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Safety & Soundness

[Federal Reserve Issues Proposed Rule to Address Application of Qualification Criteria for Common Equity Tier 1 Capital of Holding Companies that are not Stock Corporations](#)

On December 12, 2014, the Federal Reserve Board (Federal Reserve) issued a proposed rule that would amend the Federal Reserve's revised capital framework (Regulation Q) to illustrate how the Federal Reserve would apply the common equity tier 1 capital qualification criteria to bank holding companies (BHCs) and savings and loan holding companies (SLHCs) that are not organized as stock corporations.

The proposed rule provides examples of capital instruments issued by limited liability companies and partnerships, discusses features that would prevent certain instruments from qualifying as common equity tier 1 capital, and offers potential solutions for holding companies to resolve these qualification issues. Unique issues presented by certain SLHCs that are trusts and by depository institution holding companies that are employee stock ownership plans are specifically addressed in the proposal.

Depository institution holding companies organized in forms other than as a stock corporation that are subject to Regulation Q and have issued capital instruments that would not qualify as common equity tier 1 capital would be expected to review and revise their capital structures to be in compliance with the rule by January 1, 2016.

The Federal Reserve indicates that it expects to propose regulatory capital rules in the future for SLHCs that are personal or family trusts and are not business trusts. The proposed rule would provide a temporary exemption for those entities from Regulation Q until alternative regulatory capital requirements are adopted. Similarly, the Federal Reserve is developing a proposal to clarify the application of the regulatory capital rules to depository institution holding companies that are employee stock ownership plans (ESOPs). The proposed rule would temporarily exempt ESOP holding companies from Regulation Q until the clarifying revisions are adopted.

Comments on the proposal are requested by February 28, 2015.

[Federal Reserve Extends Conformance Deadline for Legacy Covered Funds under the Volcker Rule](#)

The Federal Reserve Board (Federal Reserve) announced on December 18, 2014, that it has acted under section 619 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act), commonly known as the Volcker Rule, to give banking entities until July 21, 2016, to conform investments in and relationships with covered funds and foreign funds that were in place prior to December 31, 2013 (legacy covered funds). The Federal Reserve also announced that, consistent with the statute, it intends to grant banking entities the final additional one-year extension of the conformance period until July 21, 2017, to conform

ownership interests in and relationships with legacy covered funds. It will also consider whether to take action regarding illiquid funds.

The other agencies charged with enforcing the requirements of section 619 (Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Securities and Exchange Commission, and Commodity Futures Trading Commission – together with the Federal Reserve, the Agencies) plan to administer their oversight of banking entities under their respective jurisdictions in accordance with the Federal Reserve's conformance rule and this extension of the conformance period.

Section 619 generally prohibits insured depository institutions and any company affiliated with an insured depository institution from engaging in proprietary trading and from acquiring or retaining ownership interests in, sponsoring, or having certain relationships with a hedge fund or private equity fund. These prohibitions are subject to a number of statutory exemptions, restrictions, and definitions. The rules to adopt section 619 were implemented by the Agencies in December 2013.

The current extension would permit banking entities additional time to divest or conform only legacy covered fund investments. All investments and relationships in a covered fund made after December 31, 2013, must be in conformance with section 619 of the Dodd-Frank Act and implementing rule by July 21, 2015. This extension would not apply to proprietary trading activities, and banking entities must conform proprietary trading activities to the final rule by July 21, 2015.

Agencies Publish Proposed Revisions to Advanced Approaches Risk-Based Capital Rule

The Office of the Comptroller of the Currency, the Federal Reserve Board, and the Federal Deposit Insurance Corporation (collectively, the Agencies) announced the publication of a proposed rule that would implement revisions to clarify, correct, and update certain provisions of the regulatory capital rule adopted by the Agencies in 2013. The proposed revisions would apply to banking organizations subject to the Agencies' advanced approaches risk-based capital framework, and are largely driven by observations made by the Agencies during the parallel-run review process.

