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Safety & Soundness

FSB Seeks Responses to Possible Measures of Non-Cash Collateral Re-Use

The Financial Stability Board (FSB) published a report on *Possible Measures of Non-Cash Collateral Re-Use* on February 23, 2016. The report is intended to serve as a starting point for the FSB's discussions with market participants and researchers concerning collateral re-use and especially the derivation of measures of collateral re-use that could be used to evaluate global trends and assess risks to financial stability. The FSB states that collateral re-use increases the availability of collateral, and reduces transaction and liquidity/funding costs for many market participants as a given pool of collateral assets can be re-used to support more than one transaction. However, FSB states collateral re-use also poses a risk to the financial system by increasing interconnectedness between market participants and building-up excessive leverage in the financial system. Responses to the paper are requested by April 22, 2016. [\[Press Statement\]](#) [\[Report\]](#)

OCC Publishes Revised Policy for Assessing Civil Money Penalties

On February 26, 2016, the Office of the Comptroller of the Currency (OCC) published a revised Policies and Procedures Manual (PPM) policy for assessing Civil Money Penalties (CMPs). The new policy, *PPM 5000-7 (REV), Civil Money Penalties*, replaces the PPM of the same name previously issued in June 1993, and applies to institution-affiliated parties, national banks, federal savings associations, federal branches and agencies, bank service companies, and service providers. [\[OCC Bulletin 2016-5\]](#) [\[PPM 5000-7 \(REV\), Civil Money Penalties\]](#)

Enterprise & Consumer Compliance

CFPB Identifies Near-Term Priority Goals

In a blog post on February 26, 2016, the Consumer Financial Protection Bureau (CFPB or Bureau) identified nine "near-term" priority goals that it intends to work towards over the coming two years along with its plans to achieve them. The goals include:

- Arbitration: To have an effective arbitration system in place to resolve disputes outside the court system.
- Consumer Reporting: To have a consumer reporting system where accurate consumer data is maintained and distributed, supplemented by effective and efficient dispute management and resolution mechanisms.
- Debt Collection: To have a debt collection market where debt collectors substantiate the debt they are collecting, accurately identify debtors, provide debtors with appropriate information, and maintain a channel of respectful, lawful, and consumer-oriented communication.
- Demand-Side Consumer Behavior: To build a marketplace where consumers have access to trusted tools and resources to make critical financial decisions.
- Household Balance Sheets: To have policymaking and consumer education based on a deep understanding of the evolution of households' balance sheets and how households' use of financial products changes over time.
- Mortgages: To have a mortgage market where credit-worthy borrowers are served in a non-discriminatory manner and new mortgage rules are implemented to support a sustainable mortgage market.

- Open-Use Credit: To encourage growth of an open-use credit market where payday and installment lenders rely on business models that succeed when consumers use credit as needed and are able to repay their debts when due.
- Small Business Lending: To foster a small business lending market where fair lending laws are enforced and consumers have equal access.
- Student Lending: To have a student lending market that is transparent, fair, and consistent.

CFPB Director Richard Cordray reiterated these priorities in his address to the Consumer Advisory Board Meeting.

[\[Blog Post\]](#) [\[CFPB Priorities Factsheet\]](#) [\[CFPB Director's Remarks\]](#)

Enforcement Actions

The Consumer Financial Protection Bureau (CFPB or Bureau) and the Federal Trade Commission (FTC) announced the following enforcement actions in the past week:

- The CFPB took an action against a large bank to address the CFPB's findings the bank engaged in unfair, deceptive, or abusive acts or practices in violation of the *Consumer Financial Protection Act* (CFPA) with regard to certain debt sales. In particular, the CFPB found the bank failed to provide the appropriate annual percentage rates (APRs) for individual accounts and delayed forwarding consumer payments to the debt buyers. The CFPB entered into a consent order with the bank that requires it to, among other things, refund nearly \$5 million to consumers where the APRs on their accounts were overstated by more than one percent, pay a \$3 million penalty, and include prohibitions in debt sales contracts to prevent debt buyers from reselling debt.
- The CFPB took a second, separate action against the same bank, two of its affiliates, and two debt collection law firms to address findings they filed altered affidavits in debt collection lawsuits in violation of the *Fair Debt Collection Practices Act*. The CFPB's consent order requires the bank and the two law firms to comply with a previous New Jersey state court order, which required the bank to refund \$11 million to consumers and forgo collecting approximately \$34 million from an estimated 7,000 consumers. The bank did meet these requirements and the CFPB did not require it to pay a penalty in recognition of its efforts to recompense harmed consumers.
- The FTC filed charges against a debt relief operation that targeted financially distressed homeowners and student loan borrowers by making deceptive representations regarding its loan modification services and illegally charging upfront fees for those services. The FTC's complaint seeks to obtain an injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, and disgorgement of ill-gotten monies, for violations of the *FTC Act*, the *Mortgage Assistance Relief Services Rule (MARS Rule)*, and the *Telemarketing Sales Rule*.

Insurance

U.S. and EU Affirm Commitment to Covered Agreement

In November 2015, the U.S. Department of the Treasury and the Office of the U.S. Trade Representative (USTR) announced their intention to begin negotiating a covered agreement with the European Union (EU). Covered agreements are agreements between the U.S. and one or more foreign governments, authorities, or regulatory entities regarding prudential measures on insurance or reinsurance. On February 23, 2016, the U.S. and the EU issued a joint statement on their negotiations to reach a bilateral agreement on insurance and reinsurance measures indicating that both sides have affirmed their commitment to an agreement on matters relating to group supervision, exchange of confidential information between supervisory authorities on both sides, and reinsurance supervision, including collateral. The bilateral agreement is expected to improve regulatory and supervisory treatment for insurers and reinsurers operating in the U.S. and the EU.

