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Safety & Soundness

Basel Committee Issues Second Progress Report on Banks' Adoption of Principles for Effective Risk Data Aggregation and Risk Reporting

On January 23, 2015, the Bank for International Settlements' Basel Committee on Banking Supervision (Basel Committee or BCBS) issued a second progress report on banks' adoption of the Basel Committee's *Principles for effective risk data aggregation and risk reporting*. Published in 2013, the *Principles* aim to strengthen risk data aggregation and risk reporting at banks to improve their risk management practices and decision-making processes. Firms designated as global systemically important banks (G-SIBs) are required to fully implement the *Principles* by 2016.

The 2015 report reviews banks' progress in 2014 and updates a 2013 "stocktaking" self-assessment survey completed by G-SIBs, other large banks, and supervisors. It outlines the measures G-SIBs have taken to improve their overall preparedness to comply with the *Principles*, as well as the challenges they face. BCBS stated that G-SIBs are increasingly aware of the importance of this topic and have moved towards implementing the *Principles*. They added, however, that 14 of the 31 participating banks reported they will be unable to fully comply with the *Principles* by the 2016 deadline.

The *Principles* apply initially to all systemically important banks and BCBS intends to continue to monitor the progress of G-SIBs towards meeting the 2016 deadline. BCBS recommends that national supervisors apply the *Principles* to institutions identified three years after being designated as a domestic systemically important bank. The Basel Committee believes that the *Principles* can be applied to a wider range of banks in a way that reflects their size, nature, and complexity.

Basel Committee Releases Work Programs for 2015 and 2016

The Bank for International Settlements' Basel Committee on Banking Supervision (Basel Committee or BCBS) released its work programs for 2015 and 2016 on January 23, 2015. The Basel Committee intends to focus on four themes:

- *Policy development*. In addition to existing policy initiatives related to restoring confidence in capital ratios, BCBS is undertaking three policy-related issues:
 - Assessing the interaction, coherence, and overall calibration of the reform policies;
 - Reviewing the regulatory treatment of sovereign risk; and
 - Assessing the role of stress testing in the regulatory framework, in light of national developments.
- *Simplicity, comparability, and risk sensitivity*. Work on simplicity, comparability and risk sensitivity combines the issues emerging from the BCBS's top-down review of the framework along with the bottom up work on risk-weighted asset variability, which were detailed in the Basel Committee's November 2014 report to the G20 Leaders. The G20 report sets out the measures the Basel Committee is taking to simplify the regulatory framework, and to improve consistency and comparability in bank capital ratios.
- *Monitoring and assessing implementation*. The Regulatory Consistency Assessment Program (RCAP) will be expanded to cover Basel III's liquidity standards and the frameworks for global and domestic systemically important banks.
- *Improving the effectiveness of supervision*. BCBS will focus on supervisory practices related to stress testing, valuation practices, and the role of Pillar 2 in the capital framework.

Enterprise & Consumer Compliance

CFPB Adopts Modifications to Mortgage Disclosure Rules

The Consumer Financial Protection Bureau (CFPB or Bureau) on January 20, 2015, adopted two minor modifications to the 2013 TILA-RESPA final rule, which provides for integrated mortgage disclosures under the *Truth in Lending Act* (and Regulation Z) and the *Real Estate Settlement Procedures Act* (and Regulation X). The modifications address when borrowers will receive updated disclosures after locking in an interest rate and how borrowers receive information regarding certain construction loans.

The final rule:

- Requires creditors to provide a revised Loan Estimate within three business days after a consumer locks in a floating interest rate. The original rule required creditors to provide the revised Loan Estimate on the date the rate is locked.
- Creates a space on the Loan Estimate form where creditors could include language informing borrowers that they may receive a revised Loan Estimate for a construction loan that is expected to take more than 60 days to settle.

The 2013 TILA-RESPA mortgage disclosure rule, including the finalized modifications, becomes effective August 1, 2015.

