



Weekly Newsletter

In This Issue

Bank & Thrift Regulatory Update

Fed Final Rule Permits Fraud Prevention Cost Allowance under the Debit Card Interchange Fees and Routing Rules	1
Basel Committee Issues Multiple Releases to Address Credit Risk and Counterparties under Basel III.....	1
Financial Stability Institute Publishes Survey Results on Implementation of Basel II, 2.5 and III in Non-Basel Committee and Non-European Union Member Countries.....	2
FDIC Final Rule Covers Corporate Debt Securities Guidance for State and Federal Savings Associations	2
OCC Updates Bank Accounting Advisory Series	3
FDIC Schedules Workshops for Investors and Assets Purchasers...	3

Enterprise & Consumer Compliance

OCC Takes Enforcement Action for Violations of the Servicemembers Civil Relief Act.....	4
CFPB Consumer Tools Available for Private Student Loans	5

Capital Markets & Investment Management

CFTC Proposes First Mandatory Clearing Requirement; Finalizes Phase-in Schedule for Clearing Requirement Compliance	5
Enforcement Actions	6

Recent Supervisory Actions	7
----------------------------------	---

Bank & Thrift

Fed Final Rule Permits Fraud Prevention Cost Allowance under the Debit Card Interchange Fees and Routing Rules

The Federal Reserve Board ("Fed") announced on July 27, 2012 that it has amended the provisions in Regulation II, *Debit Card Interchange Fees and Routing*, that govern adjustments to debit card interchange transaction fees to make an allowance for fraud-prevention costs incurred by issuers. The amendments permit an issuer to receive or charge an amount of no more than 1 cent per transaction (the same amount currently permitted) in addition to its interchange transaction fee if the issuer develops and implements policies and procedures that are reasonably designed to take effective steps to reduce the occurrence of, and costs to all parties from, fraudulent electronic debit transactions. The amendments set forth fraud-prevention aspects that an issuer's policies and procedures must address and require an issuer to review its policies and procedures at least annually, and update them as necessary in light of their effectiveness, cost-effectiveness, and changes in the types of fraud, methods used to commit fraud, and available fraud-prevention methods. An issuer must notify its payment card networks annually that it complies with the Fed's fraud-prevention standards. An issuer that is substantially noncompliant with the Fed's fraud-prevention standards is ineligible to receive or charge a fraud-prevention adjustment and the amendments set forth a timeframe within which an issuer must stop receiving or charging a fraud-prevention adjustment.

The amendments are effective on October 1, 2012.

For additional information please contact Hugh Kelly, Principal: hckelly@kpmg.com or Paul Cardon, Director: pcardon@kpmg.com

Basel Committee Issues Multiple Releases to Address Credit Risk and Counterparties under Basel III

The Bank for International Settlements' Basel Committee on Banking Supervision ("Basel Committee") released the following items on July 25, 2012 related to the Basel III capital framework:

- Interim rules for the capitalization of bank exposures to central counterparties ("CCPs"). The rules are based on the *Principles for Financial Market Infrastructure* issued by the Payment and Settlement Systems ("CPSS") and the International Organization of Securities Commissions ("IOSCO"), which are designed to enhance the robustness of the essential infrastructure - including CCPs - supporting global financial markets. Where a CCP is supervised in a manner consistent with these principles, exposures to such CCPs will receive a preferential capital treatment. In particular, trade exposures will receive a nominal risk-weight of 2 percent. In addition, the interim rules allow banks to choose from one of two approaches for determining the capital required for exposures to default funds: (i) a risk sensitive approach, or (ii) a simplified method under which default fund exposures will be subject to a 1250 percent risk weight subject to an overall cap based on the volume

of a bank's trade exposures. The Basel Committee intends that the interim rules will allow for a full implementation of Basel III, while still recognizing that additional work is needed to develop an improved capital framework.