The proposed revisions are intended to clarify some aspects of the qualification requirements for advanced approaches systems and to better align the advanced approaches subpart of the regulatory capital rule with the Basel capital framework. The revisions would:

- Clarify the qualification criteria and calculation requirements for risk-weighted assets to assist reviews of advanced approaches banking organizations seeking to exit parallel run;
- Clarify that all advanced approaches banking organizations are subject to the supplementary leverage ratio and the disclosure requirements for that ratio; and
- Correct typographical and technical errors in the advanced approaches sections of the revised regulatory capital rule.

Comments are requested no later than February 17, 2015.

Financial Stability Oversight Council Designates Nonbank Financial Company as Systemically Important

The Financial Stability Oversight Council (FSOC or Council) announced on December 19, 2014, that it voted nine-to-one to designate a nonbank financial company as a systemically important financial institution (SIFI). The designation will subject the nonbank SIFI to consolidated supervision by the Federal Reserve Board and to enhanced prudential standards. Consistent with the statutory standard for designations by the Council, the FSOC determined that material financial distress at this company – if it were to occur – could pose a threat to U.S. financial stability. This is the fourth company to be designated as a SIFI by the Council.

The Council intends to re-evaluate its designation of the nonbank at least annually and to rescind the designation if it determines the company no longer meets the statutory standards for designation.

OCC Survey Shows Underwriting Standards Continue to Ease

On December 16, 2014, the Office of the Comptroller of the Currency (OCC) released its *Annual Survey of Credit Underwriting*, which indicated that underwriting standards of national banks and federal savings associations (collectively, Banks) eased within both commercial and retail products for the third consecutive year. The survey covered the 12-month period ending June 30, 2014, and included 91 of the largest Banks.

Primary survey findings:

- The three year easing of underwriting standards reflects broad trends similar to those seen in 2004 through 2006, just prior to the most recent credit crisis.
- The relative level of credit risk also increased, with the commercial portfolio reflecting higher risk since the last survey. The level of credit risk is expected to increase in both commercial and retail portfolios over the next 12 months.
- In light of loosened standards, supervisory efforts will continue to focus on new product portfolios and those with increasing loan volumes.

The OCC recommended that boards of directors and senior management consider:

- The impact of the changing mix of more aggressively underwritten loans on the quality and volatility of performance in their loan portfolios;
- Properly controlling the credit risks in underwriting, loan structures, and loan administration, particularly for loan products that have already seen easing, such as leveraged lending, indirect consumer lending, and credit cards.

OCC *Semiannual Risk Perspective* Reports Increased Credit Risk for National Banks and Federal Savings

In its semiannual report on risks facing federally chartered institutions, the Office of the Comptroller of the Currency (OCC) reported that credit risk has increased during the first six months of 2014. As reported in the OCC's *Semiannual Risk Perspective for Fall 2014*, released on December 17, 2014, declining revenues and profitability in OCC-supervised institutions contributed to the increasing credit risk. Broadly, the report presents data in five main areas: the operating environment; bank condition; key risk issues; the range of practice in interest rate risk modeling; and regulatory actions. It focuses on issues that pose threats to the safety and soundness of those financial institutions regulated by the OCC.

Key findings from the report:

