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# Safety & Soundness

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## Federal Reserve Extends Conformance Period for Volcker Rule

On July 7, 2016, the Federal Reserve Board (Federal Reserve or Board) announced a third extension, until July 21, 2017, of conformance period for banking entities to divest ownership in certain legacy investment funds and terminate relationships with funds that are prohibited under Section 619 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, also known as the Volcker Rule. The Volcker Rule generally prohibits insured depository institutions from engaging in proprietary trading. It also prohibits insured depository institutions from acquiring or retaining ownership interests in, sponsoring, or having certain relationships with hedge funds and private equity funds. The Federal Reserve extension provides banking entities additional time to divest or conform "legacy covered fund" investments (e.g., prohibited investments in hedge funds and private equity funds) made prior to December 31, 2013.

This is the last of three one-year extensions the Board is authorized to grant under Section 619. The Federal Reserve also has the authority to provide as many as five additional years to conform investments in certain illiquid funds where a banking entity had a contractual commitment to invest in a fund as of May 1, 2010. Such an extension would be subject to an application process. The Federal Reserve indicates that information addressing this process is forthcoming.

[\[Press Statement\]](#) [\[Order Approving Extension of Conformance Period\]](#)

# Enterprise & Consumer Compliance

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## House Passes SeniorSafe Act to Protect Elders from Financial Exploitation

The U.S. House of Representatives passed H.R. 4538, the *SeniorSafe Act of 2016*, on July 5, 2016. The bill would insulate from liability disclosures made to appropriate state, local or federal government agencies in good faith and reasonable care by a supervisor, compliance officer (including a Bank Secrecy Officer), or registered representative for a covered financial institution who has received training regarding the identification and reporting of suspected financial exploitation of a senior citizen (an individual age 65 or older). It also insulates from liability, the covered financial institution if the individual making the disclosures to government agencies was employed by the institution at the time of the disclosure and the institution had provided the required training. "Covered financial institutions" would include depository institutions, credit unions, investment advisors, broker-dealers, and insurance companies. [\[H.R. 4538\]](#)

A substantially similar bill, S. 2216, the *SeniorSafe Act of 2015*, was introduced in the Senate last year.

# Insurance

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## New York State Department of Financial Services Adopts Principle-Based Reserving

The New York State Department of Financial Services (NYDFS) announced on July 6, 2016, that it will adopt principle-based reserving (PBR) for its regulated life insurers beginning January 2018. NYDFS joins 45 other states, representing nearly 80 percent of the U.S. life insurance market, in adopting this regulatory standard.

A working group consisting of six New York-based domestic life insurers and consumer representatives has been established to assist NYDFS in developing the minimum reserve floor for all products sold to consumers, regardless of company experience. [\[Press Statement\]](#)

# Capital Markets and Investment Management

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## House Passes Bill to Increase Permissible Number of Investment Company Fund Investors

The U.S. House of Representatives passed H.R. 4854, the *Supporting America's Innovators Act of 2016*, on July 5, 2016. The bill seeks to enhance angel investors' ability to provide funding to entrepreneurs and small businesses in need of investment capital. Under current law, the number of investors in an investment company fund must be limited to 100 for the fund to be exempt from registration requirements of the Securities and Exchange Commission (SEC). The bill would raise the limit on the number of individuals who may invest in certain venture capital funds from 100 to 250 before triggering the requirement to register with the SEC as an investment company. [\[Press Statement\]](#) [\[H.R. 4854\]](#)

## Enforcement Actions

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

- The CFTC obtained a federal court Order against an individual and his wealth management companies (the defendants) for defrauding investors in a Ponzi scheme they operated from 2010 to 2015. The court Order imposed a total of \$17.5 million in sanctions against the defendants for solicitation fraud, misappropriation, and registration violations in operating the Ponzi scheme, thereby violating anti-fraud provisions of the *Commodity Exchange Act* (CEA). The total payment included restitution, disgorgement of ill-gotten gains and civil money penalties. In a parallel case, the individual (owner of these companies) was sentenced to 78 months in prison, and forfeiture of more than \$3 million. The Consent Order also imposed permanent trading and registration bans on the defendants and prohibited them from further violations of the CEA and other CFTC regulations.
- The CFTC issued an Order filing and simultaneous settling charges against a bank for failing to submit accurate large trader reports (LTRs) for physical commodity swap positions, in violation of Section 4s(f) of the *Commodity Exchange Act* (CEA) and CFTC regulations. The CFTC Order required the bank to pay a civil money penalty of \$560,000, and to cease and desist from committing further violations of the CEA and CFTC regulations.

