



The Washington Report

Americas FS Regulatory Center of Excellence

The week ended March 17, 2017

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Contents

1. Safety and soundness	1
1.1 FSB sets out priorities under the G20 German Presidency	1
1.2 OCC head discusses international collaboration and bank supervision; FDIC Vice Chairman outlines proposed approach to bank supervision	1
1.3 BCBS publishes second consultative document on step-in risk	1
2. Enterprise and consumer compliance	2
2.1 FDIC enhances tool to prevent elder financial exploitation	2
2.2 Department of Justice submits amicus brief in support of <i>PHH Corporation v. CFPB</i>	2
2.3 Enforcement Actions	2
3. Capital markets and investment management	2
3.1 FINRA issues alert on fraud risks in binary options trading	2
3.2 FSB publishes consultation on UTI governance	2
3.3 CFTC extends comment period on proposed capital requirements of swap dealers and major swap participants	3
3.4 Enforcement Actions	3
4. Insurance	3
4.1 NAIC discusses bilateral cooperation with Japanese regulator	3
4.2 IAIS releases a report on the impact of FinTech on the insurance industry	3
5. New administration updates	4

The Washington Report

5.1 President Trump orders plan for government reorganization	4
6. Alternative finance	4
6.1 OCC issues draft supplement to licensing manual for FinTech companies	4
6.2 IAIS releases a report highlighting the impact of FinTech on the insurance industry	4

1. Safety and soundness

1.1 FSB sets out priorities under the G20 German Presidency

The Financial Stability Board (FSB) on March 17, 2017 published a letter from FSB Chair Mark Carney to the G20 Finance Ministers and Central Bank Governors highlighting the progress made in implementing the post-crisis reforms. In addition to discussing progress in promoting financial stability, the FSB Chair cautions against allowing the benefits beginning to be realized to lessen the momentum toward completing and fully implementing the reforms. The letter also outlines the FSB's priorities under the German G20 Presidency, which include:

- Shadow banking: Transforming shadow banking into resilient market-based finance and addressing structural vulnerabilities in asset management;
- OTC derivatives: Making derivatives markets safer by progressing the post-crisis reforms to over-the-counter (OTC) derivatives markets and delivering coordinated guidance on central counterparty resilience, recovery and resolution;
- Post-crisis reforms: Supporting full and consistent implementation of post-crisis reforms while developing a structured framework for post-implementation evaluation of the effects of reforms; and
- New risks: Addressing new and emerging vulnerabilities, including misconduct risks, as well as those stemming from the decline in correspondent banking and from climate-related financial risks.

[\[Press Statement\]](#) [\[Letter from FSB Chair to G20 Ministers\]](#)

1.2 OCC head discusses international collaboration and bank supervision; FDIC Vice Chairman outlines proposed approach to bank supervision

On March 13, 2017, Thomas J. Curry, Comptroller of the Currency, discussed the value of international collaboration and effective bank supervision during the Institute of International Bankers (IIB) Annual Washington Conference. Comptroller Curry discussed how international collaboration has improved banking supervision, particularly in areas related to anti-money laundering and cybersecurity, and stressed the importance of maintaining safeguards that have helped restore health and confidence to the federal banking system since the crisis of 2008. Additionally, he emphasized the need for effective supervision to anticipate risk and help banks become more resilient. He further highlighted the role played by professional bank examiners to assess the health of financial institutions and evaluate the adequacy of their risk management, capital and liquidity.

[\[Press Statement\]](#) [\[Remarks\]](#)

Speaking separately before the IIB Annual Washington Conference, Thomas Hoenig, Vice Chairman of the Federal Deposit Insurance Corporation (FDIC), outlined a regulatory reform proposal to "address the challenge of too-big-to-fail, regulatory burden, and competitive equity." As proposed, "traditional" and "nontraditional" banking activities would be placed in affiliated though separately managed and capitalized intermediate holding companies under a financial holding company structure. "Nontraditional" banking activities would be generally defined to include broker dealer, Futures Commission Merchant, swap and all other non-traditional banking activities, as well as all Edge Act and Agreement Corporations and their subsidiaries.

