves as a source of strength for its state nonmember bank and nonbank subsidiaries.
Federal Reserve Board	Bank Holding Company	Written Agreement	01/17	The Federal Reserve Board entered into a Written Agreement with a Florida-based bank holding company to address dividends and distributions and debt and stock redemptions to ensure that it serves as a source of strength for its state nonmember bank and nonbank subsidiaries.
Federal Reserve Board	State Member Bank	Written Agreement	01/10	The Federal Reserve Board entered into a Written Agreement with an Arizona state member bank to address deficiencies related to asset improvement, allowance for loan and lease losses, capital, and dividends

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