



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.

Our European Governance & Securities Law Focus Newsletter is available [here](#).

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Bank Prudential Regulation & Regulatory Capital

US Federal Banking Agencies Issue Guidance on Regulation Z and Regulation X

On April 30, 2015, the US Federal Financial Institutions Examination Council's Task Force on Consumer Compliance issued interagency examination procedures for Regulation Z (Truth in Lending) and Regulation X (Real Estate Settlement Procedures Act). The procedures reflect recent amendments by the CFPB to Regulation Z and Regulation X that, among other things, revised and integrated the disclosures received in connection with certain closed-end mortgage loans. The guidance will become effective on August 1, 2015.

The Federal Reserve Board's press release is available at:

<http://www.federalreserve.gov/bankinforeg/caletters/caltr1503.htm>. A summary of the updates to the examination procedures is available at: <http://www.federalreserve.gov/bankinforeg/caletters/ca1503a3.pdf>.

European Banking Authority Consults on Identification Methodology for Global Systemically Important Institutions

On April 29, 2015, the European Banking Authority published a consultation paper to update its data template for the identification methodology for global systemically important institutions ("GSIIIs") under the Capital Requirements Directive IV ("CRD IV") package. This review follows on from the introduction by the Basel Committee on Banking Supervision of new identification methodology in January 2015. The consultation paper includes a draft regulation amending the regulatory technical standards on the identification methodology for GSIIIs and the implementing technical standards on uniform format and date of disclosure by G-SIIIs. The new data template comprises minor technical revisions such as: (i) average exchange rates being provided by the relevant supervisory authority rather than the respondent bank; and (ii) long-term monitoring items being re-labeled as "Ancillary Data". The scope of the disclosure requirements under CRD IV remains unchanged. Draft revised guidelines on further specification of the indicators of global systemic importance are also included in the consultation paper. Going forward, the data template will be incorporated into the guidelines and instructions specifying how the template should be completed will be published on the EBA website. Responses to the consultation are due by May 30, 2015.

The consultation paper is available at: <http://www.eba.europa.eu/documents/10180/1058119/EBA+CP+2015+07+-+CP+on+revised+template+for+the+identification+of+G-SIIIs.pdf>.

UK Regulator Publishes Final Rule on Biannual Branch Return Form for Third Country Bank Branches

On April 30, 2015, the UK Prudential Regulation Authority published a policy statement introducing the final rule that implements the Branch Return, a new return that will collect data biannually from EEA and non-EEA firms with UK branches. The final rule is also directed at firms looking to operate in the UK in the future. The new return gathers quantitative information on economic functions performed by branches in the UK and aims to enhance the PRA's understanding of the impact that branches have on UK financial stability.

The Policy Statement and Branch Return Form are available at:

<http://www.bankofengland.co.uk/pru/Documents/publications/ps/2015/ps815.pdf>.

Compensation

US Securities and Exchange Commission Proposes Executive Compensation Disclosure Rules

On April 29, 2015, the US Securities and Exchange Commission proposed rules that would require companies to disclose to shareholders the relationship between executive compensation and the financial performance of a company. The proposal, which is designed to enhance company transparency and to allow shareholders to be better

informed when making voting decisions to elect directors, would require a company to disclose for itself as well as for other companies in its peer group certain information, including but not limited to information regarding executive pay and performance as well as total shareholder return. Under the rule, companies would be required to disclose the relevant information for the last five fiscal years. Smaller reporting companies, as defined in the proposed rule, would only be required to provide disclosure for the last three fiscal years. The proposed rule provides for a phased-in compliance period for these requirements. The comment period for the SEC proposal is 60 days after publication in the Federal Register which occurred on April 29, 2015.

You may like to read our client note on this development, available at:

http://www.shearman.com/~/_/media/Files/NewsInsights/Publications/2015/05/SEC-Proposes-LongAwaited-Pay-Versus-Performance-Rules-ECEB-050415.pdf. The SEC press release is available at: <http://www.sec.gov/news/pressrelease/2015-78.html>.

