The Washington Report

Americas FS Regulatory Center of Excellence

The week ended April 28, 2017

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Contents

1. Safety and soundness

1.1 BCBS issues twelfth progress report on Basel III adoption

On April 25, 2017, the Basel Committee on Banking Supervision (BCBS) published its twelfth progress report on BCBS members' adoption of the Basel III standards, which become effective by 2019. This report updates previous progress reports published semiannually since October 2011. The current report outlines the status of adoption, as of the end of March 2017, of the Basel III risk-based capital standards, the leverage ratio, the liquidity coverage ratio (LCR), the net stable funding ratio (NSFR), the standards for global and domestic systemically important banks (G-SIBs and D-SIBs), Pillar 3 disclosure requirements, the large exposure framework, and interest rate risk in the banking book.

The BCBS reported:

- All twenty-seven members have final risk-based capital rules, LCR regulations and capital conservation buffers;
- Twenty-six members have issued final rules for the countercyclical capital buffers;
- Twenty-five members have issued final or draft rules for D-SIB frameworks;
- Twenty members have issued final or draft rules for margin requirements for non-centrally cleared derivatives;
- Twenty members have issued final or draft rules for monitoring tools for intraday liquidity management; and
- All home jurisdictions to G-SIBs have final rules.

On counterparty credit risk (SA-CCR), bank exposures to central counterparties (CCP) and Pillar 3 disclosures, the BCBS reported:

- Twenty-one members have final or draft rules of the revised Pillar 3 framework;
- Nineteen have final or draft rules of the SA-CCR and capital requirements for equity investments in funds; and
- Seventeen have issued final or draft rules of capital requirements for CCP exposures.

[Press Statement] [Progress Report]

1.2 BIS publishes working paper on bank CEO compensation

The Bank for International Settlement (BIS) on April 25, 2017 published a working paper on April 25, 2017 entitled "How post-crisis regulation has affected bank CEO compensation." The paper assesses whether compensation practices for bank Chief Executive Officers (CEOs) changed after the Financial Stability Board (FSB) issued post-crisis compensation guidelines. It finds that banks in jurisdictions that implemented the FSB's Principles and Standards of Sound Compensation in national legislation changed their compensation policies to link more to risks than short-term profits. CEOs at riskier banks also received less variable compensation than those at less-risky peers. This was particularly true of investment banks and of banks which previously had weaker risk management, for example those that previously lacked a Chief Risk Officer.

[Press Statement] [Working Paper]

1.3 House holds hearings on Financial CHOICE Act

The House Committee on Financial Services formally introduced the Financial CHOICE Act with two days of hearings entitled "A Legislative Proposal to Create Hope and Opportunity for Investors, Consumers, and Entrepreneurs." At the first hearing, on April 26, 2017, the committee heard testimony from seven witnesses representing academia and public policy groups. The witnesses both criticized and supported the Dodd-Frank Act as well as the proposed legislation to change it. Key themes in support of the CHOICE Act included the bankruptcy provision (repeal of the Orderly Liquidation Authority), elimination of the Consumer Financial Protection Bureau (CFPB), repeal of the Durbin Amendment, and improvements to regulatory accountability and effectiveness.

More than ten witnesses provided testimony at the second hearing, which was conducted on April 28, 2017. These witnesses included consumer and investor advocates and representatives from public policy groups that were generally supportive of the Dodd-Frank Act and critical of the CHOICE Act. Key themes in opposition to the CHOICE Act were the elimination of the CFPB, repeal of the Orderly Liquidation Authority in favor of bankruptcy, the regulatory "off ramp" from capital and liquidity requirements, and risks to financial stability arising from repeal of the Volcker Rule, the Exchange Stabilization Fund, and the authority of the Financial Stability Oversight Council to designate nonbank systemically important financial institutions or financial market utilities for supervision by the Federal Reserve Board. .