FTC Issues Follow-Up Study on Credit Report Accuracy

On January 21, 2015, the Federal Trade Commission (FTC) submitted its sixth and final report on a national study of credit report accuracy to Congress, as required by the *Fair and Accurate Credit Transactions Act* (FACT Act). The report follows up on a study issued by the FTC in 2012, which examined how many consumers had errors on one of their three major credit reports. The 2012 study found that most consumers who previously reported an unresolved error on one of their three major credit reports believe that at least one piece of disputed information on their report is still inaccurate.

The follow-up study focuses on 121 consumers who had at least one unresolved dispute from the 2012 study and participated in a follow-up survey. It finds that nearly a third of the consumers stated that they now accepted the original disputed information on their reports as correct. However, the remainder of these consumers continue to believe that at least some of the disputed information is inaccurate. Of those 84 consumers, 38 of them (45 percent) said they plan to continue their dispute, and 42 (50 percent) plan to abandon their dispute, while four consumers are undecided.

The final study also examined whether consumers from the 2012 study who had their credit reports modified after disputing information on their credit reports had any of the negative information that had been removed subsequently reappear on their reports. The study found two instances of this, representing about 1 percent of these consumers.

Based on the study, the FTC recommends that credit reporting agencies (CRAs) review and improve the process they use to notify consumers about the results of dispute investigations, and that CRAs continue to explore efforts to educate consumers regarding their rights to review their credit reports and dispute inaccurate information.

CFPB Charges Two Financial Institutions for Participation in Marketing Kickback Scheme

On January 22, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) and a state Attorney General charged two financial institutions for participating in an illegal marketing-services-kickback scheme with a now-defunct title company. The Bureau and state attorney general also charged two individuals, one of whom is a former bank loan officer,

for their involvement. The CFPB complaint alleges that the title company gave the banks' loan officers cash, marketing materials, and consumer information in exchange for business referrals in violation of the *Real Estate Settlements Procedures Act* (RESPA). Under a proposed Consent Order, one institution would be required to pay \$24 million in civil penalties and the other would pay \$600,000. The institutions also would be required to pay \$11.1 million in restitution to consumers whose loans were involved in this alleged scheme. The title company would be required to pay a \$30,000 penalty.

FTC Charges Company Debt Collectors with Deceptive Practices

On January 20, 2015, the Federal Trade Commission (FTC) charged a Texas-based company with violations of the *Federal Trade Commission Act* (FTC Act) and the *Fair Debt Collection Practices Act* (FDCPA), alleging that the company illegally threatened consumers with false claims that unless they pay a debt, they would face legal action or wage garnishment. The complaint was filed in federal court on the agency's behalf by the Department of Justice. The FTC seeks a permanent injunction and civil money penalties.

Insurance

The IAIS Schedules First Capital-Related Stakeholder Meeting

The International Association of Insurance Supervisors (IAIS) recently announced that it will hold its first capital-related stakeholder meeting in Newport Beach, California, on February 5, 2015. Members of the IAIS Capital Development Working Group (CDWG) and Field Testing Working Group (FTWG) will participate in the meeting. The IAIS stated that stakeholders will have an opportunity to request any necessary clarifications of the global insurance capital standard (ICS) consultation document that was published in December 2014 as well as to present their initial or interim views on key topics in the ICS consultation document to those who have worked on developing that document. The discussion is intended to allow for some debate and further insights behind the development of the ICS consultation document prior to finalization of the global insurance capital standard.

Capital Markets & Investment Management

OCC Revises Guidance in the "Government Securities Act" booklet of the *Comptroller's Handbook*

On January 22, 2015, the Office of the Comptroller of the Currency (OCC) issued OCC [Bulletin 2015-5](#) to announce revisions to the "[Government Securities Act](#)" booklet of the *Comptroller's Handbook*. The booklet, part of the Securities Compliance series, consolidates certain guidance from the *Comptroller's Handbook* "Securities Activities" booklet, and the *Comptroller's Handbook* booklet "Investment Securities." The new booklet also replaces section 563, "Government Securities Act," issued in May 1998 as part of the Office of Thrift Supervision (OTS) *Examination Handbook* for the examination of federal savings associations.

