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Safety & Soundness

Federal Reserve Amends Policy on Payment System Risk for Same-Day ACH Service

On July 21, 2016, the Federal Reserve Board adopted changes to part II of the *Federal Reserve Policy on Payment System Risk* (PSR Policy) regarding same-day automated clearing house (ACH) service. The changes address posting rules for forward and return same-day ACH transactions. The stated goal is to enhance the efficiency of the ACH network and the broader U.S. payment system. The PSR Policy changes will become effective September 23, 2016, to align with the effective date of enhancements to the Federal Reserve Banks' FedACH SameDay Service that were announced on September 23, 2015. These enhancements require all receiving depository financial institutions to participate in same-day ACH, and originating depository financial institutions to pay a fee to receiving depository financial institutions for each same-day ACH forward transaction. The Federal Reserve Banks' current opt-in same-day ACH service will be discontinued. The changes to the FedACH SameDay Service are intended to align with the Operating Rules and Guidelines of NACHA (National Automated Clearinghouse Association). [\[Press Statement\]](#) [\[Policy Statement\]](#)

FDIC Convenes Meeting of Advisory Committee on Community Banking

The Federal Deposit Insurance Corporation (FDIC) conducted a meeting of its Advisory Committee on Community Banking on July 20, 2016. The meeting included presentations by senior staff on the following topics:

- Fintech;
- The perspective of millennials on banking;
- The FDIC's Community Banking Initiative;
- The *Economic Growth and Regulatory Paperwork Reduction Act* regulatory review;
- Consumer compliance issues; and
- Supervisory developments.

A video recording of the meeting is available on the FDIC Web site. [\[Community Bank Agenda\]](#)

Financial Stability Oversight Council Meets in Executive Session

The U.S. Department of the Treasury released a statement summarizing issues considered by the Financial Stability Oversight Council's (FSOC) during its executive session on July 18, 2016. These issues included updates regarding:

- Market developments, including development related to the United Kingdom referendum on membership in the European Union;
- The ongoing assessment of potential risks to U.S. financial stability from asset management products and activities;
- Results of the Federal Reserve Board's stress test for large banking entities; and
- A joint pilot project launched by the Office of Financial Research, Federal Reserve Board, and Securities and Exchange Commission to facilitate improved data collection and analysis. [\[Press Statement\]](#)

FSB Publishes Progress Report on Interest Rate Benchmark Reforms

On July 19, 2016, the Financial Stability Board (FSB) published a progress report on implementation of the FSB's July 2014 recommendations to reform major interest rate benchmarks. The report highlights that progress is concentrated in the three major benchmarks: the EURIBOR (Euro Interbank Offered Rate), LIBOR (London Interbank Offered Rate) and TIBOR (Tokyo Interbank Offered Rates). The FSB encourages Administrators to complete these reforms, focusing on

transition efforts and determining how to anchor rates in transactions and objective market data. The report also highlights that more progress is needed in identifying risk-free rates and promoting their use where appropriate.

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

FSB Meets to Discuss Priority Areas and Deliverables in Advance of G20 Leaders Summit

The Financial Stability Board (FSB) met on July 21, 2016, to discuss priority areas and deliverables in anticipation of the G20 Leaders' Summit scheduled for early September. Key discussion points included:

- Supporting the full, timely, and consistent implementation of post-crisis reforms while remaining ready to address any material unintended consequences;
- Addressing new and emerging vulnerabilities in the financial system, including potential financial stability risks associated with market-based finance, misconduct, and the reduction in correspondent banking relationships;
- Promoting a robust financial infrastructure by working with the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions to assess policies on central counterparty resilience and recovery and resolvability;
- Promoting effective macro-prudential policymaking by examining jointly with the International Monetary Fund (IMF) and the Bank for International Settlements (BIS) lessons learned from national and international experience;
- Implementing reforms to establish effective resolution regimes;
- Implementing reforms to over-the-counter derivatives markets; and
- Accounting and auditing issues. [\[Press Statement\]](#)

U.S. and EU Joint Financial Regulatory Forum Continues Dialogue on Regulatory Issues

The U.S. Department of the Treasury (Treasury) released a press statement outlining the issues discussed by the U.S. and European Union (EU) participants at the Joint Financial Regulatory Forum (Forum) on July 18 and 19, 2016. The meeting is part of an ongoing dialogue and exchange on financial regulatory developments. The issues discussed included:

- Banking – focusing on bank capital and liquidity issues, including the net stable funding ratio and the leverage ratio.
- Bank Resolution – focusing on progress made to date regarding cross-border bank resolution and the international minimum standard on total loss absorbing capacity (TLAC).
- Central Counterparty Resolution – including an exchange of views on central counterparty resolution to understand respective approaches and to identify potential cross-border considerations.
- OTC Derivatives - including equivalence of U.S. swaps trading platforms under the EU's Markets in Financial Instruments framework, and the EU implementing rules requiring margin for uncleared derivatives.
- Fund Issues – covering the extension of the EU Alternative Investment Fund Managers Directive passport to U.S. fund managers.
- Insurance – including the continued negotiations for a covered agreement on prudential insurance and re-insurance matters.
- Audit - acknowledging the progress being made on transatlantic cooperation in audit oversight, including certain forms of reliance and a commitment to avoid unnecessary duplication of work as part of joint inspections arrangement.
- Data Protection – expressing support for continuing data transfers between Europe and the United States for regulatory, supervisory and enforcement purposes.
- G-20 Financial Regulatory Reforms – highlighting the participants' desire to work with other G-20 members to finalize the remaining core elements of the financial regulatory reform agenda.

The next Forum meeting will take place in February 2017. U.S. participants included Treasury staff (including the Federal Insurance Office), the Federal Reserve Board, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, and the Securities and Exchange Commission, as well as the Public Company Accounting Oversight Board. EU participants included representatives of the European Commission, the European Banking Authority, the European Securities and Markets Authority, and the Single Resolution Board (SRB). [\[Joint Statement\]](#)

Derivatives Clearing Organizations Encouraged to Further Develop Recovery Plans and Wind-down Plans

On July 21, 2016, the Commodity Futures Trading Commission's (CFTC's) Division of Clearing and Risk (DCR) issued guidance to derivatives clearing organizations (DCOs) to further the development of their Recovery Plans and Wind-down Plans. Recovery Plans and Wind-down Plans are important to resolution planning for those DCOs designated as systemically important by the Financial Stability Oversight Council. The guidance highlights certain topics that DCOs should consider while developing their Recovery Plans and a Wind-down Plans including:

- Evaluating whether particular tools for recovery and orderly wind-down should be included in their Recovery Plans and Wind-down Plans; and
- Designing proposed rule changes to support the inclusion of particular tools in these plans.

The guidance stresses that Wind-down plans would be used in situations where recovery is not possible and resolution has not been triggered. [\[Press Statement\]](#) [\[CFTC Staff Letter No. 16-61\]](#) (This item is also included in the [Capital Markets and Investment Management](#) section below.)

Federal and State Agencies Focus on Cybersecurity

On July 19, 2016, the U.S. Department of the Treasury (Treasury) hosted officials from the 18 federal and state member agencies of the Financial and Banking Information Infrastructure Committee (FBII) to discuss cybersecurity policy issues in the financial sector. Key topics discussed at the meeting included:

- Insights on current cyber threats presented by the Federal Bureau of Investigation;
- Supervisory approaches to cybersecurity, including examinations, rules and other actions, presented by the Securities and Exchange Commission and the Commodity Futures Trading Commission;
- Efforts to increase information sharing among FBII member agencies and the development of common risk-based approaches to managing cybersecurity risk; and
- Results of recent cyber exercises coordinated by the FBII and the Financial Stability Oversight Council, which evaluated the impact of a cyber-incident on financial stability.

The outcome and details of the discussion were not released publicly.

The FBII was chartered under the President's Working Group on Financial Markets following September 11, 2001 to improve coordination and communication among financial regulators, enhance the resiliency of the financial sector, and promote public-private partnership. [\[Press Statement\]](#) (This item is also included in the [Cybersecurity](#) section below.)