- Competition for limited lending opportunities is intensifying, resulting in loosening underwriting standards, particularly in direct and indirect auto lending, leveraged lending, asset-based lending, commercial real estate lending, and commercial and industrial loans. Increased risk layering is also occurring in commercial loans.
- The prolonged low interest rate environment continues to lay the foundation for future vulnerability. Banks that extend asset maturities to pick up yield, especially if relying on the stability of non-maturity deposit funding in a rising rate environment, could face significant earnings pressure and capital erosion depending on the severity and timing of interest rate moves. The report includes a special section outlining data compiled in a recent study of bank reported interest rate sensitivities conducted as part of the OCC's ongoing work in this area.
- Many banks continue to re-evaluate their business models and risk appetites to generate returns against the backdrop of low interest rates. OCC examiners will focus on banks' strategic planning to ensure banks establish and follow appropriate risk management processes.
- Evolving cyber threats and information technology vulnerabilities require heightened awareness and appropriate controls to identify and mitigate the associated risks. Banks are expected to implement third-party risk management controls commensurate with the complexity and criticality of the arrangement.
- *Bank Secrecy Act* and Anti-Money Laundering risks remain prevalent as money-laundering methods evolve, and electronic bank fraud grows in sophistication and volume. Banks are expected to incorporate appropriate controls to oversee new products and services, and higher-risk customers.

[FDIC's Supervisory Insights Focuses on Interest Rate Risk](#)

On December 18, 2014, the Federal Deposit Insurance Corporation (FDIC) published the Winter 2014 edition of its *Supervisory Insights* featuring four articles on the topic of interest rate risk (IRR). The articles address effective governance processes for managing IRR, the development of key assumptions for analyzing IRR, the development of an in-house independent review of IRR management systems, and what to expect during an IRR review.

Enterprise & Consumer Compliance

[CFPB Announces Partnership with Credit Card Company to Evaluate and Promote Saving Habits](#)

The Consumer Financial Protection Bureau (CFPB or Bureau) announced on December 12, 2014, that it will work with a major credit card company to evaluate and promote regular saving habits among prepaid card users. This CFPB initiative is part of its ongoing Project Catalyst, which is intended to encourage consumer-friendly innovations in financial products.

The credit card company will use a trial program to determine the saving behavior among low- and moderate-income prepaid card users who make deposits into a savings wallet that is separate from funds used for regular transactions. This card feature would not allow consumers to access funds stored in the subaccount at the point of sale. Cardholders would need to transfer the funds in their subaccount into their main prepaid account to gain access to their savings.

The CFPB stated that it also intends to study the impact and potential benefits of saving on consumer financial health.

CFPB Releases Report on Credit Card Agreements

On December 15, 2014, the Consumer Financial Protection Bureau (CFPB or Bureau) released its annual report to Congress regarding credit card agreements with colleges, as required by *The Credit Card Accountability, Responsibility and Disclosure Act* (CARD Act). The report contains information concerning agreements between credit card issuers and institutions of higher education or certain organizations affiliated with such institutions, including fraternities, sororities, alumni associations, or foundations affiliated with or related to an institution of higher education. The information is current as of the end of 2013.

Report findings:

- The number of colleges, universities, and affiliated organizations sponsoring credit card programs decreased in 2013; and the overall number of accounts issued under such programs also decreased in 2013. Both are continuing trends;
- The amount of compensation paid by issuers to institutions and affiliated organizations pursuant to these agreements fell from the prior year;
- For the first time, more than half the agreements that issuers reported to the Bureau were between an issuer and an alumni association;
- The overall number of open accounts issued under these agreements has fallen consistently since 2009, but the number of new accounts originated in a given year has been increasing since 2012. Because nearly three-quarters of this new account growth comes from agreements between issuers and alumni associations, the Bureau indicates that most new accounts likely are issued to alumni, not to students;
- Based on the Bureau's review of college and university Web sites, most institutions of higher education do not make copies of these agreements available on their Web sites to students and other affected parties. In rare cases, institutions provided guidance on how to obtain their agreements with credit card issuers; and
- Although the Bureau lacks comprehensive data on the point, there are indications that the number of agreements between institutions and checking account, debit card and prepaid card providers has been increasing, even as the number of credit card agreements has declined. Furthermore, as a general matter, issuers and institutions have not chosen to disclose in a readily accessible manner these deposit account, debit card, or prepaid card agreements.