[April 26 hearing] [April 28 hearing]

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2. Enterprise and consumer compliance

2.1 CFPB monthly snapshot spotlights student loan complaints

On April 25, 2017, the Consumer Financial Protection Bureau (CFPB or Bureau) released its monthly complaint snapshot highlighting consumer complaints about student loans. Some of the key complaints included:

- Poor information and sloppy practices: Consumers complained about servicer's lack of knowledge of repayment options and misapplication of loan payments.
- Difficulty with income-driven repayment plans: Consumers complained about documents being lost by the servicer, application processing taking several months, missed payment towards loan forgiveness, unclear guidance when enrolling into a new income-driven repayment plan, and receiving insufficient information from servicers needed to meet recertification deadlines.
- Confusion around Public Service Loan Forgiveness programs: Consumers report confusion about their loan's progress in Public Service Loan Forgiveness and other loan forgiveness programs. This includes learning that their loans are not enrolled in a qualifying repayment plan after years of making payments and servicers not explaining that consolidating their loans would void previous progress made towards loan forgiveness.

The CFPB handled around 28,000 complaints in March 2017. Of all the complaints, debt collection, credit reporting and mortgages accounted for around of 65 percent of consumer complaints submitted during the month.

[Press Statement] [Monthly Complaint Report]

2.2 CFPB's Supervisory Highlights reports on student loans and mortgages

On April 26, 2017, the Consumer Financial Protection Bureau (CFPB or Bureau) published its fifteenth edition of "Supervisory Highlights." This edition reported supervisory observations in the areas of mortgage servicing and student loan servicing between September and December 2016. With regard to mortgage servicing, the CFPB noted that Supervision continues to observe problems with the loss mitigation process at certain servicers, including instances where the servicer failed to request from borrowers the additional documents and information needed to obtain complete loss mitigation applications, and then denied the applications for missing those documents. Other issues highlighted included dual tracking, problems with the maintenance of escrow accounts, and deficient periodic statements.

With regard to student loan servicers, supervisors found issues with loan deferments, including failure to refund fees and interest imposed on borrowers who had been wrongly terminated from in-school deferments, and the right to defer payments while enrolled in school, and errors in capitalizing interest through successive deferment periods resulting in deceptive statements being provided to borrowers.

[Press Statement] [Supervisory Highlights Report]

2.3 CFPB reports on diversity and inclusion in the mortgage industry

On April 28, 2017, the Consumer Financial Protection Bureau (CFPB) released a report analyzing strategies for promoting diversity and inclusion in the mortgage industry. The report highlights the business case for diversity, current approaches and practices used in the mortgage industry, and the importance of data in assessing the impact of diversity on competition. Additionally, the report highlights issues raised by participants in an industry roundtable discussion, including how changing customer demographics are affecting their businesses and underscoring the need to develop a strong business case for diversity and inclusion. The report also discusses strategies and practices on topics including:

- The business case for diversity and inclusion: The participants highlighted how organizations that embrace diversity and inclusion are more likely to enhance overall performance and have a more positive and productive workplace.
- The importance of leadership buy-in and accountability: The discussion stressed the importance of the "tone from the top," as critical to sustaining a successful diversity program.
- Recruiting, hiring, inclusion, retention, advancement, and engagement: The participants shared that inclusion is vital to developing and sustaining a diverse workforce. Organizations noted that they sought to boost retention levels and advancement prospects of people with different backgrounds and viewpoints and ensure that discussions and decisions reflect analysis that includes multiple viewpoints.
- Broadening the customer base with new business products: The roundtable participants described that a

diverse workforce enables organizations to understand and cater to the varied needs of its customers. This was viewed as critical to attracting and keeping a broader customer base.

— The importance of data: The discussion noted the importance of data analysis in supporting the business case for diversity and found that understanding the demographics of an organization's workforce is key to ensuring that it reflects the available talent pools and remains competitive and effective.

[Press Statement] [Report]

2.4 Enforcement Actions

The Consumer Financial Protection Bureau (CFPB) , the Office of the Comptroller of the Currency (OCC), and the Federal Trade Commission (FTC) announced the following enforcement actions in the past week:

— On April 26, 2017, the CFPB imposed an additional fine of $1.25 million on an auto lender specializing in loans to servicemembers for violating a previous Bureau consent order by failing to give more than $1 million in proper credits or refunds required as redress to harmed consumers. The earlier consent order required the company to pay $2.275 million in redress and a civil penalty of $1 million to address the CFPB's findings it engaged in unfair, deceptive, and abusive debt collection practices. The current penalty is in addition to the fine imposed in the 2015 consent order; the company must also pay $720,000 to the CFPB to be distributed as redress as well as issue more than $370,000 in new credits to harmed borrowers.

