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Safety & Soundness

Basel Committee Releases Ninth Progress Report on Adoption of Basel Framework

The Bank for International Settlements' (BIS) Basel Committee on Banking Supervision (Basel Committee) released its ninth progress report on the adoption of the Basel regulatory framework on October 15, 2015. The report provides a high-level view of the progress made by the Basel Committee member jurisdictions in adopting Basel III regulations with a particular focus on the status of domestic rule-making processes to ensure that the Basel standards are transformed into national law or regulation according to the internationally agreed timeframes. The review reflects information as of September 30, 2015, including the: risk-based capital standards, liquidity standards (Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio), framework for systemically important banks, leverage ratio, revised Pillar 3 disclosure requirements, and framework for large exposure. The report findings indicate that all 27 member jurisdictions have final risk-based capital rules in place and all but two have published final rules for the LCR. [Press Release], [Progress Report]

Enterprise & Consumer Compliance

CFPB Releases Final Rule Modifying HMDA Regulations

On October 15, 2015, the Consumer Financial Protection Bureau (CFPB) released a final rule that modifies the requirements of Regulation C, which implements the *Home Mortgage Disclosure Act* (HMDA), to amend: the types of institutions and transactions subject to the regulation; the types of data that institutions are required to collect; and the processes for reporting and disclosing the required data. Among other things, the final rule:

- Adopts uniform loan-volume thresholds for depository and non-depository institutions that require those institutions that originate at least 25 closed-end mortgage loans or 100 open-end lines of credit in each of the preceding two calendar years to report HMDA information, provided the institution meets all other criteria for institutional coverage. Institutions that meet only one of the thresholds would be expected to report only on the loan-type for which they meet the threshold;
- Adopts a "dwelling-secured" standard for all loans or lines of credit for personal, family, or household purposes, making most home-equity loans, home equity lines of credit, and reverse mortgages subject to the rule;
- Adds 25 new data collection points and modifies another 14 with the expectation the new data will help the public and the CFPB to identify emerging risks and potential discriminatory lending practices in the marketplace as well as monitor developments in specific markets such as multifamily housing, affordable housing, and manufactured housing;
- Requires institutions to submit data using a new web-based submission tool; and
- Requires institutions reporting a combined total of 60,000 or more applications and covered loans in the preceding calendar year to report data quarterly for the first three quarters in addition to the annual HMDA data report.

The effective date for excluding low-volume depository institutions is January 1, 2017. Larger-volume reporters must begin quarterly submissions in January 2020, with the first quarterly report due May 30, 2020. Web-based submissions must begin in 2018 (beginning with 2017 data) and the remainder of the final rule becomes effective January 1, 2018, with reporting in 2019. [Press Statement] [HMDA Final Rule]

CFPB Student Loan Ombudsman Releases Annual Report

On October 14, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) released the annual report of the CFPB's Student Loan Ombudsman, which analyzes the consumer complaints received by the CFPB between October 1, 2014 and September 30, 2015, including approximately 6,400 private student loan consumer complaints and 2,300 complaints for private and federal student loans. The report also includes an analysis of loans originated under the Federal Family Education Loan Program (FFELP) and held by private investors. The analysis is based on a voluntary request for information made by the Student Loan Ombudsman to certain market participants and indicates that these borrowers owe higher delinquent balances and are less likely to be enrolled in income-driven repayment plans than other federal student loan borrowers. The Bureau estimates that more than 30 percent of borrowers with FFELP loans are behind on payments or already in default. [Press Statement] [2015 Annual Report]

Insurance

NAIC Advances Consumers' Cybersecurity Bill of Rights

On October 15, 2015, the National Association of Insurance Commissioners' (NAIC) Cybersecurity (EX) Task Force announced that it had adopted the Cybersecurity Bill of Rights, which is aimed at bolstering consumer protection and assisting consumers when their sensitive information is breached. The document will now be presented to the NAIC Executive (EX) Committee/Plenary for full membership discussion and approval. The Cybersecurity (EX) Task Force intends to use the Cybersecurity Bill of Rights to help update the model laws that it considers, including the: *Insurance Information and Privacy Protection Model Act*, *Privacy of Consumer Financial Health and Information Regulation*, *Standards for Safeguarding Consumer Information Model Regulation* and *Insurance Fraud Prevention Model Act*. [Press Statement] [Bill of Rights]

Separately but related, the NAIC notes that it has created a Security Breach Response Headquarters to help consumers following a cybersecurity breach as part of the response to large cyber data breaches.

