

## Financial Regulatory Developments Focus



### In this issue:

- Derivatives
- Consumer Protection
- Enforcement
- People
- Events

**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

#### **CFTC Issues No-Action Relief for Qualifying Swaps Trading Platforms Licensed in Australia**

On September 15, 2014, the US Commodity Futures Trading Commission's ("CFTC") Divisions of Swap Dealer and Intermediary Oversight ("DSIO") and Market Oversight ("DMO") issued an enabling no-action letter for qualifying swaps trading platforms that are licensed in Australia and overseen by the Australian Securities & Investments Commission ("Australian Licensed Markets"). The enabling no-action letter provides relief for (i) qualifying swaps trading platforms from the swap execution facility registration requirement under section 5h(a)(1) of the Commodity Exchange Act ("CEA"); (ii) parties executing swap transactions on qualifying Australian Licensed Markets from the trade execution requirements under CEA section 2(h)(8); and (iii) swap dealers and major swap participants executing swap transactions on qualifying Australian Licensed Markets from certain requirements under the CFTC's business conduct rules.

The no-action letter requires that an Australian Licensed Market must issue an undertaking that it will comply with the conditions in the letter. Relief will begin after the CFTC's DMO reviews the certification and issues a responsive relief letter.

The conditional no-action letter will expire upon the effective date of any final rules implementing the CFTC's authority to exempt facilities that contain systems of comparable, comprehensive supervision and regulation by appropriate governmental authorities in the home country of the facility.

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

<http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/14-117.pdf>

#### CFTC Issues Various Exemptive Letters

On September 9, 2014, the CFTC issued the following exemptive letters:

- The CFTC's DSIO issued a letter providing relief from certain provisions of CFTC regulations restricting marketing to the public in order to harmonize such regulations with amendments to the Jumpstart our Business Startups ("JOBS") Act which permits general solicitation or advertising subject to specific conditions.

The full text of the CFTC exemptive letter is available at:

<http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/14-116.pdf>

- The CFTC's DSIO issued a letter providing exemptive relief for certain registered commodity pool operators ("CPOs") from filing CFTC Form CPO-PQR. The relief is available for CPOs that are registered but have no reporting obligations under part 4 of the CFTC's regulations.

The full text of the CFTC exemptive letter is available at:

<http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/14-115.pdf>

- The CFTC's DSIO issued an exemptive letter providing relief to CPOs and expanding the list of permissible third-party record-keepers that CPOs may use. The relief allows CPOs to use additional record-keepers beyond those specifically listed in CFTC regulations 4.7(b)(4) and 4.23(c).

The full text of the CFTC exemptive letter is available at:

<http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/14-114.pdf>

#### Update Report of the OTC Derivatives Regulators Group

On September 10, 2014, the CFTC published a report of the OTC Derivatives Regulators Group ("ODRG") to the G20 on cross-border implementation issues. The ODRG report is an update on its March 2014 report and confirms that the ODRG are continuing to work (i) to develop approaches to the treatment of branches and affiliates and to organized trading platforms; and (ii) on reaching understandings on equivalence and substituted compliance, the clearing determination, risk mitigation techniques for non-cleared derivatives and barriers to reporting to trade repositories relating to data protection. The ODRG intends to provide an updated report in advance of the G20 Leaders Summit in November this year.

The report is available at:

[http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/oia\\_odrgreportg20\\_0914.pdf](http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/oia_odrgreportg20_0914.pdf)

### **IOSCO Report on Compliance with Principles for Commodity Derivatives Markets**

On September 9, 2014, the International Organization of Securities Commissions (“IOSCO”) published an update of its 2012 review of the implementation of the Principles for the Regulation and Supervision of Commodity Derivatives Markets. The report states that the majority of the 34 jurisdictions that responded to the survey are broadly compliant with the Principles and that where there were issues of non-compliance, steps have been taken to ensure full compliance in due course.