The Bureau states that these findings are subject to a number of limitations, such as: some college agreements cover financial products other than credit cards (e.g., deposit accounts), so that payments made by issuers under these agreements may not relate solely to credit card accounts; or, some or all of the accounts opened in connection with these agreements, even those directly between issuers and institutions, may have been opened by individuals who are not students, including alumni, faculty, and staff.

OCC Announces Revisions to TILA Booklet in *Comptroller's Handbook*

The Office of the Comptroller of the Currency (OCC) issued Bulletin 2014-61 on December 16, 2014, to advise national banks and federal savings associations that it has revised the *Truth in Lending Act* (TILA) booklet of the *Comptroller's Handbook*. The booklet provides updated guidance and procedures to examiners in connection with recent changes made to Regulation Z, primarily with regard to mortgage lending and as required by the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

Significant revisions reflect:

- The transfer of rulemaking authority for TILA to the Consumer Financial Protection Bureau from the Federal Reserve Board; and
- Amendments to TILA that 1) prohibit certain practices and loan terms, and 2) expand protections or establish requirements for high-cost mortgage loans, appraisal-related requirements, loan originator compensation and qualifications, higher-priced mortgage loans, determination of the consumer's ability to repay, adjustable rate mortgage disclosures, mortgage servicing, and pre-loan counseling.

With the release of the revised TILA Booklet, the OCC also rescinded:

- OCC Bulletin 2010-14, "Truth in Lending Act: Guidance" (March 25, 2010)
- OCC Bulletin 2010-44, "Truth in Lending Act—Regulation Z: Updated Examination Procedures" (December 16, 2010)
- "Interagency TILA/Regulation Z Examination Manual Narrative" and "Interagency TILA/Regulation Z Examination Procedures," contained in OCC Bulletin 2014-7,
- "Interagency Examination Procedures for Consumer Compliance" (March 14, 2014)

CFPB Enforcement Actions Address UDAAP Violations

The Consumer Financial Protection Bureau (CFPB or Bureau) and the attorneys general of two states charged a chain of stores operating nationally outside of military bases with using illegal debt collection practices. Under the terms of a proposed Consent Order announced on December 18, 2014, the stores as well as their owners and chief executives would be required to provide more than \$2.5 million in restitution and penalties for unfair and abusive debt-collection practices, including illegal lawsuits, unauthorized withdrawals from third-party accounts, and calls to servicemembers' commanding officers.

The Bureau alleges that the companies:

- Illegally filed more than 3,500 lawsuits in one state against consumers who didn't live or purchase goods there, almost all resulting in default judgments against consumers;
- Buried a clause in their contracts that gave the companies permission to contact the servicemember's commanding officer, thereby pressuring the servicemember into paying the companies;
- Required customers to provide a back-up payment source in case the military allotment didn't go through and then charged the back-up account without waiting to see if the allotment went through or not;
- Took money from checking or credit accounts of family members or friends who had previously made a payment on the servicemembers' behalf.

In a separate action on December 17, 2014, the CFPB filed a complaint against a "for-profit company" that the CFPB said "has engaged in offering or providing to consumers extensions of credit that constitute consumer-financial products or services that are covered by the CFPB

[*Consumer Financial Protection Act* – Title X of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*]. The complaint alleges the company violated the unfair, deceptive, or abusive acts or practices (UDAAP) provisions of the CFPB as well as the *Fair Credit Reporting Act* (FCRA) in connection with the offering of a general-use credit card. Among other things, the complaint alleges the company falsely advertised the credit card to be a general-use credit card though it could only be used to buy products from the company. The complaint seeks compensation for consumers harmed by the company's practices, the payment of a civil money penalty, and an injunction against the company.

Also on December 17, 2014, the CFPB filed a complaint against a company (a corporate entity) that "extends credit to, and processes payments for, consumers in connection with goods and services that [the company] does not directly sell or that consumers do not directly purchase from [the company]." Based on this activity, the CFPB states the company is covered under the CFPB. The complaint alleges the company, as a payment processor for third-parties, violated the UDAAP provisions of the CFPB by engaging in unfair practices, including:

- "Enrolling customers in third-party billing without their authorization
- Giving third-parties access to its customers and its billing system without implementing adequate controls
- Failing to adequately resolve customer disputes
- Ignoring warnings from customers, government agencies, and public-interest groups."

