



Financial Regulatory Developments Focus

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

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Bank Prudential Regulation & Regulatory Capital

European Commission Publishes Assessment of the Effect of the Revised International Accounting Standard 19 on Own Funds

On January 6, 2016, the European Commission published a report on the effect of the revised International Accounting Standard 19 on the volatility of own funds of banks and investment firms. The Capital Requirements Regulation requires the Commission to assess whether the revised IAS 19 and the requirement on firms to deduct defined-benefit pension fund assets from Common Equity Tier 1 items for the purpose of calculating own funds would impact the volatility of the firm's own funds. The Commission has concluded that the potential additional volatility of own funds introduced by the revision of IAS 19 is limited and that the impact due to initial application has been mitigated by the transitional measures included in the CRR. The Commission therefore does not intend to propose amendments to the CRR in this regard.

The report is available at: <http://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-685-EN-F1-1.PDF>.

Eurozone Supervisory Priorities for 2016 Published

On January 6, 2016, the European Central Bank's Banking Supervision division published its priorities for 2016. Under the Single Supervisory Mechanism Regulation, the ECB is responsible for the direct prudential supervision of the largest Eurozone banks and indirectly responsible for prudentially supervising the smaller Eurozone banks. The priorities, which aim to direct the ECB's supervision of the largest Eurozone banks, are business model and profitability risk, credit risk, capital adequacy, risk governance and data quality and liquidity. The ECB will be implementing initiatives around the priorities during 2016, including thematic reviews and holding dialogue with the banks.

The 2016 SSM Priorities are available at:

https://www.bankingsupervision.europa.eu/ecb/pub/pdf/publication_supervisory_priorities_2016.en.pdf?024a0072fe923441556e5bba7251dd6d.

Basel Committee on Banking Supervision Governing Body Endorses Revised Market Risk Framework and Other Initiatives

On January 11, 2016, the Basel Committee on Banking Supervision announced that its governing body, the Group of Central Bank Governors and Heads of Supervision, known as GHOS, endorsed the new market risk framework, which takes effect in 2019. The full text of the new framework will be published in the coming days. Improvements in the new risk framework include: (i) a revised boundary between the banking and trading books that will reduce scope for arbitrage; (ii) a revised internal models approach with more coherent and comprehensive risk capture; (iii) an enhanced model approval process and more prudent recognition of hedging and portfolio diversification; and (iv) a revised standardized approach that serves as a credible fall-back and floor to the model-based approach and facilitates more consistent and comparable reporting of market risk across banks and jurisdictions. The Basel Committee will also finalize its efforts to address the problem of excessive variability in risk-weighted assets by the end of this year. These efforts will include a proposal to remove the internal model approach for credit risk and limits on the use of internal models for credit risk (in particular, through the use of floors). The GHOS also agreed that the final design and calibration of the leverage ratio should be based on a Tier 1 definition of capital and should comprise a minimum level of 3%. Members also discussed additional requirements for global systemically important banks. The Basel Committee will finalize the calibration in 2016 to allow time for the leverage ratio to be implemented as a Pillar 1 measure by January 1, 2018.

The Bank for International Settlements press release is available at: <http://www.bis.org/press/p160111.htm>.

Conduct & Culture

UK Regulators Propose Amending Notification Rules and Forms for Senior Managers Regime

On January 6, 2016, the Prudential Regulation Authority and the Financial Conduct Authority published proposed changes to their notification rules and forms under the Senior Managers and Certification Regimes. The regulators are proposing the changes in light of the changes to the regime that have been proposed by the UK Government, including

extending the Regime to all financial services firms, removing obligation on a firm to notify the PRA or FCA when it knows or suspects that a senior manager or certified person has failed to comply with the conduct rules and replacing the presumption of responsibility with a duty of responsibility. It remains to be seen whether Parliament will approve those changes proposed by the Government. An amending Order, published in December 2015, stops the above-mentioned notification requirement and the presumption of responsibility from coming into force on March 7, 2016 – the date when the remainder of the new Regime will come into effect. The regulators therefore intend to amend their rules and forms to reflect the position that those provisions of the Regime will not enter into force on March 7, 2016. The PRA has also published an updated Supervisory Statement to take into account the changes. The consultations close on February 8, 2016.

