The Washington Report

for the week ended March 4, 2016

In This Issue

Safety & Soundness

Enterprise & Consumer Compliance

Insurance

Capital Markets & Investment Management

Financial Crimes

Safety & Soundness

Federal Reserve Releases Proposed Rule for Single-Counterparty Credit Limits

The Federal Reserve Board (Federal Reserve) approved the release of a proposed rule on March 4, 2016, that is intended to address risks associated with credit exposures between large banking organizations. The proposal would apply limits on the combined exposures that all parts of a large bank holding company (BHC) have to a single counterparty. The rule would apply to BHCs with total consolidated assets of $50 billion or more, including foreign banks operating in the U.S., and would impose increasingly strict limits as the systemic significance of the BHC increases. In particular, the proposal would require:

- BHCs with between $50 and $250 billion in total consolidated assets and less than $10 billion in on-balance sheet foreign exposures to be limited to an aggregate net credit exposure to any one counterparty of no more than 25 percent of all regulatory capital.
- BHCs with $250 billion or more in total consolidated assets, or $10 billion or more in on-balance-sheet foreign exposures, to be limited to an aggregate net credit exposure to any one counterparty of no more than 25 percent of Tier 1 capital.
- U.S.-based global systemically important banks (G-SIBs) and foreign banks with more than $500 billion in their U.S. holding companies to be limited to 15 percent of Tier 1 capital on exposures to one another and to other systemically important financial firms, including non-bank systemically important financial institutions designated by the Financial Stability Oversight Council and foreign G-SIBs, and limited to 25 percent of Tier 1 capital to another counterparty.

In addition to the release of the proposed rule, the Federal Reserve released a white paper explaining the analytical and quantitative reasoning for the proposed rule's 15 percent limit for credit exposures between systemically important financial institutions. Comments are requested no later than June 3, 2016. [Press Statement] [Proposed Rulemaking] [White Paper]

Agencies Issue Guidance on Funds Transfer Pricing Related to Funding and Contingency Liquidity Risk

On March 1, 2016, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation jointly issued guidance to address weaknesses observed in large financial institutions' funds transfer pricing (FTP) practices related to funding risk (including interest rate and liquidity components) and contingent liquidity risk. For purposes of the guidance, FTP refers to a process performed by a firm's central management function that allocates costs and benefits associated with funding and contingent liquidity risks, as measured at transaction or trade inception, to a firm's business lines, products, and activities. The agencies state that by allocating funding and contingent liquidity risks to a firm's business lines, products, and activities, FTP influences the volume and terms of new business as well as ongoing portfolio composition. They state this process helps align a firm's funding and contingent liquidity risk profile and risk appetite, and complements broader liquidity and interest rate risk management programs. The principles laid out in the guidance are intended to help firms to develop, implement, and maintain an effective FTP framework.

The guidance applies to domestic bank and savings and loan holding companies with total consolidated assets of $250 billion or more or with foreign exposure of $10 billion or more; national banks, federal savings associations, and state-chartered banks with total consolidated assets of $250 billion or more; and foreign banking organizations with combined U.S. assets of $250 billion or more. [Interagency Guidance]

Agencies Issue FAQ for Capital Treatment of Qualifying Trust Preferred Securities Backed by Collateralized Debt Obligations under the Volcker Rule

On March 4, 2016, five agencies, including the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Federal Reserve Board, the Securities and Exchange Commission, and the Commodity Futures Trading Commission issued a Frequently Asked Question (FAQ) to clarify the capital treatment of certain collateralized debt obligations (CDOs) backed by trust preferred securities (TruPS CDO) under section 13 of the *Bank Holding Company Act*, which implements section 619 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act), commonly referred to as the Volcker Rule. This FAQ clarifies that the Volcker Rule does not require a banking entity to deduct from its Tier 1 capital an investment in a Qualifying TruPS CDO retained pursuant to the agencies' interagency interim final rule adopted in January 2014. However, a banking entity holding an interest in a TruPS CDO that is a covered fund but is not a Qualifying TruPS CDO for purposes of the rule would be subject to the requirement to deduct the investment from its Tier 1 capital for purposes of determining compliance with applicable regulatory capital requirements. [Volcker Rule FAQs]

Federal Reserve Issues Guidance to Examiners Regarding Reliance on Regulators' Reports for Insured Depository Institution Subsidiaries

The Federal Reserve Board (Federal Reserve) issued Supervision and Regulation Letter 16-4 on March 3, 2016, to outline expectations for its examiners' reliance on the work of the regulators of insured depository institution (IDI) subsidiaries in the Federal Reserve's supervision of bank holding companies (BHCs) and savings and loan holding companies (SLHCs). When assigning Federal Reserve supervisory ratings to BHCs and SLHCs where the Federal Reserve is not the IDI regulator, the Federal Reserve relies to the fullest extent possible on the assessment of the IDI as reflected in the work of the IDI's regulator. The guidance presents separate tailored supervisory approaches for community banking organizations, which are defined as companies with total consolidated assets of $10 billion or less, and for regional banking organizations, which are defined as companies with total consolidated assets between $10 billion and $50 billion. [SR Letter 16-4]

