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Bank & Thrift

Federal Reserve Releases Updated Guidance for Examiner Communications of Supervisory Findings

The Federal Reserve Board released Supervision and Regulation Letter 13-13/Consumer Affairs Letter 13-10 on June 17, 2013 to “update and clarify existing examiner guidance concerning the communication of supervisory findings to banking organizations and institutions supervised by the Federal Reserve” (collectively, organizations). The Federal Reserve explains the release “revises guidance issued in 2008 and discusses the standard language that the Federal Reserve uses to enhance the focus on matters requiring attention and highlights supervisory expectations for corrective actions, Reserve Bank follow-up, and other supervisory considerations. The guidance also defines *Matters Requiring Immediate Attention* (MRIAs) and *Matters Requiring Attention* (MRAs) and outlines the procedures that safety-and-soundness and consumer compliance examiners will follow in presenting and communicating their supervisory findings.”

Agencies Publish List of Distressed or Underserved Nonmetropolitan Middle -Income Geographies

On June 18, 2013, the federal bank and thrift regulatory agencies (Federal Reserve Board, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation) announced the availability of the 2013 list of distressed or underserved nonmetropolitan middle-income geographies where revitalization or stabilization activities will receive *Community Reinvestment Act* (CRA) consideration as “community development.”

The areas are designated by the agencies in accordance with their CRA regulations and are intended to reflect local economic conditions, including triggers such as unemployment, poverty, and population changes. There is a one-year lag period for geographies that are no longer designated as distressed or underserved in the current release, which allows these geographies eligibility to receive consideration for community development activities for 12 months after publication of the current list.

The current and previous years' lists are published on the Web site of the Federal Financial Institutions Examination Council (FFIEC).

OCC Publishes Semi-Annual Risk Perspectives Report

The Office of the Comptroller of the Currency (OCC) released its *Semiannual Risk Perspective* for Spring 2013 on June 18. The publication reflects data as of December 31, 2012, and details risks facing the banking industry, including:

- Strategic risk, which remains high and continues to increase for many banks as they re-evaluate their strategy and business models to generate returns amid slow economic growth, low interest rates, and regulatory requirements. The OCC indicates examiners will be focusing on strategic planning processes and new product planning to ensure

supervised entities give adequate consideration to safe and sound business practices, and potential compliance, reputation, and operational risks.

- Cyber threats, which continue to grow in sophistication and require heightened awareness and appropriate resources to identify and mitigate the associated risks.
- Demand for domestic loans, particularly commercial loans, which has improved. The OCC cautions that increased competition for limited commercial and industrial lending opportunities, especially leveraged lending, is weakening underwriting standards.
- Low interest rates, which increase vulnerability for banks that “reach for yield,” as they could experience earnings pressure and, potentially, capital erosion, when interest rates increase.
- *Bank Secrecy Act* (BSA) and Anti-Money Laundering (AML) risks are on the rise as money laundering methods evolve, electronic bank fraud increases in volume and sophistication, and banks fail to evolve or incorporate appropriate controls into new products and services.

OCC Approves Final Rule to Amend Lending Limits Related to Credit Exposures Arising from Derivatives and Other Transactions

The Office of the Comptroller of the Currency (OCC) has approved a final rule to amend its regulations governing lending limits. The rule implements Section 610 of the *Dodd Frank Wall Street Reform and Consumer Protection Act*, which modifies the statutory definition of “loans and extensions of credit” to include credit exposures arising from derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions and securities borrowing transactions. Under the rule, a temporary exception period is extended for three months so that compliance with the Section 610 provisions will not be required until October 1.

Enterprise & Consumer Compliance

CFPB Proposes Amendments to Its Policy Proposal Governing Trial Disclosures

The Bureau of Consumer Financial Protection (CFPB or Bureau) released an update to its proposed policy that would permit companies to test disclosures on a trial basis. The policy is part of a program known as Project Catalyst, which the CFPB describes as an initiative to support innovators in creating consumer-friendly financial products and services. The update, which was released on June 19, 2013, includes revisions and clarifications that address:

- *Iterative testing.* Companies would be permitted to conduct iterative testing during disclosure trials rather than test one static disclosure.
- *Additional consumer safeguards.* Trial proposals would be required to identify any risks to consumers and include plans to mitigate those risks.
- *Collaboration.* Companies would be permitted to submit collaborative proposals that might defray costs.
- *Pre-submission consultation.* Potential applicants would be permitted to consult with the

Bureau prior to formal submission.

