The Washington Report

Americas FS Regulatory Center of Excellence

The week ended April 21, 2017

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Contents

1. Safety and soundness

1.1 Federal Reserve Governor Powell outlines themes to guide regulatory reform

Federal Reserve Board (Federal Reserve) Governor Jerome Powell provided brief remarks before the Global Finance Forum on April 20, 2017. He suggested that it was now a good time to "step back and ask" which of the many statutory provisions and regulations that were put in place after the financial crisis have worked and where adjustments should be made. He noted that many of these changes were novel, adding "it is not likely that we would have gotten everything exactly right on the first attempt."

Governor Powell suggested a few themes could guide this next phase:

- Protect the core reforms of raising capital and liquidity standards, stress tests and living wills, and avoid a return to the "highly vulnerable system" that existed before the crisis.
- Raise thresholds of applicability and look for other ways to reduce burden on small and medium-sized institutions.
- Look for ways to simplify the rules so that they support the goals but also improve the efficiency of regulation.
- Continue to strive to provide an appropriate level of transparency to supervised firms and the public regarding supervisory expectations.

[Powell Remarks]

1.2 BIS head of research discusses global liquidity

On April 19, 2017, Mr. Hyun Song Shin, Economic Adviser and Head of Research of the Bank for International Settlements (BIS), addressed the International Monetary Fund (IMF)–International Banking Research Network (IBRN) Joint Conference on Transmission of macro prudential and monetary policies across borders. His speech highlighted how the exchange rates affect the economy through financial channels and not just trade channels. He emphasized the fact that financial channels work in the opposite direction to the trade channels and illustrated the point using BIS data on cross-border bank lending. He noted that focusing on capital flows confuses the symptoms from the underlying causes of excess leverage and funding risk and argued that addressing these risk with regulation constitutes a macroprudential framework.

[Press Statement] [Speech]

1.3 Enforcement actions

The Federal Reserve Board (Federal Reserve) announced the following enforcement action in the past week:

- On April 20, 2017, the Federal Reserve announced that it had entered into two consent orders taking enforcement actions against a foreign bank. The orders require the bank to pay total civil penalties of $156.5 million. The fine consists of $136.9 million to address the Federal Reserve's findings the bank engaged in unsafe and unsound practices in the foreign exchange markets, including deficiencies in the oversight of and internal controls related to its foreign exchange traders. The fine also includes a $19.7 million penalty for failure to maintain an adequate Volcker rule compliance program prior to March 30, 2016. The bank is required to improve its senior management oversight and controls relating to the Volcker rule.

2. Enterprise and consumer compliance

2.1 CFPB extends effective date for prepaid accounts rule

On April 20, 2017, the Consumer Financial Protection Bureau (CFPB) released a final rule delaying for six months the October 1, 2017 effective date of its final rule governing prepaid accounts. The new effective date is April 1, 2018. The CFPB proposed the delay to the rule governing Prepaid Accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z) in March and received comments from a range of stakeholders, including consumer advocacy groups and members of the prepaid industry, including issuing banks and credit unions.

[Blog] [Final Rule]

2.2 State regulators announce new Call Report to track money-services activity

On April 20, 2017, the Conference of State Bank Supervisors announced the Money Services Businesses (MSB) Call Report as part of the Nationwide Multistate Licensing System (NMLS). The report includes national and state specific MSB activity information and is to be submitted on a quarterly and annual basis in states that adopt the report. It was developed to enhance and standardize the information available to state regulators concerning MSB activities, which include such businesses as money transmission, check cashing, issuing or selling travelers checks, issuing or selling drafts, foreign currency dealing and exchange, issuing or selling money orders, bill paying, issuing or selling prepaid access/stored value products, and virtual currency. Notably, this report will apply to FinTech companies.

The report was made available in the NMLS on April 1, 2017 and licensees are required to file by May 15, 2017. At present, eighteen state agencies have adopted the report for Q1 2017 covering approximately 80 percent of all money transmitters in the NMLS.

[Press statement] [FAQs]

2.3 Enforcement Actions

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

— On April 17, 2017, the CFPB filed a lawsuit against a debt collection law firm for engaging in illegal debt collection practices. The firm is alleged to have deceived consumers with misleading collection calls and letters by stating that attorneys were involved in collecting the debt when they typically had not. The CFPB alleges that the company violated the Fair Debt Collection Practices Act and Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

— On April 20, 2017, the CFPB sued a nonbank mortgage loan servicer and its subsidiaries for allegedly failing to properly calculate loan balances, apply borrower payments, handle escrow and insurance payments, and address consumer complaints. They also allegedly foreclosed on borrowers illegally and sold servicing rights to loans without fully disclosing mistakes in the borrower's records.

3. Capital markets and investment management

3.1 Enforcement Actions

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

— On April 19, 2017, the CFTC filed a civil enforcement action against a purported hedge fund and its principals and agents for allegedly engaging in commodity futures fraud; retail foreign currency fraud; commodity pool fraud; and failure to register with the CFTC. The company is also alleged to be involved in activities prohibited for a commodity pool operator.

