

Financial Regulatory Developments



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 Reserve Board Outlines Organizational Structure of the Large Institution Supervision Coordinating Committee

On April 17, 2015, the US Board of Governors of the Federal Reserve System, Division of Banking, Supervision and Regulation issued information regarding the operating structure of the Large Institution Supervision Coordinating Committee supervisory program. SR Letter 15-7 provides information on the program's organizational structure, including the roles and responsibilities of the committees, subgroups and dedicated supervisory teams that collectively comprise the LISCC's governance structure. Established in 2010, the LISCC program aims to oversee and supervise the largest, most systemically important financial institutions using a centralized process and is comprised of senior Federal Reserve Board and Federal Reserve Bank officers and financial professionals.

The letter is available at: <http://www.federalreserve.gov/bankinfo/reg/srletters/sr1507.htm>.

Final EU Regulations on Calculation of Margin Periods of Risk

On April 15, 2015, Regulations on the calculation of margin periods of risk of netting sets, which calculation firms must use to calculate their own funds requirements when acting as a clearing member, were published in the Official Journal of the European Union. The Regulations, which supplement the Capital Requirements Regulation, provide for the calculation of exposures to clients according to whether a transaction is cleared by a qualifying CCP or not. A qualifying CCP is one which has been authorized or recognized under the European Market Infrastructure Regulation.

The Regulations are available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_098_R_0001&from=EN.

Annual Assessment on EU Colleges of Supervisors for Cross-Border Banking Groups

On April 17, 2015, the European Banking Authority published its annual assessment on the EU Colleges of Supervisors. Colleges bring together regulatory authorities that supervise a banking group and provide a framework for coordinating and performing supervisory duties within the EU banking sector. The College of Supervisors is established for EEA banks with subsidiaries or significant branches in other EEA countries and includes national regulators from the EU as well as non-EU areas when necessary. The EBA's assessment specifies an action plan for 2015, and states that the College's 2014 action plan was fulfilled to a reasonable extent with improvements in the efficiency of EU supervisory cooperation and the development of a better understanding of the risk profiles of cross-border banking groups. The 2015 action plan covers issues such as: (i) credit, conduct and IT risk; (ii) key tasks for supervisory colleges, including joint decisions on capital and liquidity; and (iii) how best to align the functioning of the College with the new Regulatory Technical Standards and Implementing Technical Standards on the operational functioning of supervisory colleges.

The assessment is available at:

<http://www.eba.europa.eu/documents/10180/1042260/Accomplishment+of+2014+EBA+Colleges+Action+Plan+and+2015+EBA+Colleges+Action+Plan.pdf>.

EBA Publishes Report to Correct Taxonomy for Supervisory Reporting

On April 17, 2015, the EBA published a report on the eXtensible Business Reporting Language (XBRL) taxonomy filing rules. National regulators use this taxonomy to provide data to the EBA under the supervisory reporting requirements set out in the new European capital requirements legislation. The document corrects the scheme identifier for pre-LEIs. Supervisory reporting covers own funds, financial information, large exposures, leverage and liquidity ratios, asset encumbrance and funding plans.

The report is available at:

<http://www.eba.europa.eu/documents/10180/998485/EBA+XBRL+Filing+Rules+revision+3.pdf/0c3beb6d-80d2-48a5-ada9-8d04d1c552aa>.

Consumer Protection

US Consumer Financial Protection Bureau Finalizes Rule Aimed at Improving Credit Card Agreement Submission Process

On April 15, 2015, the US Consumer Financial Protection Bureau issued a final rule intended to improve the process for companies submitting consumer credit card agreements to the CFPB. The final rule suspends credit card issuers' obligations to submit their credit card agreements to the CFPB for one year. The purpose of the suspension period is to give the CFPB time to create a more streamlined and automated electronic submission system. Under the rule, credit card issuers will not be required to submit agreements that would otherwise have been due to the CFPB by the first business day on or after April 30, 2015, July 31, 2015, October 31, 2015 and January 31, 2016. During the temporary suspension period, the CFPB will collect consumer credit card agreements from credit card issuers' public websites and post the agreements to its online consumer credit card agreements database. Credit card issuers will be required to resume submitting credit card agreements on a quarterly basis starting on April 30, 2016.