The CFPB is seeking restitution for harmed consumers, civil money penalties, and disgorgement of "ill-gotten gains."

In similar but unrelated actions, the Federal Trade Commission (FTC) issued two announcements (December 17, 2014, and December 19, 2014) stating that it had reached settlements with two defendants to address actions where the defendants were alleged to have included third-party charges on their customers' billing statements. One company agreed to pay at least \$90 million to the FTC to settle the FTC's charges and an additional \$18 million in fines and penalties to the 50 state attorneys general as well as \$4.5 million in fines and penalties to the Federal Communication Commission. The second defendant agreed to a settlement of \$21 million, which was suspended due to the defendant's inability to pay.

Insurance

IAIS Seeks Consultation on Global Insurance Capital Standard

On December 17, 2014, the International Association of Insurance Supervisors (IAIS) issued the first of three planned public consultations to inform the development of its risk-based, global insurance capital standard (ICS). The IAIS indicated the consultation is the first step in a multi-year process to develop and finalize the ICS, which will be applied to internationally active insurance groups (IAIGs) as part of the IAIS' common framework (ComFrame) for the supervision of IAIGs. The comment period is open until February 16, 2015.

The IAIS is soliciting feedback from IAIS members and stakeholders on elements of the proposed ICS, such as valuation, qualifying capital resources, standard methodologies for determining the ICS capital requirement as well as other potential methods for determining the ICS capital requirement. The proposal contains more than 160 specific questions. The IAIS will use the feedback from these questions along with the *Principles for ICS Development* to guide the ICS development. Priorities include the development of:

- An example of a standard method for determining the ICS capital requirement;
- Further consideration of the approaches to valuation; and
- The definition of qualifying capital resources.

The IAIS stated that field testing, which began in 2014, will continue to play a critical role in this process. The IAIS intends to develop the ICS by 2016.

IAIS Releases 2014 Global Insurance Market Report; Issues Macroprudential Surveillance Toolkit for Members

On December 17, 2014, the International Association of Insurance Supervisors (IAIS) released its 2014 Global Insurance Market Report (GIMAR). The report discusses the global (re)insurance sector from a supervisory perspective, focusing on the sector's performance and the risks it faces.

Report findings:

- The global insurance market has proven resilient in rebounding from shock events, such as major insured catastrophes, as shown by rising equity prices and price-to-book ratios.
- Market conditions have continued to depress premium growth, with modest global premium growth in 2013 following a declining trend since at least 2007.
- Insurers' balance sheets have remained solid. Underwriting profitability in non-life insurance is stable. For life insurers, low premium growth and low interest rates form a challenging business environment.
- Alternative capital has increased sharply in recent years, focusing mostly on parts of the U.S. property & casualty reinsurance business. It remains unclear whether alternative capital will be as permanent as traditional capital.
- The effects of slow economic growth have been exacerbated by a protracted period of declining interest rates, which have presented a series of challenges to global (re)insurers, especially life insurers.

The report also discusses the IAIS' efforts to assist members in their macroprudential surveillance activities through efforts under the IAIS standard on macroprudential surveillance and insurance supervision (ICP 24), assisting in the identification of global systemically important insurers, and developing an insurance-specific approach to macroprudential surveillance. With regard to the latter, the IAIS released an Internet-based toolkit to assist its members in designing and conducting macroprudential surveillance. The toolkit includes basic and advanced macroprudential indicators and allows a member to input data from its own jurisdiction for benchmarking against regional and worldwide data.