Derivatives

US Securities and Exchange Commission Proposes Rule Regarding Cross-Border Application of Certain Security-Based Swaps Reporting Requirements

On April 29, 2015, the SEC proposed rules that address the application of its security-based swap regulations to transactions involving non-US parties that are arranged or executed using US personnel. The proposed rules mark a further evolution in the SEC's position on the extraterritorial application of its security-based swap regulations. The proposed rules thus weigh in on a controversial issue on the scope of US regulation generally—the extent to which US rules apply to transactions that would otherwise be outside of US jurisdiction, but which are effected using US personnel. The SEC's proposal follows, and is similar in certain respects, to a widely criticized Advisory published in November 2013 by the US Commodity Futures Trading Commission staff, which took the position that so-called transaction-level requirements should generally apply to a non-US swap dealer effecting a transaction through US personnel or a US agent, even where its counterparty was also a non-US person. The CFTC subsequently sought public comment on the issues raised by the Advisory, and has delayed implementation of the Advisory, by issuing a no-action letter, until at least September 30, 2015. The SEC's approach, if adopted, would generally take a similar approach with respect to reporting and business conduct rules, but would not impose mandatory clearing or exchange trading requirements on such transactions. The SEC's proposed rules would modify and extend certain aspects of its previously adopted rules addressing the cross-border application of the security-based swap dealer registration requirements, as well as recently adopted Regulation SBSR, in the context of transactions “arranged, negotiated or executed” by US personnel. The proposed rules also modify and re-propose rules regarding the application of external business conduct rules in that context. The comment period for the proposed rules will be 60 days after publication in the Federal Register.

The SEC proposed rule is available at: <http://www.sec.gov/rules/proposed/2015/34-74834.pdf>.

The CFTC Staff Advisory No. 13-69 (Nov. 14, 2013) is available at:

<http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/13-69.pdf>.

The CFTC No-Action Letter No. 14-140 (Nov. 14, 2014) is available at:

<http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/14-140.pdf>.

US Commodity Futures Trading Commission Staff Issues Interpretive Letter to Ford Motor Credit Company

On May 4, 2015, the CFTC's Division of Clearing and Risk issued an interpretive letter in response to letters from the Ford Motor Credit Company LLC, among others. The CFTC letter clarifies that a securitization special purpose vehicle

wholly-owned by, and consolidated with, an entity as described in Section 2(h)(7)(C)(iii) of the Commodity Exchange Act qualifies as a captive finance company. Captive finance companies, in turn, are eligible to elect the end-user exception from the clearing requirement issued by the CFTC under Section 2(h) of the CEA.

The press release is available at: <http://www.cftc.gov/PressRoom/PressReleases/pr7169-15>.

European Securities and Markets Authority Recognizes Ten Third Country CCPs

On April 29, 2015, the European Securities and Markets Authority published a list of ten third country central counterparties that have been recognized to offer services in the EU under the European Market Infrastructure Regulation. These third country CCPs are established in Australia, Hong Kong, Japan and Singapore, jurisdictions that are deemed by the European Commission to have legal and supervisory provisions for CCPs equivalent to the regime for EU CCPs under EMIR. The ten CCPs are ASX Clear (Futures) Pty Ltd, ASX Clear Pty Ltd, HKFE Clearing Corporation Limited, Hong Kong Securities Clearing Company Limited, OTC Clearing Hong Kong Limited, SEHK Options Clearing House Limited, Japan Securities Clearing Corporation, Tokyo Financial Exchange Inc, Singapore Exchange Derivatives Clearing Limited and The Central Depository (Pte) Limited. The recognized CCPs will be able to provide clearing services to clearing members or trading venues established in the EU and clearing on these CCPs will satisfy the clearing obligation under EMIR.

The list of third-country CCPs is available at: <http://www.esma.europa.eu/news/ESMA-recognises-third-country-CCPs?t=326&o=home>.

Financial Services

Federal Agencies Issue Final Rule on Minimum Requirements for Appraisal Management Companies

On April 30, 2015, six federal financial regulatory agencies—the US Board of Governors of the Federal Reserve System, the US Consumer Financial Protection Bureau, the US Federal Deposit Insurance Corporation, the US Federal Housing Finance Agency, the National Credit Union Administration, and the US Office of the Comptroller of the Currency—jointly issued a final rule implementing minimum requirements for state registration and supervision of Appraisal Management Companies. AMCs are entities that provide appraisal management services to lenders, underwriters or other principals participating in the secondary mortgage markets. AMCs provide services that include but are not limited to, conducting real-estate appraisals, property tax assessments and providing other appraisal reports to lenders, underwriters or other principals in connection with financial transactions.

The final rule would allow states to elect to register and supervise AMCs. In the event that a state does not adopt a regulatory structure for AMCs within 36 months from the effective date of the final rule, any AMC in that state that is not separately regulated on a federal level will be barred from providing appraisal management services for federally-related transactions (which are generally real estate-related financial transactions that involve an FDIC-insured institution and require the services of an appraiser). This restriction will be lifted if the state subsequently adopts a regulatory structure for AMCs. States that elect to participate in the regulatory structure for AMCs must establish certain minimum requirements applicable to the registration and supervision of AMCs. Under this structure, a federally-regulated AMC (i.e. an AMC that is a subsidiary of an insured depository institution and is regulated by a federal financial institution regulatory agency) would be subject to the same minimum requirements as state-regulated AMCs, except that federally-regulated AMCs would be exempt from the requirement to register with a state.

