



The Washington Report

Americas FS Regulatory Center of Excellence

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1. Safety and soundness

1.1 BIS publishes working paper on changing business models in international bank funding

The Bank for International Settlements has published a working paper that examines the business models that global banks follow to obtain funding abroad. The working paper, Working Paper No. 614, observed that banks seem to target fixed ratios of total international funding for cross-border and local liabilities with regard to the total amount of funding from abroad. It also found that banks changed their funding models after the financial crisis and now turn more frequently to their subsidiaries and branches as well as interoffice accounts within the same banking group to access funds abroad.

[\[Press Statement\]](#) [\[Working Paper\]](#)

1.2 IOSCO releases study on secondary corporate bond market liquidity

On March 7, 2017, the International Organization of Securities Commissions (IOSCO) published a report on secondary corporate bond market liquidity titled "Examination of Liquidity of the Secondary Corporate Bond Markets." The report examines the development of the secondary corporate bond markets during 2004-15 and observed that there was no substantial evidence indicating deterioration of secondary corporate bond markets liquidity during that time. The report also noted changes to the characteristics and structure of the secondary corporate bond market, including changing dealer inventory levels, increased use of technology and electronic trading venues, and changes in the role of participants and execution models. The report also found that the level of transparency through public data on executed trades may impact liquidity.

[\[Press Statement\]](#) [\[Final Report\]](#)

1.3 OCC head discusses FinTech regulation

On March 6, 2017, Thomas J. Curry, Comptroller of the Currency, addressed a financial industry conference on financial technology (FinTech) innovation and emphasized the importance of technological innovation to expand financial inclusion and improve the delivery of banking products and services. He provided updates on initiatives taken by the Office of the Comptroller of the Currency (OCC) to support responsible innovation within the federal banking system. He also mentioned the role of the OCC's Office of Innovation, a central point of contact and clearinghouse

for requests and information related to innovation. Notably, Comptroller Curry reiterated the OCC's authority under the National Bank Act to issue national charters to FinTech firms, emphasizing that FinTech firms would not be subject to "light touch" supervision but would be subject to the same safety and soundness standards as national banks as well as to federal and state consumer protection laws.

[\[Press Statement\]](#) [\[Remarks\]](#)

1.4 OFR issues research brief on benefits and risks of central clearing in the repo market

On March 9, 2017, the Office of Financial Research (OFR) published a research brief entitled "Benefits and Risks of Central Clearing in the Repo Market," which quantifies the potential direct economic benefits to market participants and increased risks to central counterparties (CCPs) of moving bilateral repo transactions between U.S. dealers and their non-dealer clients to CCPs. The analysis shows that using CCPs offers economic incentives to repo dealers by reducing their risk exposures, while expanding access to a repo CCP for non-dealers increases the CCP's risk exposure by up to 75 percent. The benefits must also be weighed against the cost of additional funds those dealers would have to contribute to cushion CCPs from the increased risks.

[\[Research Brief\]](#)

1.5 FDIC publishes credit risk article from supervisory insights winter edition

On March 7, 2017, the FDIC published the Winter 2016 issue of its Supervisory Insights containing an article, "Credit Risk Trends and Supervisory Expectation Highlights," that identifies the trends within the credit risk domain and emphasizes implementation of sound risk management practices. The article also discusses the growth in banks' balance sheets and effective risk-management practices associated with lending in the commercial real estate, agriculture, and oil and gas sectors.

[\[Press Statement\]](#) [\[Financial Institutional Letter\]](#)

2. Enterprise and consumer compliance

2.1 **FTC acting chair testifies on data security and small businesses**

The House Committee on Small Business conducted a hearing entitled "Small Business Cybersecurity: Federal Resources and Coordination." On March 8, 2017. Four witnesses provided testimony including Federal Trade Commission (FTC) Acting Chairman Maureen K. Ohlhausen. Ms Ohlhausen testified on the agency's consumer data protection efforts for small businesses, noting that the FTC staff will provide the public with more information about its data security cases in order to provide small businesses with examples of reasonable data security practices. Ohlhausen also discussed the FTC's efforts to educate business and consumers on data security through various media.

In press statements, the Committee notes that the Improving Small Business Cyber Security Act (Act) became law as part of the National Defense Authorization Act of 2017. The Act helps small businesses facing cyber threats by providing access to additional tools and resources through existing federal cyber resources. The Department of Homeland Security and other federal agencies have been permitted to work through Small Business Development Centers (or SBDCs) to streamline cyber support and resources for small businesses.

