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Safety & Soundness

Federal Reserve Proposes Changes to Capital Plan and Stress Test Rules

The Federal Reserve Board (Federal Reserve) released a proposed rule on July 17, 2015, that would modify its capital plan and stress test rules for large bank holding companies and certain banking organizations with total consolidated assets of more than \$10 billion. The proposed modifications include:

- Elimination of the tier 1 capital ratio for all banking organizations;
- A one year delay for the incorporation of the supplementary leverage ratio for banking organizations subject to the advanced approaches, as well as an indefinite deferral of the use of the advanced approaches risk-based capital framework; and
- Elimination of the fixed assumptions regarding dividend payments for company run stress tests by banking organizations with total consolidated assets of more than \$10 billion and less than \$50 billion and savings and loan holding companies with total consolidated assets of more than \$10 billion, as well as a one year delay of the application of stress testing for savings and loan holding companies.

If finalized, the amendments would be applied beginning with the 2016 capital plan and stress test cycle. Comments on the proposal are requested no later than September 24, 2015. [\[Press Statement\]](#) [\[Proposed Rule\]](#)

Basel Committee Releases Final Guidelines for Identifying and Dealing with Weak Banks

The Bank for International Settlements' Basel Committee on Banking Supervision (Basel Committee) released final *Guidelines for Identifying and Dealing with Weak Banks* (Guidelines) on July 16, 2015. The Guidelines update guidance previously released in 2002, and include changes that:

- Emphasize the need for early intervention and the use of recovery and resolution tools, and update supervisory communication policies for distressed banks;
- Provide further guidance for improving supervisory processes, such as incorporating macroprudential assessments, stress testing and business model analysis, and reinforcing the importance of sound corporate governance at banks;
- Highlight the issues of liquidity shortfalls, excessive risk concentrations, misaligned compensation and inadequate risk management; and
- Expand guidelines for information-sharing and cooperation among relevant authorities.

The Basel Committee notes that all bank supervisors should be prepared to mitigate the incidence of weak banks and deal with them when they occur. [\[Press Statement\]](#) [\[Guidelines\]](#)

Basel Committee Releases Progress Report for Supervisory Colleges

On July 15, 2015, the Bank for International Settlements' Basel Committee on Banking Supervision (Basel Committee) released a progress report on the implementation of principles for effective supervisory colleges. The Basel Committee first published good practice principles on supervisory colleges in 2010 and revisions in 2014. It continues to monitor the implementation of the principles and the effectiveness of colleges. The current progress report sets out the Basel Committee's detailed findings from its monitoring activities, and highlights challenges faced by supervisors in running effective supervisory colleges as well as the practical approaches taken to address them. [\[Press Statement\]](#) [\[Progress Report\]](#)

Enterprise & Consumer Compliance

CFPB Launches New Monthly Report on Consumer Complaints

The Consumer Financial Protection Bureau (CFPB or Bureau) launched the first in a new series of monthly reports to highlight key trends from consumer complaints submitted to the Bureau. As planned, each month the report will spotlight a particular product and geographic location – the current report provides a closer look at debt collection complaints and complaints from consumers in Milwaukee, Wisconsin. In addition, the current report includes “complaint highlights” as of July 1, 2015, including, among others:

- The most-complained-about financial product or service in June 2015 (debt collection, representing about 32 percent of complaints submitted);
- The category of complaints that showed the greatest percentage increase from the same time last year (consumer loan complaints, which increased from approximately 660 complaints to 1,020 complaints on average per month); and
- The states experiencing the greatest complaint volume increases from the same time last year (Hawaii, West Virginia, and Maine. [\[Press Statement\]](#) [\[Complaint Report Vol. 1\]](#))

CFPB Enters Consent Order with Indirect Auto Lender to Address Discretionary Pricing

The Consumer Financial Protection Bureau (CFPB or Bureau) announced on July 14, 2015, that it had reached an agreement with a large indirect auto lender to resolve an action taken jointly by the CFPB and the Department of Justice to address the agencies’ complaints that the lender violated the *Equal Credit Opportunity Act* (ECOA). In particular, the agencies claimed the lender charged minority borrowers a higher discretionary dealer markup for their auto loans than other borrowers, without regard to creditworthiness. Under the CFPB’s consent order, the lender must “substantially reduce or eliminate entirely dealer discretion,” and pay \$24 million in restitution damages to harmed consumers. The CFPB stated that it did not assess penalties against the lender because of the lender’s “responsible conduct, namely the proactive steps the company is taking that directly address the fair lending risk of discretionary pricing and compensation systems.”

