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Safety & Soundness

OCC Releases Semiannual Risk Perspective

The Office of the Comptroller of the Currency (OCC) released its *Semiannual Risk Perspective for Spring 2015* on June 30, 2015. The report focuses on issues that pose threats to the safety and soundness of national banks and federal savings associations based on data through the end of 2014. It identifies interest rates, underwriting standards, compliance, and cybersecurity among the OCC's top supervisory concerns. Specific risks are also noted, including: exposure to oil- and gas-related industries; concentrations in commercial real estate; weak real estate valuation processes; exposure to nonbank mortgage servicers; the adequacy of allowances for loan and lease losses; and compliance with the new integrated mortgage disclosures rule. [\[Press Statement\]](#) [\[Risk Perspective Report\]](#)

Agencies Update Host State Loan-to-Deposit Ratios

On June 29, 2015, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency issued the host state loan-to-deposit ratios that they will use to determine compliance with Section 109 of the *Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994*. The ratios update data previously released on July 2, 2014.

In general, Section 109 prohibits a bank from establishing or acquiring a branch or branches outside of its home state primarily for the purpose of deposit production and prohibits branches of banks controlled by out-of-state bank holding companies from operating primarily for the purpose of deposit production. It outlines a two-step testing process, the first step of which involves a loan-to-deposit ratio screen that compares a bank's statewide loan-to-deposit ratio to the host state loan-to-deposit ratio for banks in a particular state. [\[Press Statement\]](#) [\[Ratios\]](#)

FFIEC Members Release Cybersecurity Assessment Tool

The Federal Financial Institution Examination Council (FFIEC) released a Cybersecurity Assessment Tool (Assessment) on June 30, 2015 that is intended to help institutions of all sizes identify their risks and assess their cybersecurity preparedness. The FFIEC has also made available a number of resources they believe will be useful to institutions, including an executive overview, a user's guide, an online presentation explaining the Assessment, and appendices mapping certain of the Assessment's maturity statements to the *FFIEC Information Technology Examination Handbook* and the National Institute of Standards and Technology's Cybersecurity Framework. The FFIEC membership is comprised of the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Consumer Financial Protection Bureau, National Credit Union Administration, and the State Liaison Committee. [\[Press Statement\]](#) [\[Cybersecurity Assessment Tool Web Page\]](#)

Enterprise & Consumer Compliance

CFPB Takes Actions for UDAAP Violations Against Credit Card Add-on Product Vendors

On June 25, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) announced that it had issued proposed consent orders against two unrelated credit card add-on product vendors to address violations of the *Consumer Financial Protection Act* (CFPA), including the provisions prohibiting unfair, deceptive, or abusive acts or practices (UDAAP). The CFPB alleges the companies charged consumers for services they did not receive. The proposed consent orders would require one company to pay approximately \$6.8 million in reimbursements to customers and \$1.9 million in civil money penalties. The other company would be required to pay \$55,000 in reimbursements to customers that had not already received a refund, as well as \$1.2 million in civil money penalties.

Insurance

IAIS Requests Comment on Supervision and Regulation of Captive Insurers

The International Association of Insurance Supervisors (IAIS) is developing an *Application Paper on Supervision and Regulation of Captive Insurers*. The paper updates the guidance available to insurance supervisors on the application of aspects of regulation and supervision that are specifically relevant to captive insurers or reinsurers. The guidance has been updated to reflect the IAIS Insurance Core Principles (ICPs) subsequent to their revision in 2011 and highlights those matters specifically relevant to captive supervision. Comments are requested no later than August 3, 2015. [\[Press Statement\]](#)

IAIS Requests Comment on Issues Paper for Managing Conduct of Business Risk

The International Association of Insurance Supervisors (IAIS) has released a draft Issues Paper on Conduct of Business and its Management. In general, the paper considers the sources and impact of conduct of business risk and its place within risk management frameworks. It also considers the mitigation of conduct of business risk in terms of the management of such risk by regulated entities as well as in terms of regulatory supervision. Consequences that can come from inadequate management of conduct of business issues, such as harm to policyholders, insurers, intermediaries and the insurance sector as a whole, are also discussed. Comments are requested through August 14, 2015. [\[Press Statement\]](#) [\[Conduct Paper\]](#)

Capital Markets and Investment Management

CFTC Proposes Rule on Cross-Border Transactions

The Commodity Futures Trading Commission (CFTC) approved the release of a proposed rule on June 29, 2015 that would require CFTC-registered swap dealers and major swap participants that are not subject to the margin requirements of other prudential regulators, such as the Federal Reserve Board, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, to apply the CFTC's margin requirements for uncleared swaps in cross-border transactions. In addition, the proposed rule would allow these entities to comply with comparable margin requirements in a foreign jurisdiction as an alternative means of complying with the CFTC's margin rules for uncleared swaps (substituted compliance). Comments will be accepted for a period of 60 days following publication in the *Federal Register*. [\[Press Statement\]](#) [\[Proposed Rule\]](#)

IOSCO Proposes Updated Set of Common International Standards of Best Practice

The International Organizations of Securities Commissions (IOSCO) published a report for consultation on June 25, 2015, which proposed an updated set of common international standards of best practice for the operators of Collective Investment Schemes and regulators to consider. The report examines issues identified as being key across jurisdictions, including: permitted fees and expenses; performance-related fees; disclosure of fees and expenses; transaction costs; and hard and soft commissions on transactions. Comments are requested no later than September 23, 2015. [\[Press Statement\]](#)

SEC Proposes Rules Regarding Clawback Policies for Executive Compensation

The Securities and Exchange Commission (SEC) proposed rules on July 1, 2015, directing national securities exchanges and associations to establish listing standards requiring companies to develop and implement policies to claw back incentive-based executive compensation that later is shown to have been awarded in error. Under the proposed rules, the listing standards would apply to incentive-based compensation that is tied to accounting-related metrics, stock price or total shareholder return. Recovery would apply to excess incentive-based compensation received by executive officers in the three fiscal years preceding the date a listed company is required to prepare an accounting restatement, and would be required regardless of fault. The definition of an executive officer would include the company's president, principal financial officer, principal accounting officer, any vice-president in charge of a principal business unit, division or function, and any other person who performs policy-making functions for the company. Comments will be accepted for a period of 60 days following publication in the *Federal Register*. [\[Press Statement\]](#) [\[Proposed Rule\]](#)

Enforcement Actions

The Securities and Exchange Commission (SEC) announced the following enforcement actions:

- The SEC charged a former stockbroker with operating a Ponzi scheme and misappropriating funds to personal use. It is seeking disgorgement plus prejudgment interest and penalties as well as a permanent injunction in the \$15 million scheme.
- The SEC charged an advisory firm and its two owners with fraudulently inflating the prices of securities in hedge fund portfolios they managed. The inflated valuation of these assets caused the funds to pay higher management and performance fees.

Contact Us

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