[\[Hearing\]](#) [\[Press Release\]](#)

Three documents are available on the Committee's web site to assist small businesses in addressing cybersecurity. The guides provide recommended strategies for addressing the topics of the internet of things, data breaches, and protecting personal information.

[\[Cybersecurity aids\]](#) [\[Building Security in the Internet of Things\]](#),
[\[Data Breach Response\]](#) [\[Protecting Personal Information\]](#)

2.2 **CFPB proposes to delay effective date of prepaid accounts rule**

In a March 9 blog post, the Consumer Financial Protection Bureau released a proposed rule that would delay the effective date of its prepaid accounts rule for a period of six months. Compliance with the rule is currently required beginning October 1, 2017. The proposed rule would delay the effective date until April 1, 2018 to give industry participants additional time to comply with the rule, including certain "packaging-related logistical issues for prepaid accounts that are sold at retail locations." The CFPB is also seeking comment from the industry on whether six months is sufficient time to comply with the rule, any consequences of not extending the effective date, and any specific aspects of the rule that are posing particular complexities

for implementation or unanticipated negative consequences for consumers. The comment period will remain open for 21 days following publication in the Federal Register.

[\[Blog Post\]](#)

2.3 **CFPB Director addresses LendIt USA Conference**

Richard Cordray, Director of the Consumer Financial Protection Bureau (CFPB or Bureau) spoke before the LendIt USA Conference on March 6, 2017 on the CFPB's efforts to encourage consumer-friendly innovations in consumer finance, issues concerning consumer control over personal financial data, and issues around the use of unconventional sources of data to underwrite loans. In particular, Director Cordray discussed Project Catalyst, which conducts research pilot programs with companies to encourage innovations in products and services, develops new policies to foster innovation, and administers the CFPB's "no-action letter" policy. He also discussed the Bureau's November 2016 Request for Information on the challenges consumers face in accessing, using, and securely sharing their financial records. Lastly, he discussed the CFPB's initiative to learn more about issues raised by new technologies and new uses of data, including the use of unconventional sources of information to measure creditworthiness.

[\[Speech\]](#)

2.4 **Department of Labor issues temporary enforcement policy for fiduciary rule**

The U.S. Department of Labor (DOL) issued a temporary enforcement policy for its Conflicts of Interest rule, commonly referred to as the Fiduciary Duty Rule, and related exemptions. Compliance with the rule is currently required beginning April 10, 2017 though DOL has published a proposed rule to extend the effective date for a period of 60 days. Under the temporary enforcement policy, the DOL will not initiate an enforcement action against an entity for failing to satisfy the rule or the prohibited transaction exemptions (PTEs) between April 10 and the date on which it issues a final rule delaying the rule, if such a delay is issued after April 10. If the DOL decides not to delay the compliance date of the rule, it will not initiate an enforcement action for not satisfying the rule or PTEs as of April 10 so long as the adviser satisfies the rule's conditions within a reasonable period after the publication of a decision not to delay the April 10 applicability date.

[\[Field Assistance Bulletin\]](#)

2.5 Enforcement Actions

During the past week:

- The Federal Trade Commission (FTC) reached a settlement with a debt relief company and its principals for misleading its consumers and charging illegal advance fees. The FTC alleged that the company exaggerated how much money people would save using its services. The direct mail ads that it sent looked like official documents from a bank or attorney, and claimed that typical customers would have their credit card debt cut in half and become debt-free within 36 months. Similar claims were repeated on their website and by phone when consumers called in response to the mail. The FTC order banned the defendants from making misrepresentations about debt relief, other financial products or services, and any products or services. The order imposes a \$9 million judgment that will be partially suspended upon payment of \$510,000. The full judgment will become due immediately if the defendants are found to have misrepresented their financial condition.
- The Federal Reserve Board (Federal Reserve) issued an order against a U.S.-based state member bank to address findings the bank violated flood insurance regulations. The bank consented to the order, which requires payment of a civil money penalty of \$33,785.