- *Delivery methods.* Trial proposals would be permitted to cover innovative delivery methods and platforms.
- *Privacy.* No test data that includes a consumer's personally identifiable financial information would be accepted.

CFPB Partners with City of Boston For Consumer Questions and Complaints

The Bureau of Consumer Financial Protection (CFPB or Bureau) announced that it had entered into a partnership with the City of Boston that permits consumers in Boston to use a 24-Hour Constituent Services telephone hotline to be connected with the Bureau for purposes of asking questions and submitting complaints about financial products and services.

Capital Markets & Investment Management

Enforcement Actions

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

- The SEC charged a foreign-based company and its Chief Executive Officer with fraudulently misleading investors about its financial condition. The charges included violations of reporting, books and records, and internal control provisions, as well as violations of rules prohibiting lying to auditors and making false certifications.
- The SEC charged two executives of a company with operating a \$10 million Ponzi scheme that defrauded approximately 80 investors.
- The CFTC announced that it had received a judgment against an individual and two companies that required them together to pay more than \$4.3 million in restitution and \$7.5 million in civil money penalties for fraudulent solicitation, misappropriation and regulation violations. The order included permanent trading and registration bans.
- The CFTC filed and simultaneously settled charges against a company for failing to segregate or secure sufficient customer funds; failing to meet minimum net capital requirements, failing to maintain accurate books and records, and failing to supervise its employees. The Order requires the company to pay a \$1 million civil monetary penalty, submit to a cease and desist order, and retain an independent consultant to review and evaluate the effectiveness of its existing internal controls and policies and procedures and to adopt any recommendations for improvement made by the consultant.

Recent Supervisory Actions against Financial Institutions

Last Updated: June 24, 2013

Agency	Institution Type	Action	Date	Synopsis of Action
Federal Reserve Board	Bank Holding Company; State Member Bank	Written Agreement	06/11	The Federal Reserve Board entered into a Written Agreement with a bank holding company to address deficiencies related to Bank Secrecy Act and anti-money laundering compliance, customer due diligence, suspicious activity monitoring and reporting, and transaction review.
Federal Reserve Board	Savings and Loan Holding Company	Written Agreement	06/11	The Federal Reserve Board entered into a Written Agreement with a savings and loan holding company to address deficiencies related to board oversight, risk management, internal controls, regulatory reporting, dividends and distributions, debt and stock redemptions, and affiliate transactions to ensure that it serves as a source of strength for its state chartered savings banks and various other nonbank subsidiaries.
Federal Reserve Board	Foreign Bank; Federal Branch	Written Agreement	05/17	The Federal Reserve Board entered into a Written Agreement with a foreign bank and one of its U.S. federal branches to address deficiencies related to board oversight, Bank Secrecy Act/Anti-Money Laundering Compliance, suspicious activity reporting, and customer due diligence.
Federal Reserve Board	Banking Holding Company	Written Agreement	05/02	The Federal Reserve Board entered into a Written Agreement with a Wisconsin-based bank holding company to address dividends, debt and stock redemptions, and capital to ensure that it serves as a source of strength for its national bank subsidiary.
Federal Reserve Board	State Member Bank	Written Agreement	04/26	The Federal Reserve Board entered into a Written Agreement with an Oklahoma-based state member bank to address deficiencies related to board oversight, credit risk management, and lending and credit administration, asset improvement, allowance for loan and lease losses, capital, funds management and interest rate risk and dividends and distributions.
Federal Reserve Board	Banking Holding Company	Written Agreement	04/26	The Federal Reserve Board entered into a Written Agreement with a Minnesota-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	Banking Holding Company	Written Agreement	04/18	The Federal Reserve Board entered into a Written Agreement with an Illinois-based bank holding company to address dividends and distributions, debt and stock redemptions, capital, compensation, affiliate transactions and conflicts of interest policy, to ensure that it serves as a source of strength for its five state nonmember bank and nonbank subsidiaries.
Consumer Financial Protection Bureau	Mortgage Insurance Companies	Consent Order	04/04	The Consumer Financial Protection Bureau entered into Consent Orders with four separate mortgage insurance companies to stop practices that the CFPB has identified as violating Federal consumer financial laws. Among other things, the companies have agreed to prohibitions against entering into new captive mortgage reinsurance arrangements with affiliates of mortgage lenders and obtaining mortgage reinsurance on any new mortgage for ten years. In addition, the companies will pay a total of \$15 million civil money penalties as well s to be subject to CFPB monitoring and reporting requirements.

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