

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.

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Bank Prudential Regulation & Regulatory Capital

European Banking Authority Publishes New Taxonomy for Supervisory Reporting

On September 9, 2015, the European Banking Authority published the new taxonomy for national regulators to provide data to the EBA under the Implementing Technical Standards on supervisory reporting. The new taxonomy will be used for the first reports under the revised Liquidity and Leverage Ratio requirements and includes revised reporting structures for leverage ratio and new parallel reporting structures for liquidity ratio for banks.

The EBA announcement and taxonomy is available at:

<http://www.eba.europa.eu/-/eba-publishes-new-dpm-and-xbrl-taxonomy-for-remittance-of-supervisory-reporting>.

Revised List of Validation Rules for Supervisory Reporting Issued by European Banking Authority

On September 9, 2015, the EBA published a revised list of validation rules for submitting supervisory reporting data. The rules detail the standards and formats that are to be used for submissions of data by national regulators under the Capital Requirements Directive IV. The revised list displays the rules that have been deactivated due to technical issues or incorrectness.

The EBA announcement is available at: <http://www.eba.europa.eu/-/eba-issues-revised-list-of-its-validation-rul-7>.

Derivatives

US Commodity Futures Trading Commission Approves Final Regulation Requiring Certain Participants to be Members of a Registered Futures Association

On September 10, 2015, the US Commodity Futures Trading Commission issued a final rule requiring all registered introducing brokers and commodity pool operators, and certain commodity trading advisors, to become and remain members of a registered futures association. Currently, the only registered futures association is the National Futures Association. Certain commodity trading advisors who qualify for an exemption from registration as a commodity trading advisor under CFTC regulation 4.14(a)(9) are not subject to this requirement. Compliance with the final rule is required by December 31, 2015.

The press release is available at: <http://www.cftc.gov/PressRoom/PressReleases/pr7225-15> and the final rule is available at: <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/federalregister091015.pdf>.

US Commodity Futures Trading Commission Issues Order of Temporary Registration as a Swap Execution Facility to Bitcoin Options Exchange

On September 10, 2015, the CFTC announced the approval of the application of LedgerX LLC for temporary registration as a swap execution facility. LedgerX is a Delaware limited liability company and wholly-owned subsidiary of NYBX Inc., a corporation based in Delaware. Following the approval for temporary registration, the CFTC will undertake a further substantive review of the company's application for full registration. If approved, LedgerX would be the first federally regulated bitcoin options exchange and clearing house that would list and clear fully-collateralized, physically-settled bitcoin options for the institutional market.

The press release is available at: <http://www.cftc.gov/PressRoom/PressReleases/pr7226-15> and the CFTC staff letter is available at: <http://www.cftc.gov/ucm/groups/public/@lrlattergeneral/documents/letter/15-49.pdf>.

Enforcement

US Securities and Exchange Commission Charges Three RMBS Traders at Nomura Securities International with Defrauding Investors

On September 8, 2015, the US Attorney's Office for the District of Connecticut brought criminal charges, and the US Securities and Exchange Commission announced civil charges, against three traders at Nomura Securities International.

The traders were accused of lying to customers who were relying on such traders for honest and accurate pricing information with respect to certain residential mortgage-backed securities. As a result, the traders generated millions of dollars in additional revenue for Nomura. According to the SEC, the traders misrepresented the bids and offers being provided to Nomura for the securities, the prices at which Nomura purchased and sold RMBS, and the spreads the firm earned intermediating trades. The traders further directed junior traders to engage in similar behavior.

The US Attorney's Office charges the traders with one count of conspiracy, two counts of securities fraud and seven counts of wire fraud – all of which carry terms of imprisonment. The SEC's complaint charges the three traders with violating Section 10(b) of the Securities and Exchange Act of 1934 and Rule 10b-5 and Section 17(a) of the Securities Act of 1933.