NAIC Adopts Revised *Insurance Holding Company System Act* and Actuarial Guideline 48

On December 16, 2014, the National Association of Insurance Commissioners (NAIC) adopted both the revised *Insurance Holding Company System Regulatory Act* and Actuarial Guideline

48 (AG48), while also approving seven foreign supervisory authorities as Qualified Jurisdictions.

The revised *Insurance Holding Company System Regulatory Act* (Model #440):

- Updates the model to clarify the group-wide supervisor for a defined class of internationally active insurance groups;
- Outlines the process for determining the lead state for domestic insurance groups;
- Outlines the activities the commissioner may engage in as group-wide supervisor; and
- Extends confidentiality protections to cover information received in the course of group-wide supervision.

In adopting AG48, the NAIC established national standards regarding XXX/AXXX captive reinsurance transactions. This guidance includes regulation of the types of assets held in backing insurer's statutory reserve. AG48 takes effect in 2015.

The NAIC voted for seven countries to be eligible for reinsurance collateral reduction as an approved Qualified Jurisdiction. Four of the seven jurisdictions (Bermuda, Germany, Switzerland and the United Kingdom) were previously on the NAIC's List as Conditional Qualified. Effective January 1, 2015, these four plus Japan, Ireland, and France will be full Qualified Jurisdictions subject to a five-year term before re-evaluation.

Capital Markets & Investment Management

[Agencies Invite Comment on Interim Final Rule to Reflect ISDA Protocol in Regulatory Capital, Liquidity, and Lending Limit Rules](#)

On December 16, 2014, the Office of the Comptroller of the Currency and the Federal Reserve Board (collectively, the Agencies) invited comment on an interim final rule that amends the definition of "qualifying master netting agreement" under the regulatory capital rules, and the liquidity coverage ratio rule, as well as under the lending limits rule applicable to national banks and federal savings associations.

The Agencies also are proposing to amend the definitions of "collateral agreement," "eligible margin loan," and "repo-style transaction" under the regulatory capital rules. The amendments are designed to ensure that the regulatory capital, liquidity, and lending limits treatment of certain financial contracts is not affected by implementation of special resolution regimes in foreign jurisdictions or by the International Swaps and Derivative Association Resolution Stay Protocol (ISDA).

The interim final rule, which applies to banking organizations other than state nonmember banks, will be effective as of January 1, 2015. Comments are requested by March 3, 2015.

SEC Approves Proposed Rule to Implement JOBS Act Mandates for Exchange Act Registration Requirements

The Securities and Exchange Commission (SEC) approved the release of a proposed rule that would implement certain mandates of the *Jumpstart Our Small Businesses Act* (JOBS Act). In particular, the proposed rule would:

- Revise rules adopted under Section 12(g) of the *Securities Exchange Act of 1934* (Exchange Act) to reflect new higher thresholds for registration, termination of registration, and suspension of reporting as set forth in the JOBS Act;
- Apply the thresholds specified for banks and bank holding companies to savings and loan holding companies with regard to registration, termination of registration, and suspension of reporting; and
- Revise the definition of “held of record” in Exchange Act Rule 12g5-1, in accordance with the JOBS Act, to exclude certain securities held by persons who received them pursuant to employee compensation plans and establish a non-exclusive safe harbor for determining whether securities are “held of record” for purposes of registration under Exchange Act.

Comments will be accepted for a period of sixty days following publication in the *Federal Register*.

FINRA Reminds Firms of Disclosure Requirements for Extended Hours Trading

The Financial Industry Regulatory Authority (FINRA) released Regulatory Notice 14-54 on December 17, 2014, to remind firms of their obligations under FINRA Rule 2265 to disclose to a customer the material risks of extended hours trading. This disclosure should include the risks described in the *Model Extended Hours Trading Risk Disclosure Statement* in FINRA Rule 2265 as well as any additional disclosures as necessary to address product-specific or other specific needs.