The final rule is available at: http://files.consumerfinance.gov/f/201504_cfpb_final-rule_credit-card-collection-suspension.pdf.

Credit Ratings

EU Central Ratings Repository Updated

On April 15, 2015, the European Securities and Markets Authority announced that the latest set of statistical data on the performance of credit ratings is available in the Central Ratings Repository. CEREP contains information on credit ratings issued by credit rating agencies which are either registered or certified in the European Union and is intended to assist investors in assessing the performance and reliability of credit ratings on different types of ratings, asset classes and geographical regions.

ESMA's announcement is available at: <http://www.esma.europa.eu/news/ESMA-updates-data-performance-Credit-Rating-Agencies?t=326&o=home>.

Enforcement

BNY Mellon Fined by Financial Conduct Authority for Failing to Comply with Custody Rules

On April 15, 2015, the Financial Conduct Authority announced that it had fined The Bank of New York Mellon, London Branch and The Bank of New York Mellon International Limited, £126 million for failing to arrange adequate protection for the safe custody of client assets and for failing to comply with the FCA custody rules as set out in the Client Assets Sourcebook under which firms are required to maintain records and reconcile accounts at regular intervals on a legal entity-specific basis. The breaches occurred between November 1, 2007 and August 12, 2013. The FCA's custody rules aim to ensure that the wind-down of an insolvent firm could be carried out in an orderly manner with minimum loss to clients and as little delay in the return of assets to clients. According to the FCA, the BNY entities are the third and eighth largest custody banks in the UK and a failure of either firm could have a severe impact on the UK market and therefore their breaches were considered to be very serious.

The FCA announcement and final notices are available at: <http://www.fca.org.uk/news/fca-fines-the-bank-of-new-york-mellon-london-international-126-million>.

Financial Market Infrastructure

Financial Conduct Authority Finalizes Guidance for MTF Operators on Regulatory Requirements for MTF Rules and Procedures

On April 15, 2015, the FCA published final guidance for MTF operators on regulatory requirements for MTF rulebooks and procedures as set out in the Market Conduct Sourcebook of the FCA Handbook. The FCA consulted on its proposed guidance late in 2014 which was based on feedback received through a thematic review. The FCA expects all MTF operators to be able to demonstrate that they have considered the good practice observations included in the guidance when setting their approach to compliance with the Market Conduct requirements.

The final guidance is available at: <http://www.fca.org.uk/static/documents/finalised-guidance/fg15-06.pdf>.

Financial Services

US Office of the Comptroller of the Currency Issues Revised Booklets of the Comptroller's Handbook

On April 14, 2015, the US Office of the Comptroller of the Currency issued the "Real Estate Settlement Procedures Act" booklet of the Comptroller's Handbook. The revised booklet replaces a similar booklet issued in October 2011 and provides updated information resulting from recent changes in Regulation X (12 CFR 1024) related to mortgage servicing and loss mitigation. Additionally, on April 15, 2015, the OCC issued the "Trade Finance and Services" booklet of the Comptroller's Handbook. The revised booklet replaces the "Trade Finance" and "Bankers' Acceptances" booklets issued in November 1998 and September 1999, respectively.

The OCC press release is available at: <http://www.occ.gov/news-issuances/bulletins/2015/bulletin-2015-26.html>; the "Trade Finance and Services" booklet is available at: <http://www.occ.gov/publications/publications-by-type/comptrollers-handbook/pub-ch-a-tfs.pdf>; and the OCC bulletin for the "Real Estate Settlement Procedures Act" booklet is available at: <http://www.occ.gov/news-issuances/bulletins/2015/bulletin-2015-25.html>.

