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Safety & Soundness

OCC Adopts Final Rule Integrating National Bank and Federal Savings Association Licensing Activities

The Office of the Comptroller of the Currency (OCC) adopted a final rule on May 18, 2015 that is intended to integrate policies and procedures for corporate activities and transactions of national banks and federal savings associations. The OCC stated that the rule:

- Eliminates unnecessary requirements;
- Promotes fairness in supervision;
- Furthers the safe and sound operation of the institutions the OCC supervises; and
- Makes technical and conforming changes where appropriate to enable a provision to apply to national banks and federal savings associations.

The [Federal Register notice](#) includes a detailed summary of changes made to the proposed rule in response to comments received by the agency. The rule becomes effective on July 15, 2015.

Federal Reserve Issues Proposed Rule to Amend the LCR to Include Certain U.S. Municipal Securities as High-Quality Liquid Assets

On May 22, 2015, the Federal Reserve Board (Federal Reserve) issued a [proposed rule](#) that would amend the Federal Reserve's liquidity coverage ratio requirement (LCR) to include certain U.S. municipal securities as high-quality liquid assets (HQLA). In particular, the proposed rule would include as level 2B liquid assets under the LCR, general obligation securities of a public sector entity that meet the same criteria as corporate debt securities that are included as level 2B liquid assets, subject to limits that are intended to address the unique structure of the U.S. municipal securities market. The proposed rule would apply to all Federal Reserve-regulated institutions that are subject to the LCR.

The Federal Reserve stated that the proposed rule would maintain the liquidity standards of the LCR while providing banks with the flexibility to hold a wider range of HQLA. The proposed rule would apply only to entities subject to the LCR and supervised by the Federal Reserve. Comments on the proposed rule will be accepted until July 24, 2015.

Basel Committee Chairman Discusses Policy Development Agenda

Stefan Ingves, Chairman of the Bank for International Settlements' Basel Committee on Banking Supervision (Basel Committee) and Governor of the Sveriges Riksbank, discussed the Basel Committee's policy development agenda in [remarks](#) at the 8th meeting of the Regional Consultative Group for Europe earlier this month. He said the Basel Committee is "conducting a 'strategic' review of the capital framework, and the extent to which it adequately balances simplicity, comparability and risk sensitivity." He also indicated that the Basel Committee is revising the risk-weighted approaches across the framework for credit risk, market risk and operational risk. "Our work here covers revisions to the standardized approaches as well as the internal model-based approaches," he said.

Federal Reserve Chair Yellen Discusses Economic Outlook

In a May 22, 2015 [address](#) about the economic outlook, Federal Reserve Board Chair Janet Yellen told the Rhode Island Chamber of Commerce that recent "relatively weak" productivity growth may be the result of the recession, which

caused firms to reduce their capital expenditures and to make only modest increases in investment during the recovery. She also stated that a lack of financing may have impaired the ability of people to start new businesses and implement new ideas and technologies. "As the economy strengthens further, many of these processes could work in reverse, boosting our productivity prospects," she said.

She recommended that the United States pursue policies to support longer-run growth in productivity, including policies that would strengthen education, encourage entrepreneurship and innovation, and promote public and private capital investment.

FSOC Releases 2015 Annual Report

On May 19, 2015, the Financial Stability Oversight Council (FSOC) approved its [2015 Annual Report](#), which notes that during the last year the FSOC made the determination that a fourth nonbank financial company will be subject to Federal Reserve Board supervision and enhanced prudential standards, as well as completion of its first annual re-evaluation of the three previous determinations. The FSOC also conducted public outreach regarding potential risks posed by asset management products and activities.

The Annual Report highlights potential threats and vulnerabilities in a number of areas, including two new topics: changes in financial market structure and central counterparties (CCPs). Other areas of potential risk and vulnerability include: cybersecurity; risk-taking in the low-yield environment; global economic and financial risks; financial innovation and migration of activities; short-term wholesale funding; risk-taking incentives of large, complex, interconnected financial institutions; reforms of reference rates; housing finance reform; and, data quality, collection and sharing.

