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Safety & Soundness

Federal Reserve Proposes LCR Disclosure Requirements

On November 24, 2015, the Federal Reserve Board (Federal Reserve) issued a proposed rule that would require all depository institution holding companies and nonbank companies supervised by the Federal Reserve that are subject to the Federal Reserve's Liquidity Coverage Ratio (LCR) rule to publicly disclose several measures pertaining to their liquidity profile. In particular, they would be required to disclose:

- Consolidated LCR for each quarter based on averages over the prior quarter;
- Consolidated high quality liquid asset (HQLA) amounts, broken down by HQLA category; and
- Projected net cash outflow amounts, including retail inflows and outflows, derivatives inflows and outflows, and several other measures.

As proposed, the disclosure requirement would be phased-in based on the "size, complexity, and potential systemic impact" of the affected companies though the largest companies would be expected to comply on July 1, 2016. The LCR is calculated as the ratio of an organization's HQLA to its net cash outflow over a 30 day period. Organizations subject to the LCR rule are expected to maintain an HQLA that is not less than 100 percent of its total net cash outflows projected over a 30 day stress period. Comments on the notice of proposed rulemaking are invited by February 2, 2016.
[Press Statement] [Proposed Rule]

Federal Reserve Finalizes Rule to Amend Capital Plan and Stress Test Rules

The Federal Reserve Board (Federal Reserve) approved a final rule on November 25, 2015, that amends its capital plan and stress test rules as follows:

- For bank holding companies (BHCs) with more than $10 billion but less than $50 billion in total consolidated assets, and savings and loan holding companies (SLHCs) with total consolidated assets of more than $10 billion, the final rule eliminates the requirement to use fixed assumptions regarding dividends in their stress tests, and modifies the mandatory capital action assumptions in the stress test rules to permit a BHC or SLHC to assume that it will issue capital associated with funding a planned acquisition.
- SLHCs with total consolidated assets of more than $10 billion will be permitted to delay the application of the company-run stress test requirements until January 1, 2017.
- For BHCs that have total consolidated assets of $50 billion or more and state member banks that are subject to the Federal Reserve Board's advanced approaches capital requirements (and SLHCs that become subject to the advanced approaches in the future), the final rule delays the use of the supplementary leverage ratio for one year (until 2017) and indefinitely defers the use of the advanced approaches risk-based capital framework in the capital plan and stress test rules.
- For BHCs that have total consolidated assets of $50 billion or more, the final rule removes the tier 1 common capital ratio requirement, and modifies certain mandatory capital action assumptions.

The final rule takes effect on January 1, 2016. [Press Statement] [Final Rule]

Basel Committee Working Paper Considers Interactions of Liquidity and Solvency

The Basel Committee on Banking Supervision (Basel Committee) published Working Paper 29 on November 24, 2015. The paper, entitled *Making supervisory stress tests more macro-prudential: Considering liquidity and solvency interactions and systemic risk*, suggests that authorities should emphasize developing integrated solvency and liquidity stress tests rather than conducting stand-alone liquidity stress test exercises. The authors state "the failure to adequately model interlinkages and the nexus between solvency risk and liquidity risk within and across banks led to a dramatic underestimation of the risks to, and vulnerabilities of, financial systems in many economies." Several approaches to incorporating liquidity effects and examining their interactions with solvency risks are offered, including consideration of:

- Micro stress tests to provide a basis for developing and enriching stress tests by considering channels in addition to the standard credit channel through which shocks can be transmitted.
- Analyses of estimated interactions between liquidity and solvency risks at the micro-level, using both regulatory and market-based measures to help improve stress testing models for individual banks.
- Network analyses and agent-based models to broaden stress tests, as these models consider contagion through common exposure, interbank funding relationships and the endogenous behavior of banks.

[Press Statement] [Working Paper]

Enterprise & Consumer Compliance

CFPB Publishes Monthly Complaint Report Highlighting Bank Accounts and Services

The Consumer Financial Protection Bureau (CFPB or Bureau) released its *Monthly Complaint Report* on November 24, 2015, outlining the consumer complaints received by the Bureau during the month of October. The edition features complaints related to the general category of "bank accounts or service," highlighting that the main problem consumers experienced were related to opening and managing accounts (with 44 percent of the complaints being about account management), accounts being closed without explanation, being unable to obtain a resolution for disputed transactions on accounts, and issues with depositing and withdrawing funds. The report also found that debt collection continues to be the most-complained-about financial product or service, representing approximately 28 percent of complaints submitted in October, followed by complaints related to credit reporting. The overall complaint volume witnessed a 6 percent rise between September and October 2015. Notably, in a year-to-year comparison of the three-month period between August and October, complaints about prepaid products rose 193 percent while payday loan complaints showed the greatest decrease of 20 percent. [Press Statement] [Complaint Report]

CFPB Issues Guidance Related to Automatic Debits from Consumer Accounts

The Consumer Financial Protection Bureau (CFPB or Bureau) released Bulletin 2015-06 on November 23, 2015, to remind entities of their obligations under the *Electronic Funds Transfer Act* (EFTA) and it implementing regulation, Regulation E, when obtaining customer authorizations for preauthorized electronic fund transfers from a consumer's account. The CFPB notes that it has observed that some entities may not fully comply with the requirements of the EFTA or Regulation E, and that others are uncertain of their obligations under the law and rule. [Press Statement] [Bulletin 2015-06]

Concurrently with the release of Bulletin 2015-06, the CFPB released four sample letters that consumer's may use to correspond with their financial institution or the company charging automatic debits for purposes of stopping automatic debits from their account.

