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Safety & Soundness

Basel Committee Publishes Revised Guidance for Bank Corporate Governance Principles

The Bank for International Settlements' Basel Committee on Banking Supervision (Basel Committee) published a revised version of its guidance *Corporate Governance Principles for Banks*, which was previously released in October 2010. The Basel Committee summarizes that the revised guidance emphasizes the importance of effective corporate governance for the safe and sound functioning of banks. It stresses the importance of risk governance as part of a bank's overall corporate governance framework and promotes the value of strong boards and board committees together with effective control functions. The revisions address, among other things: overall board competence, board member selection, compensation systems and incentive structures, and the risk management roles played by the three lines of defense.

[\[Press Statement\]](#) [\[2015 Corporate Governance Principles\]](#)

Basel Committee Releases FAQs Related to the Basel III Leverage Ratio Framework

On July 7, 2015, the Bank for International Settlements' Basel Committee on Banking Supervision (Basel Committee) released the set of *Frequently Asked Questions* (FAQs) that relate to the Basel III leverage ratio framework finalized by the Basel Committee in January 2014. The current release updates FAQs previously released in October 2014 and groups the FAQs according to the following relevant areas:

- Criteria for the recognition of cash variation margin associated with derivative exposures;
- Centrally cleared client derivative exposures;
- Exposures and netting of securities financing transactions (SFTs);
- The treatment of netting of SFTs and derivatives under a cross-product netting agreement;
- The exposure measure under the additional treatment for credit derivatives; and
- The treatment of long settlement transactions and failed trades. [\[Press Statement\]](#) [\[2015 FAQs\]](#)

Agencies Post Public Portions of Resolution Plans

The Federal Reserve Board (Federal Reserve) and the Federal Deposit Insurance Corporation (FDIC) have announced that the public portions of the annual resolution plans submitted on July 1 by twelve large financial firms are now publicly available. For each company, the plans describe the company's strategy for rapid and orderly resolution under the U.S. Bankruptcy Code in the event of material financial distress or failure of the company. The agencies have guided the companies to provide more detailed information in a number of areas, including: a discussion of the strategy for resolving each material entity in a manner that mitigates systemic risk; a high-level description of what the firm would look like following resolution; a description of the steps that each firm is taking to improve its ability to be resolved in an orderly manner in bankruptcy; and detail on each material entity, such as the type of business conducted, interconnectedness among entities, and a general indication of capital and funding sources. The public portions of the resolution plans are available on the Federal Reserve and FDIC Web sites. [\[Press Statement\]](#)

Enterprise & Consumer Compliance

CFPB Outlines Recommended Consumer Protection Principles for Payments Systems

The Consumer Financial Protection Bureau (CFPB or Bureau) released an outline of consumer protection principles that the Bureau believes should be considered and incorporated into the development of any new or improved payments systems. The recommended protections relate to privacy, transparency, costs, security, consumer control, funds availability, fraud and error resolution protections, and payment system accessibility. [\[Press Statement\]](#) [\[Payments Systems Protection Principles\]](#)

CFPB Releases Report on Student Loan Servicing Issues Related to Servicemembers

On July 7, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) released a report entitled, "*Overseas & Underserved: Student Loan Servicing and the Cost to Our Men and Women in Uniform*." The report is based on information obtained from the 1,300 complaints received by the CFPB from military borrowers since October 2012 that were specifically related to the servicing or collection of student loans. The CFPB finds that servicemembers "continue to struggle to obtain the rights, protections, and programs afforded by their military service." [\[Press Statement\]](#) [\[Report\]](#)

Agencies Release 2015 List of Middle-Income Geographies for CRA Consideration

On July 8, 2015, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation announced the availability of the 2015 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 designations reflect local economic conditions, including unemployment, poverty, and population changes.

The agencies note that they apply a one-year lag period for those geographies that were listed in 2014 but are no longer designated as distressed or underserved in the current release. Revitalization or stabilization activities in these geographies are eligible to receive CRA consideration as community development for 12 months after publication of the current list. [\[Press Statement\]](#) [\[2015 List\]](#)

OCC, CFPB and Other Regulators Reach Penalties Agreements for Debt Collections Action

The Office of the Comptroller of the Currency (OCC) announced on July 8, 2015 that it had entered into a Consent Order for a Civil Money Penalty with a major national bank to address the OCC's findings that the bank engaged in unsafe and unsound practices relative to its debt collection litigation activities for non-home loan credits, and exhibited compliance deficiencies related to the *Servicemembers Civil Relief Act* (SCRA). The Consent Order follows a 2013 OCC enforcement action, which required the bank to provide remediation to affected consumers and to correct deficiencies in the bank's practices and procedures. The current Consent Order directs the bank to pay a civil money penalty of \$30 million. Approximately \$50 million in restitution has been paid to date.