Enterprise & Consumer Compliance

Department of Education Announces New Servicing Standards for Federal Student Loans

Richard Cordray, Director of the Consumer Financial Protection Bureau (CFPB or Bureau) conducted a joint press call on July 20, 2016, with John King, Secretary of Education, to announce a new policy directive from the Department of Education (DoE) that seeks to provide new and enhanced protections and customer service standards for federal student loan servicing. The CFPB has supervisory authority over the private student loan servicing market, as defined under its "larger participants" rulemaking authority. In the press call, Director Cordray stated that the new DoE servicing standards,

when fully implemented, would bring more consistency, transparency, actionability, and accountability to the federal student loan servicing market. [\[CFPB Director's Remarks\]](#) [\[DoE Press Statement\]](#)

Agencies Propose Rules for Certain Truth-in-Lending Act and Consumer Leasing Act Exemption Thresholds

On July 22, 2016, the Federal Reserve Board (Federal Reserve) and the Consumer Financial Protection Bureau (CFPB or Bureau) issued two proposed rules amending the official interpretations and commentaries to their regulations implementing the *Truth in Lending Act* (TILA) and the *Consumer Leasing Act* (CLA). The proposed amendments would clarify the method use to adjust the threshold for exempting certain consumer credit and lease transactions from the requirements of these laws. The *Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010* (Dodd-Frank Act) requires the exemption thresholds to be adjusted annually to keep pace with changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The proposed amendments would document that, in instances where there is no increase or a decrease in the CPI-W, the exemption threshold amount would not change. In instances where the CPI-W does increase, any increase in the exemption threshold amount would be rounded to the nearest \$100. Comments on the proposals will be accepted for 30 days following publication in the *Federal Register*. [\[Joint Press Statement\]](#) [\[Proposed Rule - CLA\]](#) [\[Proposed Rule - TILA\]](#)

On the same day, the CFPB, Federal Reserve, and the Office of the Comptroller of the Currency (OCC) released a proposed rule that would amend the official interpretations of their TILA regulations regarding special appraisal requirements for “higher risk mortgages.” The amendments would clarify the link between the threshold for exempting certain “higher risk mortgages” and changes in the CPI-W. Increases to the threshold amount would be rounded to the nearest \$100, and no adjustment would be made when the CPI-W does not increase. Comments are requested for 30 days following publication in the *Federal Register*. [\[Press Statement\]](#) [\[Proposed Rule - Appraisal\]](#)

Agencies Release Revised Questions and Answers for Community Reinvestment Act

The Federal Reserve Board, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (Agencies) jointly published final revisions to the *Interagency Questions and Answers Regarding Community Reinvestment* on July 15, 2016. The new and revised guidance addresses the interpretation and application of the Agencies' *Community Reinvestment Act* (CRA) regulations in the following areas:

- Availability and effectiveness of retail banking services.
- Innovative or flexible lending practices.
- Community development-related issues, including: (i) economic development; (ii) community development loans and activities that revitalize or stabilize underserved nonmetropolitan middle-income geographies; and (iii) community development services.
- Responsiveness and innovativeness of an institution's loans, qualified investments, and community development services.

The revised document consolidates and supersedes all previously published *Interagency Questions and Answers Regarding Community Reinvestment*. It became effective upon publication in the *Federal Register*. [\[Revised Guidance\]](#)

Insurance

IAIS Releases Second Consultation Paper on Global Insurance Capital Standard

On July 19, 2016, the International Association of Insurance Supervisors (IAIS) released a second consultation document regarding Risk-Based Global Insurance Capital Standard (ICS). The IAIS intends to develop and adopt standard measures for confidential reporting through its "ICS Version 1.0" by mid-2017. Other methods for calculating ICS capital requirements will be considered in an "ICS Version 2.0," which is planned for adoption in late 2019.

The current consultation solicits feedback on more than 230 questions covering three key components of ICS Version 1.0: valuation methodologies, qualifying capital resources, and the implementation of risk based approaches to determine regulatory capital requirements. The three-month comment period ends October 19, 2016.

The ICS will form part of the Common Framework for the supervision of internationally active insurance groups. IAIS has previously adopted a Basic Capital Requirement (in 2014) and the Higher Loss Absorbency Requirement (in 2015), both of which apply to global systemically important insurers. [\[Press Statement\]](#)

Capital Markets and Investment Management

FINRA Proposes Rule Change for Plan to Address Extraordinary Volatility under Regulation NMS Following a Trading Pause or Regulatory Halt

On July 22, 2016, the Financial Industry Regulatory Authority (FINRA) released a proposed rule change that would clarify the operation of the Regulation National Market System (Regulation NMS) Plan to Address Extraordinary Volatility (Plan) following a trading pause or regulatory halt in a security. The proposed rule change would clarify the operation of the Plan during the period of time following the resumption of trading after a trading pause or regulatory halt and before the price bands are received from the Processor for securities that are subject to the Plan. The Processor is defined in the Plan as the "single plan processor responsible for the consolidation of information for an NMS Stock."