The PRA and FCA consultation papers are available at:

<http://www.bankofengland.co.uk/pr/Documents/publications/cp/2016/cp116.pdf> and
<http://www.fca.org.uk/static/documents/consultation-papers/cp16-01.pdf>.

The PRA's updated Supervisory Statement is available at:

<http://www.bankofengland.co.uk/pr/Documents/publications/ss/2016/ss2815update.pdf>.

Enforcement

US Office of the Comptroller of the Currency Terminates Mortgage Servicing-Related Consent Orders against JPMorgan Chase and EverBank and Issues Civil Money Penalties

On January 5, 2016, the US Office of the Comptroller of the Currency terminated mortgage servicing-related consent orders against JPMorgan Chase Bank, N.A. and EverBank, determining that the banks are now in compliance with the orders. As a result, business restrictions affecting JPMorgan and EverBank that were previously mandated by amendments to the original orders have also been lifted. The OCC also assessed a \$48 million civil money penalty against JPMorgan and a \$1 million civil money penalty against EverBank for previous violations of the orders. According to the OCC, JPMorgan engaged in filing practices in bankruptcy courts with respect to payment change notices that did not comply with bankruptcy rules and constituted unsafe or unsound banking practices. EverBank violated a 2011 consent order by improperly charging fees related to mortgage electronic registration system assignments, property inspections, and late fees to approximately 47,000 borrowers.

The OCC press release is available at: <http://www.occ.gov/news-issuances/news-releases/2016/nr-occ-2016-2.html>, the termination for JPMorgan is available at: <http://www.occ.gov/static/enforcement-actions/ea2016-003.pdf>, and the termination for EverBank is available at: <http://www.occ.gov/static/enforcement-actions/ea2016-002.pdf>.

Financial Market Infrastructure

Commissioner of US Commodity Futures Trading Commission Notes Dodd-Frank Act Failures in Addressing Financial Markets Challenges

On January 8, 2016, as part of US Commodity Futures Trading Commission Commissioner Giancarlo's remarks at an American Bar Association meeting in Washington, DC, the Commissioner stated that the Dodd-Frank Act fails to address the major problems facing today's financial markets. Commissioner Giancarlo noted that regulators must prioritize cyber risk resiliency, foster best practices for new trading technologies, counter distortions caused by central bank market intervention, address the diminishing liquidity in trading markets, and reduce the numerous rules and regulations that are causing service-provider concentration and market fragmentation. The text of Commissioner Giancarlo's address before the ABA is not yet available.

Federal Reserve Bank of New York Concludes Mortgage Operations Counterparty Pilot Program

On January 6, 2016, the Federal Reserve Bank of New York announced the end of its Mortgage Operations Counterparty Pilot Program on December 31, 2015. The program, first announced in August 2014, was intended to discover ways to expand the

range of firms acting as counterparties in the Federal Reserve's open market operations, and to analyze the extent to which firms beyond the primary dealer community can raise the New York Fed's operational capacity and resiliency in its monetary policy operations. Three firms participated in the MOC pilot program and began transacting with the Open Market Trading Desk in secondary market outright operations of agency mortgage-backed securities in December 2014. The results of the pilot programs will provide useful inputs in the Desk's ongoing evaluations of the Federal Reserve's counterparty framework.

The New York Fed press release is available at: <https://www.newyorkfed.org/newsevents/news/markets/2016/an160106>.

Financial Services

US Securities and Exchange Commission Announces 2016 Examination Priorities

On January 11, 2016, the US Securities and Exchange Commission issued its Office of Compliance Inspections and Examinations' 2016 priorities. Areas of focus for this year include liquidity controls, public pension advisers, product promotion, and two investment products – exchange-traded funds and variable annuities. The priorities also provide for continuing emphasis on protecting investors in ongoing risk areas such as cybersecurity, microcap fraud, fee selection, and reverse churning. The examination priorities address issues across a variety of financial institutions, including investment advisers, investment companies, broker-dealers, transfer agents, clearing agencies, and national securities exchanges. The priorities may be adjusted in light of market conditions, industry developments and ongoing risk assessment activities. OCIE selected the priorities in consultation with certain SEC policy divisions and regional offices, the SEC's Investor Advocate, and other regulators.

The SEC press release is available at: <http://www.sec.gov/news/pressrelease/2016-4.html> and the Examination Priorities for 2016 are available at: <http://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2016.pdf>.