In a separate but related action, the Consumer Financial Protection Bureau (CFPB) entered into a Consent Order with the bank to address the CFPB's findings that the bank violated the unfair, deceptive, or abusive acts or practices (UDAAP) provisions of the *Consumer Financial Protection Act* (CFPA – also referred to as Title X of the *Dodd-Frank Wall Street*

Reform and Consumer Protection Act) by: selling “faulty and false” debts to third-party collectors, including accounts with unlawfully obtained judgments, inaccurate balances, and paid-off balances; selling debts that were owed by deceased borrowers; and filing misleading debt-collections lawsuits against consumers using robo-signed and illegally sworn statements to obtain false or inaccurate judgments for unverified debts. The CFPB’s Consent Order requires the bank to pay approximately \$50 million in refunds to certain customers as well as a \$30 million civil money penalty to the CFPB.

The OCC and CFPB actions were taken in conjunction with efforts from the Attorneys General in 47 states and the District of Columbia, which collectively also required an additional \$106 million in payments from the bank.

FTC Enforcement Actions

The Federal Trade Commission announced the following settlement actions:

- The FTC settled its charges against the operators of a fraudulent debt collection scheme that took advantage of non-English speaking consumers. Under the settlement orders, the individual defendants are banned from debt collection activities and telemarketing, and they are permanently prohibited from making the misrepresentations alleged in the complaint, and material misrepresentations about any product or service. These defendants and the relief defendants are also barred from selling or otherwise benefitting from customers’ personal information.
- The FTC settled its charges against a company and its CEO to address the FTC’s complaint that they violated the FTC Act and the Telemarketing Sales Rule by promising consumers services to stop the repossession of their vehicles, and to obtain lower interest rates and monthly auto loan payments for an upfront fee. The FTC’s complaint also alleged the company failed to honor its “money-back guarantee.” Under the settlement order, the defendants agreed to a permanent ban on telemarketing and the advertising, marketing, or sale of any debt relief products or services as well as to pay \$330,000 in redress to customers.

Capital Markets and Investment Management

CPMI / IOSCO Begin Level 3 Assessments of Principles for Financial Market Infrastructure

The Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) announced today that they have started the first Level 3 assessment of the implementation of the Principles for Financial Market Infrastructures (PFMI), which are the international standards for financial market infrastructures (FMIs). The review will examine consistency in the outcomes of PFMI Principles implementation and is part of the CPMI-IOSCO’s monitoring of full, timely, and consistent implementation of the PFMI. The review will focus on a subset of requirements under the PFMI that relate to financial risk management by central counterparties (CCPs), including certain practices related to governance, stress-testing, margin, liquidity, collateral, and recovery. A report is due to be released in 2016. [\[Press Statement\]](#)

IOSCO Releases Report on Capital Markets Financing for SMEs

The International Organization of Securities Commissions (IOSCO) published a report on *SME Financing through Capital Markets* on July 9, 2015, which is intended to provide recommendations for regulators to facilitate capital raising by small- and medium-sized enterprises (SMEs) in emerging markets. [\[Press Statement\]](#)

Separately, the Securities and Exchange Commission (SEC) announced that its Advisory Committee on Small and Emerging Companies will hold a public meeting on July 15. The advisory committee plans to continue its discussions

regarding public company disclosure effectiveness and the regulatory treatment of so-called "finders" that assist companies in capital raising activities.

Enforcement Actions

The Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA) announced the following enforcement actions:

- The SEC charged an oil and gas company and its CEO with operating a \$68 million Ponzi-like scheme and affinity fraud that targeted the Chinese-American community in California and investors in Asia, including some solicited as part of the SEC's EB-5 Immigrant Investor Program.
- FINRA ordered three firms to collectively pay more than \$30 million in restitution, including interest, to affected customers for failing to waive mutual fund sales charges for certain charitable and retirement accounts. FINRA stated the firms failed to adequately supervise the sale of mutual funds that offered sales charge waivers and unreasonably relied on financial advisors to waive charges for retirement and eligible charitable organization accounts, without providing them with critical information and training.

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