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# Safety & Soundness

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## FSB Publishes 2015 List of G-SIBs

In 2011, the Financial Stability Board (FSB) published an integrated set of policy measures to address the systemic and moral hazard risks associated with systemically important financial institutions (SIFIs). In that publication, the FSB identified an initial group of global systemically important banks (G-SIBs) using a methodology developed by the Basel Committee on Banking Supervision (Basel Committee), and noting that the group of G-SIBs would be updated annually each November. On November 3, 2015, the FSB published an updated list of G-SIBs based on year-end 2014 data, which is comprised of 30 banks and reflects the addition of one bank and the removal of another. G-SIBs must meet requirements for group-wide resolution planning and regular resolvability assessments, as well as higher supervisory expectations for risk management, risk governance, and internal controls. G-SIBs will also be subject to higher loss absorbency requirements and a Total Loss-Absorbing Capacity (TLAC) when they are phased-in beginning January 1, 2016 and January 1, 2019, respectively. [\[Press Statement\]](#) [\[2015 List of G-SIBs\]](#)

In conjunction with the FSB's announcement, the Basel Committee released additional information including the assessment methodology, the cutoff score used to identify the updated list of G-SIBs, and the thresholds used to allocate G-SIBs to buckets for the purposes of calculating the specific higher loss absorbency requirements. [\[Press Statement\]](#) [\[Assessment Methodology\]](#)

## Agencies Issue Guidance on Capital Deduction Methodology for Volcker Rule

The Office of the Comptroller of the Currency (OCC), the Federal Reserve Board, and the Federal Deposit Insurance Corporation (FDIC) issued joint interagency guidance on November 6, 2015, that is intended to clarify the interaction between the deduction for covered funds under the Volcker Rule and the deductions required for certain investments in non-consolidated financial institutions under the regulatory capital rule. The guidance outlines steps to be taken to avoid a "double deduction" from tier 1 capital related to the calculation of these deductions. [\[Press Statement\]](#) [\[Guidance\]](#)

## Regulatory Attention on Credit Risk

During the week of November 2, 2015, credit risk was highlighted by the regulatory agencies as follows:

- The Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) released the 2015 Shared National Credits (SNC) Review on November 5, 2015, highlighting that credit risk in the portfolio remains high, despite a relatively favorable economic environment. The agencies noted a significant increase in leveraged lending volumes and continued loose underwriting, as evidenced by structures deemed "weak" by examiners and provisions that limit the lenders' ability to manage risk. Although some improvement in underwriting practices was evident in the second half of the year, the agencies stated that weakness in leveraged lending transactions drove an increase in classified commitments. The agencies also noted the significant decline in oil prices over the past year has adversely affected many oil and gas exploration and production companies leading to increased classified commitments in that subsector compared to last year. [\[Press Statement\]](#) [\[SNC Review\]](#)
- On November 6, 2015, the Federal Deposit Insurance Corporation (FDIC) issued an *Advisory Financial Institution Letter (FIL-49-2015)* to update information contained in the *FDIC Advisory on Effective Credit Risk Management Practices for Purchased Loan Participations (FIL-38-2012)*. The Advisory is directed toward FDIC-supervised institutions and reminds them of the importance of underwriting and administering purchased credits as if the loans were originated by the purchasing institution. Institutions are also reminded that third-party arrangements to

facilitate loan and loan participation purchases should be managed by an effective third-party risk management process. [\[Financial Institution Letter\]](#) [\[FIL-49-2015\]](#)

- Thomas Curry, Comptroller of the Currency, spoke before the Risk Management Association on November 2, 2015. In his remarks, Comptroller Curry noted that examiners were seeing loan growth in all asset categories, greater risk acceptance, weaker underwriting, and growing asset concentrations. He stated that it was "clear" to him that reserves must rise to account for the increasing credit risk in the system, adding that the OCC expects banks to bring qualitative judgment to bear upon their loan-loss provisioning analyses, using the so-called "Q" factors to adjust historical experience. He suggested, "...if you simply apply historical analysis without taking account of the very real changes we are seeing today, you will almost certainly get some pushback from your examiners...what we would expect, at minimum, is directional consistency: when credit risk rises, so should the allowance." [\[Speech\]](#)

## FSB Publishes Final and Proposed Guidance Related to Resolution Regimes

On November 3, 2015, the Financial Stability Board (FSB) released two final guidance papers and three consultative documents as part of its policy agenda to end "too-big-to-fail" and promote the resolvability of such institutions in the event of a failure, through the implementation of the *Key Attributes of Effective Resolution Regimes for Financial Institutions*, which was released in 2011. [\[Press Statement\]](#)

The two finalized guidance papers are:

