



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.

[Click here](#) if you wish to access our website on Financial Regulatory Developments.

The quarterly European Governance & Securities Law Focus newsletter is available [here](#).

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Bank Prudential Regulation & Regulatory Capital

European Banking Authority Announces Details of 2016 EU-Wide Stress Test

On November 5, 2015, the European Banking Authority published the details of its 2016 EU-wide stress test exercise that will be launched in the first quarter of 2016. The names of the 53 EU banks that will take part in the exercise have been published, of which 39 fall under the jurisdiction of the Single Supervisory Mechanism. The stress test will cover broadly more than 70% of the EU banking sector and will assess the ability of EU banks to meet relevant supervisory capital ratios in the event of adverse economic conditions. The EBA also published its draft methodological note for discussion together with a draft template to be used as part of the stress test exercise. The results of the stress tests will be published in the third quarter of 2016.

The press release is available at:

<http://www.eba.europa.eu/-/eba-announces-details-of-2016-eu-wide-stress-test?doAsGroupId=10180>.

Financial Stability Board Publishes Updated List of Global Systemically Important Banks for 2015

On November 3, 2015, the Financial Stability Board published an updated list of banks identified by the FSB and the Basel Committee on Banking Supervision as G-SIBs. The list, which is updated on an annual basis, sets out 30 banks that are considered to be G-SIBs. Compared to the list of G-SIBs identified in 2014, China Construction Bank has been added and Banco Bilbao Vizcaya Argentaria has been removed. The next updated list will be published in 2016.

The list of G-SIBs is available at:

<http://www.financialstabilityboard.org/wp-content/uploads/2015-update-of-list-of-global-systemically-important-banks-G-SIBs.pdf>.

Financial Stability Board Publishes Finalized Total Loss Absorbing Capacity Standard for Global Systemically Important Banks

On November 9, 2015, the Financial Stability Board published the final Total Loss Absorbing Capacity standard for Global Systemically Important Banks, following its November 2014 consultative document. The standard aims to ensure that G-SIBs have sufficient loss absorbing and recapitalisation capacity so that national regulators are able to implement orderly resolution with minimal impact on financial stability, while maintaining continuity of firms' critical functions, and avoiding exposing public funds to potential loss. G-SIBs will be required to meet a minimum TLAC requirement of at least 16% of the G-SIB group's Risk-Weighted Assets as of January 1, 2019 and a minimum of 18% as of January 1, 2022. Minimum TLAC must also be at least 6% of the Basel III leverage ratio denominator (i.e., the TLAC Leverage Ratio Exposure minimum) as of January 1, 2019 and at least 6.75% as of January 1, 2022. G-SIBs headquartered in emerging markets will be required to meet the 16% RWA and 6% TLAC LRE minimum requirements by January 1, 2025 and the 18% RWA and 6.75% TLAC LRE minimum requirements by January 1, 2028. The FSB will monitor the implementation of the TLAC standard and aims to conduct a formal review of technical implementation by the end of 2019.

The press release and final standard are available at: <http://www.financialstabilityboard.org/2015/11/tlac-press-release>.

Basel Committee on Banking Supervision Consults on Total Loss Absorbing Capacity Holdings

On November 9, 2015, the Basel Committee published a consultation paper on TLAC holdings, setting out the proposed prudential treatment of investments in TLAC-qualifying instruments by both G-SIBs and non-G-SIBs that are subject to the Basel Committee's standards. The consultation proposes that banks deduct their holdings of TLAC instruments from their regulatory capital, subject to certain thresholds, and seeks to limit contagion within the financial system should a G-SIB enter into resolution. The consultation also sets out revisions that are required to the text of Basel III, specifying how G-SIBs must take on board TLAC requirements when calculating regulatory capital buffers. Comments are due by February 12, 2016.

The consultation paper is available at: <http://www.bis.org/bcbs/publ/d342.pdf>.