- Final rule modifications to paragraph 75 of Basel III to ensure that an increase in the credit risk of a bank does not, through a reduction in the value of its liabilities, lead to an increase in its common equity. The modification adds the clarifying language: "In addition, with regard to derivative liabilities, derecognize all accounting valuation adjustments arising from the bank's own credit risk. The offsetting between valuation adjustments arising from the bank's own credit risk and those arising from its counterparties' credit risk is not allowed."
- Frequently asked questions relating to counterparty credit risk including the default counterparty credit risk charge, the credit valuation adjustment (CVA) capital charge and asset value correlations.

For additional information please contact Hugh Kelly, Principal: hckelly@kpmg.com or Paul Cardon, Director: pcardon@kpmg.com

Financial Stability Institute Publishes Survey Results on Implementation of Basel II, 2.5 and III in Non-Basel Committee and Non-European Union Member Countries

In 2012, the Bank for International Settlements' Financial Stability Institute ("FSI") conducted a survey of implementation of Basel II, 2.5 and III in jurisdictions that are neither members of the Basel Committee on Banking Supervision ("Basel Committee") nor members of the European Union. Selected banking supervisory authorities were contacted by the FSI and requested to submit responses to a questionnaire. The methodology used in this survey is similar to the one adopted by the Basel Committee in October 2011 for its progress report on Basel III implementation.

The FSI has published the results of its survey by disclosing the information received from 70 participating countries. The FSI indicates that it will be updating the results of this survey every year from March 2013 onwards so that the jurisdictions (which are not members of the Basel Committee and/or the European Union) can provide up-to-date information regarding the status of their implementation of Basel II, 2.5 and III.

The Basel Committee published its second progress report on Basel III implementation on April 3, 2012. The report outlines the progress of implementing Basel II, Basel 2.5 and Basel III by Basel Committee member countries through their national laws and regulations and in accordance with the internationally-agreed timeframes

For additional information please contact Hugh Kelly, Principal: hckelly@kpmg.com or Paul Cardon, Director: pcardon@kpmg.com

FDIC Final Rule Covers Corporate Debt Securities Guidance for State and Federal Savings Associations

The Federal Deposit Insurance Corporation ("FDIC") released Financial Institution Letter 34-2012 on July 24, 2012 to announce the release of a final rule that prohibits any insured savings association from acquiring or retaining a corporate debt security unless it determines, prior to

acquiring such security and periodically thereafter, that the issuer has adequate capacity to meet all financial commitments under the security for the projected life of the security. An issuer would satisfy this requirement if, based on the assessment of the savings association, the issuer presents a low risk of default and is likely to make full and timely repayment of principal and interest. The final rule became effective July 21, 2012 though compliance will not be required until January 1, 2013.

The FDIC separately released final guidance on due diligence requirements for savings associations in determining whether a corporate debt securities investment satisfies the requirements of the final rule. The FDIC expects savings associations to conduct appropriate ongoing reviews of their corporate debt investment portfolios to ensure that the composition of the portfolio is consistent with safety and soundness principles and appropriate for the risk profile of the institution as well as the size and complexity of the portfolio.

For additional information please contact Hugh Kelly, Principal: hckelly@kpmg.com or Bill Canellis, Director: wcanellis@kpmg.com

OCC Updates Bank Accounting Advisory Series

The Office of the Comptroller of the Currency released an update to its *Bank Accounting Advisory Series* ("BAAS") on July 25, 2012. The OCC explains this update includes recent answers to frequently asked questions from the industry and examiners covering areas such as acquired loans, other real estate owned, troubled debt restructurings, nonaccrual, allowance for loan and lease losses, insurance claims, and bankruptcy court discharged debt. The OCC further states that it plans to update the BAAS annually every June.

The OCC notes that the BAAS is a longstanding document covering a variety of topics. It is issued and updated to promote consistent application of accounting standards among national banks and federal savings associations. However, the BAAS does not represent official rules or regulations of the OCC but rather, it represents staff interpretations of the OCC's Office of the Chief Accountant on application of generally accepted accounting principles by banks. National banks and federal savings associations that deviate from these stated interpretations may be required to justify those departures to the OCC.

