

## Financial Regulatory Developments Focus



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**In this newsletter, we provide a snapshot of the principal European, US and global financial regulatory developments of interest to banks, investment firms, broker-dealers, market infrastructures, asset managers and corporates.**

### Derivatives

#### Regulators Request FSB to Assist in Removing Obstacles to Effective Derivatives Trade Reporting

On August 21, 2014, the European Securities and Markets Authority (“ESMA”) published a letter from the OTC Derivatives Regulators Group (“ODRG”) to the Financial Stability Board (“FSB”) requesting the FSB to take steps to resolve the barriers to trade reporting that exist in many jurisdictions where market participants are subject to OTC derivative reporting obligations. The ODRG is made up of regulators from numerous jurisdictions including Europe, the US, Brazil, Australia, Hong Kong, Japan, Singapore, Ontario and Switzerland. The impediments to reporting relate to data protection laws, blocking statutes, state secrecy laws and bank secrecy laws. The ODRG considers that the barriers are impeding effective supervision of reporting entities as well as the effectiveness of the reporting itself. Amendments to legislation may be needed in certain jurisdictions for the barriers to be properly removed. The ODRG believes that measures by the FSB, and possibly the G20, will be needed to ensure that the obstacles to reporting to trade repositories are removed timeously.

#### FCA Reviews Industry for Reporting Compliance under EMIR

On August 21, 2014, the Financial Conduct Authority (“FCA”) published the outcome of its second review into how the industry has dealt with the derivatives reporting obligation under the European Market Infrastructure Regulation. The FCA found that most firms had begun reporting on February 12, 2014 but that there were still some issues with the quality of reports as well as a degree of uncertainty about reporting.

The FCA review is available at:

<http://www.fca.org.uk/firms/markets/international-markets/emir/implementation-reviews/is-the-industry-ready>.

### **CFTC Issues No-action Relief from Certain Documentation Requirements for Uncleared Swap Transactions**

On August 19, 2014, the US Commodity Futures Trading Commission's ("CFTC") Division of Market Oversight announced the issuance of time-limited, conditional no-action relief for swap execution facilities ("SEFs") from compliance with certain data reporting and recordkeeping requirements for confirmations required for uncleared swap transactions executed on or pursuant to the rules of a SEF under CFTC regulation 37.6(b).

As a condition to the no-action relief, SEFs must make copies of certain agreements available to CFTC staff on request, within a reasonable period of time.

The full text of the CFTC no-action letter is available at:

<http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/14-108.pdf>.

### **Bank Prudential Regulation & Regulatory Capital**

#### **EBA Publishes Final Templates for 2014 EU-Wide Stress Test**

On August 20, 2014, the European Banking Authority ("EBA") published the final templates that will be used for the publication of data relating to the 2014 EU-wide stress test. The publication of these templates aims to help market participants understand the data that banks will be disclosing to the EBA and follows the EBA's publication of its methodology and macroeconomic scenarios for the 2014 EU-wide stress test. The EBA's disclosure will cover a banks' composition of capital, risk weighted assets, profit and loss, exposures to sovereigns, credit risk and securitization. The EBA will also disclose a Common Equity Tier 1 capital ratio for each bank. The 2014 EU-wide stress test forms part of the European Central Bank's ("ECB") comprehensive assessment prior to the ECB taking on new banking supervision responsibilities in November 2014 under the Single Supervisory Mechanism, and under which it will directly supervise significant credit institutions. The EBA intends to publish the final results of the 2014 stress test in October 2014.

The final EBA templates are available at:

<http://www.eba.europa.eu/documents/10180/669262/ST+Transparency+Templates.pdf>.

### **Consumer Protection**

#### **Federal Reserve Board Issues Proposal to Repeal Regulation AA**

On August 22, 2014, the US Board of Governors of the Federal Reserve System ("Federal Reserve Board") issued a proposal to repeal Regulation AA (Unfair or Deceptive Acts or Practices). Regulation AA contains the "credit practices rule," prohibiting banks from using certain remedies to enforce consumer credit obligations and from including these remedies in their consumer credit contracts.

Concurrently, the Federal Reserve Board, Consumer Financial Protection Bureau (“CFPB”), Federal Deposit Insurance Corporation, National Credit Union Administration and Office of the Comptroller of the Currency jointly issued clarifying guidance that the repeal of the credit practices rules is not a determination that the prohibited practices contained in such rules are now permissible. The guidance clarifies that the practices codified in the credit practices rules may potentially violate the prohibition against unfair or deceptive practices under the Federal Trade Commission Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act, even in the absence of specific regulation. Comments on the Federal Reserve Board proposal must be submitted by October 24, 2014.

The full text of the Federal Reserve Board proposal is available at:

<http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20140822a1.pdf>.

The full text of the joint agency guidance on unfair or deceptive credit practices is available at:

<http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20140822a2.pdf>.

#### CFPB Issues Final Revisions to Remittance Rules

On August 22, 2014, the CFPB issued final revisions to the remittance rules which extend the temporary exception to the rule to allow federally insured financial institutions such as banks and credit unions to estimate third-party fees and exchange rates for remittance transfers for which financial institutions cannot determine exact amounts. The CFPB final rule extends the exception until July 21, 2020 to allow the financial institutions subject to the rule additional time to develop ways to provide exact fees and exchange rates for all remittance transfers.

The full text of the CFPB final rule is available at:

[http://www.consumerfinance.gov/f/201408\\_cfpb\\_final-rule\\_intl-money-transfer-small-entity.pdf](http://www.consumerfinance.gov/f/201408_cfpb_final-rule_intl-money-transfer-small-entity.pdf).

## People

#### CFTC Names Christopher J. Kirkpatrick as Secretary of the CFTC

On August 25, 2014, the CFTC announced that Christopher J. Kirkpatrick would be named Secretary of the CFTC.

This newsletter is intended only as a general discussion of these issues. It should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

If you wish to receive more information on the topics covered in this publication, you may contact your usual Shearman & Sterling representative or any of the following:

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