Agencies Announce 2016 Dollar Thresholds for Exempt Transactions

The Consumer Financial Protection Bureau (CFPB or Bureau) and the Federal Reserve Board (Federal Reserve) announced the dollar thresholds in Regulation Z (Truth in Lending) and Regulation M (Consumer Leasing) that will apply in determining exempt consumer credit and lease transactions beginning January 1, 2016. These thresholds are consistent with the

requirements of the *Truth in Lending Act* and the *Consumer Leasing Act*, that require an annual adjustment based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Transactions at or below the thresholds are subject to the protection of the regulations. The applicable threshold for 2016 will be $54,600, which is the same threshold applicable in 2015.
[Press Statement] [Regulation M Notice] [Regulation Z Notice]

The CFPB, the Federal Reserve, and Office of the Comptroller of the Currency (OCC) announced that the threshold for exempting loans from special appraisal requirements for higher-priced mortgage loans during 2016 will remain unchanged from 2015 at $25,500. The threshold is adjusted annually to reflect increases in the CPI-W. For higher-priced mortgage loans in excess of this amount, a special appraisal requirements under Regulation Z requires creditors to obtain a written appraisal based on a physical visit to the home's interior in advance of making the loan. [Press Statement] [Joint Notice]

Insurance

U.S. Treasury and USTR to Begin Negotiating Covered Agreement with EU

The U.S. Department of the Treasury (Treasury) and the Office of the U.S. Trade Representative (USTR) have jointly announced their intention to begin negotiating a covered agreement with the European Union (EU) to obtain treatment of the U.S. regulatory system by the EU as "equivalent," allowing U.S. insurers and reinsurers in the EU to operate under the same regulatory terms as EU-based insurers. In addition, Treasury and the USTR are looking to the covered agreement to facilitate the exchange of confidential regulatory information between lead supervisors across national borders as well as establish nationally uniform treatment for EU-based reinsurers operating in the U.S., including with respect to collateral requirements.

Treasury explains that a covered agreement is an agreement between the U.S. and one or more foreign governments or regulators that strives to implement certain prudential measures which will create a "level playing field" for U.S. insurance and reinsurance firms. In addition to ongoing consultation with Congress, Treasury and the USTR state they intend to engage periodically with stakeholders, including state insurance regulators, throughout the covered agreement negotiations. [Press Statement]

IAIS Seeks Comment on Proposals Related to G-SII Assessment Methodology

In July 2013, the International Association of Insurance Supervisors (IAIS) published its initial assessment methodology to identify insurance entities whose failure would disrupt the global financial system. At that time, the IAIS stated that it would evaluate every three years whether the assessment methodology should be revised and whether specific improvements should be proposed. On November 25, 2015, the IAIS released proposed revisions to the assessment methodology for Global Systemically Important Insurers (G-SIIs). The proposed changes include:

- Use of a five-phase approach to the assessment process using quantitative and qualitative elements.
- Adjustments to certain indicators to address issues related to indicator responsiveness, normalization and data quality across both insurers and jurisdictions.
- Adoption of absolute reference values for certain indicators in order to allow the methodology to be more responsive to changes in the insurance industry's systemic profile in certain areas.
- Establishment of specific procedures for an insurer's entry and exit from the G-SII list.

The IAIS also released a second consultation paper on proposed revisions to Non-Traditional Non-Insurance (NTNI) activities and products, which seeks comment on an analytical framework for classifying insurance products and activities as "non-traditional" based on their contractual features. The framework is expected to help clarify the NTNI concept and ensure its consistent application across IAIS projects and IAIS member jurisdictions. Comments on both documents will be accepted through January 25, 2016. [Press Statement]

Capital Markets and Investment Management

CFTC Proposes Regulation to Govern Algorithmic Trading

The Commodity Futures Trading Commission (CFTC) approved proposed rules, collectively known as Regulation Automated Trading (Regulation AT), which represent a series of risk controls, transparency measures, and other safeguards to enhance the regulatory regime for automated trading. Broadly, the regulation proposes risk controls and other requirements for a) market participants using algorithmic trading systems (ATSs), defined as "AT Persons" in the proposal, b) clearing member futures commission merchants (FCMs) with respect to their AT Person customers, and c) Designated Contract Markets (DCMs) executing AT Person orders. In addition, the proposed rules are intended to address the following objectives:

- Reducing risks arising from algorithmic trading activity, by implementing risk controls such as maximum order message and maximum order size parameters, and setting standards for developing, testing, and monitoring the ATSs.
- Requiring reports to be submitted by AT Persons and clearing member FCMs on their risk controls to DCMs.
- Requiring the registration of certain proprietary traders who are engaged in algorithmic trading through a direct electronic access to a DCM.
- Increasing transparency around DCM electronic trade matching platforms, by requiring DCMs to publish a description of rules or known attributes of the trade matching platform that materially affect factors such as the time, price, or quantity of execution of orders, ability to cancel or modify orders, and the transmission of market data to market participants.
- Ensuring that Regulation AT remains current as markets evolve, by requiring that all AT Persons become members of a registered futures association (RFA), and further requiring RFAs consider membership rules addressing algorithmic trading for each category of member in the RFA.

The proposed rules will be open for a 90-day public comment period. [Press Statement] [Proposed Regulation AT]

FINRA Adds No-Remuneration Indicator to TRACE Reporting

On November 23, 2015, the Financial Industry Regulatory Authority (FINRA) issued Regulatory Notice 15-47 to announce that the Securities and Exchange Commission (SEC) has approved amendments to the Trade Reporting and Compliance Engine (TRACE) rules that require firms to add a no-remuneration indicator when the TRACE trade report does not reflect a commission or mark-up/mark-down. A firm may select the No-Remuneration indicator either because the firm does not charge or does not know the amount of the commission or mark-up/mark-down at the time of TRACE reporting. The implementation date for these amendments is May 23, 2016. [Regulatory Notice 15-47]

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