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The Washington Report

Americas FS Regulatory Center of Excellence

The week ended June 16, 2017

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1. Safety and soundness

1.1 Treasury releases first report on financial regulation

On June 12, 2017, the U.S. Department of the Treasury released its first report in a series of reports that will examine the U.S. financial regulatory system and make recommendations for changes to the regulatory framework that could reduce regulatory burden. The reports respond to the President's Executive Order 13772, "Core Principles for Regulating the United States Financial System", which instructs the agency to identify regulatory requirements that inhibit Federal regulation of the U.S. financial system in a manner consistent with the Core Principles. This first report covers the depository system, which includes banks, savings associations, and credit unions. In general, the dozens of recommendations address:

- Evaluating mandates and regulatory fragmentation, overlap, and duplication across agencies;
- Reducing regulatory burden by decreasing unnecessary complexity;
- Tailoring regulations based on size and complexity of regulated firms;
- Aligning regulations to support market liquidity, investment, and lending in the U.S. economy; and
- Reforming the Consumer Financial Protection Bureau.

In particular, they include an "off-ramp" from capital, liquidity, and living will requirements for qualifying institutions; revisions to the Volcker Rule; changes to the assets thresholds applicable to the Enhanced Prudential Standards; and changes to stress testing and living will reporting frequencies.

Subsequent reports will focus on capital markets (including derivatives and central clearing), asset management and insurance, and nonbank financial institutions, financial technology and financial innovation.

[Press Statement] [Report]

1.2 BIS releases working paper on Global Liquidity

The Bank of International Settlements (BIS) released a working paper on June 14, 2017, entitled "The Shifting Drivers of Global Liquidity," which discusses the global liquidity landscape in the post-crisis period and highlights the shift in the composition and drivers of international bank lending and international bond issuance. The working paper discusses how the sensitivity of both international bank lending and international bond issuance rose substantially immediately after the Global Financial Crisis, driven mainly by increases in the sensitivities of individual banking systems and the convergence in advanced economy monetary policies. The report attributes a subsequent fall in sensitivity after 2013 to the increased market shares of better-capitalized national banking systems.

[Working Paper]

2. Enterprise and consumer compliance

2.1 CFPB seeks comment on changes to prepaid card rule

On June 15, 2017, the Consumer Financial Protection Bureau (CFPB or Bureau) announced that it is seeking comments on proposed modifications to its prepaid accounts rule. The rule, issued in October 2016, applies consumer protections to "general purpose reloadable" prepaid cards. Among other things, it requires financial institutions to limit consumer losses when funds are stolen or cards are lost, investigate and resolve errors, and give consumers free and easy access to account information as well as clear and upfront information on product terms and fees. The proposed changes would:

- Adjust requirements for resolving errors on unregistered accounts: The proposal would require consumers to register their accounts in order to receive full fraud and error protection benefits such as the right to dispute charges and have stolen money restored.
- Provide greater flexibility for credit cards linked to digital wallets: The proposal would ensure that consumers continue to receive full CARD Act protections on their traditional credit card accounts while making it easier for them to link those accounts to their digital wallet prepaid accounts.

Comments on the proposal are due 45 days after the proposal is published in the Federal Register. In conjunction with this proposal, the Bureau has published an updated version of its small entity compliance guide for the prepaid accounts rule.

[Press Statement] [Proposed Rule]

2.2 U.S. Supreme Court restricts Fair Debt Collection Practices Act

On June 12, 2017, the U.S. Supreme Court held unanimously that a company that collect debts it purchased for its own account is not a "debt collector" under the Fair Debt Collection Practices Act (FDCPA). The Court held that the FDCPA's definition of a "debt collector" as anyone who "regularly collects or attempts to collect . . . debts owed or due . . . another" focuses on third-party collection agents. The definition excludes those who collect debts originating on their own account as well as those who purchase debts for their own account.

[June 12 Decision]

2.3 House Committee passes flood insurance reform bills

On June 15, 2017, the House Committee on Financial Services passed two bills as part of efforts to reauthorize and reform the National Flood Insurance Program (NFIP), which expires on September 30, 2017. The 21st Century Flood Reform Act of 2017 (H.R. 2874) includes provisions aimed at improving the accuracy of flood risk estimates through technology and improved mapping, increasing private insurer participation in the market, and providing alternative methods of flood insurance. The bill passed along party lines by a 30-26 vote.

The National Flood Insurance Program Policyholder Protection Act of 2017 (H.R. 2868) would put a cap on premiums and require the Federal Emergency Management Agency (FEMA) to study the characteristics of flood insurance coverage of urban properties. The bill passed the Committee by a 53-0 vote.

[H.R.2874] [H.R.2868]

3. Capital markets and investment management

3.1 FINRA proposes new implementation date for trade modifiers reporting

On June 12, 2017, Financial Industry Regulatory Authority (FINRA) filed a proposal with the Securities and Exchange Commission (SEC) that would establish an implementation date for certain trade modifiers required on trade reports to the Transaction Reporting and Compliance Engine (TRACE) involving U.S. Treasury Securities. FINRA has filed the proposed rule change for immediate effectiveness. The implementation date is now February 5, 2018.

[Notice] [Notice] [SR-FINRA-2017-018]

3.2 FINRA launches Innovation Outreach Initiative for FinTech

On June 13, 2017, the Financial Industry Regulatory Authority (FINRA) announced that it has established an Innovation Outreach Initiative to help FINRA better understand innovations in financial technology (FinTech) and their impact on the industry. FINRA created a cross-departmental team led by its Office of Emerging Regulatory Issues that will be responsible for:

— Creating a FinTech Industry Committee to facilitate a continuous discussion with the securities industry on FinTech developments and how FINRA’s rules and programs interact with technology innovations;

— Conducting regional roundtables to provide a forum for market participants;

— Developing timely publications on FinTech topics, such as the increased adoption of regulatory technology applications;

— Enhancing FINRA’s communication with the industry, including staff training for coordinating with member firms on FinTech issues; and

— Increasing collaboration with other regulators, both domestically and internationally.

[Press Statement]

3.3 IOSCO publishes task force report on wholesale market conduct

On June 13, 2017, the International Organization of Securities Commissions (IOSCO) published a task force report on misconduct. In September 2015, the IOSCO established a Market Conduct Task Force (the Task Force) to review how IOSCO members approached conduct as well as the IOSCO’s work in this area. The Task Force review sought to raise awareness of the tools and approaches IOSCO members use to regulate conduct in wholesale markets and highlight examples of market conduct tools and approaches that are particularly relevant in the context of wholesale markets. This report identifies existing and ongoing IOSCO initiatives relevant to misconduct risk in wholesale markets, provides tools to address misconduct, and discusses how regulators can help ensure that firms and individuals meet their obligations.

[Report]

3.4 Enforcement Actions

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

— On June 13, 2017, a US District Court entered a Consent Order against an asset management firm and two of its owners for violations of the Commodity Exchange Act (CEA). The order is related to a 2016 CFTC civil enforcement action against the firm for engaging in illegal, off-exchange precious metals transactions with retail customers on a leveraged, margined, or financed basis. Off-exchange leveraged, margined, or financed transactions are illegal unless they result in actual delivery of metals within 28 days. The metals in this case were never actually delivered. The Consent Order imposes permanent trading and registration bans on the defendants and requires them to jointly pay restitution of nearly $650,000 and more than $977,000 in civil monetary penalties.

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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