Bank Structural Reform

US Regulators Issue Supervisory Guidance on Capital Treatment of Certain Investments in Covered Funds under Regulatory Capital Rule and Volcker Rule

On November 6, 2015, the US Board of Governors of the Federal Reserve System, together with the US Office of the Comptroller of the Currency and the US Federal Deposit Insurance Corporation, issued guidance entitled Deduction Methodology for Investments in Covered Funds, in order to reconcile the regulatory capital rule and the Volcker Rule with respect to the capital treatment for investments in certain hedge funds and private equity funds (i.e. covered funds under the Volcker Rule). The Methodology provides banking organizations with guidance on reporting deductions of covered funds under the Volcker Rule as well as a step-by-step process to reconcile the treatment of overlapping tier 1 capital deductions for investments in covered funds required by the Volcker Rule with any regulatory capital rule's deductions for investments in the capital of unconsolidated financial institutions.

The guidance and press release are available at: <http://www.federalreserve.gov/bankinforeg/srletters/sr1513.htm>; and <http://www.federalreserve.gov/bankinforeg/srletters/sr1513a1.pdf>.

Conduct & Culture

Chair Janet L. Yellen Testifies on Supervision and Regulation before House Committee on Financial Services

On November 4, 2015, Janet Yellen, Chair of the Federal Reserve Board, testified before the House Committee on Financial Services on supervision and regulation of financial services. Her testimony consisted largely of a review of the regulatory framework and steps US regulators have taken since the financial crisis to strengthen the regulation and supervision of the largest banking institutions, including instituting capital, liquidity, stress testing and annual resolution planning requirements. Chair Yellen further spoke to the work of the Federal Reserve's Large Institution Supervision Coordinating Committee, which is responsible for the supervision of the eight largest US G-SIBs. Though noting that the "financial condition of the firms... has strengthened considerably since the crisis..." both from financial stability and corporate governance perspectives, she stated that US G-SIBs continue to have "substantial compliance and risk-management issues", which the Federal Reserve Board, through the LISCC, is dealing with "directly and comprehensively".

Chair Yellen's complete statement is available at:

<http://www.federalreserve.gov/newsevents/testimony/yellen20151104a.pdf>.

Federal Reserve Bank President Dudley Opening Remarks at Reforming Culture and Behavior in Financial Services Industry Workshop

On November 5, 2015, William C. Dudley, President and Chief Executive Officer of the Federal Reserve Bank of New York, made opening remarks at the Reforming Culture and Behavior in the Financial Services Industry: Workshop on Progress and Challenges. In his remarks, he reiterated certain points from his previous speeches, noting that there still remain "deep-seated cultural and ethical failures" in the financial services industry that need to be handled from the inside out. He continued to encourage the industry to focus not just on banning specific examples of misconduct, but rather to try to find the underlying causes. "I think our focus should be less on the search for bad apples and more on how to improve the apple barrels."

President Dudley's remarks are available at: <http://www.ny.frb.org/newsevents/speeches/2015/dud151105.html>.

Federal Reserve Board Governor Daniel K. Tarullo Speaks at 18th Annual International Banking Conference

On November 5, 2015, Federal Reserve Board Governor, Daniel K. Tarullo, spoke at the 18th Annual International Banking Conference on “Shared Responsibility for the Regulation of International Banks”. He spoke about the benefits of international banking, including diversification and improved efficiencies, and the associated risks including contagion risk. Governor Tarullo also made recommendations encouraging further cross-border coordination including: (i) greater information sharing between countries; (ii) encouraging financial regulators to fully understand the risks and standards in other jurisdictions when considering substituted compliance; and (iii) regular contact between top country officials. In his conclusion, Governor Tarullo encouraged a “strong set of international prudential standards” and “good institutional relationships” in order to establish an improved environment for internationally active banks.

Governor Tarullo’s complete speech is available at:

<http://www.federalreserve.gov/newsevents/speech/tarullo20151105a.pdf>.