The commentary period will be open for 21 days after publication in the *Federal Register*. However, FINRA has filed the proposed rule change with the Securities and Exchange Commission for immediate effectiveness, and it is drafted to have an operative date of August 22, 2016. [\[SR-FINRA-2016-028\]](#) [\[Plan as of April 2016\]](#)

FINRA Proposes TRACE Reporting for U.S. Treasury Securities

On July 18, 2016, the Financial Industry Regulatory Authority (FINRA) proposed a rule change to expand the Trade Reporting and Compliance Engine (TRACE) reporting rules to include most secondary market transactions in marketable U.S. Treasury Securities. The proposed rule change would amend the definition of "TRACE-Eligible Security" to include U.S. Treasury Securities. It would also amend the definition of "U.S. Treasury Security" to exclude savings bonds. Under

this proposed definition, the term “U.S. Treasury Securities” would include all marketable Treasuries, including Treasury bills, notes, and bonds, as well as disaggregated principal and interest components of a U.S. Treasury Security that have been separated pursuant to the Separate Trading of Registered Interest and Principal of Securities (STRIPS) program. The definition of “Money Market Instrument” would also be amended to exclude short-term U.S. Treasury Securities, including U.S. Treasury bills, which have maturities of one year or less. If approved by the Securities and Exchange Commission, the proposed rule change would take effect no later than 365 days following SEC approval. Transaction information in these U.S. Treasury Securities would not be disseminated to the public. [\[SR-FINRA-2016-027\]](#)

OFR Launches Online Tool to Track Money Market Funds

The Office of Financial Research (OFR) introduced a new online tool for monitoring money market funds (MMFs) on July 20, 2016. Using data provided by the Securities and Exchange Commission and other data provided by the OFR, the “Money Market Fund Monitor” tracks the investment portfolios and risk profiles of money market funds. More than five years of portfolio data is currently available. The online tool is comprised of six charts, three that allow users to track MMF investments by individual fund, by fund category, and by prime funds. Three additional charts focus on MMF activities in the market for repurchase agreements, or repos. It is available on the OFR Web site. [\[Press Statement\]](#); [\[OFR Brief\]](#)

CFTC Issues Guidance to DCOs on Recovery Plans and Wind-down Plans

On July 21, 2016, the Commodity Futures Trading Commission’s (CFTC’s) Division of Clearing and Risk (DCR) issued guidance to derivatives clearing organizations (DCOs) to further the development of their Recovery Plans and Wind-down Plans. Recovery Plans and Wind-down Plans are important to resolution planning for those DCOs designated as systemically important by the Financial Stability Oversight Council. The guidance highlights certain topics that DCOs should consider while developing their Recovery Plans and a Wind-down Plans including:

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Enforcement Actions

The Federal Reserve Board (Federal Reserve), the Financial Industry Regulatory Authority (FINRA), and the Securities and Exchange Commission (SEC) announced the following enforcement actions in the past week:

- The Federal Reserve issued an Order of Prohibition against a former foreign exchange (FX) trader to address findings the trader manipulated FX pricing benchmarks, disclosed confidential customer information to traders at other organizations, and engaged in other unsafe and unsound practices. The Order of Prohibition prohibits the trader from participating in the banking industry going forward. Separate enforcement actions were settled in May 2015 against two banks where the trader was employed. Those actions required the banks to collectively pay \$684 million in penalties to address compliance and control deficiencies related to FX trading.
- FINRA fined a firm \$950,000 for failing to detect and prevent a scheme that resulted in the theft of approximately \$1.3 million from a senior citizen’s account. FINRA found the firm repeatedly failed to investigate “red flags” and that inadequate supervisory procedures and controls in the firm’s systems contributed to its failure to detect and prevent the fraud. The firm neither admitted nor denied the charges, but consented to the entry of FINRA’s findings.
- The SEC announced that it had obtained a court-ordered asset freeze against two former brokers “with disciplinary histories” who allegedly raised more than \$5 million from investors and misuse the funds. The SEC sought the

order to halt the ongoing fraud, which involved the sale of purported shares in eight multiple companies to more than 240 investors since 2008 without registering the stock. The SEC is seeking disgorgement of ill-gotten gains with interest, penalties, and permanent injunctions. It is also seeking penny stock and officer-and-director bars against the individuals.