- [Principles for Cross-border Effectiveness of Resolution Actions](#), which sets out statutory and contractual mechanisms that jurisdictions should consider including in their legal frameworks to give cross-border effect to resolution actions. [\[Cross-border Effectiveness of Resolution Actions\]](#)
- [Guidance on Cooperation and Information Sharing with Host Authorities of Jurisdictions where a Global Systemically Important Financial Institution \(G-SIFI\) has a Systemic Presence that are Not Represented on its Crisis Management Group \(CMG\)](#), which promotes cooperation and information sharing between CMGs for G-SIFIs and authorities from jurisdictions not represented on the CMG where the firm is systemic for their market. [\[Information Sharing\]](#)

Additionally, the FSB has also issued consultative documents on the following topics with a request for comments by January 4, 2016:

- [Temporary Funding Needed to Support the Orderly Resolution of a Global Systemically Important Bank \(G-SIB\)](#), which proposes Guiding Principles that are intended to ensure temporary funding is available for effective resolution of G-SIBs without bail-out by the public sector. [\[Orderly Resolution of G-SIBs\]](#)
- [Arrangements to Support Operational Continuity in Resolution](#), which would set out arrangements intended to ensure the continuity of critical shared services, such as IT infrastructure and software-related services, necessary to maintain a firm's critical functions in resolution. [\[Operational Continuity\]](#)
- [Effective Resolution Strategies and Plans for Systemically Important Insurers \(SIIIs\)](#), which would assist authorities in developing effective resolution strategies and plans for systemic insurers in their resolution planning work. [\[Resolution for SIIIs\]](#)

## House Committee Passes Multiple Bills

On November 4, 2015, the House of Representatives' Committee on Financial Services approved several bills aimed at supporting greater economic growth and increasing the oversight and accountability of financial regulators, including:

- H.R. 1309, the *Systemic Risk Designation Improvement Act*, which seeks to regulate financial institutions on the basis of risk as opposed to asset size;
- H.R. 1478, the *Policyholder Protection Act*, which would prohibit federal banking regulators from moving the assets of state-regulated insurance companies structured under larger financial firms to a bank if the transfer would be detrimental to the interests of the insurer;
- H.R. 1660, the *Federal Savings Association Charter Flexibility Act*, which would allow a federal savings association to choose to operate under the supervision of the Office of Comptroller of Currency with the same rights and duties of a national bank;

- H.R. 2209, which would require federal banking agencies to treat certain liquid, investment grade municipal obligations as level 2A liquid assets;
- H.R. 1550, the *Financial Stability Oversight Council Improvement Act*, which strives to increase the transparency of Financial Stability Oversight Council (FSOC) and would provide an opportunity for a company to eliminate risk rather than being designated as systemically important;
- H.R. 3340, the *Financial Stability Oversight Council Reform Act*, which would make the FSOC and the Office of Financial Research (OFR) subject to the regular congressional appropriation process and would subject the OFR to a public notice and comment period before releasing any report, rule, or regulation;
- H.R. 3557, the *FSOC Transparency and Accountability Act*, which would subject the FSOC to both the *Government in Sunshine Act* and the *Federal Advisory Committee Act*, and separately allow all members of the commissions and boards represented on FSOC to attend and participate in FSOC meetings;
- H.R. 3738, the *Office of Financial Research Accountability Act*, which would require the OFR to develop and implement a cybersecurity plan to protect the data it collects;
- H.R. 3868, the *Small Business Credit Availability Act*, which seeks to modernize the regulation of business development companies; and
- H.R. 3857, which would set out requirements to be carried out by the Federal Reserve Board and the FSOC before designating a nonbank financial institution for heightened supervision. [\[Press Statement\]](#)

## Enterprise & Consumer Compliance

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### Department of Justice Hires Compliance Counsel

Speaking before the SIFMA Compliance and Legal Society New York Regional Seminar on November 2, 2015, Assistant Attorney General Leslie Caldwell announced that the Department of Justice (DOJ) has hired a “compliance counsel” to sit in the Fraud Section of the DOJ’s Criminal Division. The role of the compliance counsel will be to help DOJ “assess a company’s program, as well as test the validity of its claims about its program, such as whether the compliance program truly is thoughtfully designed and sufficiently resourced to address the company’s compliance risks, or essentially window dressing” as well as to “help guide Fraud Section prosecutors when they are seeking remedial compliance measures as part of a resolution with a company”. Ms. Caldwell states, “Our hiring of a compliance counsel should be an indication to companies about just how seriously we take compliance.” In addition, she outlined seven metrics the DOJ will be looking to specifically assess when evaluating an organization’s compliance program. [\[Speech\]](#)

### FTC Announces Initiative to Address Deceptive and Abusive Debt Collection Practices

On November 4, 2015, the Federal Trade Commission (FTC) announced that it was partnering with a number of federal, state, and local law enforcement agencies to initiate Operation Collection Protection, which is intended to combat “deceptive and abusive debt collection practices.” The announcement also highlighted thirty new actions taken by the FTC and its partners (the Department of Justice, the Consumer Financial Protection Bureau (CFPB), 47 State Attorneys General, 17 State regulatory agencies, one Canadian provincial regulatory authority, and several local authorities) against debt collectors that used illegal tactics, such as harassing phone calls and false threats of litigation, arrest, and wage garnishment. In some cases, the debt collectors attempted to collect debt that did not exist.