For additional information please contact Hugh Kelly, Principal: hckelly@kpmg.com or Bill Canellis, Director: wcanellis@kpmg.com

FDIC Schedules Workshops for Investors and Asset Purchasers

The Federal Deposit Insurance Corporation ("FDIC") is responsible for efficiently disposing of assets from failed banks in the most cost-effective manner possible. The FDIC currently has assets from failed banks available for acquisition by depository institutions, investors and asset purchasers and some of these assets have been designated for inclusion in structured sales.

On July 23, 2012, the FDIC announced that it will conduct a series of outreach workshops to provide information on how to become an FDIC Investor and/or Asset Purchaser. The half day workshops will cover how structured transactions are created and operated, the pre-qualification process, details about the Small Investor Program and Investor Match Program, how to participate in cash loan sales and ORE sales, and a discussion about the transactional documents necessary to bid. The workshop dates are scheduled for August 7 in Nashville, Tennessee, and August 9 in Dallas, Texas.

For additional information please contact Hugh Kelly, Principal: hckelly@kpmg.com or
Craig Stirnweis, Director: cstirnweis@kpmg.com.

Enterprise & Consumer Compliance

OCC Takes Enforcement Action for Violations of the Servicemembers Civil Relief Act

The Office of the Comptroller of the Currency ("OCC") announced on July 26, 2012 that it had taken enforcement actions against two related national banks for violations and compliance deficiencies related to the *Servicemembers Civil Relief Act* ("SCRA"). The enforcement actions require the banks to take prompt actions to correct deficiencies in their SCRA compliance programs, including:

- Improving policies and procedures for determining whether servicemembers who request certain benefits provided by the SCRA are eligible for such benefits, ensuring that the SCRA benefits are calculated correctly, and verifying the military status of servicemembers prior to seeking or obtaining a default judgment.
- Ensuring the retention of accurate and complete records that document the basis for decisions regarding servicemembers' eligibility for SCRA benefits or protections, and developing and implementing a comprehensive SCRA training program for employees.
- Establishing robust oversight of and controls over third-party vendors that provide marketing, sales, delivery, servicing, and fulfillment of services for the banks' financial products, such as credit card accounts, mortgage loans, motor vehicle finance loans, and consumer loans and lines of credit.

The OCC's actions also require the banks to engage an independent firm to identify all servicemembers who were eligible for SCRA benefits or protections and who were financially harmed by the banks' violations of the SCRA. To identify these servicemembers, the firm will conduct a comprehensive review for the period from July 15, 2006 to July 25, 2012 of:

- Foreclosure and repossession actions against servicemembers eligible for SCRA protection;
- Default judgments obtained against servicemembers eligible for SCRA protection; and
- Loans and credit card accounts for which servicemembers requested SCRA benefits.

The independent firm will also conduct a similar review of credit card accounts funded by the banks pursuant to a partnership agreement with a department store chain.

For more information, contact Linda Gallagher, Principal: lgallagher@kpmg.com or
Kari Greathouse, Director: cgreathouse@kpmg.com.

CFPB Consumer Tools Available for Private Student Loans

The Bureau of Consumer Financial Protection (“CFPB”) has a number of tools that are intended to assist consumers with their decisions regarding student loans. In particular, the CFPB has developed the:

- *Student Loan Debt Collection Assistant*, which is intended to help borrowers that have missed at least one payment understand their options, communicate effectively with their servicer or debt collector, and bring their own loan out of debt;
- *Student Debt Repayment Assistant*, which is an online tool that provides borrowers with information about income-based repayment, deferments, and alternative payment programs, among other things; and
- Financial Aid Shopping Sheet, which presents a model for financial aid letters. It was developed in coordination with the Department of Education and is intended to permit easy comparisons between financial aid offers among universities. Colleges accepting Tuition Assistance and G.I. Bill money must use the sheet for military students and all universities are encouraged to adopt it.

For more information, contact Linda Gallagher, Principal: lgallagher@kpmg.com or Kari Greathouse, Director: cgreathouse@kpmg.com.

