

In This Issue

Safety & Soundness

Basel Committee Issues Final Report on Trading-Related Internal Models Review	1
Federal Reserve Governor Tarullo Speaks on Capital Regulation and Financial Intermediaries.....	1
OCC Releases Supervisory Operating Plan for FY 2016	1

Enterprise & Consumer Compliance

CFPB and Departments of Treasury and Education Release Reports and Recommendations for Student Loan Servicing.....	2
CFPB to Consider Good Faith Efforts When Evaluating TRID Compliance.....	2
OCC Releases Quarterly Mortgage Metrics Report.....	3
Enforcement Actions.....	3

Capital Markets & Investment Management

FSB Releases Progress Report on Foreign Exchange Benchmark Reform	4
CFTC Grants Additional Relief from Reporting Requirements of the OCR Final Rule.....	4
BIS Working Paper Looks at CCPs and Margin Policies.....	4
Enforcement Actions.....	4

Safety & Soundness

Basel Committee Issues Final Report on Trading-Related Internal Models Review

The Bank for International Settlements' Basel Committee on Banking Supervision (Basel Committee) issued a report on the regulatory consistency of risk-weighted assets (RWAs) for counterparty credit risk on October 1, 2015. The study was a part of the Basel Committee's wider Regulatory Consistency Assessment Programme (RCAP), which is intended to ensure consistent implementation of the Basel III framework. The report presents the findings from a hypothetical test portfolio exercise to examine variability in banks' modelling of derivatives, and specifically in exposure modelling. It focuses on the internal models method (IMM) and the advanced credit valuation adjustments (CVA) risk capital charge for over-the-counter (OTC) derivative trades, analyzing the variability of RWAs outcomes, highlighting good practices, and identifying areas where additional attention from banks and supervisors is required to mitigate unwarranted RWA variability. The exercise completes the Basel Committee's review of trading-related internal models and follows two earlier exercises that focused on market risk RWAs (including models for market risk, VaR and stressed VaR, and models for incremental risk charge and comprehensive risk measure). [\[Press Statement\]](#) [\[Report\]](#)

Federal Reserve Governor Tarullo Speaks on Capital Regulation and Financial Intermediaries

Federal Reserve Board Governor Daniel Tarullo provided remarks before the *Conference on Financial Regulation – Stability versus Uniformity*, sponsored by the Banque de France on September 28, 2015. Mr. Tarullo's remarks focused on *Capital Regulation Across Financial Intermediaries*, for which he proposed "an approach for thinking about the purposes of capital regulation across types of financial intermediaries that will suggest appropriate starting points for shaping – or reshaping – applicable capital regulation." In particular, he suggested looking at the liability side of a financial intermediary's balance sheet for justification to capital requirements regulation, further noting that the "Basel framework might itself be enhanced by further differentiation of capital and liquidity requirements based on the liability structures of firms." [\[Tarullo Speech\]](#)

OCC Releases Supervisory Operating Plan for FY 2016

The Office of Comptroller of the Currency (OCC), on September 25, 2015, released its bank supervision operating plan for fiscal year 2016. Broadly, the plan provides the foundation for the development of individual bank supervisory strategies and policy initiatives. According to the press statement, the OCC's supervisory strategies for 2016 will focus on what the OCC terms "priority objectives:"

- Business model and strategy changes;
- Compliance;
- Credit risk and loan underwriting;
- Cybersecurity and resiliency planning; and
- Interest rate risk.

The OCC will provide periodic updates about supervisory priorities through the Semiannual Risk Perspective with a status report for the third quarter of 2016. [\[Press Statement\]](#) [\[FY 2016 Operating Plan\]](#)

Enterprise & Consumer Compliance

CFPB and Departments of Treasury and Education Release Reports and Recommendations for Student Loan Servicing