The final rule will become effective 60 days after publication in the Federal Register. The compliance deadline for federally-regulated AMCs is no later than 12 months from the effective date of the final rule. Participating states may separately specify the compliance deadline for state-regulated AMCs.

The Federal Reserve Board's press release is available at:

<http://www.federalreserve.gov/newsevents/press/bcreg/20150430a.htm>.

UK Regulator Publishes Consultation on New PRA Rulebook

On April 30, 2015, the PRA published its third consultation paper on the PRA Rulebook, setting out proposals to amend or delete certain modules of the PRA Handbook and create a new PRA Rulebook. The aim of the review is to reshape materials inherited from the Financial Services Authority to create a Rulebook which contains PRA rules only and follows the split of the FSA into the PRA and the Financial Conduct Authority. This is intended to facilitate firms' compliance with PRA rules and to provide access to more concise rules, resulting in a more comprehensive understanding of the PRA's requirements. The consultation paper sets out suggested Rulebook parts including on: (i) the exercise of passport rights by UK firms; (ii) reverse stress-testing (which will be moved to the Internal Capital Adequacy Assessment part of the Rulebook); and (iii) integrated regulatory reporting. The consultation paper also includes draft supervisory statements on: (i) guidelines for completing regulatory reports; (ii) internal governance of third country branches; (iii) Internal Capital Adequacy Assessment Process and Supervisory Review and Evaluation Process; and (iv) internal governance. Responses to the consultation are due by June 30, 2015.

The consultation paper is available at:

<http://www.bankofengland.co.uk/pr/Documents/publications/cp/2015/cp1715.pdf>.

People

Sarah Dahlgren to Resign from the New York Federal Reserve Bank

On April 30, 2015, the Federal Reserve Bank of New York announced the resignation of Sarah Dahlgren, executive vice president and head of the New York Fed's Financial Institution Supervision Group. On October 1, 2015, Ms. Dahlgren will assume the role of senior advisor to the president of the New York Fed, Mr. William C. Dudley. Ms. Dahlgren is expected to remain in her current position as head of FISG until October 1, 2015, to assist with the transition.

The press release is available at: <http://www.newyorkfed.org/newsevents/news/aboutthefed/2015/oa150430.html>.

Michael Brickman Named Deputy Comptroller for Thrift Supervision

On April 27, 2015, Comptroller of the Currency Thomas J. Curry appointed Michael Brickman as Deputy Comptroller for Thrift Supervision. Mr. Brickman will also continue to serve as Deputy Comptroller for Special Supervision.

The press release is available at: <http://www.occ.gov/news-issuances/news-releases/2015/nr-occ-2015-62.html>.

Upcoming Events

May 8, 2015: EBA public hearing on its proposed regulatory technical standards on the detailed records to be kept by firms of financial contracts under the Banking Recovery & Resolution Directive.

May 8, 2015: EBA public hearing on its proposed guidelines on sound remuneration practices.

May 11, 2015: EBA public hearing on its proposed RTS on the content of Business Reorganization Plans and Progress Reports and proposed guidelines on the assessment of such plans.

May 13, 2015: SEC Equity Market Structure Advisory Committee first meeting focusing on Rule 611 of SEC Regulation National Market System, also known as the “Order Protection Rule” or “Trade through Rule.”

May 13, 2015: Financial Conduct Authority Prudential Supervision Forum.

May 14, 2015: CFTC Global Markets Advisory Committee public meeting discussing issues related to assessing clearinghouse safeguards and the CFTC’s proposal on the cross-border application of margin requirements for uncleared swaps.

May 18, 2015: EBA public hearing on its proposed guidelines for limiting exposures to shadow banking entities.

May 18, 2015: FCA roundtable with cloud service providers on regulated firms procuring cloud services and compliance with FCA rules on outsourcing.

May 29, 2015: European Commission public hearing on the revision of EMIR.

June 3, 2015: EBA workshop on application of proportionality principle in the EU banking supervisory framework.

June 3, 2015: Joint Committee of European Supervisory Authorities Third Consumer Protection Day 2015.

June 8, 2015: European Commission public hearing on next steps to build a Capital Markets Union.

June 17 and 18, 2015: International Organization of Securities Commissions (IOSCO) Annual Conference.

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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