US Federal Deposit Insurance Corporation Vice Chairman Hoenig Speaks on Post-Crisis Risks and Bank Equity Capital

On November 5, 2015, US FDIC Vice Chairman Thomas M. Hoenig spoke at the Annual International Banking Conference regarding “Post-crisis risks and bank equity capital”. Vice Chairman Hoenig’s remarks focused on the comparison of capitalizing banks with debt or equity capital. Specifically, he pointed out the key risks of using debt capital, as required by the recent TLAC proposal by the Federal Reserve. He noted that costly debt may put earnings pressure on firms and may even accelerate failure in the case of financial distress. Moreover, debt rules essentially require regulators to “predict what activities and investments might cause future crises”. Vice Chairman Hoenig suggested that equity rules would allow well capitalized institutions to withstand shocks and crises in the financial system and would not require any “extraordinary insight” from financial regulators. He argued that the overall economic benefits will be higher than the related costs, and points to the current outperformance of well-capitalized US institutions as compared to less well-capitalized European institutions as an example. According to Vice Chairman Hoenig, “...our goal to prevent failure should be every bit as important as resolving failed firms” and increased equity capital would be a stronger deterrent as compared to debt.

Vice Chairman Hoenig’s complete remarks are available at: <https://www.fdic.gov/news/news/speeches/spnov0515.html>.

UK Regulator Consults on Handbook Changes to Implement Market Abuse Regulation

On November 5, 2015, the Financial Conduct Authority published a consultation paper on proposals for necessary changes to the FCA Handbook that are required to implement the new Market Abuse Regulation. The consultation paper seeks views, amongst other things, on the different options for implementing the new regime in two areas, namely: (i) the requirement for issuers to provide an explanation for a delay in the disclosure of inside information under certain circumstances; and (ii) the threshold for disclosure of managers’ transactions for persons discharging managerial responsibilities within issuers. MAR replaces the Market Abuse Directive and will apply from July 3, 2016. Comments on the consultation are due by February 4, 2016.

The consultation is available at: <http://www.fca.org.uk/static/fca/documents/consultation-papers/cp-15-35-mar.pdf>.

UK Government Grants Further Disciplinary Powers to UK Regulator

On November 5, 2015, HM Treasury published the Financial Services and Markets Act 2000 (Misconduct and Appropriate Regulator) Order 2015 which amends the Financial Services and Markets Act 2000. The Order, amongst other things, grants the FCA with disciplinary powers over individuals working in financial services firms, and when there has been a breach of the Alternative Investment Fund Managers Regulations 2013 by a firm. The Order enters into force on March 7, 2016 (excluding Articles 2 and 3(4) of the Order which enter into force on March 7, 2017).

The Order and Explanatory Note are available at: <http://www.legislation.gov.uk/ukxi/2015/1864/contents/made>.

UK Government Publishes Order Allowing Non-UK Institutions to be Relevant Authorized Persons

On November 5, 2015, HM Treasury published the Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order 2015 which amends the FSMA 2000. A RAP is a UK institution that, amongst other things is: (i) a credit institution with permissions under FSMA to carry on the regulated activity of accepting deposits; or (b) an investment firm that deals in investments as principal; and (c) is not an insurer. The Order provides for non-UK institutions to be "relevant authorised persons" if they fall into one of two categories and if they are not insurers. The two categories are: (i) a non-UK firm that is a credit institution with a branch in the UK and that is authorised to take deposits; or (ii) a non-UK firm that is an investment firm with a branch in the UK, authorised to deal in investments as principal in the UK and is regulated by the Prudential Regulation Authority for that activity. The Order enters into force on November 9, 2015.

The Order and Explanatory Note are available at: <http://www.legislation.gov.uk/ukxi/2015/1865/contents/made>.

International Monetary Fund Director Lagarde Speaks at Federal Reserve Bank of New York on Personal Accountability in the Financial Services Industry

On November 5, 2015, Christine Lagarde, Managing Director at the International Monetary Fund, provided remarks regarding "The Role of Personal Accountability in Reforming Culture and Behavior in the Financial Services Industry" at the Federal Reserve Bank of New York's Reforming Culture and Behavior in the Financial Services Industry: Workshop on Progress and Challenges. The speech focused on two key points: (i) the role of individual accountability in changing the culture and behavior in the industry; and (ii) the role of regulators, industry leaders and educators in bringing about this change. Director Lagarde emphasized the importance of a "culture of greater virtue and integrity at the individual level". She recommended implementing this culture not only through continued civil and criminal penalties, but by "appealing to the 'moral compass' of individuals". She pointed to the Ethics Oath recently introduced in the Dutch financial industry as an example and remarked on the importance of "setting the right tone at the top" and encouraging a culture of "zero tolerance" for unethical behavior. Director Lagarde's complete remarks are available at: <http://www.imf.org/external/np/speeches/2015/110515.htm>.

