



The Washington Report

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1. Safety and soundness

1.1 FSB and BCBS publish 2016 G-SIB list and related assessment methodology

On November 21, 2016, the Financial Stability Board, in consultation with the Basel Committee on Banking Supervision (BCBS) and national authorities, published the 2016 list of global systemically important banks (G-SIBs). The 2016 list includes the same 30 banks that were included in the 2015 list (eight of which are U.S.-based banks). Of those 30, four banks moved to a higher bucket corresponding to higher capital buffer requirements, and three banks moved to a lower bucket. The FSB states the changes in the allocation across buckets reflect the combined effects of data quality improvements, changes in underlying activity, and the use of supervisory judgment.

Designated G-SIBs are subject to:

- Higher capital buffer requirements: Higher capital buffer requirements began to be phased in on January 1, 2016 for G-SIBs that were identified in November 2014. They will be fully phased in on January 1, 2019. The higher capital buffer requirements will apply to other G-SIBs identified after November 2014 beginning the January fourteen months later.
- Total Loss-Absorbing Capacity (TLAC) requirements: G-SIBs will be required to meet the TLAC standard, alongside the regulatory capital requirements set out in the Basel III framework. It will apply to G-SIBs identified in 2015 beginning January 1, 2019.
- Resolvability requirements: These include group-wide resolution planning and regular resolvability assessments. The resolvability of each G-SIB will also be reviewed as a part of a high-level FSB Resolvability Assessment Process (RAP) by senior regulators within the firms' Crisis Management Groups.
- Higher supervisory expectations: These include supervisory expectations for risk management functions, risk data aggregation capabilities, risk governance and internal controls.

[\[Press Statement\]](#) [\[2016 G-SIBs\]](#)

In a related action, the BCBS published additional information on the methodology used to assess the systemic importance of global banks. The BCBS uses indicator-based measurements of data for the previous fiscal year-end that are supplied by banks

and validated by national authorities. The published information for 2016 includes:

- The list of sample banks required to report the set of indicators to national authorities;
- The denominators of each indicator used to calculate the banks' scores;
- The cutoff score that was used to identify the G-SIBs in the 2016 updated list;
- The thresholds used to allocate G-SIBs to buckets for the purpose of calculating the specific higher loss absorbency requirements; and
- Links to disclosures of all banks in the assessment sample.

The higher loss absorbency requirements published by the BCBS will take effect on January 1, 2018, subject to phase-in arrangements. The full amount of the higher loss absorbency requirement will come into force on January 1, 2019, consistent with the implementation schedule for the Basel III capital conservation buffer. [\[Press Statement\]](#)

1.2 FDIC finalizes recordkeeping rule for institutions with large numbers of deposit accounts

On November 15, 2016, the Federal Deposit Insurance Corporation (FDIC) adopted a final rule establishing recordkeeping requirements for certain large insured depository institutions to facilitate prompt payment of insured deposits in the event the institutions fail. The rule applies to insured depository institutions with 2 million or more deposit accounts, and requires them to: i) maintain complete and accurate data on each depositor; and ii) configure their information technology (IT) systems to be capable of calculating the insured and uninsured amount in each deposit account by ownership right and capacity within 24 hours of a failure.

The rule is expected to become effective on April 1, 2017, though institutions will be permitted a period of three years to develop the recordkeeping and IT systems required for compliance. The FDIC states that it will work closely with covered institutions as they develop new capabilities, and it intends to issue functional design assistance for system programming prior to the effective date to aid in this process.

The final rule also establishes alternative reporting requirements for certain deposit accounts, including trust deposits, brokered deposits, and other accounts that qualify for "pass through" deposit insurance coverage. It also permits institutions to develop systems that allow for a longer processing time for these

accounts after a failure, with an exception for certain accounts that have transactional features.

[\[Press Statement\]](#) [\[Final Rule\]](#)

1.3 FSB sets 2017 work plan

The Financial Stability Board (FSB) met in London on November 17, 2016, to discuss current market vulnerabilities, ongoing policy work, and its work plan for 2017. The current market vulnerabilities highlighted included sovereign and corporate debt levels, which remain a concern given ongoing economic uncertainty; signs of maturing credit cycles in some jurisdictions; and the impact of asset quality and profitability issues on the valuations of banks in advanced economies.