On September 29, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) published a report, *Student Loan Servicing: Analysis of Public Input and Recommendations for Reform*, analyzing comments the Bureau received in response to its May 2015 Request for Information, which solicited input from stakeholders including student loan borrowers, federal student loan servicers, private student loan market participants, policy experts, and state law enforcement officials and regulators. The report outlines “widespread servicing failures” and practices the CFPB suggests “can create obstacles to repayment, raise costs, cause distress, and contribute to driving struggling borrowers to default.” The report includes recommendations for policymakers and market participants to improve borrower outcomes and reduce defaults, including:

- Consistent industry-wide servicing standards in areas such as payment processing, servicing transfers, error resolution, and disclosure of borrower repayment options and benefits;
- Access to accurate and actionable information such as those related to account features and loan terms;
- Accountability for all student loan servicers – whether for-profit, non-profit, or government agencies – that requires them to serve consumers fairly, efficiently, and effectively; and
- Transparency with respect to the performance of federal and private student loans as well as the practices of federal and private student loan lenders and servicers. [\[Press Statement\]](#) [\[CFPB Report\]](#)

Also on September 29, 2015, the CFPB, together with the Department of the Treasury (Treasury) and the Department of Education (DoE), released a *Joint Statement of Principles on Student Loan Servicing* (Joint Statement), which similarly proposes a framework that highlights the need for consistency, accuracy and accessibility, accountability, and transparency. The Joint Statement responds to a requirement in the March 10, 2015 *Presidential Memorandum on a Student Aid Bill of Rights to Help Ensure Affordable Loan Repayment* that directs the DoE, in consultation with Treasury and the CFPB, to issue a report by October 1, 2015 on, among other things, recommendations concerning private and federal student loan servicing standards, flexible repayment opportunities for all student loan borrowers, and changes to bankruptcy laws. [\[Press Statement\]](#) [\[Joint Statement\]](#)

On October 1, 2015, the DoE released its report, *Strengthening the Student Loan System to Better Protect All Borrowers*, which outlines a series of statutory, regulatory, and administrative recommendations to safeguard student borrowers. Key recommendations to protect federal student loan borrowers include: increasing borrower protections, updating the debt collection and offset provisions, enhancing federal data sharing, and strengthening servicing. Key recommendations to protect private student loan borrowers include: improving co-signer agreements, and allowing discharge in bankruptcy. [\[Press Statement\]](#) [\[DoE Report\]](#)

CFPB to Consider Good Faith Efforts When Evaluating TRID Compliance

On October 2, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) released a press statement indicating that it had sent a letter to mortgage industry trade groups addressing the Bureau’s expectations for compliance with the *TILA-RESPA Integrated Disclosure Rule* (TRID), which became effective October 3, 2015. The CFPB acknowledged that the rule required significant systems and operational changes as well as extensive coordination with third parties to effect implementation. Accordingly, the Bureau’s states that during initial examinations for compliance with the rule, its examiners will evaluate an institution’s compliance management system and overall efforts to come into compliance,

recognizing the scope and scale of changes necessary for each supervised institution to achieve effective compliance. Examiners will expect supervised entities to make good faith efforts to comply with the rule's requirements in a timely manner, giving consideration to an institution's: implementation plan, actions taken to update policies, procedures, and processes; training of appropriate staff; and, handling of early technical problems or other implementation challenges.

[\[Press Statement\]](#)

The Federal Deposit Insurance Corporation (FDIC) separately released Financial Institution Letter 43-2015 to convey supervisory expectations with regard to TRID compliance for those institutions under its direct supervision, which are substantially similar to those expressed by the CFPB. [\[FIL 43-2015\]](#)

OCC Releases Quarterly Mortgage Metrics Report

The Office of Comptroller of the Currency (OCC) released its *OCC Mortgage Metrics Report* for the second quarter of 2015 on October 2, 2015. The performance data in the report is based on a portfolio of first-lien residential mortgages held by eight national banks and comprising 43 percent of all first-lien mortgages in the United States. Highlights of the quarterly findings indicate an improvement in the first-lien mortgages from a year earlier:

- Nearly 94 percent of the mortgages are current and performing at quarter-end, compared to 92.9 percent the year earlier;
- Approximately 2 percent of the mortgages were 30 to 59 days past due, a reduction of nearly 8 percent;
- Seriously delinquent mortgages—60 or more days past due—made up 2.6 percent of the portfolio, a 16 percent decrease;
- Mortgage servicers initiated approximately 11 percent fewer foreclosures, and the number of loans in the process of foreclosure declined by more than 23 percent;
- Of the active modifications at the end of the second quarter of 2015, nearly 72 percent were current and performing, 23 percent were delinquent, and 5 percent were in the process of foreclosure. [\[Press Statement\]](#) [\[Mortgage Metrics Report\]](#)

Enforcement Actions

The Consumer Financial Protection Bureau (CFPB or Bureau) announced the following actions during the week ended October 2, 2015:

- The Bureau executed a consent order with an indirect auto finance company and its auto title lending subsidiary (Respondents) arising out of the Bureau's allegations that the auto lender violated the *Truth-in-Lending Act* (TILA), the *Federal Debt Collection Practices Act* (FDCPA), and the unfair, deceptive, or abusive acts or practices (UDAAP) provisions of the *Consumer Financial Protection Act* (CFPA) when it allegedly made calls to borrowers under false pretenses; called others without the borrowers' consent, implicitly and explicitly threatened borrowers. Without admitting or denying the allegations, the Respondents agreed to pay \$4.25 million in civil monetary penalties, nearly \$26 million in redress penalties and another \$16 million in loan reductions to affected customers. The Respondents also agreed to cease the conduct and implement and follow a compliance program established by the Bureau.
- The Bureau and the Department of Justice (DOJ) each executed a consent order with a bank arising out of allegations that the bank, an indirect auto lender, violated the Equal Credit Opportunity Act (ECOA) in connection with its indirect auto lending practices. Without admitting or denying the allegations, the bank agreed to reduce dealer discretion to mark up interest rates for borrowers or to eliminate discretionary pricing altogether, and pay \$18 million toward remediation of harmed borrowers (receiving credit for remediation funds previously paid to harmed borrowers).
- Separately, the Bureau also executed a consent order with the bank arising out of the Bureau's allegations the bank engaged in UDAAP related to the marketing and sale of credit card add on products. Without admitting or denying the allegations, the bank agreed to provide approximately \$3 million in relief to harmed consumers and to pay a \$500,000 civil money penalty.

Capital Markets and Investment Management

FSB Releases Progress Report on Foreign Exchange Benchmark Reform

The Financial Stability Board (FSB) released a report on October 1, 2015, on assessments of progress made by the main foreign exchange (FX) committees, as well as by central banks in other large FX centers, to meet the FSB 2014 recommendations for reforms to FX benchmarks. The 2014 recommendations responded to concerns raised about the integrity of FX benchmarks stemming particularly from the incentives for potential market malpractice linked to the structure of trading around the benchmark fixings. The FSB states the current report concludes that progress has been made with reforms to the WM/Reuters 4pm London fix but further work is required to ensure that the recommendations are implemented for all FX benchmarks globally. [\[Press Statement\]](#) [\[Progress Report\]](#)

CFTC Grants Additional Relief from Reporting Requirements of the OCR Final Rule

On September 28, 2015, the Commodity Futures Trading Commission (CFTC)'s issued a no-action letter (CFTC Letter No. 15-52) that grants additional time for parties to comply with certain reporting requirements of the Ownership and Control final rule (OCR Final Rule). The OCR Final Rule requires the electronic submission of trader identification and market participant data on new and updated reporting forms, which collect new information to better identify participants in futures and swaps markets. The relief is extended to dates ranging from April 27, 2016 to February 13, 2017, and is subject to certain terms and conditions, including the condition that reporting parties continue to report via the legacy, non-automated submission methods until the expiration of the relief granted. [\[Press Statement\]](#) [\[Letter 15-52\]](#)

BIS Working Paper Looks at CCPs and Margin Policies

The Bank for International Settlements (BIS) released Working Paper No. 515 on October 2, 2015, which considers the impact of central clearing counterparties' (CCPs) margin policies on repo markets. The authors summarize that the paper quantifies the impact on the cost of funding in repo markets of the initial margins applied by central clearing counterparties (CCPs). Using contract-level data on the general collateral segment of Italy's MTS Repo market between January 2011 and April 2014, their analysis showed that the initial margins, paid by all participants, had a positive and significant effect on the cost of funding. Such an impact was consistent across different model specifications and data subsamples.