- The CFTC announced that a federal District Court had entered a Consent Order settling the CFTC's charges against an individual and his technology company (the defendants) for engaging in fictitious single stock futures transactions and trading non-competitively on an electronic futures exchange. The Order required the defendants to jointly pay a civil monetary penalty of \$250,000. It also permanently prohibited them from further violations of the *Commodity Exchange Act* and CFTC regulations, and imposed trading, solicitation, and registration bans against the owner for a period of 5 years.

## Financial Crimes

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### New York State Department of Financial Services Issues Final Anti-Money Laundering Rules for Risk-Based Transaction Monitoring and Filtering

On June 30, 2016, the New York Department of Financial Services (NYDFS) adopted a regulation that establishes specific requirements for "regulated institutions" to incorporate in their risk-based *Bank Secrecy Act* (BSA) and anti-money laundering (AML) transaction monitoring program and watch list filtering programs. The programs must be based on a "regulated institution's" risk assessment and additional requirements are set forth including requirements for: governance and oversight; end to end compliance testing; business decision documentation (with supporting documentation and assumptions); investigation protocols; training; staff qualifications; vendor selection processes; validation of data integrity, accuracy and quality. The final regulation requires "regulated institutions" to submit on an annual basis either a board resolution or senior officer compliance finding that confirms the steps the Institution has taken to ascertain compliance with the regulation. The rule becomes effective January 1, 2017. The first board resolution or senior officer compliance finding will be due April 15, 2018.

The regulation defines "regulated institutions" to include all banks, trust companies, private bankers, savings banks, savings and loan associations, branches and agencies of foreign banking corporations, check cashers, and money transmitter chartered or licensed pursuant to the New York Banking Law. [\[Press Statement\]](#) [\[NYDFS Final Rule\]](#)

### CFTC Staff Advisory Reminds Registrants of Suspicious Activity Reporting Requirements and OFAC Compliance Obligations

The Commodity Futures Trading Commission's (CFTC) Division of Swap Dealer and Intermediary Oversight issued Staff Advisory 16-60 on July 6, 2016, reminding Futures Commission Merchants and Introducing Brokers of their compliance obligations to report suspicious activities to the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN). The advisory also reminds all CFTC registrants of their compliance obligations with respect to economic sanctions programs against countries and individuals administered by the Office of Foreign Assets Control (OFAC). An outline of both the suspicious activity reporting requirements and the OFAC requirements is included in the release. [\[Press Statement\]](#) [\[CFTC Staff Advisory No. 16-60\]](#)

# Alternative Finance

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## House Passes Bill Amending Crowdfunding Provisions

On July 5, 2016, the U.S. House of Representatives passed H.R. 4855, the *Fix Crowdfunding Act*. The bill would amend certain provisions in the securities laws governing crowdfunding, including, among other things:

- Increasing the dollar limit on the amount of funds a company may raise before triggering registration and reporting obligations with the Securities and Exchange Commission (SEC). For entities that have reported revenues, the limit would triple from \$25 million to \$75 million. For companies without revenue, the limit would double from \$25 million to \$50 million.
- Authorizing “single purpose funds” to invest in startups through crowdfunding. [\[Press Statement\]](#) [\[H.R. 4855\]](#)

## House Passes Bill to Increase Permissible Number of Investment Company Fund Investors

The U.S. House of Representatives passed H.R. 4854, the *Supporting America’s Innovators Act of 2016*, on July 5, 2016. The bill seeks to enhance angel investors’ ability to provide funding to entrepreneurs and small businesses in need of investment capital. Under current law, the number of investors in an investment company fund must be limited to 100 for the fund to be exempt from registration requirements of the Securities and Exchange Commission (SEC). The bill would raise the limit on the number of individuals who may invest in certain venture capital funds from 100 to 250 before triggering the requirement to register with the SEC as an investment company. [\[Press Statement\]](#) [\[H.R. 4854\]](#)  
(This item was also covered under the Capital Markets and Investment Management section.)

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