CFTC Chairman Massad Discusses “Status of U.S. Reforms Following the Financial Crisis” and “Sustainable Growth in Asia in a World of Changing Financial Sector Regulations”

Timothy G. Massad, Chairman of the Commodity Futures Trading Commission (CFTC) addressed two industry groups in Asia. In remarks before the Futures Industry Association in Tokyo, Japan, on January 21, 2015, he addressed the [status of U.S. reforms](#) following the financial crisis, including:

- Progress on the G-20 Commitments and Challenges;
- Clearing House oversight;
- Oversight of Swap Participants;
- Market Data;
- Trading Rules; and
- Cybersecurity.

Chairman Massad addressed the Asian Financial Forum in Hong Kong on January 20, 2015, regarding the [prospects for sustainable growth in Asia](#) in a world of changing financial sector regulations.

CFTC Issues Order of Registration to Tokyo Commodity Exchange

On January 20, 2015, the U.S. Commodity Futures Trading Commission (CFTC) issued an [Order of Registration](#) to the Tokyo Commodity Exchange, Inc. (TOCOM), a Foreign Board of Trade located in Tokyo, Japan. Under the Order, TOCOM is permitted to provide its identified members or other participants located in the United States with direct access to its electronic order entry and trade matching system to trade futures contracts on metals, fuels, rubber and agricultural commodities, and futures and option contracts on gold.

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 rating agency with fraudulent misconduct in its ratings of certain commercial mortgage-backed securities (CMBS). In settling three separate orders with the SEC, the rating agency agreed, without admitting or denying the charges, to pay more than \$58 million to settle the SEC’s charges, plus an additional \$31 million to settle parallel cases brought against it by two state attorneys general. Separately, the SEC charged the former head of rating agency’s CMBS Group with fraudulently misrepresenting the manner in which the firm calculated a critical aspect of certain CMBS ratings. The SEC seeks a permanent injunction, disgorgement, and a civil money penalty.
- The SEC charged a Florida-based investment advisory firm, its manager, and three related funds with fraud for misleading investors in a scheme that raised more than \$17 million. The SEC alleges most of the funds raised were used to make Ponzi-like payments to the investors. The SEC is seeking a temporary restraining order, preliminary injunction and permanent injunction, an asset freeze, disgorgement, and civil money penalties.
- The SEC charged a former officer at a Florida-based firm with violating the *Foreign Corrupt Practices Act* (FCPA) by offering and authorizing bribes and employment to foreign officials to secure foreign government contracts. Without admitting or denying the SEC’s findings, the former officer agreed to pay a \$50,000 penalty. The SEC also announced a deferred prosecution agreement with the former officer’s firm that defers FCPA charges for a period of two years and requires the company to comply with certain undertakings. The corporation is required to immediately pay \$3.4 million in financial remedies as part of the agreement.
- The CFTC charged a foreign-based futures trading desk and its New Jersey-based subsidiary with violating position limits, entering into exchange of futures for physical transactions (EFPs) opposite each other’s futures trading accounts, and failing to disclose that their futures trading accounts were not independently controlled. Without admitting or denying the findings, the companies agreed to settle the CFTC charges and pay a \$3 million civil monetary penalty.
- The CFTC charged three California-based companies and their principal for fraudulently soliciting retail customers and prospective customers to enter into off-exchange trading on a leveraged, margined, or financed basis. They were

also charged with falsely representing that customers were purchasing actual physical commodities and issuing false account statements. Without admitting or denying the charges, the companies and their principal jointly agreed to pay a combined restitution of approximately \$2.3 million and a combined civil monetary penalty of more than \$3 million. They also agreed to permanent trading, solicitation, and registration bans.

- The CFTC charged two traders who operated a company based in New York and a foreign-country with fraudulently soliciting retail clients to trade foreign currency (forex) options. The individuals also were charged with misappropriating client funds and not registering with the CFTC. To settle the CFTC charges, they agreed to pay restitution in excess of \$2,160,000 and to accept permanent bans from registering, trading, soliciting, and engaging in any CFTC-regulated activity. In a related criminal action brought by the U.S. Attorney, the traders pleaded guilty to charges of tax evasion and money laundering and are serving prison sentences.

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