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Safety & Soundness

Federal Reserve Approves Adoption of NACHA Same-Day ACH Rules

On September 23, 2015, the Federal Reserve Board (Federal Reserve) announced that it had approved enhancements to the Federal Reserve Bank's same-day automated clearinghouse (ACH) service. The enhancements require receiving depository financial institutions (RDFIs) to participate in the service and originating depository financial institutions to pay a fee to RDFIs for each same-day ACH forward transaction. The enhancements will become effective September 23, 2016 and are intended to align the Federal Reserve Banks' same-day ACH service with recent amendments to NACHA's ACH operating rules. [Press Statement] [Notice]

FSOC Meets to Discuss Asset-Management and CCP Issues

The Financial Stability Oversight Council (FSOC or Council) conducted an executive session on September 21, 2015, where the Council continued it's assessment of potential risks to U.S. financial stability arising from asset-management products and activities. The Council also considered central counterparties (CCPs), including: CCP credit, default, and liquidity risk management; bank-CCP interactions; and CCP recovery and resolution planning. [Press Statement]

International Standards-Setters Release Progress Report on CCPs

Four international standards-setting bodies, the Financial Stability Board, the Basel Committee on Banking Supervision, the Committee on Payments and Markets Infrastructures, and the International Organization of Securities Commissions, announced on September 22, 2015, the release of a progress report on their work to enhance the resilience, recovery planning, and resolvability of central counterparties (CCPs). The progress report provides an update on delivery against the 2015 workplan developed by these standards-setting bodies to ensure effective coordination of policy work to make CCPs more resilient. [Press Statement] [Progress Report]

OCC Reports Bank Trading Revenue for the Second Quarter of 2015

On September 21, 2015, the Office of the Comptroller of the Currency (OCC) released its *Quarterly Report on Bank Trading and Derivative Activities* for the second quarter of 2015. The quarterly findings indicate that:

- Insured U.S. commercial banks and savings institutions reported trading revenue of $5.5 billion in the second quarter of 2015, 28 percent lower than in the first quarter and 14 percent lower than the same quarter the previous year;
- Trading revenue from interest rate and foreign exchange products was $4.3 billion in the second quarter, 4 percent lower than the average for second quarters since 2009;
- For the first time since 2007, recoveries of previously charged-off derivatives exposures exceeded charge-offs in the second quarter; and
- Derivative contracts remain concentrated in a small number of institutions, with the largest four banks holding 91 percent of the total notional amount of derivatives, as well as concentrated in interest rate products, which represent 78 percent of total derivative notional values (the same as in the first quarter).

In a press statement, Director of the Financial Markets Group, Kurt Wilhelm said "The fall in second quarter trading revenue was a little more than the average 25 percent decline we've seen in second quarters since 2009, as there is still pressure on revenue from interest rate and foreign exchange products." [Press Statement] [Second Qtr 2015 Report]

Enterprise & Consumer Compliance

CFPB Releases Third Monthly Consumer Complaints Snapshot

The Consumer Financial Protection Bureau (CFPB or Bureau) released its third monthly consumer complaints snapshot on September 23, 2015, which covers the month of August 2015. The report notes that it continues to receive the largest numbers of complaints for products and services related to debt collection, credit rating agencies, and mortgages (29, 22, and 18 percent of total complaints, respectively). Consumer loan complaints, those related to payday loans, title loans, and instalment loans, showed a 49 percent increase over the previous year, which was the largest increase in all complaint categories. The report also features mortgage complaints noting that, among other things, consumers primarily report issues around their attempts to obtain loan modification and mortgage foreclosure information as well as with obtaining information when their loans are transferred to another servicer. [Press Statement] [Monthly Complaint Report]

CFPB Finalizes Rule Related to Small Creditors and Rural and Underserved Areas

On September 21, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) approved the release of a final rule and official staff interpretations that modify the CFPB's mortgage rules under Regulation Z (Truth-in-Lending) to facilitate "responsible lending" by small creditors, particularly in rural and underserved areas. The final rule will: raise the loan origination limit defining a "small creditor" to 2,000 loans; expand the definition of "rural" to include census blocks that are not in an urban area as defined by the Census Bureau; provide a grace period for small creditor and rural or underserved creditor status in the year following the year the relevant limits are exceeded; adjust the qualifying period for rural or underserved creditor status to the preceding calendar year; and further extend the temporary extension accorded small creditor balloon-payment mortgages to April 1, 2016. The final provisions will become effective on January 1, 2016. [Press Statement] [Final Rule]

2014 HMDA Data Becomes Available

The Federal Financial Institutions Examination Council (FFIEC) announced the availability of 2014 mortgage lending data as covered by the *Home Mortgage Disclosure Act* (HMDA). The data covers lending activity at covered financial institutions (banks, savings associations, credit unions, and mortgage companies), and includes applications, originations, purchases and sales of loans, denials, and other actions related to applications. Nearly 10 million loan applications and 2 million loan purchases are included in the data. [Press Statement]

CFPB Announces Enforcement Action Addressing Redlining

The Consumer Financial Protection Bureau (CFPB or Bureau) announced that, in conjunction with the Department of Justice (DOJ), it had taken an enforcement action against a federal savings bank (Bank) to address the agencies' allegations the Bank engaged in redlining by structuring its business to offer unequal credit access to consumers based on the race and ethnicity of prospective borrowers' neighborhoods. The announcement included proposed consent orders, which are subject to court approval, to address each of the agencies' findings the Bank violated provisions of the *Equal Credit Opportunity Act* (ECOA) and the *Fair Housing Act*. In addition, the proposed consent orders would require, among other things, the Bank to: pay $25 million toward a loan subsidy program and $5.5 million in civil money penalties; invest a pre-determined amount of funds in targeted advertising and outreach, consumer education programs, and local community-based partnerships; and, open two new branches in predominantly Black or Hispanic neighborhoods.