Capital Markets & Investment Management

CFTC Proposes First Mandatory Clearing Requirement; Finalizes Phase-in Schedule for Clearing Requirement Compliance

The Commodity Futures Trading Commission (“CFTC”) released a proposed rule on July 24, 2012 that would establish a clearing requirement for certain credit default swaps (“CDS”) and interest rate swaps. Swaps identified by the rule would be required to be submitted to a registered derivatives clearing organization (“DCO”). Swaps meeting the definition but entered into prior to the enactment of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* or prior to the application of the clearing requirement would not be required to be cleared under this rule.

Four interest rate swap classes and two CDS classes are identified in the proposed rule. Comments are requested for a period of 30 days following publication in the *Federal Register*.

Also on July 24, 2012, the CFTC approved final rules that establish a phase-in schedule for compliance with the clearing requirements. Market participants are divided into the following categories:

- Category 1 Entities - including swap dealers, security-based swap dealers, major swap participants, major security-based swap participants, and active funds – must comply with the mandatory clearing requirement within 90 days of a final clearing determination.
- Category 2 Entities - including commodity pools; private funds as defined in Section 202(a) of the *Investment Advisors Act of 1940*, other than active funds; or persons

predominantly engaged in activities that are in the business of banking, or in activities that are financial in nature as defined in Section 4(k) of the *Bank Holding Company Act of 1956*, provided that the entity is not a third-party subaccount - must comply with the mandatory clearing requirement within 180 days of a final clearing determination.

- Category 3 Entities – including all other entities not eligible to be excepted from the mandatory clearing requirement and entities with third-party subaccounts – must comply with the mandatory clearing requirements within 270 days of a final clearing determination.

The final rules will become effective 60 days after publication in the *Federal Register*.

For more information contact Douglas Henderson, Managing Director: douglashenderson@kpmg.com or Dan McIsaac, Director: dmcisaac@kpmg.com

Enforcement Actions

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

- The SEC obtained an emergency court order to freeze the assets of traders intending to use insider information to reap illegal profits from an acquisition.
- The CFTC filed and settled charges against three registered floor brokers for unlawful Standard & Poor's 500 trading. The brokers are required to pay civil money penalties and have had their floor registrations temporarily suspended.
- The CFTC filed and settled charges against a futures commission merchant for filing inaccurate large trader reports and failing to diligently supervise the handling and reporting of accounts.
- The CFTC received an emergency court order freezing the assets of three individuals and their company. The order is based on charges made by the CFTC against the defendants for fraud and misappropriation

For more information contact Douglas Henderson, Managing Director: douglashenderson@kpmg.com or Dan McIsaac, Director: dmcisaac@kpmg.com

Recent Supervisory Actions against Financial Institutions

Last Updated: July 30, 2012

Agency	Institution Type	Action	Date	Synopsis of Action
Federal Reserve Board	Bank Holding Company	Written Agreement	07/26	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	Bank Holding Company	Written Agreement	07/24	The Federal Reserve Board entered into a Written Agreement with a North Carolina-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.
Bureau of Consumer Financial Protection; Office of the Comptroller of the Currency	National Bank	Civil Money Penalty	06/18	<p>The Bureau of Consumer Financial Protection entered into a Consent Order with a national bank to address deficiencies related to marketing practices engaged in by the bank and its vendors and which the CFPB determined to be deceptive . The CFPB required \$140 million in restitution to be paid to approximately 2 million consumers and a civil money penalty of \$25 million.</p> <p>In a separate but related action, the Office of the Comptroller of the Currency entered into a Consent Cease and Desist Order with the bank. The OCC required \$150 million in restitution to be paid to approximately 2.5 million consumers and a civil money penalty of \$35 million.</p> <p>The CFPB’s restitution payments may be satisfied with the restitution payments required by the OCC.</p>
Federal Reserve Board	Bank Holding Company	Written Agreement	07/05	The Federal Reserve Board entered into a Written Agreement with an Indiana-based bank holding company to address dividends and distributions, debt and stock redemptions, capital and affiliate transactions to ensure that it serves as a source of strength for its national bank and Federal savings bank subsidiaries in addition to its various nonbank subsidiaries.
Federal Reserve Board	Bank Holding Company	Written Agreement	07/03	The Federal Reserve Board entered into a Written Agreement with a Maryland-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	06/28	The Federal Reserve Board entered into a Written Agreement with a Virginia-based bank holding company to address dividends and distributions, debt and stock redemptions, capital and affiliate transactions 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	06/26	The Federal Reserve Board entered into a Written Agreement with a Minnesota-based bank holding company to address dividends, distributions and other payments, and debt and stock redemptions to ensure that it serves as a source of strength for its state nonmember bank and nonbank subsidiaries.