Basel Committee Publishes Proposed Revisions to the Operational Risk Framework

On March 4, 2016, the Basel Committee on Banking Supervision (Basel Committee) issued a consultative document proposing revisions to its operational risk capital framework. The proposed Standardized Measurement Approach (SMA) for operational risk builds on the Basel Committee's earlier consultation paper issued in October 2014. It would replace the three existing standardized approaches for calculating operational risk capital as well as the Advanced Measurement Approach (AMA), and the revised methodology would combine a financial statement-based measure of operational risk - the "Business Indicator" - with an individual firm's past operational losses. The proposed revisions are open for comment until June 3, 2016. [Press Statement] [Consultative Document]

Basel Committee Publishes Basel III Monitoring Report

The Basel Committee on Banking Supervision (Basel Committee) published the results of its latest Basel III monitoring exercise on March 2, 2016. The monitoring exercise was conducted on 230 banks, comprising 101 large internationally active banks (Group 1 banks) that have Tier 1 capital of more than €3 billion and 129 banks representative of all other banks (Group 2 banks). This exercise formed a part of the Basel Committee's process to regularly assess the implications of the Basel III capital standards on banks, and their level of adherence to the main requirements. Key findings from this exercise show that, on a fully-phased basis for data as of June 30, 2015:

- All large internationally active banks meet the Basel III risk based capital minimum Common Equity Tier 1 (CET1) and target capital requirements. Between December 31, 2014 and June 30, 2015, Group 1 banks continued to reduce their capital shortfalls relative to the higher Tier 1 and total capital target levels.
- Of the 160 banks reviewed in the Liquidity Coverage Ratio (LCR) sample, 84 percent reported an LCR that met or exceeded 100 percent, while all banks reported an LCR at or above the 60 percent minimum requirement that was in

place for 2015. The LCR measures the level of highly liquid assets held by a bank to meet its short term liquidity obligations in the coming 30 days,

- The weighted average Net Stable Funding Ratio (NSFR) for the Group 1 bank sample was 111.9 percent, while for Group 2 banks the average NSFR was 114 percent. As of June 2015, 79 percent of the Group 1 banks and 83 percent of the Group 2 banks in the NSFR sample reported a ratio that met or exceeded 100 percent, while 92 percent of the Group 1 banks and 94 percent of the Group 2 banks reported an NSFR at or above 90 percent. The NSFR is a measure of long-term structural liquidity. [Press Statement] [Report]

Enterprise & Consumer Compliance

CFPB Issues Monthly Complaint Report

The Consumer Financial Protection Bureau (CFPB or Bureau) released its latest monthly complaint report on March 1, 2016, outlining the consumer complaints received during the month of January 2016. The three most-complained-about financial products in January were debt collection, mortgages, and credit reporting, representing approximately two-thirds of the total complaints received. Overall, the CFPB reported an 8 percent increase in complaint volume between December 2015 and January 2016. The report also highlighted complaints related to prepaid products, indicating that consumers most frequently complained about:

- An inability to access funds loaded on the card;
- Card issuers refusing to re-issue an expired card with the balance remaining before expiration;
- Account access problems during the process of disputing particular charges; and
- The wide variety of charges, including monthly, inactivity, transaction, balance inquiry, PIN change, and overdraft fees. [Press Statement] [January 2016 Monthly Report]

FTC Reports Annual Summary of Consumer Complaints

On March 1, 2016, the Federal Trade Commission (FTC) released a data book summarizing the consumer complaints received by its Consumer Sentinel Network in 2015. Debt collection, identity theft, and imposter scams were the most common categories of consumer complaints recorded, representing approximately 56 percent of the total complaints received. The FTC also acknowledged the launch of the new version of the website "IdentityTheft.gov," which has features that allow consumers to create a personalized identity theft recovery plan, as well as the launch of Operation Collection Protection, the first federal-state-local initiative to combat abusive debt collection practices.
[Press Statement] [Data Book]

Agencies Issue Guidance on the Use of Evaluations in the Place of Appraisals

On March 4, 2016, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation issued a joint advisory clarifying expectations with respect to the use of property evaluations in the place of appraisals to estimate a property's market value for certain real estate-related financial transactions. The agencies indicate the advisory responds to questions raised during outreach meetings conducted last year pursuant to the *Economic Growth and Regulatory Paperwork Reduction Act*. The advisory also addresses the use of alternative valuation approaches, methods, and other information that financial institutions may use to develop an evaluation in areas with few recent comparables. Regardless of the method used to estimate the market value of real property, the guidance indicates the evaluation report should contain sufficient information and analysis to support the value conclusion and the institution's decision to engage in the transaction. [Press Statement] [Interagency Advisory]