The report is available at:

<http://www.iosco.org/library/pubdocs/pdf/IOSCOPD449.pdf>

### **Consumer Protection**

#### **CFPB Finalizes Rule to Oversee Larger Nonbank International Money Transfer Providers**

On September 12, 2014, the Consumer Financial Protection Bureau (“CFPB”) announced the adoption of a rule that would give the CFPB oversight over certain nonbank international money transfer providers for compliance with the CFPB’s Remittance Rule. Under the Remittance Rule, larger nonbank international money transfer providers are required to, among other things, provide customers with certain disclosures, give customers an option to cancel after payment and hold remittance transfer providers accountable for certain types of errors.

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

[http://files.consumerfinance.gov/f/201409\\_cfpb\\_final-rule\\_larger-participant-rule-international-money-transfer-market.pdf](http://files.consumerfinance.gov/f/201409_cfpb_final-rule_larger-participant-rule-international-money-transfer-market.pdf)

#### **Federal Agencies Issue Joint Announcement on Increases in Dollar Thresholds in Regulations Z and M for Exempt Consumer Credit and Lease Transactions**

On September 9, 2014, the Board of Governors of the Federal Reserve System (“Federal Reserve Board”) and the CFPB announced amendments to both Regulation M (Consumer Leasing) as well as Regulation Z (Truth in Lending). The amendments would increase the dollar thresholds in Regulation Z and M for exempt consumer credit and lease transactions. Transactions at or below the thresholds remain subject to the provisions of Regulations M and Z. In general, based on currently available information, the adjustments would result in consumer credit transactions and consumer leases of \$54,600 or less in 2015 being subject to the provisions the amended regulations.

The full text of the amendment to Regulation M is available at:

<http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20140909a1.pdf>

The full text of the amendment to Regulation Z is available at:

<http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20140909a2.pdf>

## Enforcement

### SEC Announces Creation of the Office of Risk Assessment within its Division of Economic and Risk Analysis

On September 11, 2014, the US Securities and Exchange Commission (“SEC”) announced the creation of the Office of Risk Assessment within the Division of Economic and Risk Analysis. The new office will coordinate efforts to provide data-driven risk assessment tools and models in order to assist the SEC in assessing market risk, including developing tools to identify financial reporting irregularities indicative of financial fraud and assessing corporate issuer risk.

The full text of the SEC press release announcing the creation of the new office is available at:

<http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370542914800>

## People

On September 10, 2014, the CFTC announced the following sponsors for the agency’s Advisory Committees:

- Chairman Tim Massad will sponsor the Agricultural Advisory Committee.
- Commissioner J. Christopher Giancarlo will sponsor the Energy and Environmental Markets Advisory Committee.
- Commissioner Mark P. Wetjen will sponsor the Global Markets Advisory Committee.
- Commissioner Sharon Bowen will sponsor the Market Risk Advisory Committee.
- Sponsorship of the Technology Advisory Committee will be shared amongst the commissioners on a rotating basis. Commissioner Mark P. Wetjen will be the first commissioner to handle these responsibilities.

Lord Jonathan Hill has been nominated as the new Commissioner for Financial Stability, Financial Services and Capital Markets Union under the new European Commission set up by Commissioner Juncker. His nomination is pending confirmation by the European Parliament.

Graham Nicholson, chief legal adviser at the Bank of England, will retire on April 30, 2015. The Bank will be recruiting for a replacement in due course.

## Events

September 17, 2014: CFTC to hold a public meeting to consider the Proposed Rule on Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants and the Final Rule on Exclusion of Utility Operations-Related Swaps with Utility Special Entities from De Minimis Threshold for Swaps with Special Entities.

September 17, 2014: Oversight of the Financial Stability Oversight Council (US House Committee on Financial Services).

September 18, 2014: European Banking Authority public hearing on technical standards on resolution planning and guidelines on measures to remove impediments to resolvability.

September 18, 2014: Assessing and Enhancing Protections in Consumer Financial Services (US Senate Committee on Banking, Housing & Urban Affairs).

October 8, 2014: European Securities and Markets Authority (“ESMA”) open hearing on the Market Abuse Regulation.

October 10, 2014: ESMA open hearing on issues relating to periodic information to be submitted to ESMA by Credit Rating Agencies.

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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