Financial Stability Board Progress Report on Reducing Misconduct in Finance Industry

On November 6, 2015, the FSB published a progress report on measures to reduce misconduct in the finance industry. The report, amongst other things, sets out the next steps that the FSB will take to address such misconduct. The FSB's aims include: (i) establishing a working group so that outlooks and good practices can be exchanged with a view to create possible necessary guidelines; (ii) examining the use of compensation tools for addressing misconduct, with a view to making recommendations on better practices if needed; and (iii) organizing a workshop so that national experiences can be shared on the role of enforcement powers of bank regulators in addressing misconduct by individuals.

The report is available at: <http://www.financialstabilityboard.org/wp-content/uploads/Misconduct-risk-progress-report.pdf>.

Derivatives

CFTC's Division of Market Oversight Extends Time-Limited No-Action Relief for Swap Execution Facilities from Certain "Block Trade" Requirements

On November 2, 2015, the US Commodity Futures Trading Commission's Division of Market Oversight extended time-limited no-action relief to Swap Execution Facilities from certain requirements in the definition of "block trade" in CFTC Regulation Section 43.2. Section 43.2 includes in its definition of "block trade," a publicly reportable swap transaction that "occurs away" from a registered SEF's trading system and executed according to the SEF's procedures. The No-Action Letter extends time-limited relief to SEFs from the "occurring away" requirement until November 15, 2016. Overall, the extension will allow the CFTC continued time to monitor and evaluate SEF trading practices,

specifically in regards to pre-execution credit checks. It will also allow the CFTC time to evaluate best practices and create a more comprehensive permanent solution for screening block trade orders for compliance with risk-based limits.

The CFTC press release is available at: <http://www.cftc.gov/PressRoom/PressReleases/pr7272-15>.

CFTC Staff Letter 15-60 is available at:

<http://www.cftc.gov/idc/groups/public/@llettergeneral/documents/letter/15-60.pdf>.

European Securities and Markets Authority Consultation on Indirect Clearing under European Market Infrastructure Regulation and Markets in Financial Instruments Regulation

On November 5, 2015, the European Securities and Markets Authority published a consultation paper on draft Regulatory Technical Standards for Indirect Clearing Arrangements relating to OTC derivatives under the European Market Infrastructure Regulation and on Exchange-Traded Derivatives under the Markets in Financial Instruments Regulation. Indirect clearing is a situation where a person accesses clearing through two or more layers of intermediation, i.e. both a clearing member and another intermediary such as a regional bank or affiliate. The draft RTS on ICAs developed under MiFIR included rules for ETDs and a separate RTS under EMIR applies to OTC derivatives. A draft new RTS under EMIR is proposed. Both RTS aim to resolve well-known market difficulties resulting from the incompatibility of existing RTS with insolvency laws and current market practice. There are proposals for persons using indirect clearing to have a choice of separate net margined or gross margined accounts at clearing house level. The requirements for "leapfrog" payments to be made by clearing members, bypassing insolvent intermediaries, are to be watered down considerably, due to concerns around conflicts with insolvency laws. New proposals are made for chains involving more than one intermediary. Both sets of draft RTS are included in the annexes of the consultation paper. Following the consultation period and any changes resulting from it, ESMA would submit new RTS to the European Commission. Comments are due by December 27, 2015.

The consultation paper is available at: <http://www.esma.europa.eu/consultation/Consultation-paper-indirect-clearing-under-EMIR-and-MiFIR>.