Treasury Seeks Comment on Marketplace Lenders

The Department of the Treasury (Treasury) announced the release of a Notice and Request for Information on marketplace lenders on July 16, 2015. In particular, the Treasury is seeking input on the various business models under which online marketplace lenders operate and the types of products they offer to small businesses and consumers. In addition, they are seeking input on the potential for online marketplace lending to expand access to credit to historically underserved market segments, and suggestions on how the financial services regulatory framework should evolve to support the “safe” growth of this industry. (Note: Treasury states that online marketplace lending refers to the segment of the financial services industry that uses investment capital and data-driven online platforms to lend to small businesses and consumers.) Comments are requested no later than August 31, 2015. [\[Press Statement\]](#) [\[Request for Information\]](#)

Basel Committee Releases Proposed Revisions to Account Opening Guide

The Bank for International Settlements’ Basel Committee on Banking Supervision released proposed revisions to its *General Guide to Account Opening*, which was first released in February 2003. The Basel Committee notes that customer information collected and verified at the account opening stage plays a crucial part in a bank’s ability to fulfill its

obligations under anti-money laundering and counter-financing of terrorism (AML/CFT) rules. As a result, banks' policies and procedures for account opening should fully reflect applicable AML/CFT legislation. Comments are requested no later than October 22, 2015. [\[Press Statement\]](#) [\[Consultative Document\]](#)

Capital Markets and Investment Management

FINRA and MSRB Propose Academic TRACE Data Set

The Financial Industry Regulatory Authority (FINRA) released Regulatory Notice 15-26 on July 16, 2015, to announce the release of a proposed rule that would create a new academic Trade Reporting and Compliance Engine (TRACE) data set that would be available to institutions of higher education. FINRA explains that it has received requests from academics for access to historical TRACE data that provides sufficient information to allow them to track the behaviors of individual dealers or groups of dealers, even on an anonymous basis. In response to these requests, FINRA is proposing to create a new Academic TRACE Data set that would include masked market participant identifiers and takes steps to address the issue of potential reverse engineering of dealer identities (even though masked).

FINRA encourages all interested parties to comment on the proposal no later than September 14, 2015. FINRA and the Municipal Securities Rulemaking Board (MSRB) have been engaged in ongoing dialogue to support a coordinated approach to potential rulemaking in this area and the MSRB is separately soliciting comment on a similar proposal that would apply to municipal securities transaction data. [\[Press Statement\]](#) [\[Proposal\]](#)

Agencies Issue Joint Report on the Treasury Market Volatility of October 15, 2014

On July 13, 2015, staff from the Department of Treasury, the Federal Reserve Board, the Federal Reserve Bank of New York, the Securities and Exchange Commission, and the Commodity Futures Trading Commission issued a joint report analyzing the significant volatility in the U.S. Treasury market on October 15, 2014, which included record trading volumes and an "unusually rapid round trip in prices and deterioration in liquidity during a narrow window." The joint report clarifies that a number of developments help explain the conditions that likely contributed to the volatility, such as changes in global risk sentiment and investor positions, a decline in order book depth, changes in order flow and liquidity provision, as well as the changing structure of the U.S. Treasury market. The report also offers several next steps to further enhance the public and private sectors' understanding of changes to the structure of the U.S. Treasury market and their implications. [\[Press Statement\]](#) [\[Joint Report\]](#)

SEC Announces Significant Whistleblower Award

The Securities and Exchange Commission (SEC) announced on July 17, 2015, that it had awarded \$3 million to a company insider who provided information to the SEC that led to a successful enforcement action against what the SEC termed a "complex fraud." The award is the third highest whistleblower award paid by the SEC. [\[Press Statement\]](#)

Enforcement Actions

The Securities and Exchange Commission (SEC) announced the following enforcement actions in the past week:

- The SEC charged an attorney with insider trading for trading ahead of a merger announcement being handled by his law firm.

- The SEC charged a purported investment adviser with fraud for redirecting clients' investment fund to personal use and conducting a Ponzi scheme to pay customers making redemption requests. The investment adviser's firm was never registered with the SEC.
- The SEC charged 15 individuals and 19 entities for their roles in alleged schemes to manipulate the trading of microcap stocks. The 34 defendants include six firms alleged to have acted as unregistered broker-dealers catering to customers who sought to conceal their stock ownership and manipulate the market for microcap securities. The SEC is seeking return of allegedly ill-gotten gains with interest from all defendants. It also is seeking civil monetary penalties from nearly all the defendants and seeks to bar nearly all of them from the penny stock business and bar some of them from serving as public company officers or directors.
- The SEC charged an investment adviser with providing inaccurate trade data to four prime brokers, causing inaccuracies in the brokers' books and records and in data provided to the SEC in investigations. The investment adviser admitted wrongdoing and agreed to pay a \$4.25 million penalty to settle the charges.

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