

## Financial Regulatory Developments Focus



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

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

#### **Changes to Federal Reserve Board Policy on Payment System Risk**

On December 1, 2014, the US Board of Governors of the Federal Reserve System (“Federal Reserve Board”) issued changes to part II of the Federal Reserve Policy on Payment System Risk (“PSR policy”) which are intended to improve the efficiency of the payment system. The majority of the changes address posting rules for automated clearing house (“ACH”) and commercial check transactions.

Regarding ACH debit transactions, the Federal Reserve Board approved moving their posting to align with the posting of ACH credit transactions. For commercial check transactions, the Federal Reserve Board adopted moving the posting time for receiving most credits for deposits and debits for presentments to 8:30 a.m. Eastern Time (“ET”), and establishing two other posting times at 1:00 p.m. ET and 5:30 p.m. ET. The posting rule changes for ACH debit and commercial check transactions will become effective July 23, 2015.

Additionally, the Federal Reserve Board also adopted companion amendments to subpart A of its Regulation J titled Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers through Fedwire. The amendments will permit Reserve Banks to obtain settlement from paying banks by as early as 8:30 a.m. ET for checks that the Reserve Banks present and require paying banks that receive presentment of checks from the Reserve Banks to make the proceeds of settlement for those checks available to the Reserve Banks as soon as one half-hour after receipt of the checks. Regulation J changes will become effective July 23, 2015.

The Federal Reserve Policy on Payment System Risk is available at:

<http://www.federalreserve.gov/newsevents/press/other/fr-notice-psr-daylight-overdrafts-20141201.pdf>.

Amendments to Regulation J are available at:

<http://www.federalreserve.gov/newsevents/press/other/fr-notice-reg-j-20141201.pdf>.

#### **The Basel Committee Issues Report Assessing the US Implementation of the Basel Capital Framework**

On December 5, 2014, the Basel Committee on Banking Supervision (“Basel Committee”) issued a report assessing US implementation of the Basel capital framework. Based on the US regulations published in July 2013, the assessment evaluates the consistency and completeness of the jurisdiction’s adopted standards and any deviations from the Basel framework.

Specifically, the Basel Committee evaluated 13 components of the US risk-based capital standards and concluded that seven out of 13 components were considered “compliant” with the minimum standards established under the Basel framework, four components were considered “largely compliant,” and two components were considered “materially non-compliant” – namely the securitization framework and the standardized approach for market risk.

The Basel Committee held discussions with senior officials from the Federal Reserve Board, the Office of the Comptroller of the Currency (“OCC”) and the Federal Deposit Insurance Corporation (“FDIC”) to conduct the assessment. As of December 5, US officials have not made any public statements regarding the results.

The Basel Committee report is available at:

<http://www.bis.org/bcbs/publ/d301.pdf>.

#### **The Basel Committee Assesses the EU Implementation of the Basel Capital Framework**

On December 5, 2014, the Basel Committee published a report assessing the European Union’s implementation of the Basel capital framework. The EU regulatory capital framework came into force on January 1, 2014 and comprises the Capital Requirements Regulation and the Capital Requirements Directive, together known as “CRD IV”. The Basel Committee’s assessment of CRD IV is that eight of the fourteen components are compliant, four components (definition of capital and calculation of minimum requirements, the Standardized Approach for credit risk, the securitization framework and the Standardized Measurement Method for market risk) are largely compliant, the Internal Ratings-Based approach for credit risk is materially non-compliant and the counterparty credit risk element is non-compliant.

The European Commission published a statement on December 5, 2014, in response to the Basel Committee’s assessment. The European Commission confirms that all 20 of the banks that participated in the Basel Committee assessment have capital above the required minima as verified by the recent stress tests.

The Basel Committee report is available at:

<http://www.bis.org/bcbs/publ/d300.pdf> and the European Commission’s statement

is available at: [http://europa.eu/rapid/press-release\\_STATEMENT-14-2403\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-14-2403_en.htm).

## Bank Structure

### Revised FFIEC BSA/AML Examination Manual

On November 26, 2014, the Federal Financial Institutions Examination Council (“FFIEC”) released the revised Bank Secrecy Act/Anti-Money Laundering (“BSA/AML”) Examination Manual, which makes significant changes to the manual released in June 2010. The revised manual provides federal and state banking agencies with guidance on risk-based policies and actions for banking organizations to comply with the BSA and protect their operations from money laundering and terrorist financing. The Manual also includes sections that address compliance with regulations and sanctions programs administered and enforced by the US Office of Foreign Assets Control (“OFAC”). Banking organizations are expected to familiarize themselves with the relevant revisions and make the necessary updates to their BSA/AML and OFAC compliance programs. Summaries for the most important updates can be found in the interagency statement which is linked below.

The FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual is available at: <http://www.occ.gov/publications/publications-by-type/other-publications-reports/ffiec-bsa-aml-examination-manual.pdf>.

The interagency statement is available at: <http://www.occ.gov/news-issuances/bulletins/2014/bulletin-2014-60a.pdf>.

### New York Federal Reserve Creates Integrated Policy Analysis Group

On December 3, 2014, the Federal Reserve Bank of New York (“New York Federal Reserve”) announced the formation of the Integrated Policy Analysis Group (“IPA”), and named executive vice president of the Emerging Markets and International Affairs Group (“EMIA”), Alberto G. Musalem, as head of the new group. The EMIA Group will cease to operate in January, 2015.