Enforcement

US Banking Regulators Announce Actions against Deutsche Bank Regarding US Sanctions Violations

On November 4, 2015, the US Federal Reserve Board, in conjunction with the New York Department of Financial Services, announced \$258 million in total civil monetary penalties and a cease and desist order against Deutsche Bank AG in regards to US sanctions violations. According to the orders, Deutsche Bank conducted business at its offices outside of the United States with respect to, and in violation of, certain US-sanctioned countries including Iran, Libya, Syria and Sudan. The order requires Deutsche Bank to implement an enhanced global compliance program in accordance with US sanctions rules established by the US Department of Treasury's Office of Foreign Assets Control. Additionally, Deutsche Bank will be required to terminate six employees allegedly involved, as well as bar three other employees from US operations-related duties. The Federal Reserve Board and NYDFS announced \$58 million and \$200 million civil monetary penalties, respectively. Deutsche Bank still faces investigations by the US Department of Justice and the NYDFS regarding possible sanctions violations with respect to its Russian activities.

The Federal Reserve Board order is available at:

<http://www.federalreserve.gov/newsevents/press/enforcement/enf20151104a1.pdf>.

The NYDFS order is available at: <http://www.dfs.ny.gov/about/ea/ea151103.pdf>.

The Federal Reserve Board press release is available at:

<http://www.federalreserve.gov/newsevents/press/enforcement/20151104a.htm>.

Financial Services

US Banking Regulators Release Results of Annual Shared National Credit Review Noting High Credit Risk and Weaknesses Related to Leveraged Lending

On November 5, 2015, the Board of Governors of the Federal Reserve System, the FDIC and OCC released results from the annual Shared National Credit review. The SNC review has been conducted by the banking agencies since 1977 to assess risk in the largest and most complex credits shared by numerous financial institutions. A SNC generally includes large loans or formal loan commitment extended to borrowers by a federally supervised institution, its subsidiaries and certain affiliates and is shared by three or more unaffiliated supervised institutions. According to the release, leveraged lending continues to be a key issue in the SNC portfolio. Specifically, the agencies noted that leveraged transactions originated over the past year continue to show structural deficiencies, an issue that has persistently been cited by US regulators as problematic, including the 2013 interagency guidance on leveraged lending. The release notes that there seems to be a discrepancy between industry practices and safe and sound banking expectations when looking at leveraged transaction structures. The review also pointed out weaknesses related to oil and gas credits.

The SNC Review and press release are available at:

<http://www.federalreserve.gov/newsevents/press/bcreg/20151105a.htm>; and
<http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20151105a1.pdf>.

UK Supreme Court Judgment on European Communities Act Amending a UK Act of Parliament

On October 21, 2015, the UK Supreme Court considered the case of *United States of America v Nolan*. The case gave thought to whether a statutory instrument made under section 2 of the European Communities Act 1972 could effectively be deemed to amend a UK Act of Parliament. It was held that the ECA was wide enough for a statutory instrument to be effective in this way, however the Court found that the question was “difficult and borderline”. The EU Financial Collateral Directive was implemented in the UK via the Financial Collateral Regulations 2003, a statutory instrument that was also made under the same section of the ECA. The Directive relates to title transfer financial collateral arrangements and security financial collateral arrangements made between certain classes of qualifying persons. Lord Mance considered previous case law on section 2 of the ECA, and in particular the decision taken in *Cukurova Finance International Ltd v HM Treasury* which related to the FCR. Lord Mance considered that Cukurova's unsuccessful challenge was “greatly underestimated”, suggesting that it may have been wrongly decided and casting doubts on the enforceability of certain aspects of the FCR. In our view, these remarks are obiter dicta, given that the particular situation of these regulations was not at issue in the case.

The decision in *USA v Nolan* is available at: <http://www.bailii.org/uk/cases/UKSC/2015/63.html>.

UK Government and Regulators Jointly Publish Policy Statement on Implementation of Transparency Directive Amending Directive

On November 6, 2015, HM Treasury and the FCA jointly published a policy statement on the implementation of the directive amending the Transparency Directive, setting out final rules and summarizing feedback received on their previous joint consultation on proposed amendments to the FSMA 2000 and Disclosure Rules and Transparency Rules (known as DTRs) for such implementation. The policy statement sets out the responses to the previous consultation, including on the requirement to disclose voting rights arising from holdings of financial instruments that have a similar economic effect to holding shares, as well as on the extension of deadlines for the publication of half-yearly reports and the period of time for which financial reports are publicly available. The policy statement also includes the FCA's new DTRs Sourcebook (Transparency Directive Amending Directive) Instrument 2015, implementing the changes as set out in the policy statement. The new rules enter into force on November 26, 2015.