Enterprise & Consumer Compliance

CFPB Releases Semi-Annual Update of Rulemaking Agenda

On May 22, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) posted a semi-annual update of its [rulemaking agenda](#), including planned rulemaking actions in the pre-rule, proposed rule, final rule, long-term, and completed stages. The Bureau's major initiatives include mortgage rules, truth in lending, prepaid financial products, payday and auto-title loans, overdraft services on checking accounts, debt collection and arbitration clauses. Of note, rulemakings expected to be released over the summer of 2015 would address the *Home Mortgage Disclosure Act* (HMDA) and larger participants in the auto industry. Additional rulemakings are anticipated to be released as follows: a proposed rule covering payday lending in late 2015; proposed rules covering debt collection and overdraft services in early 2016 (following small business review panels (*Small Business Regulatory Enforcement Fairness Act* – SBREFA)); and, a final rule covering prepaid financial products in early 2016.

CFPB Charges Nonbank Company with UDAAP Violations

On May 19, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) filed a complaint and proposed consent order in federal court against a nonbank financial company. The Bureau alleges the California-based company violated the *Consumer Financial Protection Act* by using unfair, deceptive, and abusive acts and practices (UDAAP) in connection with the offering, marketing, providing, and servicing of its online consumer-credit product. Among other things, the CFPB alleges the company failed to honor the advertised promotions for the product, "abusively charged consumers deferred interest," enrolled consumers in the product without their consent, and mishandled consumer disputes about payments.

Under the proposed order, the company would pay \$15 million to reimburse harmed customers and a \$10 million civil money penalty. It would also be required to improve its consumer disclosures.

OCC Publishes Community Developments *Investments* E-Letter

On May 19, 2015, the Office of the Comptroller of the Currency (OCC) published the latest edition of its [Community Developments *Investments* electronic newsletter](#) entitled "Small Multifamily Rental Property Financing." This issue describes the composition of the small multifamily rental housing market, some of the challenges that market faces, and the range of ways that banks and federal savings associations are active in the market. This newsletter also reviews current OCC supervisory policies for the financing of multifamily properties as well as how these financing activities may qualify for consideration in a bank's *Community Reinvestment Act* examination.

FHFA Issues New Operational and Financial Eligibility Requirements for Single-Family Mortgage Seller/Service Providers

The Federal Housing Finance Agency (FHFA) [announced](#) on May 20, 2015 that Fannie Mae and Freddie Mac (the Enterprises) are issuing new operational and financial eligibility requirements for all current and potential single-family mortgage seller/service providers. The operational requirements become effective no later than September 1, 2015 and the financial requirements become effective December 31, 2015.

The FHFA explains that it directed Fannie Mae and Freddie Mac to update their counterparty standards for mortgage service providers in response to changes taking place in the servicing industry. The new requirements are intended to help ensure the safe and sound operation of the Enterprises and provide greater transparency, clarity and consistency to industry participants and other stakeholders and reflect feedback received over the past several months.

The Enterprises will communicate updated requirements to seller/service providers in their respective guides, bulletins and announcements and through best practices documents that provide service providers clarity about Enterprise expectations.

Capital Markets and Investment Management

SEC Proposes Rules to Modernize and Enhance Information Reported by Investment Companies and Investment Advisers

On May 20, 2015, the Securities and Exchange Commission (SEC) [proposed rules, forms and amendments](#) to modernize and enhance the reporting and disclosure of information by investment companies and investment advisers. The new rules are intended to enhance the quality of information available to investors and would allow the SEC to more effectively collect and use data provided by investment companies and investment advisers. The comment period for the proposed rules will close 60 days after publication in the *Federal Register*.

The investment company proposals are intended to enhance data reporting for mutual funds, exchange-traded funds (ETFs) and other registered investment companies. The proposals would require a new monthly portfolio reporting form (Form N-PORT) and a new annual reporting form (Form N-CEN) that would require census-type information. The information would be reported in a structured data format, allowing the SEC and the public to better analyze the information. The proposals would also require enhanced and standardized disclosures in financial statements, and would

permit mutual funds and other investment companies to provide shareholder reports by making them accessible on a Web site.

The proposed amendments to the investment adviser registration and reporting form (Form ADV) would require investment advisers to provide additional information for the SEC and investors to better understand the risk profile of individual advisers and the industry. The proposed amendments to Investment Advisers Act Rule 204-2 would require advisers to maintain records of performance calculations and communications related to performance.

