The Washington Report

Americas FS Regulatory Center of Excellence

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1. Safety and soundness

1.1 Agencies extend resolution plan filing deadline

On August 8, 2017, the Federal Reserve Board (Federal Reserve) and the Federal Deposit Insurance Corporation (FDIC) extended the resolution plan filing deadline for 19 foreign banking organizations and two large domestic bank holding companies. The new deadline of December 31, 2018, gives the firms an additional year to address any supervisory guidance in their next plan submissions. Resolution plans, as required by the Dodd-Frank Act, must describe the company's strategy for rapid and orderly resolution under bankruptcy in the event of material financial distress or failure of the company.

[Press Statement]

2. Enterprise and consumer compliance

2.1 Enforcement action

The Federal Trade Commission (FTC) announced the following enforcement action in the past week:

— The FTC charged an Independent Sales Organization (ISO), sales agents, and their principals with laundering credit card charges (also referred to as "factoring," the practice of processing credit card transactions through another company's merchant account) through fraudulent merchant accounts. The defendants are charged with participating in a deceptive telemarketing operation, providing access to card networks by submitting and approving applications of fictitious companies, and processing almost $6 million through the credit card networks. The FTC's complaint alleges the defendants violated the "unfair or deceptive acts or practices" prohibitions of the FTC Act as well as the FTC's Telemarketing Sales Rule.

3. Capital markets and investment management

3.1 SEC staff publishes report on access to capital and market liquidity

On August 8, 2017, the Securities and Exchange Commission's (SEC) Division of Economic and Risk Analysis published a report entitled *Access to Capital and Market Liquidity*, which describes trends in primary securities issuance and secondary market liquidity, and assesses how those trends relate to post-crisis regulatory reforms. In 2015, Congress directed the SEC to report on the impacts of regulatory reforms in the Dodd-Frank Act and other financial regulations on i) access to capital, for consumers, investors, and businesses, and ii) market liquidity, including U.S. Treasury and corporate debt markets. Key highlights of the report are:

— Access to capital: The report analyzed primary issuances of debt, equity, and asset-backed securities (ABS) and did not find that total primary market security issuance is lower after the Dodd-Frank was enacted and during the implementation of Basel III, but total security issuance may have increased around the implementation of the JOBS Act. The report notes that the results are consistent with strong macroeconomic conditions and a low interest rate environment.

— Market liquidity: The report found mixed evidence of the impact of regulatory reforms on market liquidity, as different measures of market liquidity showed different trends. The report noted that the changes are consistent with several combined factors, including electronification of markets, changes in macroeconomic conditions, and post-crisis changes in dealer risk preferences that pre-date Dodd-Frank or Basel III.

[Press Statement] [Report]

3.2 CFTC grants relief from position aggregation requirements

On August 10, 2017, the Commodity Futures Trading Commission's (CFTC) Division of Market Oversight (DMO) issued Commission Staff Letter No. 17-37 granting no-action relief to market participants until August 12, 2019 from complying with certain position aggregation requirements. The relief extends the previous temporary relief established by Commission Staff Letter No 17-06, which was set to expire on August 14, 2017. In addition to extending the no-action relief period, the most current relief revises the definitions for complying with the aggregation requirements for eligible entities, independent account controllers, and commodity trading advisers. It also limits the aggregation requirements for the "substantially identical trading strategies" rule to circumstances in which the positions in more than one account or pool are held in an attempt to circumvent applicable position limits.

[Press Statement]

3.3 Enforcement action

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

— The CFTC entered an order filing and simultaneously settling charges against a foreign bank for engaging in multiple acts of spoofing in a variety of futures contracts on multiple exchanges. The order requires the bank to pay a $600,000 civil monetary penalty and to cease and desist from violating the Commodity Exchange Act's prohibition against spoofing. The bank self-reported the violation, implemented an internal review, and assisted the CFTC in the investigation. The CFTC indicates these actions are recognized by the "substantially reduced penalty." The bank began an overhaul of its systems and controls and implemented a variety of enhancements to detect and prevent similar misconduct. It also revised its policies, updated its training, and implemented electronic systems to identify spoofing.

4. Insurance

4.1 NAIC signs MOU with Argentina's National Superintendence of Insurance

On August 7, 2017, Ted Nickel, President of the National Association of Insurance Commissioners (NAIC) and the Wisconsin Insurance Commissioner, signed a memorandum of understanding (MOU) with Argentina's National Superintendence of Insurance during the NAIC Summer 2017 National Meeting. The MOU is a framework for coordination of regulatory issues with the goal of efficient, fair, safe and stable insurance markets. The NAIC now has MOUs with 17 individual and regional jurisdictions representing 37 countries.

[Press Statement] [MOU]

5. Alternative Finance

5.1 BIS publishes working paper on FinTech

On August 7, 2017, the Bank for International Settlements (BIS) published a working paper entitled *The FinTech Opportunity*, which assesses the potential impact of FinTech on the finance industry. The author argues that FinTech can improve both financial stability and access to services but significant changes in the focus of regulation is required to facilitate this. The author finds the current financial system to be inefficient and that significant welfare gains are unlikely without the entry of new firms. In addition, the author finds the current regulatory approach focuses exclusively on incumbents, which the author states increases political economy and coordination costs and is therefore unlikely to deliver much structural change. The author concludes with an alternative approach to financial regulation focused on "bottom up structural change" that encourages new market entrants and the development of new systems.

[Press Statement] [Working Paper]

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