[\[Press Statement\]](#)

House Subcommittee Holds Hearing on the Impact of International Regulatory Standards

The House Committee on Financial Services Subcommittee on Housing and Insurance held a hearing on February 25, 2016, entitled *The Impact of International Regulatory Standards on the Competitiveness of U.S. Insurers: Part II*. The hearing sought to examine various international regulatory standards being considered by the G-20, the Financial Stability Board (FSB), the International Association of Insurance Supervisors (IAIS), and other international supervisory authorities, and their potential impact on the U.S. insurance industry. Key discussion points at the hearing included how best to: coordinate global and domestic insurance policy; promote a competitive marketplace that allows U.S. insurers to effectively compete with their international counterparts; preserve the authority of the states to regulate insurance; and enhance cooperation between state and federal entities on both international and domestic insurance regulatory regimes. In addition, the hearing reviewed draft legislation that seeks to enhance Congressional oversight of insurance-related international deliberations to which the U.S. is a party. Four witnesses provided testimony, including representatives of several industry trade groups.

NAIC Releases Homeowners Insurance Report

The National Association of Insurance Commissioners (NAIC) released its latest *Homeowners Insurance Report* on February 24, 2016, which provides a comprehensive collection of homeowners' insurance data for the calendar year 2013. NAIC states the data includes:

- The most recently validated data on market distribution and average cost by policy type and amount of insurance.
- National and state-specific premium and exposure information for non-commercial dwelling fire insurance and for homeowners' insurance package policies.
- Data descriptions and a discussion on how certain economic, demographic and natural phenomena impact the price of homeowners insurance.
- State and countrywide written exposure and aggregate written premiums.
- Tables showing state and countrywide exposures by policy type, individual policy form, as well as insurance coverage amount. [\[Press Statement\]](#) [\[Homeowners Insurance Report\]](#)

Capital Markets and Investment Management

FINRA Approves Enhanced Price Disclosure to Retail Investors in Fixed-Income Securities

On February 26, 2016, the Financial Industry Regulatory Authority's (FINRA) Board of Governors approved a proposal that would, subject to the approval of the Securities and Exchange Commission, require member firms to disclose pricing information on retail customer confirmations for certain trades in corporate and agency fixed income debt securities. In particular, firms would be required to disclose the "mark-up" or "mark-down" on the price of a customer trade where both the firm's principal trade and the customer trade occur on the same trading day. The confirmation would also be required to include a reference to trade-price data in the security from TRACE (FINRA's Trade Reporting and Compliance Engine). The disclosure requirement would not, however, apply to transactions in fixed-price new issues, or in situations where the bonds bought from or sold to the retail customer were held by the firm longer than one day. [\[Press Statement\]](#)

IOSCO Publishes Second Report on Implementation of Principles for Financial Benchmarks by Administrators of EURIBOR, LIBOR, and TIBOR

On February 26, 2016, the International Organization of Securities Commissions (IOSCO) published its second review report on the *Implementation of IOSCO's Principles for Financial Benchmarks by Administrators of EURIBOR, LIBOR and TIBOR*. The 19 *Principles for Financial Benchmarks* were first published in July 2013 to be implemented by the administrators and to promote the reliability of the benchmarks. In this second review, all three administrators were found to be proactively engaged in addressing the issues raised in the first review, which was conducted in July 2014. In addition:

- With regard to the principles on governance, transparency and accountability the administrators were found to have improved their policies and procedures in a number of areas including conflicts of interest, consultation with stakeholders and internal oversight.
- With regard to the principles related to the quality of the benchmark, the administrators were found to be in the process of evolving the three benchmarks to further anchor them in transactions.

Given that most of the recommendations from the first review had been implemented or were subject to on-going work related to the evolution of the benchmarks, the IOSCO did not recommend a follow up review. However, national authorities are expected to monitor the progress made by the three administrators in the implementation of recommendations made in the second review, which were intended to strengthen implementation of the principles.

[\[Press Statement\]](#) [\[Review Report\]](#)

Enforcement Actions

The Commodity Futures Trading Commission (CFTC) recently announced the following enforcement actions:

- The CFTC filed a civil injunctive enforcement action against an asset management firm and its two owners for engaging in illegal, off-exchange transactions in precious metals with retail customers on a leveraged, margined, or financed basis. The CFTC also alleges that the two owners, as controlling persons for the firm, are liable for the firm's violations of the *Commodity Exchange Act* (CEA). In continuing litigation against the defendants, the CFTC is seeking disgorgement of ill-gotten gains, restitution to affected customers, civil monetary penalties, permanent registration and trading bans, and a permanent injunction from future violations of the CEA.
- The CFTC filed a civil enforcement Complaint against a firm and an individual serving as its sole employee and agent charging them with fraud in connection with off-exchange binary options. The Complaint alleges the defendants solicited more than \$3 million from approximately 120 investors to trade off-exchange binary options by making misleading and false misrepresentations and omissions of material facts to prospective and current clients, further alleging the defendants misappropriated nearly \$2 million of these funds for their personal use. The CFTC also charged the firm and the individual with acting as a Commodity Trading Advisor (CTA) and as an Associated Person of a CTA, respectively, without being registered with the CFTC, as required. In its continuing litigation, the CFTC seeks restitution to defrauded clients, disgorgement of ill-gotten gains, civil monetary penalties, permanent registration and trading bans, and a permanent injunction from future violations of the CEA, as charged.

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