4. New administration updates

4.1 President Trump orders review of Orderly Liquidation Authority

President Trump signed a presidential memorandum on April 21, 2017 that directs the Secretary of the Treasury to review Orderly Liquidation Authority under Title II of the Dodd-Frank Act and report to the President within 180 days. The review is to assess the potential effects of failing financial institutions on financial stability; whether the OLA is consistent with the administration's Core Principles for Regulating the United States Financial System (Executive Order 13772); the cost of invoking OLA; the effect of OLA on excessive risk taking by financial institutions; and whether bankruptcy would be a superior method of resolution. The report is also to include a quantitative assessment of the direct and indirect effects of OLA and recommendations for improvement. The memorandum instructs the Secretary of the Treasury to refrain from making any OLA determinations during this review process unless the Secretary and the President determine that this action is required under section 203(b).

[Presidential memorandum on OLA April 21, 2017]

4.2 President Trump orders review of FSOC processes

President Trump signed a presidential memorandum on April 21, 2017 that directs the Secretary of the Treasury to review the Financial Stability Oversight Council (FSOC) processes under section 113 and section 804 of the Dodd-Frank Act for determining that a nonbank financial firm could pose a threat to U.S. financial stability and designating the firm as "systemically important" and subject to further regulatory standards. The Secretary is to report to the President within 180 days based on consideration of:

- The transparency of the processes;
- Whether the processes provide adequate due process;
- Whether they produce the expectation that the U.S. government will protect designated firms from bankruptcy;
- Whether the analysis of a firm's vulnerability to material financial distress should also assess the likelihood of distress;
- Whether a determination should include projections of the damage to the U.S. economy from a firm's failure;
- Whether these processes adequately consider the costs to the regulated entity;
- Whether entities have an opportunity to have their determinations or designations reevaluated;
- Whether the entity should be provided with information on how to reduce perceived risk prior to determination under section 113 or designation under section 804.

The Secretary is also instructed to evaluate whether the FSOC processes are consistent with the administration's Core Principles for Regulating the United States Financial System (Executive Order 13772) and provide recommendations for improvement. The memorandum instructs the Secretary of the Treasury to refrain as far as legally possible from making any determinations and designations during this review process.

[Presidential memorandum on FSOC processes April 21, 2017]

5. Alternative finance

5.1 State regulators announce new Call Report to track money-services activity

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[Press statement] [FAQs]

This item has also been covered under the Enterprise and consumer compliance section above.

Contact us

This is a publication of KPMG's Financial Services Regulatory Risk Practice and KPMG's Americas FS Regulatory Center of Excellence

Amy Matsuo, Principal, National Leader, Financial Services Regulatory Risk Practice amatsuo@kpmg.com

Ken Albertazzi, Partner and National Lead, Financial Services Safety & Soundness kalbertazzi@kpmg.com

Kari Greathouse, Principal and National Lead, Enterprise and Consumer Compliance cgreathouse@kpmg.com

Tracy Whille, Principal and National Lead, Capital Markets and Investment Management twhille@kpmg.com

Deborah Bailey, Managing Director, Americas FS Regulatory Center of Excellence dpbailey@kpmg.com

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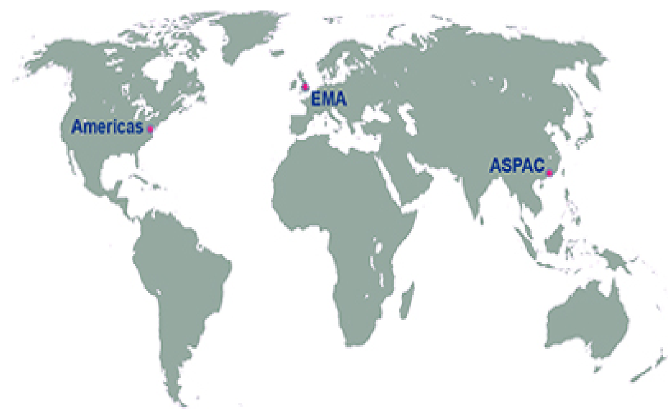

Additional Contacts

Asset Management, Trust, and Fiduciary
Bill Canellis wcanellis@kpmg.com

Bank Regulatory Reporting
Brett Wright bawright@kpmg.com

Capital Markets Regulation
Stefan Cooper stefancooper@kpmg.com

Capital/Basel II and III
Paul Cardon pcardon@kpmg.com

Commodities and Futures Regulation
Dan McIsaac dmcisaac@kpmg.com

Consumer & Enterprise Compliance
Stacey Guardino sguardino@kpmg.com

Cross-Border Regulation & Foreign Banking Organizations
Paul Cardon pcardon@kpmg.com

Financial Crimes
Terry Pesce tpesce@kpmg.com

Insurance Regulation
Matthew McCorry memccorry@kpmg.com

Investment Management
Larry Godin lgodin@kpmg.com

Safety & Soundness, Corporate Licensing & Governance, and ERM Regulation
Greg Matthews gmatthews1@kpmg.com

FS Regulatory Center of Excellence
Karen Staines kstaines@kpmg.com

kpmg.com/socialmedia

kpmg.com/app