— On April 27, 2017, the CFPB filed a complaint against four online lenders for deceiving consumers by collecting debt that they legally did not owe as the loans were void under state laws governing interest rate caps or the licensing of lenders. The loans were void because the lenders charged interest rates that violated usury laws.

— On April 25, 2017, the OCC imposed a $15 million civil money penalty against a national bank to address the OCC's findings the bank violated certain bankruptcy filing requirements between 2009 and 2014 associated with mortgage borrowers. The filing violations include inaccurately filed proofs of claims, payment application inaccuracies resulting in overpayments by debtors or trustees, inaccurate payment change notices, inaccurate post-petition mortgage fees, expenses, and charges, inaccurate notices of final cure, exposure of confidential customer information in court-filed documents, and inconsistent application of the bank's fee waiver practices. The bank consented to the action without admitting or denying wrongdoing.

— On April 24, 2017, a federal court resolved a complaint filed by the FTC against a receivables management company and its principals for threatening consumers with false claims that they would take legal action or garnish wages unless their debts were paid. The court ordered the company's president to pay a $2 million civil penalty for violations of the Fair Debt Collection Practices Act. The company and its President are also banned from the debt collection business.

3. Capital markets and investment management

3.1 CFTC adds 71 names to its RED List

The Commodity Futures Trading Commission (CFTC) added 71 new names to the Registration Deficient (RED) List, which identifies unregistered entities operating illegally. These entities are illegally soliciting and accepting funds from U.S. residents at a retail level for trading in binary options or foreign currency.

[Press Statement]

3.2 SEC awards nearly $4 million to whistleblower

On April 25, 2017, the Securities and Exchange Commission (SEC) awarded $4 million to a whistleblower who tipped the SEC about misconduct and provided additional assistance during the ensuing investigation.

[Press Statement]

3.3 Enforcement Actions

The Securities and Exchange Commission (SEC) announced the following enforcement actions in the past week:

— The SEC on April 24, 2017charged a vice president in the risk management department of an investment bank with insider trading on confidential information. The information relates to a private equity firm's acquisition of a publicly-traded technology company. The SEC is seeking court order to freeze the assets in the brokerage accounts belonging to the accused.

— On April 24, 2017, the SEC charged a portfolio manager with fraud for allegedly carrying out a matched-trades scheme. The portfolio manager is charged with diverting approximately $2 million to his personal brokerage account from a fund over which he had trading authority.

— On April 25, 2017, the SEC charged a former broker for knowingly or recklessly trading unsuitable investment products in the accounts of his five customers and exposing them to a significant degree of volatility and risk. The trades generated commissions and fees of approximately $128,000 after a net loss of approximately $150,000. He is also alleged to have misappropriated more than $170,000 in funds from one customer for his personal use.

— The SEC reached a settlement on April 24, 2017 with two former executives at a foreign-based company who agreed to pay $400,000 for violating the Foreign Corrupt Practices Act.

4. Insurance

4.1 Global insurance organizations discuss global insurance standards and supervisory priorities

The Financial Stability Institute (FSI) of the Bank for International Settlements (BIS), the International Association of Insurance Supervisors (IAIS), and the Association of Insurance Supervisors of Latin America (ASSAL) held a first high-level meeting to discuss global standards and supervisory priorities for the insurance sector in the Americas.

Participants discussed the Common Framework (ComFrame) for the supervision and regulation of internationally active insurance groups and the global Insurance Capital Standard (ICS), both of which are scheduled for adoption in late 2019. Participants also discussed regulatory convergence to strengthen the resilience of internationally active insurance groups, the challenges in modernizing regulatory regimes and adapting to international standards, the supervision of reinsurance and reinsurers, and the impact of FinTech on the insurance sector.

[Press Statement]

Contact us

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

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