FDIC Issues Guidance on Expectations for Abandoned Foreclosures

The Federal Deposit Insurance Corporation (FDIC) issued Financial Institution Letter 14-2016, on March 2, 2016, to clarify supervisory expectations with regard to abandoned foreclosures, which are foreclosure proceedings where a decision is made to discontinue the proceeding after it has been initiated. The guidance states that institutions should have appropriate policies and practices pertaining to discontinuation of foreclosure proceedings that include:

- Obtaining and assessing current valuation and other relevant information;
- Releasing liens;
- Notifying local authorities; and
- Notifying and contacting borrowers.

The FDIC will review institutions' policies and practices followed in making decisions to discontinue foreclosure proceedings as a part of their supervisory activities. [FIL-14-2016]

CFPB Adopts Application Process for Rural Designation

On March 2, 2016, the Consumer Financial Protection Bureau (CFPB or Bureau) announced that it had adopted a procedural final rule establishing an application process that allows areas not currently designated as "rural" under federal consumer financial law to be so designated. A "rural" designation may allow certain mortgage lenders to be eligible for specific exemptions and provisions. The final rule became effective March 3, 2016 and the CFPB will begin to accept applications beginning March 31, 2016. The application process will be open through December 4, 2017, however the CFPB cautions that applications submitted after April 8, 2017, will be considered only if it can be determined the designation decision process for that application can be completed by the December 4, 2017, sunset date. To request a rural designation by the CFPB, applicants must identify the area and the state in which they are located and provide information that will help the CFPB to make an evaluation under the parameters of the *Helping Expand Lending Practices in Rural Communities (HELP) Act of 2015*. [Press Statement] [Final Rule]

Enforcement Actions

The Consumer Financial Protection Bureau (CFPB or Bureau) announced that it had taken action against an online payment platform to address the CFPB's findings the company deceived consumers regarding its data security practices in violation of the CFPB's prohibitions against unfair, deceptive, or abusive acts or practices. The CFPB alleges the firm misrepresented its data-security practices by making false claims that its data security "exceeded" or "surpassed" industry security standards, and that its information was securely encrypted and stored. Without admitting or denying the CFPB's findings, the firm agreed to stop misrepresenting its data security practices, ensure proper training of employees, designate a qualified individual to coordinate and be accountable for the data-security program, fix security flaws in web and mobile applications, and pay a civil monetary penalty of $100,000. This is the first enforcement action related to data-security taken by the CFPB.

Insurance

Financial Stability Oversight Council Meets in Executive Session

The Financial Stability Oversight Council (Council) met in an executive session on March 2, 2016. Key issues discussed at the meeting included:

- Recent market developments and preparation of the Council's 2016 annual report, which is expected to be published by June 2016.
- The annual review of the Council's designation of MetLife for enhanced prudential standards and supervision by the Federal Reserve Board. The Council voted not to rescind the designation of MetLife.
- Ongoing assessment of potential risks to U.S. financial stability from asset management products and activities, including a discussion of regulations, industry practices, and proposed rulemakings that could mitigate such potential risks. [Press Statement]

FIO Requests Insurance Data on Participation in the Terrorism Risk Insurance Program

The U.S. Department of the Treasury's (Treasury) Federal Insurance Office (FIO) published a notice in the *Federal Register* on March 4, 2016, requesting insurers to voluntarily submit insurance data and information regarding their participation in the Terrorism Risk Insurance Program (TRIP). Pursuant to the *Terrorism Risk Insurance Program Reauthorization Act of 2015*, the Secretary of the Treasury is required to require insurers to submit information about their participation in TRIP and to submit a report to the Congress addressing the overall effectiveness of the program and observed trends within the program. However, for this first collection of information under the law, FIO is requesting, but not requiring, insurers to submit certain insurance data to assist with the development of the report. Data submissions are requested no later than April 30, 2016. The TRIP, which was established in 2003, works to ensure that businesses have access to affordable terrorism insurance. [Press Statement] [Notice]

Capital Markets and Investment Management

FINRA Seeks Rule Change for Alternative Trading Systems Reporting Information

On February 29, 2016, the Financial Industry Regulatory Authority (FINRA) filed a proposed rule change with the Securities and Exchange Commission (SEC) to adopt Rule 4554, which would require Alternative Trading Systems (ATSs) to submit additional order information to FINRA, such as order re-pricing events, and order display and reserve size information. [Press Release] [Proposed Rule Change]