Capital Markets and Investment Management

SEC Publishes Staff Report on Private Fund Statistics

The Securities and Exchange Commission's Division of Investment Management published a staff report on October 16, 2015, reflecting aggregated data reported by private fund advisers on Form ADV and Form PF between the first calendar quarter of 2013 and the fourth calendar quarter of 2014. The report provides private fund industry statistics and trends, including statistics about the distribution of borrowings, an analysis of hedge fund gross notional exposure to net asset value, and a comparison of average hedge fund investor and hedge fund portfolio liquidity. The staff indicate the report will be updated periodically. [Press Statement] [Private Fund Report]

FINRA Proposes Rules to Address Financial Exploitation of Seniors and Other Adults

The Financial Industry Regulatory Authority (FINRA) issued Regulatory Notice 15-37 on October 15, 2015, requesting comment on proposed rules that are intended to mitigate the potential for financial exploitation of seniors and other vulnerable adults. FINRA is proposing amendments to its Rule 4512 (Customer Account Information) that would require firms to make reasonable efforts to obtain the name of and contact information for a trusted contact person for a customer's account at account opening or when updating information on currently existing accounts. In addition, FINRA is proposing to establish a new rule, Rule 2165 (Financial Exploitation of Specified Adults), that would permit firms to place a temporary hold on the disbursement of funds or securities from the accounts of specified adults when there is reasonable belief of financial exploitation for one of these customers. "Specified adults" would be defined to include natural persons aged 65 or older, and natural persons aged 18 or older whom the firm reasonably believes has mental or physical impairments that render the individual unable to protect his or her own interests. Comments are requested through November 30, 2015. [Press Release] [Regulatory Notice 15-37]

FINRA indicates that it also plans to update its New Account Application Template, a voluntary model application form, to capture the trusted contact information.

CFTC Extends No-Action Relief for Swaps Executed as Part of Certain Package Transactions

On October 14, 2015, the U.S. Commodity Futures Trading Commission (CFTC) released Staff Letter 15-55 to further extend the time-limited no-action relief for swaps executed as part of a package transaction that currently receives relief under CFTC Letter 14-137 (and as detailed in Staff Letter 15-55). The relief generally extends through November 15, 2016. For purposes of the relief, a "package transaction" is defined as a transaction involving two or more instruments: (1) that is executed between two or more counterparties; (2) that is priced or quoted as one economic transaction with simultaneous or near simultaneous execution of all components; (3) that has at least one component that is a swap that is made available to trade and therefore is subject to the Commodity Exchange Act section 2(h)(8) trade execution requirement; and (4) where the execution of each component is contingent upon the execution of all other components. The CFTC indicates the additional time will enable the agency to continue to assess the appropriate response for applying the trade execution requirement to swaps in certain types of package transactions. [Press Release] [Staff Letter 15-55]

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 enforcement actions against six firms as part of its ongoing enforcement initiative focused on violations of Rule 105 of Regulation M, which prohibits firms from participating in public stock offerings after selling short those same stocks. Collectively, the firms were required to pay more than $2.5 million in disgorgement, interest, and penalties and one firm, which had been previously sanctioned, was subjected to an order barring the firm from participating in secondary offerings for a period of one year.
- The SEC announced that a foreign firm, without admitting or denying the charges, has agreed to pay $19.5 million (including $11.5 million in disgorgement and interest plus an $8 million penalty) to settle charges that it made false or misleading statements and omissions in offering materials provided to U.S. investors in structured notes linked to a proprietary foreign exchange trading strategy. The SEC notes that the case is the agency's first involving misstatements and omissions by an issuer of structured notes, a complex financial product that typically consists of a debt security with a derivative tied to the performance of other securities, commodities, currencies, or proprietary indices.
- The CFTC announced that a U.S. District Court had entered judgment resolving the CFTC's charges that a former Associated Person of a registered Introducing Broker made unauthorized trades for two customers' accounts and falsified a customer's account statements and the Introducing Broker's internal documents, in violation of the *Commodity Exchange Act* (CEA) and CFTC Regulations. The Order requires the individual to make full restitution to

the Introducing Broker in the amount of $566,360 and to pay a $100,000 civil monetary penalty. The Order also imposes permanent trading and registration bans on the individual and prohibits him from further violations of the CEA, as charged.

- FINRA announced that it ordered a foreign securities firm to pay a total of approximately $4.5 million in restitution to certain customers who were solicited to purchase certain municipal bonds and further censured and fined the firm $2 million for supervisory failures related to sales of the municipal bonds and employee trading.

Financial Crimes

FinCEN Publishes Annual SAR Stats and Launches Interactive Application

On October 15, 2015, the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) released the second edition of its *SAR Stats*, an annual review of aggregated Suspicious Activity Report (SAR) filing activity. The review contains data from more than 3 million SARs filed between March 2012 and December 2014. SAR narratives citing possible illicit financial activity associated with rewards-based crowdfunding are highlighted. Coincident with the release, FinCEN also announced the launch of *Interactive SAR Stats*, a new application that enables users to search *Bank Secrecy Act* data for aggregated accounts of defined suspicious activity. The data is intended to address the large number of requests for more current aggregated SAR data than an annual publication could provide. [SAR Stats] [Interactive SAR Stats]

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