Capital Markets and Investment Management

SEC Proposes Rule to Enhance Liquidity Risk Management of Open-End Funds

The Securities and Exchange Commission (SEC) approved the release of a proposed rule that is intended to enhance liquidity risk management by open-end funds. Under the proposed rule:

- Registered open-end funds, including open-end exchange-traded funds (ETFs) but not money market funds (MMFs), would be required to implement liquidity risk management programs that contain certain elements detailed in the proposal;
- Open-end funds, except ETFs and ETFs, would be permitted, under certain circumstances, to elect to use "swing pricing" to effectively pass on the costs stemming from shareholder purchase or redemption activity to the shareholders associated with that activity; and
- Registration Form N-1A would be modified to disclose swing pricing, among other things, and two proposed reporting forms, N-PORT (portfolio holdings) and N-CEN (census reporting), would be amended.

Comments will be accepted for a period of 90 days following publication in the *Federal Register*. [Press Statement] [Proposed Rule]

SEC Proposes Amendments to Its Rule of Practice

On September 24, 2015, the Securities and Exchange Commission (SEC) issued proposed amendments to its rules governing administrative proceedings contained in the agency's Rules of Practice. As proposed, the amendments would:

- Adjust the timing of administrative proceedings, including by extending the time before a hearing occurs in appropriate cases;
- Permit parties to take depositions of witnesses as part of discovery; and
- Require parties in administrative proceedings to submit filings and serve each other electronically, and to redact certain sensitive personal information from those filings.

Comments will be accepted for a period of 60 days following publication in the *Federal Register*. [Press Statement] [Proposed Rule Electronic Filing] [Proposed Rule 2]

SEC Seeks Public Comment on Certain Financial Disclosures under Regulation S-X

The Securities and Exchange Commission (SEC) announced on September 25, 2015, that it is issuing a request for public comment on the effectiveness of financial disclosure requirements in Regulation S-X. In particular, the SEC is seeking comment on the requirements for the form and content of financial disclosures that companies must file with the SEC about acquired businesses, affiliated entities, and guarantors and issuers of guaranteed securities. Comments will be accepted for a period of 60 days following publication in the *Federal Register*. [Press Statement] [Request for Comment]

IOSCO Releases Second Staff Working Paper on Corporate Bond Markets

The International Organization of Securities Commissions (IOSCO) announced the release of a Staff Working Paper on September 25, 2015, entitled, *Corporate Bond Markets: An Emerging Market Perspective*. The report is the second in a series on Corporate Bond Markets and presents findings from an in-depth study of the development and functioning of corporate bond markets in emerging markets. [Press Statement] [Working Paper]

CFTC Releases Supplemental Proposal to Its Proposed Position-Limits Regime

The Commodity Futures Trading Commission (CFTC), on September 22, 2015, approved the release of a supplement to its proposed rulemaking to modify the policy for aggregation under the CFTC's position-limits regime for futures and option contracts. The proposed rulemaking was previously released in November 2013. Under the supplementary proposal, owners of a greater than 50 percent interest would follow the same procedure previously proposed for owners of an interest between 10 and 50 percent, and would be able to disaggregate the owned entity's positions upon filing a notice with the CFTC stating that specified standards have been met. [Press Statement] [Supplemental Proposal]

Enforcement Actions

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

- The SEC reached a settlement with two individuals and their investment advisory firm to address the SEC's charges the respondents defrauded investors in a private equity fund they managed. Without admitting or denying the SEC's findings, the respondents agreed to pay $5.4 million of allegedly ill-gotten gains and prejudgment interest of more than $350,000. The individuals also agreed to be permanently barred from the securities industry and to pay civil penalties of $500,000 each.
- The SEC reached an agreement with an investment adviser to settle charges that it failed to establish the required cybersecurity policies and procedures in advance of a breach that compromised the personally identifiable information of approximately 100,000 individuals, including thousands of the firm's clients. The adviser agreed to be censured and to pay a $75,000 penalty.
- The SEC charged an investment adviser and its affiliated distributor with improperly using mutual fund assets to pay for the marketing and distribution of fund shares. The adviser agreed to pay nearly $40 million to settle the SEC's charges (approximately $27.5 million in disgorgement and prejudgment interest, plus a $12.5 million penalty), the first charges brought under a recent SEC initiative (the Distribution-in-Guise Initiative) to protect mutual fund shareholders.
- The CFTC entered into an Order with a registered introducing broker and its Chief Operating Officer for: failing to adequately record customer orders; failing to maintain required records relating to commodity futures transactions; submitting order tickets bearing false timestamps; engaging in unauthorized trading; and failing to provide adequate supervision. The Order requires the defendants to jointly pay a $500,000 civil monetary penalty.
- The CFTC entered into an Order requiring a foreign national and his U.S.-based company to jointly and severally pay a $280,000 civil monetary penalty for failing to disclose the company's principal in registration filings and for engaging in fraud when soliciting prospective clients by failing to disclose material changes in the company's algorithmic trading program. The CFTC Order also imposes permanent trading and registration bans on the individual and the company.

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