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Safety & Soundness

FDIC Issues Summer 2015 *Supervisory Insights*

The Federal Deposit Insurance Corporation (FDIC) released the summer 2015 issue of its *Supervisory Insights*, which features an article, "Strategic Planning in an Evolving Earnings Environment," highlighting the role of corporate governance and strategic planning in navigating a challenging operating environment. The issue also contains an article on "Bank Investment in Securitizations: The New Regulatory Landscape in Brief," which summarizes requirements related to investments in securitizations, including potential effects on bank capital, following enactment of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. The article also explains how an investment decision process can be structured to help a bank remain compliant with these new requirements. [\[Press Statement\]](#) [\[Supervisory Insights Summer 2015\]](#)

Enterprise & Consumer Compliance

Agencies Announce 2014 CRA Data for Small Business, Small Farm, and Community Development Lending

On August 25, 2015, three federal banking agencies (the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) announced the availability of data on small business, small farm, and community development lending reported by certain commercial banks and savings associations pursuant to the *Community Reinvestment Act* (CRA). A disclosure statement on the reported 2014 CRA data, in electronic form, is available for each reporting commercial bank and savings association on the Web site of the Federal Financial Institutions Examination Council (FFIEC). The FFIEC also has prepared aggregate disclosure statements of small business and small farm lending for all of the metropolitan statistical areas and non-metropolitan counties in the United States and its territories. [\[Press Statement\]](#) [\[Fact Sheet - 2014 Data\]](#)

CFPB Releases Second Monthly Consumer Complaints Snapshot

The Consumer Financial Protection Bureau (CFPB or Bureau) released its second monthly consumer complaints snapshot on August 25, 2015. For the month of July 2015, the report notes that the CFPB received the most complaints related to debt collection (31 percent of total complaints), credit reporting agencies (25 percent of total complaints), and mortgages (17 percent of total complaints). Consumer loan complaints, those related to payday loans, title loans, and instalment loans, showed a 61 percent increase over the previous year, which was the largest increase in all complaint categories. The report also highlighted credit reporting agency complaints noting, among other things that there was a 45 increase in the number of credit reporting agency complaints received between June and July 2015, and that 77 percent of the complaints related to incorrect information on reports. [\[Press Statement\]](#) [\[July 2015 Monthly Report\]](#)

Capital Markets and Investment Management

SEC Commissioner Posts Public Statement on SEC Waiver Process

Securities and Exchange Commission (SEC or Commission) Commissioner Luis Aguilar released a public statement on August 27, 2015 on the topic of "Enhancing the Commission's Waiver Process." The statement outlines the Commissioner's views on how the SEC could strengthen its protocols for handling waiver requests as well as provide enhanced transparency and clarity on the Commission's waiver process.

The Commissioner notes that requests for waivers from regulatory disqualifications are typically made by certain entities or individuals that become involved in Commission enforcement actions where they are automatically disqualified, as mandated by Congress, from conducting certain activities, or from relying on certain exemptions from registration. Commission rules allow entities and individuals subject to such disqualifications to approach the SEC staff and seek a waiver from these prohibitions. [\[Public Statement\]](#)

SEC Issues Risk Alert for Structured Securities Products

The Securities and Exchange Commission's (SEC or Commission) Office of Compliance Inspection and Examination (OCIE) issued a Risk Alert (Volume IV, No 7) on August 24, 2015. The Risk Alert summarizes deficiencies that OCIE staff observed in the controls that certain broker-dealers put in place to comply with obligations related to sales of structured securities products (SSPs) to retail investors, including controls related to determining suitability of SSP recommendations and written supervisory procedures related to reviews of suitability determinations related to SSPs. [\[Risk Alert\]](#)

CFTC Approves NFA Rule Amendment and Interpretive Notice

The U.S. Commodity Futures Trading Commission (CFTC) announced on August 28, 2015 that it had approved rule amendments and a new interpretive notice filed by the National Futures Association (NFA). The CFTC summarizes that the rule amendments and interpretive notice enhance protections afforded to retail customers of NFA Forex Dealer Members (FDMs) by, among other things:

- Imposing additional capital requirements on FDMs;
- Requiring FDMs to collect security deposits for off-exchange foreign currency transactions from eligible contract participant counterparties in addition to retail counterparties;
- Requiring FDMs to adopt and implement rigorous risk management programs; and
- Requiring FDMs to provide additional market disclosures and firm-specific information on their Web sites to permit current and potential counterparties to better assess the risks of engaging in off-exchange foreign currency transactions and with conducting business with a particular FDM.

NFA is a registered futures association under section 17 of the *Commodity Exchange Act* and is a self-regulatory organization for the U.S. derivatives industry, including on-exchange traded futures, retail off-exchange foreign currency transactions, and swap transactions. [\[Press Release\]](#)

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 announced that it had obtained an asset freeze against an individual accused of defrauding foreign investors seeking U.S. residency through the SEC's EB-5 Immigrant Investor Pilot Program by investing in his companies. The SEC claims the individual received at least \$125 million in such investments and diverted at least \$17 million to other, including personal, uses.
- The SEC announced that it had charged a former investment analyst with tipping confidential information to other individuals, and had also charged several other individuals with trading on that non-public information. The SEC alleges that collectively the individuals obtained more than \$670,000 in illegal profits from the illegal trading. The SEC is seeking a final judgment requiring disgorgement, prejudgment interest, and penalties. Separate criminal charges have been announced against the individuals by the Department of Justice.
- The CFTC announced that a federal court had entered an Order of Permanent Injunction against an individual to resolve the CFTC charges the individual, in his role as a trader and former officer in an investment management company, violated the CFTC rules governing segregation of customer funds. The Order requires the individual to pay \$551,000 in disgorgement and \$1,653,000 civil monetary penalties. The Order also imposes permanent trading and registration bans.
- The CFTC announced that a federal district court had entered a default judgment Order against two individuals that requires them to jointly pay more than \$1.2 million in restitution and nearly \$2.5 million in civil monetary penalties. The Order also enters a permanent injunction that imposes permanent trading and registration bans against the Defendants, who were previously charged by the CFTC for operating a fraudulent scheme to trade leveraged or margined off-exchange foreign currency contracts as well as for misappropriating some of the funds raised to pay other investors and personal expenses.
- FINRA censured and fined a broker-dealer \$2 million for net capital deficiencies and for related supervisory failures. The net capital deficiencies occurred on three separate dates in 2014.

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

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