Enforcement Actions

The Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), and the Financial Industry Regulatory Authority (FINRA) recently announced the following enforcement actions:

- The SEC charged the owner of a New York-based business with securities fraud for allegedly selling \$16.75 million in unregistered and uncertificated notes to more than 300 mostly elderly, unsophisticated investors. The SEC seeks civil money penalties, disgorgement, and a permanent injunction.
- The SEC charged a Manhattan-based attorney with conducting a Ponzi scheme that defrauded more than 30 individual, unsophisticated investors out of approximately \$5 million. The SEC seeks a permanent injunction, disgorgement, and financial penalties. In a parallel action, the U.S. Attorney’s Office announced criminal charges against the attorney.
- The SEC charged a Massachusetts-based global manufacturer with violating the *Foreign Corrupt Practices Act* (FCPA) by providing non-business related travel and improper payments to foreign government officials in an effort to win business. Without admitting

or denying the findings, the company agreed to pay \$2.4 million to settle the SEC's charges.

- The SEC charged a Louisiana-based company and five executives with running a stock trading scheme. The SEC also charged a Texas-based attorney with facilitating the scheme by issuing false legal opinion letters that allowed free trading of the restricted company stock. The SEC seeks disgorgement, financial penalties, penny stock bars, officer-and-director bars, and permanent injunctions.
- The SEC charged an Arizona-based equity research firm and its owner with manipulating the market for a publicly traded stock that the owner was soliciting investors to purchase. The SEC alleges that they raised more than \$2.5 million from 11 investors. The SEC seeks disgorgement and civil penalties.
- The SEC charged two individuals and their companies with operating an alleged investment scheme in which they raised approximately \$3.9 million from seniors and other Florida-based investors. The SEC alleges that investors' money was used to cover the business and personal expenses of the individuals. The SEC is seeking disgorgement and civil money penalties. A third individual settled the SEC's charges, and without admitting or denying the findings, agreed to pay a \$50,000 penalty and be barred from practicing as an accountant on behalf of any SEC-regulated entity for five years.
- The SEC imposed sanctions against a foreign-based audit firm and two accountants for failing to properly audit year-end financial statements of a company that the SEC has charged with fraud. To settle the SEC's charges, the firm agreed to disgorge audit fees and not to accept any new U.S. issuer audit clients until an independent consultant has reviewed and certified that the firm's audit policies and procedures are compliant with SEC regulations and Public Company Accounting Oversight Board standards. The individuals agreed to pay penalties of \$20,000 and \$10,000 respectively and be barred from practicing as an accountant on behalf of any SEC-regulated entity for at least three years.
- The SEC charged a New York-based company with violating the *Foreign Corrupt Practices Act* (FCPA) by failing to put controls in place to detect and prevent payments and gifts to foreign government officials from employees and consultants at a foreign subsidiary. To settle the SEC's charges the company agreed to pay a total of \$135 million and to retain an independent compliance monitor to review its FCPA compliance program for a period of 18 months, followed by an 18-month period of self-reporting on its compliance efforts. A parallel case was announced by the U.S. Attorney's Office.
- The SEC charged a New York-based firm, its former president, and two sales representatives in connection with a fraudulent boiler room scheme targeting seniors to invest in speculative start-up companies. In a parallel action, the U.S. Attorney's Office filed criminal charges. The SEC seeks disgorgement and financial penalties.
- The CFTC announced that U.S. District Court entered a Consent Order for permanent injunction against a Missouri limited liability company and its operator in connection with defrauding investors in three forex trading pools. The Consent Order requires the defendants jointly to pay more than \$1.5 million in restitution to defrauded investors and imposes a \$1 million civil monetary penalty. A relief defendant is required to disgorge in excess of \$187,000. The Order also imposes a permanent trading and registration ban.
- The CFTC announced that U.S. District Court entered a Consent Order for a permanent injunction against an Illinois-based commodity pool operator (CPO) and commodity trading advisor, and its parent company. The Order requires the company to pay restitution of \$2.8 million and a civil monetary penalty of \$2.8 million and the parent company to pay disgorgement of \$2.8 million. The CFTC had charged the company with failing to pay at least \$2.8 million in rebates owed to some of its commodity pool participants by investing the rebate funds in the pools and instead transferring the funds to its parent company. The CFTC also revoked the registrations of the CPO and an associated person.