Against the backdrop of these developments, the FSB emphasized the importance of completing the implementation of agreed reform programs. The FSB outlined ongoing policy work and its work plan for 2017, which included:

- Approval of the 2016 lists of identified global systemically important banks (G-SIBs) and insurance companies (G-SIIs);
- Discussion on the progress of implementing the Total Loss-Absorbing Capacity (TLAC) standard for banks;
- Review of the progress made to enhance the resilience, recovery planning, and resolvability of central counterparties (CCPs). A proposal for guidance on CCP resolution and resolution planning is expected to be released in early 2017 and finalized by mid-2017;
- Discussion of the responses received on proposed policy recommendations to address structural vulnerabilities from asset management activities published in June. Final

recommendations are expected to be published by the end of 2016;

- Discussion on the progress of implementing the four-point action plan to assess and address the decline in correspondent banking, and setting out next steps for 2017 to maintain momentum in tackling this issue;
- Review of updates from various work streams to address misconduct in the financial sector;
- Updates from the Task Force on Climate-related Financial Disclosures including a summary of recommended voluntary disclosures and guidance, which will be released for public consultation in December 2016;
- Discussion of the work plan for reporting on the implementation and effects of G20/FSB reforms, including development of a post-implementation policy evaluation framework and workshops with academics and market participants, as well as arrangements for undertaking a comprehensive review of the implementation and effects of over-the-counter derivatives reforms;
- Agreement that the FSB will undertake an assessment of progress in transforming shadow banking into resilient market-based finance by July 2017; and
- A review of the progress made on the FSB's FinTech work plan, including recent stock takes in conjunction with other international bodies on topics such as authorities' innovation facilitators, FinTech credit intermediation, and issues for authorities in the use of distributed ledger technology.

[\[Press Statement\]](#)

2. Enterprise and consumer compliance

2.1 Agencies adjust 2017 exemption thresholds for higher-priced mortgage loan appraisals and certain consumer credit and lease transactions

On November 23, 2016, the Consumer Financial Protection Bureau (CFPB), the Federal Reserve Board (Federal Reserve), and the Office of the Comptroller of the Currency issued a joint final rule amending the official interpretations to their regulations that implement section 129H of the Truth in Lending Act (TILA), which establishes special appraisal requirements for "higher-risk mortgages." The amendments detail the methodology to be used to make annual inflation adjustments to the threshold for exempting small loans from special appraisal requirements. The final rule also applies the calculation method to the exemption threshold for 2017.

The rule exempts transactions of \$25,000 or less and requires that this amount be adjusted annually based on any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). If there is no annual percentage increase in the CPI-W, the agencies will not adjust this exemption threshold from the prior year. Based on the CPI-W in effect as of June 1, 2016, the exemption threshold will remain at \$25,500 through December 31, 2017.

[\[CFPB Press Statement\]](#) [\[Final Rule\]](#)

In a similar but separate action, the CFPB and the Federal Reserve issued a joint final rule on November 23, 2016, amending the official interpretations and commentary to their regulations that implement the TILA and the Consumer Leasing

Act (CLA). The amendments detail the method that will be used to adjust the thresholds for exempting certain consumer credit and lease transactions from the TILA and the CLA. The final rule requires the exemption thresholds to be adjusted annually based on annual changes in the CPI-W, though no adjustment will be made when the CPI-W does not experience an annual percentage increase.

Based on the CPI-W in effect on June 1, 2016, the TILA and CLA exemption thresholds will remain at \$54,600 in 2017. The protections of the TILA and the CLA apply to consumer credit lease transactions at or below the threshold. However, private education loans and loans secured by real property are subject to the TILA regardless of the amount of the loan.

[\[Press Statement\]](#) [\[Final Rule\]](#)

2.2 FIO issues first annual report on consumer protection and access to insurance

On November 21, 2016, the U.S. Department of the Treasury's Federal Insurance Office (FIO) released its first annual "Report on the Protection of Consumers and Access to Insurance." The report addresses a range of consumer protection issues that FIO states are necessary for the functioning of a stable and fair insurance marketplace.

The report is organized around five broad themes: (i) insurance and technology; (ii) environmental hazards and insurance; (iii) fairness in insurance practices; (iv) fairness in state insurance standards; and (v) retirement and related issues. It also highlights certain gaps and inconsistencies in state insurance

consumer protections and recommends a path forward in each instance. [\[Press Statement\]](#) [\[FIO Report\]](#)

2.3 CFPB seeks input on consumer challenges sharing digital financial records

On November 17, 2016, the Consumer Financial Protection Bureau (CFPB or Bureau) announced the launch of an inquiry into the challenges facing consumers in accessing, using, and securely sharing their digital financial records. As part of the inquiry, the CFPB is seeking stakeholder and public input on:

- How much choice consumers are being given about the use of their records;
- How secure it is for consumers to share their records with third parties; and
- The extent to which consumers have control over their records.