Contact Us

This is a publication of KPMG's Financial Services Regulatory Practice

Linda Gallagher, National Leader, Financial Services Regulatory Practice

Douglas Henderson, Managing Director, Broker-Dealer Regulatory

Hugh Kelly, Principal, Bank Regulatory

Amy Matsuo, Principal, Enterprise & Consumer Compliance

John Schneider, Principal, Investment Management Regulatory

David Sherwood, Director, Insurance Regulatory

Earlier editions are available at:

<http://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/washington-reports/Pages/default.aspx>

Asset Management, Trust, and Fiduciary

Bill Canellis T: 973.912.4817

Bank Regulatory Reporting

Francis Gomez T: 212.872.5662

Chris Monks T: 617.988.1718

Brett Wright T: 901.249.3809

Capital Markets Regulation

Lucia Baraybar T: 212.872.6477

Stefan Cooper T: 856.417.6799

Doug Henderson T: 212.872.6687

Dan McIsaac T: 212.954.5973

Capital/Basel II and III

Philip Aquilino T: 703-286-8029

Bill Canellis T: 973.912.4817

Paul Cardon T: 617.988.1282

Hugh Kelly T: 202.533.5200

Greg Matthews T: 212.954.7784

Commodities and Futures Regulation

Dan McIsaac T: 212.954.5973

Consumer & Enterprise Compliance

Linda Gallagher T: 703.286.8248

Kari Greathouse T: 636.587.2844

Amy Matsuo T: 919.380.1509

Cross-Border Regulation

Philip Aquilino T: 703-286-8029

Hugh Kelly T: 202.533.5200

Craig Stirnweis T: 214-840-6866

Foreign Banking Organizations

Philip Aquilino T: 703-286-8029

Francis Gomez T: 212.872.5662

Hugh Kelly T: 202.533.5200

Craig Stirnweis T: 214-840-6866

Insurance

David Sherwood T: 212.954.5861

Lisa Stimson T: 860.297.6059

Investment Management Regulation

John Schneider T: 617.988.1000

Privacy & Identity Theft

Linda Gallagher T: 703.286.8248

Kari Greathouse T: 636.587.2844

Safety & Soundness, Corporate Licensing & Governance, and ERM Regulation

Philip Aquilino T: 703-286-8029

Paul Cardon T: 617.988.1282

Hugh Kelly T: 202.533.5200

Greg Matthews T: 212.954.7784

Craig Stirnweis T: 214.840.6866

ALL INFORMATION PROVIDED HERE IS OF A GENERAL NATURE AND IS NOT INTENDED TO ADDRESS THE CIRCUMSTANCES OF ANY PARTICULAR INDIVIDUAL OR ENTITY. ALTHOUGH WE ENDEAVOR TO PROVIDE ACCURATE AND TIMELY INFORMATION, THERE CAN BE NO GUARANTEE THAT SUCH INFORMATION IS ACCURATE AS OF THE DATE IT IS RECEIVED OR THAT IT WILL CONTINUE TO BE ACCURATE IN THE FUTURE. NO ONE SHOULD ACT UPON SUCH INFORMATION WITHOUT APPROPRIATE PROFESSIONAL ADVICE AFTER A THOROUGH EXAMINATION OF THE FACTS OF THE PARTICULAR SITUATION.

©2012 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. The KPMG name, logo and "cutting through complexity" are registered trademarks or trademarks of KPMG International. KPMG LLP, the audit, tax and advisory firm (www.kpmg.com/us), is the U.S. member firm of KPMG International Cooperative ("KPMG International"). KPMG International's member firms have 145,000 professionals, including more than 8,000 partners, in 152 countries. Printed in the U.S.A. All rights reserved. 33323WDC