Financial Crimes

FinCEN Issues FAQs on Customer Due Diligence Requirements for Financial Institutions

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) issued Frequently Asked Questions (FAQs) and answers on July 19, 2016, regarding its final rule governing Customer Due Diligence Requirements for Financial Institutions (CDD Rule). The CDD Rule became effective July 11, 2016, and compliance will be required no later than May 11, 2018. The twenty-six FAQs provide guidance on the scope of the CDD Rule as well as interpretive guidance. [\[CDD Rule FAQs\]](#)

Cybersecurity

Financial and Banking Information Infrastructure Committee Meets to Discuss Cybersecurity Policy

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Department of Education Announces New Servicing Standards for Federal Student Loans

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student loan servicing market. [\[CFPB Director's Remarks\]](#) [\[DoE Press Statement\]](#) (This item is also included in the Enterprise & Consumer Compliance section above.)

Agencies Propose Rules on Exemption Thresholds for Certain Consumer-Focused Regulations

On July 22, 2016, the Federal Reserve Board (Federal Reserve) and the Consumer Financial Protection Bureau (CFPB or Bureau) issued two proposed rules amending the official interpretations and commentaries to their regulations implementing the *Truth in Lending Act* (TILA) and the *Consumer Leasing Act* (CLA). The proposed amendments would clarify the method use to adjust the threshold for exempting certain consumer credit and lease transactions from the requirements of these laws. The *Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010* (Dodd-Frank Act) requires the exemption thresholds to be adjusted annually to keep pace with changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The proposed amendments would document that, in instances where there is no increase or a decrease in the CPI-W, the exemption threshold amount would not change. In instances where the CPI-W does increase, any increase in the exemption threshold amount would be rounded to the nearest \$100. Comments on the proposals will be accepted for 30 days following publication in the *Federal Register*. [\[Joint Press Statement\]](#) [\[Proposed Rule - CLA\]](#) [\[Proposed Rule - TILA\]](#) (This item is also included in the Enterprise & Consumer Compliance section above.)

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Agencies Release Revised Questions and Answers for Community Reinvestment Act

The Federal Reserve Board, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (Agencies) jointly published final revisions to the *Interagency Questions and Answers Regarding Community Reinvestment* on July 15, 2016. The new and revised guidance addresses the interpretation and application of the Agencies' *Community Reinvestment Act* (CRA) regulations in the following areas:

- Availability and effectiveness of retail banking services.
- Innovative or flexible lending practices.
- Community development-related issues, including: (i) economic development; (ii) community development loans and activities that revitalize or stabilize underserved nonmetropolitan middle-income geographies; and (iii) community development services.
- Responsiveness and innovativeness of an institution's loans, qualified investments, and community development services.

The revised document consolidates and supersedes all previously published *Interagency Questions and Answers Regarding Community Reinvestment*. It became effective upon publication in the *Federal Register*. [\[Revised Guidance\]](#) (This item is also included in the Enterprise & Consumer Compliance section above.)

FinCEN Issues FAQs on Customer Due Diligence Requirements for Financial Institutions

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Federal and State Agencies Meet to Discuss Cybersecurity

On July 19, 2016, the U.S. Department of the Treasury (Treasury) hosted officials from the 18 federal and state member agencies of the Financial and Banking Information Infrastructure Committee (FBII) to discuss cybersecurity policy issues in the financial sector. Key topics discussed at the meeting included:

- Insights on current cyber threats presented by the Federal Bureau of Investigation;
- Supervisory approaches to cybersecurity, including examinations, rules and other actions, presented by the Securities and Exchange Commission and the Commodity Futures Trading Commission;
- Efforts to increase information sharing among FBII member agencies and the development of common risk-based approaches to managing cybersecurity risk; and
- Results of recent cyber exercises coordinated by the FBII and the Financial Stability Oversight Council, which evaluated the impact of a cyber-incident on financial stability.

The outcome and details of the discussion were not released publicly. [\[Press Statement\]](#) (This item is also included in the [Cybersecurity](#) section above.)

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