The proposal contemplates that the structural reforms will eliminate the need for many of the regulations promulgated under the Dodd-Frank Wall Street Reform and Consumer Protection Act, including: CCAR (Comprehensive Capital Analysis and Review), DFAST (Dodd-Frank Act Stress Testing), risk-based capital rules, LCR (Liquidity Coverage Ratio), NSFR (Net Stable Funding Ratio), certain enhanced prudential standards under the Dodd-Frank Act, Title I resolution plans, and Title II orderly liquidation authority. Relief from the requirements of the Volcker Rule would also be provided.

[\[Prepared Remarks\]](#)

1.3 BCBS publishes second consultative document on step-in risk

The Basel Committee on Banking Supervision (BCBS) published a second consultation document on guidelines for the identification and management of step-in risk, following its initial consultation in December 2015. "Step-in risk" is defined as the risk that a bank might support entities beyond its contractual obligations in order to protect itself from any adverse reputational risk stemming from its connection to the entities. This type of risk could affect a bank's capital and liquidity positions. The guidelines, as part of the G20 initiative to strengthen the oversight of the shadow banking system, propose criteria for identifying step-in risk as well as potential responses. However, no automatic Pillar 1 capital or liquidity charges are proposed to be included in the framework. The current consultation proposes that the framework should enter into force as soon as possible and no later than end-2019. The deadline for comments on the consultation paper is May 15, 2017.

[\[Press Statement\]](#) [\[Consultation document\]](#)

2. Enterprise and consumer compliance

2.1 FDIC enhances tool to prevent elder financial exploitation

The Federal Deposit Insurance Corporation (FDIC) on March 13, 2017 announced enhancements to its Money Smart for Older Adults curriculum, which identifies common types of elder financial exploitation and informs adults aged 62 or older and their caregivers about ways to prevent, identify, and respond to financial exploitation. The three-part module consists of an instructor guide, a resource guide, and a PowerPoint presentation that supplements classroom instruction.

[\[Press Statement\]](#)

2.2 Department of Justice submits amicus brief in support of PHH Corporation v. CFPB

The U.S. Department of Justice on March 17, 2017 filed an amicus brief in support of the three-judge panel's decision in PHH Corporation v. CFPB that the Consumer Financial Protection Bureau's (CFPB) single-director structure is an unconstitutional violation of the separation of powers because it does not grant the President the authority to remove the head of the agency but for cause. The Department of Justice argued that while removal

restrictions have been lawful for independent agencies that engage in quasi-legislative" rulemaking, the CFPB "embodies a quintessentially executive structure." Additionally, removal restrictions have been allowed for only multi-member bodies.

2.3 Enforcement Actions

The Consumer Financial Protection Bureau (CFPB or the Bureau) announced the following enforcement action in the past week:

- The CFPB ordered a nonbank mortgage company to pay a civil penalty amounting to \$1.75 million to address the CFPB's findings that it consistently failed to report accurate data about mortgage transactions between 2012 and 2014 in violation of the Home Mortgage Disclosure Act (HMDA). In addition to requiring the company to correct and publish its HMDA data from 2012 through 2014, the CFPB's order requires it to develop and implement an effective compliance management system to prevent future violations. The mortgage company consented to the CFPB's order without admitting or denying the CFPB's findings.

3. Capital markets and investment management

3.1 FINRA issues alert on fraud risks in binary options trading

The Financial Industry Regulatory Authority (FINRA) on March 16, 2017 issued an investor alert warning investors trading in binary options through unregistered non-U.S. companies about the risk of fraud related to follow-up scams purported to help recoup initial losses. FINRA mentions that consumers using unregistered non-U.S. trading platforms or services for dealing in such options may be particularly vulnerable to recovery scams and IRS impersonation scams that follow market losses.

[\[Press Statement\]](#) [\[Investor Alert\]](#)

3.2 FSB publishes consultation on UTI governance

On March 13, 2017, the Financial Stability Board (FSB) published the consultation document *Proposed governance arrangements for the unique transaction identifier (UTI)*. A UTI is a unique identifier for individual financial transactions in reports to Trade Repositories (TRs). The consultation document proposes governance arrangements for a global transaction identifier designed to facilitate effective aggregation of transaction reports for the over-the-counter (OTC) derivatives markets. The consultation identifies key criteria for the UTI governance arrangements, identifies UTI governance functions, proposes allocation of some functions to specific bodies, and identifies options for the allocation of

other functions. The document complements the work of the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) as they developed global guidance on harmonization of data elements that are reported to trade repositories.