Council of the EU Approves New Rules against Money Laundering and Terrorist Financing

On April 20, 2015, the Council of the EU approved a new directive and regulation aimed at strengthening rules against money laundering and terrorist financing. The new set of laws, when in effect, aim to bring the EU in line with approaches currently taken internationally, and follow the recommendations made by the Financial Action Task Force which is deemed to be a global reference for anti-money laundering and terrorist financing. The final text of the regulation and directive is yet to be published in the Official Journal of the European Union. Once published, member states will have two years to transpose the directive into national law. The regulation will be directly applicable in EU Member States without the need for any further transposition. The new laws will repeal the current European regulation and directive on anti-money laundering and terrorist financing.

The proposed texts of the regulation and directive and press release are available at: <http://www.consilium.europa.eu/en/press/press-releases/2015/04/20-money-laundering-strengthened-rules/>.

G20 Finance Ministers and Central Bank Governors Meeting

On April 16 and 17, 2015, the G20 Finance Ministers and Central Bank Governors held their second meeting under Turkish presidency in Washington, DC. Further to the meeting, a communiqué was published which detailed the conclusions of the group as well as its goals for the future. The G20 stated, amongst other things, that (i) the

commitment remains to finalize the total loss absorbing capacity standard for global financial institutions by November 2015; (ii) gaps in the recovery and resolution of CCPs will be identified and addressed; (iii) the G20 roadmap for the regulation of shadow banking is being implemented; and (iv) that cross-border cooperation will be enhanced to ensure more effective regulations, particularly for resolution and OTC derivative market reforms. The G20 Finance Ministers and Central Bank Governors will meet again in September 2015. The next G20 summit is in November 2015.

The communiqué is available at: <https://g20.org/the-second-g20-ministers-and-central-bank-governors-meeting-concluded-in-washington-dc/>.

Financial Stability Board Chair's Letter to G20 on Financial Reforms

On April 17, 2015, the Financial Stability Board chair wrote a letter to the G20 Financial Ministers and Central Bank Governors on the FSB's progress on the financial regulation agenda. The letter includes information on continuing work to finalize post-crisis reforms in two major areas: (i) ending too-big-to-fail for financial institutions; and (ii) emerging vulnerabilities, specifically, financial stability risks, especially those from asset managers, and misconduct risks and withdrawal from correspondent banking.

The letter is available at: <http://www.financialstabilityboard.org/wp-content/uploads/FSB-Chairs-letter-to-G20-April-2015.pdf>.

Funds

Council of the EU Adopts Regulation on New European Long Term Investment Fund

On April 20, 2015, the Council of the EU adopted a regulation that would increase the capital available for long-term investment in the EU economy. The new kind of fund vehicle, the European long-term investment fund (ELTIF), is expected to provide investors with stable long term returns. An ELTIF will be subject to additional rules, requiring it, for example, to invest at least 70% of its capital in clearly defined categories of assets. Only alternative investment funds managed by alternative investment fund managers and authorized under the Alternative Investment Fund Managers Directive would be able to market themselves as ELTIFs. The regulation will come into force on the twentieth day following its publication in the Official Journal of the European Union.

The text of the regulation is available at: <http://www.consilium.europa.eu/en/press/press-releases/2015/04/20-long-term-investment-funds/>.

People

OFAC Director Adam Szubin Nominated for Undersecretary of the Treasury for Terrorism and Financial Crimes

On April 16, 2015, President Obama announced the nomination of the US Office of Foreign Assets Control's Director, Adam Szubin, for the role of Undersecretary of the Treasury for Terrorism and Financial Crimes.

The press release is available at: <https://www.whitehouse.gov/the-press-office/2015/04/16/president-obama-announces-more-key-administration-posts>.

Upcoming Events

April 23, 2015: US House of Representatives Committee on Financial Services hearing entitled "Examining Regulatory Burdens – Regulator Perspective".

May 8, 2015: EBA public hearing on its proposed RTS 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: the US Securities and Exchange Commissions' Equity Market Structure Advisory Committee first meeting focusing on Rule 611 of SEC Regulation National Market System ("NMS"), also known as the "Order Protection Rule" or "Trade-through Rule".

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

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

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.

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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