People

US Consumer Financial Protection Bureau Names David Silberman as Acting Deputy Director

On January 7, 2016, the Consumer Financial Protection Bureau announced that Mr. David Silberman will serve as Acting Deputy Director beginning the week of January 11, 2016, replacing Meredith Fuchs. Mr. Silberman previously served as Associate Director for Research, Markets, and Regulations. Mr. Silberman will serve as Acting Deputy Director while a search for a replacement is conducted.

The CFPB press release is available at: <http://www.consumerfinance.gov/newsroom/david-silberman-named-acting-deputy-director-of-the-cfpb/>.

Upcoming Events

January 18, 2016: European Banking Authority Public Hearing on Common Procedures for Information Exchange between National Regulators on Proposed Acquisitions and Increases of Qualifying Holdings (registration closed).

January 25, 2016: European Securities and Markets Authority Open Hearing on Validation and Review of Credit Rating Agency Methodologies (registration closes: January 26, 2016).

January 25, 2016: EBA Public Hearing on Assessment Methodology on Use of Internal Models for Market Risk (registration closes: January 11, 2016).

January 26, 2016: CFTC Public Hearing on Application of Blockchain technology in Derivatives Markets.

February 5, 2016: EBA 5th Anniversary Conference (by invitation only).

February 7-10, 2016: 2016 National Interagency Community Reinvestment Conference in Los Angeles, sponsored by the US federal bank regulatory agencies, the Federal Reserve Bank of San Francisco, and the Community Development Financial Institutions Fund (registration closes: January 15, 2016).

February 16, 2016: EBA Open Hearing on Guidelines on Collection of Information for the Internal Capital Adequacy Assessment Process and Internal Liquidity Adequacy Assessment Process (registration closes: January 26, 2016).

Upcoming Consultation Deadlines

January 15, 2016: PRA Consultation on Implementation of Ring Fencing for Core UK Financial Services and Activities.

January 18, 2016: ESMA Consultation on RTS for the European Single Electronic Format under the Transparency Directive.

January 18, 2016: PRA Consultation on Identifying Other Systemically Important Institutions.

January 22, 2016: EBA Consultation on Draft Guidelines on Application of Definition of Default under the CRR.

January 22, 2016: European Supervisory Authorities Consultation on Anti Money Laundering Guidelines.

January 27, 2016: EBA Consultation on Draft Guidelines for Disclosure of Confidential Information under the Bank Recovery and Resolution Directive.

January 28, 2016: EBA Consultation on Draft Guidelines on Treatment of Credit Valuation Adjustment Risk under the Supervisory Review and Evaluation Process.

February 1, 2016: Federal Reserve Board Total Loss-Absorbing Capacity and Related Requirements Proposal.

February 1, 2016: ESMA Consultation on Revised RTS on Data Access and Operational Standards for Comparison and Aggregation of Data.

February 1, 2016: ESMA Consultation on CCP Time Horizon for Liquidation Period.

February 4, 2016: FCA Consultation on Implementation of Market Abuse Regulation.

February 5, 2016: Basel Committee Consultation on Capital Requirements for Simple, Transparent and Comparable Securitizations.

February 8, 2016: EBA Discussion Paper on RTS for Strong Customer Authentication and Secure Communication under the Revised Payment Services Directive.

February 8, 2016: PRA and FCA Consultation on Changes to Notification Rules and Forms under the Senior Managers and Certification Regimes

February 10, 2016: EBA Consultation on Common Procedures for Information Exchange between National Regulators on Proposed Acquisitions.

February 11, 2016: CFTC Proposed Rule on an Alternative to the Requirement for Foreign Natural Persons to Provide Fingerprints when Applying for CFTC Registration.

February 12, 2016: Basel Committee Consultation on TLAC Holdings.

February 19, 2016: ESMA Discussion Paper on Validation and Review of Credit Rating Agencies Methodologies.

February 19, 2016: US Federal Reserve Board Framework for Implementing the Basel III Countercyclical Capital Buffer.

February 20, 2016: FCA Consultation on Amending Guidance on Delaying Disclosure of Inside Information.

February 22, 2016: CFTC Draft Technical Specifications for Certain Swap Data.

February 23, 2016: Committee on Payments and Market Infrastructures and International Organization of Securities Commissions Consultation on Cyber Resilience.

February 25, 2016: UK Government Proposed Changes for Implementation of Bank Recovery and Resolution Directive.

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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