The Policy Statement is available at: <http://www.fca.org.uk/static/fca/article-type/policy%20statement/ps15-26.pdf>.

Recovery & Resolution

Financial Stability Board Publishes Report on Removing Obstacles to Resolvability

On November 9, 2015, the FSB published a report on removing remaining obstacles to resolvability. The report states that significant work is still to be carried out to make resolution plans fully operational and recognizes that not all FSB jurisdictions have a bank resolution regime that is in line with the FSB's key attributes of effective resolution regimes for financial institutions, which were last updated in October 2014. The FSB intends, amongst other things, to develop guidance to implement the TLAC standard and undertake work on CCP resolution and resolution planning, including possibly making a proposal for draft guidance.

The report is available at: <http://www.financialstabilityboard.org/wp-content/uploads/Report-to-the-G20-on-Progress-in-Resolution-for-publication-final.pdf>.

People

European Securities and Markets Authority Elects New Members to Management Board

On November 6, 2015, ESMA announced it had elected three members to its management board, replacing outgoing members whose terms expire in November 2015. Lourdes Centeno and Elisabeth Roegele are both new members, whilst Klaus Kumpf Müller has been re-elected for another term. All three members will serve a term of two and half years starting December 1, 2015.

The press release is available at: <https://www.esma.europa.eu/content/ESMA-appoints-new-members-its-Management-Board>.

Upcoming Events

November 18 and 19, 2015: EBA Fourth Annual Research Workshop: Financial Regulation and the Real Economy: A Micro Prudential Perspective.

November 20, 2015: EBA workshop on implementing EBA Guidelines on methods for calculating contributions to Deposit Guarantee Schemes (registration by invitation only).

December 14, 2015: European Commission conference on the impact of the Capital Requirements Regulation and Capital Requirements Directive on Bank Financing of the Economy.

December 15, 2015: EBA public hearing on proposed Guidelines on anti-money laundering and countering the financing of terrorism.

January 5, 2016: EBA public hearing on draft Guidelines on communication between national regulators supervising credit institutions and their auditors.

January 13, 2016: EBA public hearing on disclosure of confidential information in summary or collective form under the BRRD (registration closes on December 23, 2015).

Upcoming Consultation Deadlines

November 16, 2015: Regulatory Oversight Committee Proposals to Include Branch Data into the Global Legal Entity Identifier System.

November 20, 2015: Competition and Markets Authority Report on Provisional Findings on the Retail Banking Market.

December 7, 2015: FCA Consultation on Part III of Implementation of UCITS V Directive.

December 7, 2015: PRA and FCA Consultation on Regulatory References.

December 7, 2015: Committee on Payments and Market Infrastructures Consultation on Correspondent Banking Reforms.

December 17, 2015: HM Treasury consultation on legislative amendments to implement the Undertakings for Collective Investments in Transferable Securities V Directive.

December 22, 2015: FCA and HM Treasury Consultation on Public Financial Guidance.

December 22, 2015: FCA and HM Treasury Call for Input on Improving Access to Financial Advice for Consumers.

December 24, 2015: ESMA consultation on Regulatory Technical Standards for the European Single Electronic Format under the Transparency Directive.

December 27, 2015: ESMA Consultation on Indirect Clearing under EMIR and MiFIR.

January 6, 2016: European Commission Consultation on EU Covered Bond Framework.

January 6, 2016: European Commission Consultation on EU Venture Capital Investment Funds Regulation and European Social Entrepreneurships Funds Regulation.

January 14, 2015: European Commission consultation on the impact of the maximum remuneration ratio between variable to fixed remuneration and the overall efficiency of remuneration rules.

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

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 BRRD.

February 1, 2016: Federal Reserve Board TLAC and related requirements proposal.

February 4, 2015: FCA Consultation on Implementation of Market Abuse Regulation.

February 12, 2015: Basel Committee Consultation on TLAC Holdings.

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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This memorandum 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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