The FTC notes that it received more than 280,000 consumer complaints related to debt collection in 2014, representing approximately 11 percent of all complaints received that year and placing it second only to identify theft in the FTC’s complaints categories. Similarly, the CFPB has reported that, on a monthly basis, most of the consumer complaints

handled by the Bureau (approximately 29 percent) are related to debt collection and this has remained consistent for 25 consecutive months. [\[Press Statement\]](#) [\[FTC Conference Remarks\]](#)

## CFPB Releases Supervisory Highlights

On November 3, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) released the fall issue of its *Supervisory Highlights*. In this ninth edition, the Bureau reports “supervisory observations” in the areas of consumer reporting, debt collection, mortgage origination, mortgage servicing, student loan servicing, and fair lending. The report also highlights the fact that the Bureau’s supervisory activities have either led to or supported six recent public enforcement actions, resulting in \$764.9 million being returned to consumers and \$50.7 million in civil monetary penalties, in addition to restitution of \$107 million made available to consumers as part of other supervisory actions.

[\[Supervisory Highlights\]](#)

## Treasury Launches New Retirement Savings Product

The U.S. Department of the Treasury, on November 4, 2015, announced the national launch of a new retirement savings option, *myRA*, for individuals that do not have access to a retirement savings plan through their work. Contributions are limited to \$5,500 per year and the total account balance is limited to \$15,000. Account holders may transfer their accounts to a private-sector Roth IRA at any time. [\[Press Statement\]](#) [\[myRA.gov\]](#)

# Insurance

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## FSB Publishes 2015 List of G-SIIs

On November 3, 2015, the Financial Stability Board (FSB) updated the list of global systemically important insurers (G-SIIs). The updated list has a total of nine insurers, reflecting the addition of one insurer and the removal of another, based on an assessment methodology developed by the International Association of Insurance Supervisors (IAIS) and published in 2013. Related to the announcement of the G-SIIs, the FSB notes that the IAIS is expected to publish two consultations later in November, one to update the G-SII methodology (to ensure an appropriate treatment of all types of primary insurance, reinsurance and other financial activities of global insurers) and one to address the definition and characteristics of activities considered “Non-Traditional Non-Insurance.” [\[Press Statement\]](#) [\[Updated List of G-SIIs\]](#)

## FSB Publishes Proposal for Resolution of G-SIIs

The Financial Stability Board (FSB) released a consultative document on November 3, 2015, that is intended to assist authorities with developing effective resolution strategies and plans for systemic insurers, as well as the Crisis Management Groups (CMGs) of global systemically important insurers (G-SIIs) in their resolution planning efforts. Comments are requested by January 4, 2016. [\[Resolution Strategies and Plans for Systemically Important Insurers\]](#)

# Capital Markets and Investment Management

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## FINRA Adopts New Rule 4380 for Business Continuity/Disaster Recovery Testing

On November 3, 2015, the Financial Industry Regulatory Authority (FINRA) adopted a new Rule 4380, which authorizes FINRA to designate firms that must participate in Business Continuity / Disaster Recovery (BC/DR) Testing pursuant to Securities and Exchange Commission (SEC) Regulation SCI (Systems, Compliance, and Integrity). The testing will be conducted once per year. Regulation SCI requires SCI entities, including FINRA, to: establish minimum standards that are necessary for the activation of their BC/DR plans; designate member firms and require them to participate in the scheduled functional and performance testing of the plans at least once every 12 months; and, coordinate the testing with other SCI entities. [\[Regulatory Notice 15-43\]](#)

## CFTC Reports on FY 2015 Enforcement Results

The Commodity Futures Trading Commission (CFTC) released the agency's enforcement results for fiscal year 2015 on November 6, 2015, indicating the agency ordered a record \$3.144 billion in civil monetary penalties during the year. The CFTC further highlighted significant actions related to its authorities under the *Commodity Exchange Act* to address anti-spoofing and anti-manipulation, specifically noting its enforcement actions related to attempts to manipulate the LIBOR and ISDAFix benchmark rates. [\[Press Statement\]](#)

