

In This Issue

Safety & Soundness

Federal Reserve and FDIC Provide Guidance to Financial Firms on Their Resolution Plans	1
FSB to Delay Final Assessment Methodologies for Non-Bank Non-Insurer SIFIs	1
Congressional Hearings Activity	1

Enterprise & Consumer Compliance

CFPB Announces UDAAP Enforcement Actions Against Servicers	2
--	---

Capital Markets & Investment Management

BIS Foreign Exchange Working Group Begins to Establish Single Code of Conduct Standards and Principles for the Global Wholesale Foreign Exchange Market.....	2
FSB Releases Progress Report for Implementation of OTC Derivatives Market Reform	3
IOSCO Publishes Review of the Timeliness and Frequency of Disclosure to Investors.....	3
IOSCO Publishes Progress Review for Regulation of DMIs	3
Enforcement Actions	3

Safety & Soundness

Federal Reserve and FDIC Provide Guidance to Financial Firms on Their Resolution Plans

On July 28, 2015, the Federal Reserve Board and the Federal Deposit Insurance Corporation (collectively, the Agencies) announced that they had provided feedback to three nonbank financial companies regarding the companies' initial resolution plans (previously filed in July 2014) as well as upcoming filings. The Agencies note that each company received feedback tailored to its unique business, structure, and operations as well as common feedback on the need for: more detailed information on, and analysis of, obstacles to resolvability, including global cooperation, interconnectedness, and adequate funding and liquidity; the resolution plan to include descriptions of progress being made and steps remaining to become more resolvable; and, stronger public disclosures. The three nonbank financial companies must submit the second versions of their annual resolution plans on or before December 31, 2015. The Agencies will require the firms to demonstrate they are making significant progress to address the obstacles to resolution noted in the feedback to each company, and are taking actions to improve their resolvability. [\[Press Statement\]](#)

Also on July 28, 2015, the Agencies provided guidance to 119 firms that will be filing updated resolution plans in December 2015. The guidance includes tailored requirements based on a review of the firms' plans submitted late in 2014. The 119 firms included U.S. bank holding companies with less than \$100 billion in total nonbank assets and foreign-based firms with less than \$100 billion in U.S. nonbank assets. The Agencies note that 29 of the more complex firms are required to file either full or tailored resolution plans that take into account guidance identified by the Agencies. Ninety firms with limited U.S. operations may file plans that focus on material changes to their 2014 resolution plans, actions taken to strengthen the effectiveness of those plans, and, where applicable, actions to ensure any subsidiary insured depository institution is adequately protected from the risk arising from the activities of nonbank affiliates of the firm. [\[Press Statement\]](#)

FSB to Delay Final Assessment Methodologies for Non-Bank Non-Insurer SIFIs

The Financial Stability Board (FSB) announced on July 30, 2015, that it will wait to finalize the assessment methodologies for non-bank non-insurer global systemically important financial institutions (NBNI G-SIFIs) until the current FSB work on financial stability risks from asset management activities is completed. The FSB notes that, jointly with the International Organization of Securities Commissions (IOSCO), it had published a second consultative document on the assessment methodologies for NBNI G-SIFIs in March 2015, and will report to the G20 later this year on the comments received from that proposal. It plans to develop activities-based policy recommendations as necessary by spring 2016. Jointly with IOSCO, the FSB will then conduct further analysis and finalize the NBNI G-SIFI asset management assessment methodology "with a focus on any residual entity-based sources of systemic risk from distress or disorderly failure that cannot be effectively addressed by market-wide activities-based policies." [\[Press Statement\]](#)

Congressional Hearings Activity

In the Senate:

- The Senate Committee on Banking, Housing, and Urban Affairs Subcommittee on Financial Institutions and Consumer Protection met in open session on July 29, 2015 to conduct a hearing on "*The Role of Bankruptcy Reform in Addressing Too-Big-To-Fail.*" Four witnesses provided testimony, including representatives from a law firm and academia. [\[Hearing\]](#)

In the House of Representatives:

- The House Committee on Financial Services conducted a hearing on July 28, 2015, that considered the question, “*The Dodd-Frank Act Five Years Later: Are We More Prosperous?*” Three witnesses provided testimony including representatives from academia and the industry. [\[Hearing\]](#)