[\[Press Statement\]](#)

3.3 CFTC extends comment period on proposed capital requirements of swap dealers and major swap participants

On March 13, 2017, the Commodity Futures Trading Commission (CFTC) extended the comment period on its proposed capital requirements for swap dealers and major swap participants by 60 days to May 15, 2017. The original

comment period was to expire March 16, 2017. Notice of the extension will be published in the Federal Register.

[\[Press Statement\]](#)

3.4 Enforcement Actions

The Financial Industry Regulatory Authority (FINRA) announced the following enforcement action in the past week:

- FINRA announced that it has barred a registered investment representative for making unauthorized and unsuitable trades totaling approximately \$15 million and misrepresenting to the customer the reasons for the trades. Without admitting or denying the charges, the representative consented to FINRA's findings.

4. Insurance

4.1 NAIC discusses bilateral cooperation with Japanese regulator

Representatives from the National Association of Insurance Commissioners (NAIC) and the Financial Services Agency of Japan (FSA) met on March 14, 2017 for the seventh biannual NAIC-FSA Insurance Regulatory Dialogue. The NAIC and the FSA discussed regulatory issues, including cross-border reinsurance treatment, the low and negative interest rate environment, and systemic risk assessment. The NAIC-FSA Insurance Regulatory Dialogue was formalized in 2014 to develop and enhance mutual understanding of each jurisdiction's regulatory frameworks and to improve cross-border of insurance groups.

[\[Press Statement\]](#)

4.2 IAIS releases a report on the impact of FinTech on the insurance industry

On March 14, 2017, the International Association of Insurance Supervisors (IAIS) released a report assessing the potential impact of innovative financial technologies (FinTech) on the competitiveness of the insurance sector, viability of emerging business models, and regulatory oversight. The report, entitled *FinTech Developments in the Insurance Industry*, also examines the challenges and opportunities insurance

regulators face in the rapidly changing insurance environment. The report states that FinTech is likely to:

- Disrupt the insurance sector by reducing insurance market competitiveness over the long term, potentially causing traditional insurers to exit the market;
- Increase insurance sector interconnectedness;
- Lead to changes in insurer business models; and
- Increase the focus on improving the customer experience.

The report also highlights that insurance supervisors will have to: balance the risks and benefits of innovations; evaluate and, if needed, adjust the prudential regulation framework; consider the adequacy of current reporting requirements in monitoring trends and the potential build-up of risk connected to new technologies; and understand innovation to ensure adequate assessment of new product and business models.

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

5. New administration updates

5.1 President Trump orders plan for government reorganization

President Trump signed an executive order on March 13, 2017 that directs the Director of the Office of Management and Budget to develop a plan for the reorganization of governmental functions. The aim of the proposed plan is to "eliminate unnecessary agencies, components of agencies, and agency programs." The order requires the head of each agency to submit to the Director within 180 days a proposed

plan "to reorganize the agency, if appropriate, in order to improve the efficiency, effectiveness, and accountability of that agency." The Director is required to publish a notice for comment in the Federal Register and submit to the President within 180 days of the end of the comment period a proposed plan to reorganize the executive branch.

[\[Executive Order of March 13, 2017\]](#)

6. Alternative finance

6.1 OCC issues draft supplement to licensing manual for FinTech companies

The Office of the Comptroller of the Currency (OCC) on March 15, 2017 issued a draft supplement to the agency's Licensing Manual that provides additional detail on evaluating national bank charter applications from financial technology (FinTech) companies. This supplement explains how the OCC will apply the licensing standards and requirements in existing regulations and policies to FinTech companies applying for special purpose national bank charters. The supplement describes the licensing procedures, how the OCC evaluates applications from FinTech companies, and provides guidance on the business plans. The OCC will accept comments on this document through April 14, 2017.

[\[Press Statement\]](#) [\[Licensing Manual\]](#) [\[Draft Supplement\]](#)

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

This update has also been covered under the 'Insurance' section.

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