IPA is intended to improve the New York Federal Reserve’s ability to design a more comprehensive view of the global economic and financial environment, in order to strengthen decision-making across the New York Federal Reserve’s monetary, supervisory and payments policy responsibilities within the Federal Reserve System. IPA will manage the New York Federal Reserve’s international relationships and evaluate risks that could influence its objectives. IPA will begin its work in January, 2015, and bring together teams which will include analysts from the Bank’s EMIA, Markets, Financial Institution Supervision, Risk and Research groups and Office of Financial Stability and Regulatory Policy.

Alberto G. Musalem’s biography is available at: <http://www.newyorkfed.org/aboutthefed/orgchart/musalem.html>.

## Derivatives

### US Commodity Futures Trading Commission to Reopen Comment Period for Position Limit Rulemaking

On December 1, 2014, the US Commodity Futures Trading Commission (“CFTC”) announced that it will reopen the comment period for 45 days on its Position Limit Rulemaking, which relates to a crackdown of speculation in energy, grain and metal markets. The intention is to provide commenters with a sufficient period of time to respond to questions raised at the Agricultural Advisory Committee meeting scheduled for December 9, 2014. The deadline for the comment period is January 22, 2015.

Further information can be found in the Federal Register available at:

<http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2014-28482a.pdf>.

### US Commodity Futures Trading Commission Announces Agenda for Upcoming Agricultural Advisory Committee Meeting

On December 4, 2014, the CFTC announced the agenda for the upcoming Agricultural Advisory Committee meeting on Tuesday, December 9, 2014, at its headquarters in Washington, DC. The meeting will focus on issues pertaining to the agricultural economy as a whole and more specifically address concerns related to deliverable supplies of agricultural commodities, as they pertain to position limits. The agenda includes a question and answer discussion with US Department of Agriculture Secretary Tom Vilsack.

The Agricultural Advisory Committee meeting agenda is available at:

[http://www.cftc.gov/About/CFTCCcommittees/AgriculturalAdvisory/aac\\_120914agenda](http://www.cftc.gov/About/CFTCCcommittees/AgriculturalAdvisory/aac_120914agenda).

The Agricultural Advisory Committee meeting discussion questions are available at:

[http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/generic/aac\\_positi onlimitsquestions.pdf](http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/generic/aac_positi onlimitsquestions.pdf).

## Financial Market Infrastructure

### Comptroller of the Currency Discusses Efforts to Reduce Regulatory Burden

On December 2, 2014, Comptroller of the Currency Thomas J. Curry urged public and industry participation in the federal banking regulators’ decennial review to recognize regulations that are outdated and unnecessary. He made his comments during the first of a series of public meetings required by the Economic Growth and Regulatory Paperwork Reduction Act (“EGRPRA”).

Comptroller of the Currency remarks is available at: <http://www.occ.gov/news-issuances/speeches/2014/pub-speech-2014-162.pdf>.

More information about the EGRPRA review is available at:

<http://egrpra.ffiec.gov/>.

### Comptroller of the Currency Discusses the Supervision of Federal Branches and Agencies of Foreign Banks

On December 3, 2014, Comptroller of the Currency Thomas J. Curry discussed the OCC approach to supervising federal branches and agencies of foreign banks. His remarks highlighted the OCC philosophy that supervision is specifically tailored to each individual branch or agency rather than an attempt to implement a one-size-fits-all approach. Main talking points centered on collaboration with foreign jurisdictions, cybersecurity and compliance with the Bank Secrecy Act and Anti-Money Laundering laws. His comments were made during an event hosted by the International Bankers Association of California and the National Association of Chinese American Bankers.

Comptroller of the Currency remarks is available at: <http://www.occ.gov/news-issuances/speeches/2014/pub-speech-2014-164.pdf>.

### Financial Services

#### US Securities and Exchange Commission Issues Proposal on Municipal Asset-Backed Securities-Related Disclosure

On December 1, 2014, the US Securities and Exchange Commission (“SEC”) and the US Municipal Securities Rulemaking Board (“MSRB”) issued a proposed rule adding municipal asset-backed securities-related disclosure required under Securities Exchange Act of 1934 Rule 15Ga-1 to the list of categories of continuing disclosures that the MSRB’s Electronic Municipal Market Access (“EMMA”) will continue to accept and distribute publicly. The proposed rule also makes several minor technical changes such as the removal of outdated language, updating naming conventions, among others. The MSRB filed the proposal as a non-controversial rule change that is effective upon filing. However, the proposed rule change will not be made operative before January 9, 2015. Comments on the proposed rule are due by December 26, 2014.

The SEC proposed rule is available at: <http://www.gpo.gov/fdsys/pkg/FR-2014-12-05/pdf/2014-28548.pdf>.

### People

#### FDIC Announces Appointment of CLO and Director of Corporate University

On December 5, 2014, the Federal Deposit Insurance Corporation announced the appointment of Suzannah L. Susser as Chief Learning Officer (“CLO”) and Director of Corporate University, where she had served as acting director since November 2013.

## Events

December 9, 2014: The CFTC will convene a meeting of the Agricultural Advisory Committee at its headquarters in Washington, DC.

December 10, 2014: Committee on Banking, Housing and Urban Affairs will meet in open session to conduct an oversight hearing on the “Cybersecurity: Enhancing Coordination to Protect the Financial Sector.”

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.

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