Enterprise & Consumer Compliance

CFPB Announces UDAAP Enforcement Actions Against Servicers

During the week of July 20, 2015, the Consumer Financial Protection Bureau (CFPB) announced two enforcement actions to address violations of the *Consumer Financial Protection Act's* (CFPA) provisions against unfair, deceptive, or abusive acts or practices (UDAAP). Under the actions:

- The CFPB entered into a Consent Order with a mortgage servicer that required, among other things, the servicer to pay \$1.5 million in restitution to customers and a \$100,000 civil money penalty to settle the CFPB's charges the servicer:
 - Failed to honor trial loan modifications that consumers had entered into with their prior servicers;
 - Gave incorrect information to certain consumers about their unpaid balances, payment due dates, interest rates, monthly payment amounts, and delinquency statuses; and
 - Sent incorrect escrow statements to customers.
- The CFPB entered Consent Orders with a payment processor and a mortgage servicer that required, among other things, the two companies, collectively, to return more than \$33 million to approximately 125,000 consumers and pay civil money penalties of \$5.1 million. The CFPB charged the companies with deceiving consumers with advertisements about the benefits associated with their mortgage payment accelerator program, for which they collected funds but did not make more frequent payments. As outlined in the Consent Orders, they:
 - Misled consumers about the average interest savings consumers would achieve by enrolling in their payment accelerator program; and
 - Misrepresented the loan repayment schedule under the payment accelerator program.

Capital Markets and Investment Management

BIS Foreign Exchange Working Group Begins to Establish Single Code of Conduct Standards and Principles for the Global Wholesale Foreign Exchange Market

The Bank for International Settlements (BIS) announced on July 24, 2015, that it has established a Foreign Exchange Working Group (FXWG). The main objectives of the FXWG are to facilitate the establishment of a single global code of conduct standards and principles (Code) and to promote greater adherence to these standards and principles. The Code is intended to cover all parts of the global wholesale Foreign Exchange market, with appropriate consideration to local circumstances. The BIS note work is proceeding along two workstreams and the target date for finalization is May 2017.

[\[Press Statement\]](#)

FSB Releases Progress Report for Implementation of OTC Derivatives Market Reform

The Financial Stability Board (FSB) published its ninth progress report on implementation of over-the-counter (OTC) derivatives market reforms on July 24, 2015. The report “finds that implementation of OTC derivatives market reforms is well underway, with the foundational authority needed to give effect to the full range of these reforms in place in most FSB member jurisdictions.” The FSB summarizes more specific findings to include:

- Implementation of reforms is most advanced for trade reporting and for higher capital requirements for non-centrally cleared derivatives;
- Further incremental progress to promote central clearing of standardized OTC derivatives has been made (at present, five jurisdictions have central clearing requirements in effect for one or more specific product types);
- Few jurisdictions have regulatory frameworks in place to promote execution of standardized contracts on organized trading platforms;
- Most jurisdictions are only in the early phases of implementing the BCBS–IOSCO framework for margin requirements for non-centrally cleared derivatives; and
- The availability and use of a centralized infrastructure to support OTC derivatives reforms continues to expand. [\[Press Statement\]](#) [\[Report\]](#)

IOSCO Publishes Review of the Timeliness and Frequency of Disclosure to Investors

The International Organization of Securities Commissions (IOSCO) published the findings of a thematic review (Review) on July 30, 2015, that looked at the timeliness and frequency of disclosure by issuers and collective investment schemes (CIS) under Principles 16 and 26 of IOSCO’s Objectives and Principles of Securities Regulation. Thirty-seven jurisdictions participated in the Review, which was limited to periodic and material event-based disclosure frameworks in participating jurisdictions, in relation to issuers as well as to CIS. [\[Press Statement\]](#) [\[Thematic Review\]](#)