The US Attorney's Office press release is available at:

<http://www.justice.gov/usao-ct/pr/indictment-charges-3-former-nomura-rmbs-traders-multiple-fraud-and-conspiracy-offenses>; the SEC press release is available at: <http://www.sec.gov/news/pressrelease/2015-181.html> and the SEC complaint is available at: <http://www.sec.gov/litigation/complaints/2015/comp-pr2015-181.pdf>.

Financial Services

Proposals for Global Collection of Direct and Ultimate Parent Data of Legal Entities in the Global LEI System

On September 7, 2015, the Legal Entity Identifier Regulatory Oversight Committee published proposals for a process for collecting data on parents of legal entities within the Global Legal Entity Identifier System. The LEI ROC is proposing to require entities that have or obtain an LEI to report their ultimate accounting consolidating parent and direct accounting consolidating parent, with the information to be published on the Global LEI System. LEIs are principally used by trade repositories to record derivatives transactions against particular legal entities. This initiative should therefore assist regulators in understanding the overall exposures of corporate groups. It is intended that the process would be phased in, according to priorities yet to be identified, with implementation starting near the end of 2015. The consultation closes on October 19, 2015.

The consultation paper is available at: http://www.leiroc.org/publications/gls/lou_20150907-1.pdf.

Recovery & Resolution

European Banking Authority's Guidelines on Payment Commitments for Deposit Guarantee Schemes Published

On September 14, 2015, the EBA published translated versions, dated September 11, 2015, of its final guidelines on payment commitments under the EU Directive on Deposit Guarantee Schemes. The DGS Directive provides that banks must pre-finance the DGS in its home member state. One of the methods available for such pre-financing is a payment commitment, provided that the total share of payment commitments does not exceed 30 per cent of the total amount of available financial means raised. The EBA guidelines on payment commitments set out the terms to be included in the contractual or statutory arrangements for a bank to provide payment commitments to a DGS, as well as the criteria for eligibility (i.e. sufficiently low risk) and management of the collateral. According to the guidelines, a bank may make payment commitments by either a Payment Commitment Arrangement or a Financial Collateral Arrangement. DGSs, relevant designated authorities, resolution authorities and national regulators should implement the guidelines by December 31, 2015 and confirm to the EBA, by November 11, 2015, the status of the guidelines.

The translated guidelines are available at: <http://www.eba.europa.eu/home>.

People

US Commodity Futures Trading Commission Chairman Massad Announces Eric J. Pan as Director of the Office of International Affairs

On September 10, 2015, CFTC Chairman Timothy Massad announced that Eric J. Pan will be the CFTC's new Director of the Office of International Affairs. Mr. Pan was previously the Associate Director for Regulatory Policy in the SEC's Office of International Affairs. At the SEC, he oversaw international regulatory policy and represented the SEC in IOSCO and the Financial Stability Board.

Chairman Massad also announced the retirement of CFTC employee Phyllis Dietz who served as Acting Director of the Division of Clearing and Risk and named Jeffrey Bandman as Acting Director of the Division of Clearing and Risk.

The press release is available at: <http://www.cftc.gov/PressRoom/PressReleases/pr7227-15>.

Federal Reserve System Appoints Payments Security Strategy Leader

On September 10, 2015, the Board of Governors of the Federal Reserve System announced the appointment of Federal Reserve Bank of Chicago's Senior Vice President, Todd Aadland, as its Payments Security Strategy Leader.

Mr. Aadland will lead the initiative to address fraud risk and improve the safety, security and resiliency of the payment system.

The press release is available at: <http://www.federalreserve.gov/newsevents/press/other/20150910a.htm>.

Robert Cohen and Joseph Sansone Named Market Abuse Unit Co-Chiefs

On September 10, 2015, the SEC announced the designation of Robert Cohen and Joseph Sansone as co-chiefs of the Division of Enforcement's Market Abuse Unit. The Market Abuse Unit is a national specialized unit that focuses on complex insider trading issues as well as other market trading misconduct and abuse.

The press release is available at: <http://www.sec.gov/news/pressrelease/2015-188.html>.