- The CFTC announced that a U.S. District Court entered a Consent Order for permanent injunction and civil monetary penalty of \$35 million against a foreign financial institution for engaging in more than 1,000 illegal wash sales, fictitious sales, and noncompetitive transactions over a three-year period in the United States.
- FINRA fined a broker dealer and investment advisory firm \$1.9 million for fair pricing and supervisory violations in connection with more than 700 retail customer transactions in distressed securities. The broker dealer was also ordered to pay more than \$540,000 in restitution, plus interest, to affected customers. Without admitting or denying the charges, the firm agreed to pay the penalties.
- FINRA ordered two Missouri-based broker-dealers under common control to pay a joint fine of \$1.5 million for anti-money laundering (AML) failures. FINRA alleges that the firms failed to comply with a key aspect of the AML compliance program for broker-dealers by failing to subject approximately 220,000 new customer accounts to the required identity-verification process over a nine-year period. Without admitting or denying the charges, the firms consented to the entry of FINRA's findings.

Recent Supervisory Actions against Financial Institutions

Last Updated: December 19, 2014

Agency	Institution Type	Action	Date	Synopsis of Action
CFPB and two state attorneys general	Nonbank Retail Stores	Consent Order	12/18	The Consumer Financial Protection Bureau and the attorneys general of two states charged a chain of stores operating nationally outside of military bases with engaging in unfair and deceptive debt collection practices (UDAAP) in violation of the <i>Consumer Financial Protection Act</i> .
CFPB	Nonbank Service Provider	Complaint	12/17	The Consumer Financial Protection Bureau charged a nonbank service provider that extends credit and processes payments for allowing unauthorized third party charges on its customers' bills in violation of the <i>Consumer Financial Protection Act</i> .
CFPB	Nonbank Student Debt Relief Companies	Consent Order and Complaint	12/11	The Consumer Financial Protection Bureau (CFPB or Bureau) separately charged two student debt relief companies with engaging in unfair, deceptive, or abusive acts or practices (UDAAP) in violation of the <i>Consumer Financial Protection Act</i> and the <i>Telemarketing and Consumer Fraud and Abuse Prevention Act</i> .
CFPB	Nonbank Debt Services Provider	Consent Order	12/04	The Consumer Financial Protection Bureau assessed a civil money penalty against a New Jersey-based debt settlement services provider for charging consumers illegal upfront fees in violation of the Federal Trade Commission's Telemarketing Sales Rule.
Federal Reserve Board	State Member Bank	Consent Order	11/26	The Federal Reserve Board assessed a civil money penalty against a state member bank in connection with violations of Regulation H, which implements the National Flood Insurance Act.
CFPB	Nonbank Auto Lender	Consent Order	11/17	The Consumer Financial Protection Bureau assessed civil money penalties against an auto dealer and its financing arm to address unfair practices in violation of the <i>Consumer Financial Protection Act</i> and also for violations of the <i>Fair Credit Reporting Act</i> .
CFPB	Nonbank Mortgage Lender	Complaint	11/13	The Consumer Financial Protection Bureau charged a residential mortgage lender with violating the <i>Loan Originator Compensation Rule</i> by paying its loan officers quarterly bonuses in amounts based on terms or conditions of the loans they closed. The CFPB is seeking financial penalties in a Consent Order that is not yet approved in U.S. District Court.
OCC	National Banks	Consent Orders	11/11	The Office of the Comptroller of the Currency assessed fines against three financial services entities for unsafe or unsound practices related to their wholesale foreign exchange (FX) trading businesses.

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