IOSCO Publishes Progress Review for Regulation of DMIs

The International Organization of Securities Commissions (IOSCO) published findings from its review of the progress that twenty of its member jurisdictions have made in adopting legislation, regulation, and policies related to derivatives market intermediaries (DMIs) in the six reform areas addressed by IOSCO’s 2012 report on *International Standards for Derivative Market Intermediary Regulation*. These six reform areas include: scope of regulatory reform (including the framework for regulation and definition of DMIs); registration/licensing standards; capital standards or other financial resources requirements for non-prudentially regulated DMIs; business conduct standards; business supervision standards; and recordkeeping standards. [\[Press Statement\]](#) [\[Progress Review\]](#)

Enforcement Actions

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

- The SEC charged a public company \$12 million, including approximately \$7.77 million in disgorgement, \$1.26 million in prejudgment interest, and \$3 million in penalties, to settle the SEC’s findings that the company’s subsidiary made improper payments to foreign individuals in violation of the *Foreign Corrupt Practices Act*.
- CFTC announced that a U.S. District Court entered separate Consent Orders (Orders) against two individual defendants and their companies, imposing a total of \$76 million in civil monetary penalties in connection with a foreign currency exchange scheme in violation of the *Commodity Exchange Act*. The Orders also impose permanent trading and registration bans on the defendants and prohibit them from further violations of the anti-fraud provisions of the CEA, as charged. In a related criminal action brought by the U.S. Attorney’s Office, one defendant was convicted on charges of securities fraud, wire fraud, and money laundering, is currently serving a sentence of 40 years, and was ordered to pay criminal restitution of \$35 million. The second defendant pleaded guilty to charges of investment fraud conspiracy and tax evasion, is currently serving a sentence of 4.5 years, and was ordered to pay \$5 million in criminal restitution.

- FINRA fined an execution and clearing firm \$1.8 million for systemic Order Audit Trail System (OATS) reporting violations, failure to accurately submit required trade reports to the appropriate FINRA Trade Reporting Facility, and related supervisory failures.

Contact Us

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

John Ivanoski, Partner, National Leader, Regulatory Risk jivanoski@kpmg.com
Hugh Kelly, Principal and National Lead, Bank Regulatory Advisory hckelly@kpmg.com
Amy Matsuo, Principal and National Lead, Enterprise-wide Compliance & Consumer Regulatory amatsuo@kpmg.com
Tracy Whille, Principal and National Lead, Capital Markets and Investment Management Regulatory twhille@kpmg.com
Philip Aquilino, Principal and National Lead, FS Safety & Soundness Regulatory pquilino@kpmg.com
Pamela Martin, Managing Director and Lead, Americas FS Regulatory Center of Excellence pamelamartin@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 Mclsaac dmcisaac@kpmg.com

Consumer & Enterprise Compliance

Kari Greathouse kgreathouse@kpmg.com

Cross-Border Regulation & Foreign Banking Organizations

Paul Cardon pcardon@kpmg.com

Insurance Regulation

Matthew McCorry memccorry@kpmg.com

Investment Management

John Schneider jschneider@kpmg.com

Safety & Soundness, Corporate Licensing & Governance, and ERM Regulation

Greg Matthews gmatthews1@kpmg.com

ALL INFORMATION PROVIDED HERE IS OF A GENERAL NATURE AND IS NOT INTENDED TO ADDRESS THE CIRCUMSTANCES OF ANY PARTICULAR INDIVIDUAL OR ENTITY. ALTHOUGH WE ENDEAVOR TO PROVIDE ACCURATE AND TIMELY INFORMATION, THERE CAN BE NO GUARANTEE THAT SUCH INFORMATION IS ACCURATE AS OF THE DATE IT IS RECEIVED OR THAT IT WILL CONTINUE TO BE ACCURATE IN THE FUTURE. NO ONE SHOULD ACT UPON SUCH INFORMATION WITHOUT APPROPRIATE PROFESSIONAL ADVICE AFTER A THOROUGH EXAMINATION OF THE FACTS OF THE PARTICULAR SITUATION.

©2015 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. The KPMG name, logo and "cutting through complexity" are registered trademarks or trademarks of KPMG International. KPMG LLP, the audit, tax and advisory firm (www.kpmg.com/us), is the U.S. member firm of KPMG International Cooperative ("KPMG International"). KPMG International's member firms have 145,000 professionals, including more than 8,000 partners, in 152 countries. Printed in the U.S.A. All rights reserved. NDPPS 146154