FINRA Requests Comment on Proposed Amendments to Rules Governing Public Communications

The Financial Industry Regulatory Authority issued [Regulatory Notice 15-16](#) on May 18, 2015, to request comment on proposed amendments to rules governing communications with the public. The proposed amendments would revise the filing requirements in:

- FINRA Rule 2210 (Communications with the Public);
- FINRA Rule 2214 (Requirements for the Use of Investment Analysis Tools); and
- FINRA Rule 2213 (the content and disclosure requirements for the Use of Bond Mutual Fund volatility Ratings).

FINRA requests that comments be sent by July 2, 2015.

CFTC Commissioner Wetjen Addresses Risks in an Increasingly Automated Market

On May 21, 2015, Commodity Futures Trading Commission (CFTC) Commissioner Mark P. Wetjen [addressed](#) the Global Derivatives Trading and Risk Management Conference regarding the automation of derivatives markets and how this development has given rise to new policy considerations. He cited the benefits technology has brought to the derivatives market, including “facilitating the entry of new participants that can and do serve as liquidity providers in today’s derivatives markets, increasing trading volume, and narrowing bid-ask spreads.”

Commissioner Wetjen then addressed the attendant risks of an increasingly automated market, saying the CFTC and other market regulators “must better understand the risks posed by automation through better access to market data, including order-message data. Additionally, better access to data must include enhanced coordination among regulators to share data about distinct, but inter-connected, markets. This is especially true for regulators that oversee derivatives markets and those who supervise related cash markets.”

He also said the CFTC “should continue to pursue a parallel track to incentivize new-entrant liquidity providers to the swaps marketplaces, or swap execution facilities (SEFs), that it oversees.”

Federal Reserve Fines Six Large Banking Organizations for Unsafe and Unsound Practices in Foreign Exchange

On May 20, 2015, the Federal Reserve Board (Federal Reserve) announced that it will impose more than \$1.8 billion in fines against six major banking organizations for unsafe and unsound practices in the foreign exchange (FX) markets. The Federal Reserve also issued cease and desist orders requiring the firms to improve their policies and procedures for oversight and controls over activities in the wholesale FX and similar types of markets. The Federal Reserve is also requiring all six organizations to cooperate in its investigation of the individuals involved in the conduct underlying these enforcement actions and is prohibiting the organizations from re-employing or otherwise engaging individuals who were involved in unsafe and unsound conduct.

Enforcement Actions

The Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) recently announced the following enforcement actions:

- The SEC charged a foreign-based global resources company with violating the *Foreign Corrupt Practices Act* (FCPA) when it sponsored the attendance of foreign government officials at the 2008 Summer Olympic Games. Without admitting or denying the SEC's findings, the company agreed to pay a \$25 million penalty to settle the charges that it failed to devise and maintain sufficient internal controls over its global hospitality program.
- The SEC charged the co-owners of a New York-based brokerage firm with fraud for allegedly misrepresenting to investors the value of a holding company's assets and diverting investors' funds to their personal use. The co-owners were also charged with making misrepresentations to SEC examiners to cover up their fraud. In a parallel action, federal court brought criminal action against the co-owners. The SEC is seeking a permanent injunction, disgorgement, civil money penalties and officer and director bars.
- The SEC charged a Georgia-based investment advisory firm and two executives with fraud, alleging that they sold unsuitable investments to pension funds and collected more than \$1.7 million in fees from the pension fund clients. The SEC is seeking disgorgement and civil money penalties.
- The CFTC, in two separate actions, issued Orders filing and settling charges against the same foreign-based bank. In the first complaint, the CFTC charged the bank with attempting to manipulate and making false reports concerning a global benchmark for interest rate products. It ordered the bank to pay a \$115 million civil monetary penalty. In the second complaint, the CFTC charged the bank with attempted manipulation, false reporting, and aiding and abetting other banks' attempts to manipulate global foreign exchange benchmark rates to benefit the positions of certain traders. In this case, the CFTC ordered the bank to pay a civil monetary penalty of \$400 million. In both cases the CFTC ordered the bank to take specified steps to implement and strengthen its internal controls and procedures.

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