European Banking Authority Confirms Extension of the Terms for its Chairperson and Executive Director

On September 9, 2015, the Board of Supervisors of the EBA announced that Andrea Enria and Adam Farkas, Chairperson and Executive Director of the EBA respectively, would continue in their positions for a further five-year term from 2016 to 2021.

The EBA announcement is available at:

<http://www.eba.europa.eu/-/eba-board-of-supervisors-decides-on-the-extension-of-terms-of-office-for-eba-chairperson-and-executive-director>.

Members of UK Payment Strategy Forum Appointed

On September 9, 2015, the UK Payment Systems Regulator announced the full membership of the new Payments Strategy Forum. Ruth Evans was appointed chair of the Forum in July this year. The 21 new members, appointed for an initial period of two years, are comprised of individuals who are advocates for consumers, retailers, small and medium-sized businesses, corporations and government, as well as individuals from credit unions, e-money firms and high street banks that are experienced providers of payment services. The Forum has been established to set strategic priorities for the development of innovative payment systems.

The PSR announcement is available at:

<https://www.psr.org.uk/psr-publications/news-announcements/PSR-confirms-members-of-payments-strategy-forum>.

Upcoming Events

September 17, 2015: US House of Representatives Committee on Financial Services hearing entitled “The Dodd-Frank Act Five Years Later: Are We More Free?”

September 23, 2015: FCA and Organization for Economic Co-operation and Development conference to discuss practical regulation, research and policy for consumer financial protection (registration closed).

September 24, 2015: European Central Bank information session on TARGET2-Securities.

September 28, 29 and 30, 2015: FCA workshop for Credit Unions: Senior Managers and Certification Regimes - Improving Individual Accountability.

October 1, 12, 13, 19, 20 and 21, 2015: FCA workshop for Credit Unions: Senior Managers and Certification Regimes - Improving Individual Accountability.

October 7, 2015: EBA Public Hearing on proposed guidelines on cooperation agreements between deposit guarantee schemes (registration deadline: September 16, 2015).

October 12, 2015: EBA Public Hearing on CVA exemption of NFCs established in a third country (registration deadline: September 21, 2015).

October 15, 2015: EBA Public Hearing on the report on the calibration of a stable funding requirement under the Capital Requirements Regulation (registration deadline: September 25, 2015).

October 19, 2015: FCA MiFID II Wholesale Firms conference.

November 3, 4, 5, 9 and 11, 2015: FCA workshop for Credit Unions: Senior Managers and Certification Regimes - Improving Individual Accountability.

November 18 and 19, 2015: EBA Fourth Annual Research Workshop - Financial regulation and the real economy: a micro-prudential perspective.

Upcoming Consultation Deadlines

September 23, 2015: IOSCO Consultation on International Regulatory Standards on Fees and Expenses on Investment Funds

September 23, 2015: PSR Survey on Payment Service Providers and Indirect Payment Systems

September 24, 2015: Federal Reserve Board Proposed Rule to Modify Capital Planning and Stress Testing Regulations

September 25, 2015: FCA Discussion Paper on Delivering Smarter Communications to Consumers

September 28, 2015: US Federal Financial Institutions Examination Council Proposals on Reporting for Foreign Branches of US Banks and Savings Associations

September 30, 2015: Joint PRA and FCA Consultation on New Rules for Regulating Credit Unions

September 30, 2015: Input Sought for Development of a Global Unique Transaction Identifier

September 30, 2015: ESMA Consultation on CCP Time Horizon for Liquidation Period

October 5, 2015: FCA Consultation on Part II of Implementation of UCITS V Directive

October 9, 2015: CPMI and IOSCO Consultation on Harmonization of Key OTC Derivatives Data Elements

October 19, 2015: Federal Reserve Board Proposed Revisions to Systemic Risk Reporting by Large Bank Holding Companies

October 31, 2015: ESMA Consultation ITS under MiFID II and MiFIR

November 9, 2015: FCA Consultation on Part I of Implementation of UCITS V Directive

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

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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