The inquiry is to be published in the Federal Register as a Request for Information and the responses received are expected to help inform the development practices and procedures that will "enable consumers to realize the benefits associated with safe access to their financial records, assess necessary consumer protections and safeguards, and spur innovation."

The comment period for the public inquiry will end 90 days after publication in the Federal Register.

[\[Press Statement\]](#) [\[Request for Information\]](#)

3. Insurance

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This item was also covered under the Enterprise and Consumer Compliance section.

3.2 FSB publishes 2016 list of G-SIIs

The Financial Stability Board (FSB) published the 2016 list of global systemically important insurers (G-SIIs) on November 21, 2016. The list of nine insurers was developed in consultation with the International Association of Insurance Supervisors (IAIS) and national authorities using year-end 2015 data. The 2016 G-SII list remains the same as in 2015. These G-SIIs will be subject to the following internationally agreed standards:

- Higher loss absorbency (HLA): The HLA requirements, which will be revised to reflect further work by the IAIS on the G-SII assessment methodology, are scheduled to be applied starting January 2019 to those G-SIIs identified in November 2017.

- Enhanced group-wide supervision: Under such supervision, the group-wide supervisor is expected to have direct powers over holding companies and to oversee the development and implementation of a Systemic Risk Management Plan and a Liquidity Management Plan.
- Group-wide recovery and resolution planning and regular resolvability assessments: The resolvability of each G-SII will also be reviewed as a part of a high-level FSB Resolvability Assessment Process (RAP) by senior regulators within the institution's Crisis Management Group.

The IAIS continues to work on its assessment methodology for GSII's. It published an updated assessment methodology in June 2016 following a consultation process launched in November 2015, and expects to submit a work plan and timelines to the FSB in the first quarter of 2017 outlining further work. The FSB states that the IAIS is also exploring an activities-based approach to addressing systemic risk as a possible complement to the G-SII entity-based assessment approach.

[\[Press Statement\]](#) [\[2016 GSII List\]](#)

3.3 IAIS publishes application paper on supervision of insurance intermediaries

The International Association of Insurance Supervisors (IAIS) published an application paper on "Approaches to Supervising the Conduct of Intermediaries," on November 15, 2016. The paper documents ideas on approaches that IAIS members may use when developing or revising a regime for the supervision of

intermediaries in the insurance business in order to ensure that intermediaries conduct their business with due skill, care, and diligence. It also supports the implementation of Insurance Core Principles (ICPs), which provide a globally accepted framework for the supervision of the insurance sector, including ICP 18 (Intermediaries) and relevant aspects of ICP 19 (Conduct of Business).

The paper supplements the IAIS's application paper on "Approaches to Conduct of Business Supervision" issued in April 2014. The IAIS states that the 2014 paper focuses on conduct of business by insurers while the 2016 paper addresses conduct of business by intermediaries, "reflecting the fact that customers should be protected equally regardless of whether they obtain cover directly from an insurer or through an insurance intermediary. The supervisory framework should take account of all relevant industry participants, to ensure fair treatment of customers."

Input for the paper was obtained from an IAIS survey of participating jurisdictions that provided information on their supervisory frameworks for intermediaries. More than 60 IAIS members participated, enabling the IAIS Market Conduct Working Group to gather information on supervisory practices, specific markets, and trends and challenges associated with supervising insurance intermediaries.

[\[Press Statement\]](#)

4. Capital markets and investment management

4.1 SEC approves NMS plan to create Consolidate Audit Trail

The Securities and Exchange Commission (SEC) approved a National Market System (NMS) plan on November 15, 2016 that will create a single, comprehensive database, referred to as the Consolidated Audit Trail (CAT), which will enable regulators to more efficiently and thoroughly track all trading activity in the U.S. equity and options markets. In particular, the SEC and the Self-Regulatory Organizations (SROs) will be able to use the CAT trading data and technology to facilitate better oversight of market participants by conducting research, reconstructing market events, monitoring market behavior, and identifying and investigating market misconduct.