[\[Working Paper 515\]](#)

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 charged a New Jersey fund manager and his firm with defrauding investors by lying about his credentials, concealing trading losses, and using investor funds to make Ponzi-like payments to other investors.
- The SEC announced a \$55.6 million settlement with a foreign-based company and its chief executive officer (CEO) to resolve charges of inaccurate disclosures about the company's partial sale of a subsidiary to insiders, including the CEO, in advance of a second sale to outside investors. The CEO agreed to disgorge \$9.69 million of allegedly ill-gotten gains plus prejudgment interest of \$1.6 million, and pay a \$9.69 million penalty. The company agreed to pay a \$34.6 million penalty, which will be returned to injured investors.

- The SEC charges a high-frequency proprietary trading firm with violating the Market Structure Rule. The firm agreed to pay a \$5 million penalty and more than \$3 million in gross trading profits, rebates paid to it by exchanges, and prejudgment interest.
- The SEC announced sanctions against 22 municipal underwriting firms for violations in municipal bond offerings in conjunction with selling municipal bonds using offering documents that contained materially false statements or omissions about the bond issuers' compliance with continuing disclosure obligations, and failing to conduct adequate due diligence to identify the misstatements and omissions before offering and selling the bonds to their customers. The 22 firms, which did not admit or deny the findings, agreed to cease and desist from such violations in the future and to pay civil money penalties based on the number and size of the fraudulent offerings identified, up to a cap based on the size of the individual firm. The maximum penalty imposed is \$500,000. Each firm also agreed to retain an independent consultant to review its policies and procedures on due diligence for municipal securities underwriting.
- The SEC charged a company with submitting deficient information about trades done by its customers, commonly referred to as "blue sheet data." The company agreed to settle the charges by paying a \$4.25 million penalty and admitting it violated the recordkeeping and reporting provisions of the federal securities laws. It also agreed to be censured and to cease and desist future violations of the books and records provisions of the federal securities laws.
- The SEC announced fraud charges against a registered investment adviser and its owner for allegedly engaging in self-dealing and failing to disclose material facts to clients regarding conflicts of interest, use of investor funds, and the risks of recommended investments.
- FINRA announced today that it has censured and fined a firm \$7.5 million for supervisory failures related to the suitability of transactions in closed-end fund (CEF) shares. In addition, FINRA ordered the firm to pay approximately \$11 million in restitution to 165 customers who were forced to realize losses on their CEF positions.
- The CFTC issued an Order filing and simultaneously settling charges against a global banking and financial services company, and provisionally registered Swaps Dealers, for failing to properly report its swaps transactions. This is the CFTC's first action enforcing the new requirements that provide for the real-time public reporting of swap transactions and the reporting of swap data to swap data repositories. The Order requires the bank to pay a \$2.5 million civil monetary penalty and comply with undertakings to improve its internal controls to ensure the accuracy and integrity of its swaps reporting.
- The CFTC filed a civil injunctive enforcement action in the U.S. District Court against a firm and its owner and principal, charging they engaged in illegal, off-exchange transactions in precious metals with retail customers on a leveraged, margined, or financed basis. The Complaint further alleges that the owner, as controlling person for the firm, is liable for the firm's violations of the *Commodity Exchange Act*.

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, Partner, National Lead, Financial Services Regulatory Risk Practice amatsuo@kpmg.com
Philip Aquilino, Principal and National Lead, Financial Services Safety & Soundness paquilino@kpmg.com
Kari Greathouse, Principal and National Lead, Enterprise-wide Compliance & Consumer cgreathouse@kpmg.com
Tracy While, Principal and National Lead, Capital Markets and Investment Management twhile@kpmg.com
Hugh Kelly, Principal and National Lead, Bank Regulatory Advisory hckelly@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

Stacey Guardino sguardino@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