## CFTC Extends No-Action Relief to SEFs from Certain Block Trade Requirements

On November 2, 2015, the Commodity Futures Trading Commission's (CFTC) Division of Market Oversight (Division) extended the time-limited no-action relief to Swap Execution Facilities (SEFs) from certain "block trade" requirements under CFTC regulation Section 43.2, which also defines a "block trade". The No-Action Letter extends time-limited relief to SEFs from the "occurs away" requirement, subject to certain conditions, until November 15, 2016. This additional relief is expected to provide the Division staff time to continue to review and evaluate SEF trading practices and functionalities for pre-execution credit checks as well as to allow time for the Division to consider, develop and evaluate best practices and more permanent solutions to the issues involved in screening block trade order. [\[Press Statement\]](#)

## FSB Publishes Progress Report on Misconduct Risk for FICC Markets

The Financial Stability Board (FSB) published a progress report on November 6, 2015, entitled "*Measures to reduce misconduct risks*" that summarizes the FSB's work on addressing misconduct in the financial sector. The work carried out by FSB includes consideration of whether post crisis reforms to incentives are sufficient to address misconduct risks; and whether steps are needed to improve global standards of conduct in the fixed income, commodities, and currency (FICC) markets, including improvements in the integrity and reliability of benchmarks. Highlights of the report address: the role of incentives in reducing misconduct in markets and institutions; international coordination on conduct in FICC markets; and, coordination in the application of conduct regulation and the need for credible deterrence.

[\[Press Statement\]](#) [\[Progress Report\]](#)

## FSB Publishes Progress Report on OTC Derivatives Market Reforms

On November 4, 2015, the Financial Stability Board (FSB) released two reports highlighting the progress made toward implementing over-the-counter (OTC) derivatives market reforms.

- [Thematic Peer Review of OTC Derivatives Trade Reporting](#): This report assesses progress of FSB member jurisdictions in implementing trade reporting requirements. Key highlights from the report include:
  - While comprehensive reporting is in place in most of the FSB member jurisdictions, those that have not fully implemented reporting requirements are required to do so promptly.
  - There are legal and regulatory barriers to reporting complete transaction information, which the FSB members have agreed to address by June 2018 at the latest.
  - Barriers impeding authorities' access to trade repository data are also widespread. FSB members have agreed for jurisdictions to have legal frameworks in place to facilitate data access for both domestic and foreign authorities by June 2018.
  - There remain a number of challenges in the quality and usability of trade repository data, and several international work streams are underway that will help address these issues. [\[Thematic Review\]](#)
- [OTC Derivatives Market Reforms: Tenth Progress Report on Implementation](#): This report is designed to give a brief update on key developments in OTC derivatives reforms. Key highlights include:
  - Nineteen of the 24 FSB jurisdictions have trade reporting requirements in force covering over 90 percent of transactions in their markets though challenges remain to the effectiveness of trade reporting, such as authorities' ability to access, use, and aggregate trade repository data that are being addressed through international work streams.
  - Twelve out of 24 FSB jurisdictions have central clearing frameworks in force that apply to over 90 percent of transactions in their markets, while in 8 jurisdictions platform trading frameworks are in force that apply to over 90 percent of transactions.
  - Most jurisdictions are in the early phases of implementing the BCBS-IOSCO framework for margin requirements for non-centrally cleared derivatives. Authorities are required to implement these requirements to ensure the agreed phase-in period commences smoothly in September 2016. [\[OTC Derivatives Market Reforms\]](#)

## Enforcement Actions

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

- The SEC filed fraud charges against a foreign trader that broadcast false tweets about two companies that caused sharp drops in the stock prices of those companies and triggered a trading halt in one of them. Further, the SEC charged that the tweets originated from Twitter accounts that were deceptively created to look like the real Twitter accounts of well-known securities research firms. The SEC's complaint seeks a permanent injunction against future violations, disgorgement, and a monetary penalty from the trader. Separately, a U.S. Attorney's Office has filed criminal charges against the trader.

## Financial Crimes

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### Federal Reserve Fines Foreign Bank for Violation of U.S. Sanctions

The Federal Reserve Board announced that it had assessed a \$58 million penalty and entered into a consent cease and desist order against a foreign bank to address unsafe and unsound practices related to compliance with U.S. sanctions laws. Apart from the penalty, the order requires the bank to implement an enhanced program to ensure global compliance with U.S. sanctions as administered by the U.S. Department of Treasury's Office of Foreign Assets Control

(OFAC), and prohibits the bank from re-employing the individuals involved in the past actions or retaining them as consultants or contractors. The Federal Reserve's order was issued in conjunction with an action by the New York State Department of Financial Services related to violations of various New York state laws. The penalties issued by both agencies totaled \$258 million.

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