The NMS plan was submitted to the SEC jointly by the national securities exchanges and the Financial Industry Regulatory Authority (FINRA). It details the methods by which the SROs and broker-dealers are required to record and report information. The range of data elements will provide information over the full lifecycle of all orders and transactions in the U.S. equity and options markets. The plan also sets forth how the data in the CAT should be maintained to ensure its accuracy, integrity, and security. The approved plan responds to public comments that requested certain changes to:

- Strengthen data security requirements with respect to personally identifiable information;

- Tighten the clock synchronization standards for SROs to within 100 microseconds of the time maintained by the National Institute of Standards and Technology;
- Enhance the CAT plan governance by expanding the membership of the advisory committee to include an additional institutional investor representative and a representative of a service bureau that provides CAT reporting services; and
- Accelerate the deadline for the SROs to submit proposals to retire regulatory data reporting systems that will be rendered obsolete by CAT.

SROs are required to select a plan processor within the next two months to build and operate the CAT. They are also required to begin reporting to CAT within one year. Large and small broker-dealers will be required to begin reporting to CAT one and two years, respectively, after SROs begin reporting.

[\[Press Statement\]](#) [\[Statement by SEC Chair Mary Jo White\]](#)

4.2 CFTC publishes results of first supervisory test for major clearinghouses

On November 16, 2016, the Commodity Futures Trading Commission (CFTC) released the results of its first supervisory stress test across multiple major clearinghouses. The analysis included five clearinghouses registered with the CFTC located in the United States as well as in the U.K., and a total of 23 of the largest corporate group clearing members (measured by margin deposited) at each clearinghouse. Cleared futures and options, interest rate swaps, and credit default swaps were reviewed.

The stress test results indicated that:

- Clearinghouses had the pre-funded financial resources to withstand a variety of extreme market price changes across a wide range of products, and they met or exceeded required resiliency levels.
- Risk was diversified across the clearinghouses. Where a particular scenario was the worst for a clearing member at a particular clearinghouse, that clearing member generally did not incur margin shortfalls at all clearinghouses, and in many cases had margin surplus or even gains across all clearinghouses.
- Clearing member risk was also diversified across the scenarios. No single scenario accounted for more than 19 percent of the worst outcomes.

The test addressed credit risk but did not cover other types of risks that clearinghouses face, such as liquidity risk, operational risk, or cyber risk. The CFTC aims to regularly conduct such stress tests as a part of its risk surveillance program.

[\[Press Statement\]](#) [\[Supervisory Stress Test Results\]](#) [\[Q&A\]](#)

4.3 SEC approves FINRA proposal for enhanced price disclosure to retail customers of fixed-income securities

On November 18, 2016, the Securities and Exchange Commission (SEC) approved the Financial Industry Regulatory Authority's (FINRA) proposal requiring FINRA member firms to disclose the "mark-up" or "mark-down" for transactions in corporate and agency debt securities to retail customers.

The new rule will require a firm that sells or buys a corporate or agency fixed-income security to or from a retail customer and, on the same day, also buys or sells the same security as principal from another party in an equal or greater amount to disclose by way of a confirmation to the customer the firm's mark-up or mark-down from the prevailing market price for the security. The confirmation must also include the execution time and a reference to the trade-price data in the security from TRACE (FINRA's Trade Reporting and Compliance Engine).

The disclosure requirement does not apply to securities acquired in a fixed-price offering and sold the same day to a retail customer at the fixed price offering price, or in situations where the firm does not have an offsetting principal trade in the bonds sold to the retail customer on the same day.

FINRA will announce the implementation date for the new rule in an upcoming regulatory notice. The SEC separately approved a similar proposal from the Municipal Securities Rulemaking Board to harmonize requirements across FINRA and MSRB rulebooks and ease implementation for the securities industry.

[\[Press Statement\]](#)

4.4 Enforcement Actions

The Securities Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA) announced the following enforcement actions:

- The SEC announced that a bank agreed to pay more than \$130 million to settle charges that it won business from clients and influenced government officials by giving jobs and internships to their relatives and friends in violation of the Foreign Corrupt Practices Act. The bank allegedly also violated the anti-bribery, books and records, and internal controls provisions of the Securities Exchange Act of 1934. In addition to the SEC penalty, the bank is expected to also pay \$72 million to the Department of Justice and \$61.9 million to the Federal Reserve Board, resulting in total related penalties of more than \$264 million.
- FINRA fined a broker-dealer \$1.575 million and ordered the firm to pay \$1.85 million to customers to address FINRA's findings that the firm failed to report information to FINRA, failed to comply with discovery obligations in arbitrations, and failed to apply applicable sales charge waivers to customers. The firm neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

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