FINRA Seeks Rule Change to Shorten Settlement Cycle

On March 4, 2016, the Financial Industry Regulatory Authority (FINRA) issued a regulatory notice seeking comment on proposed amendments to its rules related to the settlement cycle in order to shorten the settlement cycle from trade date plus three business days (T+3) to trade date plus two business days (T+2). The rule change would affect transactions in equities, corporate and municipal bonds, unit investment trusts, and financial instruments composed of these securities. Comments are requested by April 4, 2016. [Regulatory Notice 16-09]

IOSCO Publishes 2016 Risk Outlook for the Securities Markets

The International Organization of Securities Commissions (IOSCO) published its report, *Securities Markets Risk Outlook 2016,* on March 2, 2016. The report identifies and examines key trends in global financial markets and potential risks to financial stability. In particular, it highlights the impact of the following key trends on the securities markets:

- Interventions of central banks worldwide, falling commodity prices and uncertainty over global growth trends;
- General growth trends in corporate bond, equity, and securitized product markets;

- Recent trends in emerging market securities markets related to leverage, capital flows, and market-based financing; and
- Increasing digitalization of financial markets.

The report also identifies four potential risk areas, including corporate bond market liquidity; risks associated with the use of collateral in financial transactions; harmful conduct in relation to retail financial products and services; and cyber threats. IOSCO notes that the risks addressed in last year´s outlook, which include search for yield, capital flows to emerging markets, central clearing, use of collateral, and governance and culture of financial firms, continue to be monitored, and are being addressed through IOSCO's policy efforts. The current debate over the systemic importance of asset management industry is also discussed in the report. [Press Statement] [Outlook Report]

Financial Crimes

OCC Issues Guidance Related to BSA Enforcement Actions

The Office of the Comptroller of the Currency (OCC) released Bulletin 2016-6, *Process for Administrative Enforcement Actions Based on Noncompliance With BSA Compliance Program Requirements or Repeat or Uncorrected BSA Compliance Problems*, on February 29, 2016, to provide guidance on the process the OCC has implemented to provide national banks, federal savings associations, and federal branches and agencies of foreign banks (collectively, banks) with an opportunity to respond to potential noncompliance with *Bank Secrecy Act* (BSA) compliance program requirements or repeat or uncorrected BSA compliance problems. The Bulletin supplements the *Interagency Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements*, and rescinds OCC Bulletin 2005-45, *Process for Taking Administrative Enforcement Actions Against Banks Based on BSA Violations*," dated December 23, 2005. [OCC Bulletin 2016-6]

Enforcement Actions

The Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) recently announced that it has assessed a Florida-based federal savings association $4 million in civil money penalties to address findings the institution violated the *Bank Secrecy Act* (BSA) and anti-money laundering (AML) laws. FinCEN alleges deficiencies in the institution's BSA/AML program led to its failure to monitor and detect suspicious activity despite red flags. These deficiencies included a transaction monitoring system with incomplete and inaccurate account opening information and customer risk profiles; an automated monitoring system that generated an unmanageable number of alerts, including large numbers of false positives; and failures to properly train compliance staff or to develop and implement an adequate customer identification program. The action was taken in coordination with the Office of the Comptroller of the Currency, which separately announced a $2.5 million civil money penalty against the institution.

Contact Us

This is a publication of KPMG's Financial Services Regulatory Risk Practice and KPMG's Americas FS Regulatory Center of Excellence

Amy Matsuo, Principal, National Leader, Financial Services Regulatory Risk Practice amatsuo@kpmg.com

Ken Albertazzi, Partner and National Lead, Financial Services Safety & Soundness kalbertazzi@kpmg.com

Kari Greathouse, Principal and National Lead, Enterprise and Consumer Compliance cgreathouse@kpmg.com

Tracy Whille, Principal and National Lead, Capital Markets and Investment Management twhille@kpmg.com

Please direct subscription inquiries to the Americas FS Regulatory Center of Excellence:
regulationfs@kpmg.com

Earlier editions of The Washington Report are available at:
www.kpmg.com/us/thewashingtonreport

Additional Contacts

Asset Management, Trust, and Fiduciary
Bill Canellis wcanellis@kpmg.com

Bank Regulatory Reporting
Brett Wright bawright@kpmg.com

Capital Markets Regulation
Stefan Cooper stefancooper@kpmg.com

Capital/Basel II and III
Paul Cardon pcardon@kpmg.com

Commodities and Futures Regulation
Dan McIsaac dmcisaac@kpmg.com

Consumer & Enterprise Compliance
Stacey Guardino sguardino@kpmg.com

Cross-Border Regulation & Foreign Banking Organizations
Paul Cardon pcardon@kpmg.com

Financial Crimes
Terry Pesce tpesce@kpmg.com

Insurance Regulation
Matthew McCorry memccorry@kpmg.com

Investment Management
John Schneider jjschneider@kpmg.com

Safety & Soundness, Corporate Licensing & Governance, and ERM Regulation
Greg Matthews gmatthews1@kpmg.com