3. Capital markets and investment management

3.1 CFTC extends no-action relief for masking certain information

The Commodity Futures Trading Commission's (CFTC) Division of Market Oversight (DMO) issued a conditional extension of relief on the masking of certain reported identifying information. CFTC letters 16-03 and 16-33 extend the relief provided in CFTC letter 13-41, which permitted Part 45 and Part 46 reporting counterparties as well as Part 20 reporting parties to mask certain identifying information. The extension is valid through September 1, 2017 for certain French and Swiss swaps. The extension is valid for each reporting counterparty for all other swaps provided that the reporting counterparty reasonably believes that reporting the relevant identifying information would violate applicable foreign laws. The DMO states that the condition of relief for the Privacy Law Identifier (PLI) requires that the PLI must be unique to each counterparty covered by the relief and must identify the counterparty to the exclusion of all other counterparties. The latest extension permits reporting parties who meet the conditions of relief to fulfill their reporting obligations while acknowledging privacy, secrecy and blocking laws in certain non-U.S. jurisdictions. It also phases out the relief, where appropriate, to reflect French and Swiss legislation obviating the need for the relief.

[\[Press Statement\]](#)

3.2 FINRA proposes streamlining competency exams

On March 8, 2017, the Financial Industry Regulatory Authority (FINRA) proposed reforms that would streamline proficiency requirements in order to make it easier for financial professionals to enter the industry and make it easier for former participants to return to the business. The proposed changes would eliminate duplicative testing and make it easier for participants to demonstrate and maintain their qualifications. The proposed requirements include:

- Representative-level registrants will take the Securities Industry Essentials (SIE) exam and then choose tailored, specialized knowledge exams for their desired registered role.
- Individuals who do not work for a FINRA-regulated firm may take the SIE.
- Individuals in good standing who transfer to a financial services affiliate of a firm can return within seven years without retaking qualification exams. This is contingent on them completing continuing education requirements and having no discloseable adverse events.
- Any individual associated with a firm may obtain and maintain any qualification and registration permitted by the firm.

FINRA has submitted the proposed changes to the Securities and Exchange Commission (SEC) staff may request changes or amendments to the proposal before publishing it for comment in the Federal Register.

[\[Press Statement\]](#)

3.3 The NSE and FINRA issue alert on Clock Synchronization and Certification requirements

The National Securities Exchanges and the Financial Industry Regulatory Authority (FINRA) provided guidance on compliance with the clock synchronization and certification requirements under the Consolidated Audit Trail (CAT) National Market System (NMS) plan, which is required by March 15, 2017. The Securities and Exchange Commission (SEC) approved the NMS plan governing the CAT on November 15, 2016. The plan includes requirements on the synchronization and certification of business clocks that capture time in milliseconds and are used to record "Reportable Events" in NMS Securities and OTC equity securities. The "Reportable Events" includes origination, modification, cancellation, routing, execution and allocation of an order, and receipt of a routed order. The key requirements applicable to the industry participants and with March 15, 2017 deadlines are as follows:

- **Business clock synchronization:** All industry participants are required to synchronize their business clocks within the 50 millisecond of the time maintained by the atomic clock of the National Institute of Standards and Technology.
- **Certification of business clock synchronization:** All industry members are required to certify that their clocks satisfy the business clock synchronization requirement. In addition to the March 15, 2017 deadline, there is an annual certification due by March 15 of each year.

[\[Press Statement\]](#) [\[Regulatory Notice\]](#)

3.4 IOSCO releases study on secondary corporate bond market liquidity

On March 7, 2017, the International Organization of Securities Commissions (IOSCO) published a report on secondary corporate bond market liquidity titled "Examination of Liquidity of the Secondary Corporate Bond Markets." The report examines the development of the secondary corporate bond markets during 2004-15 and observed that there was no substantial evidence indicating deterioration of secondary corporate bond markets liquidity during that time. The report also noted changes to the characteristics and structure of the secondary corporate bond market, including changing dealer inventory levels, increased use of technology and electronic trading venues, and changes in the role of participants and execution models. The report also found that the level of transparency through public data on executed trades may impact liquidity.

[\[Press Statement\]](#) [\[Final Report\]](#)

This item has also been covered under the Safety and Soundness section above.

3.5 Enforcement Actions

The Securities Exchange Commission (SEC) announced the following enforcement actions in the past week:

- The SEC filed fraud charges against a foreign-based trading firm for market manipulation and the U.S.-based brokerage firm that allegedly assisted the scheme. The SEC alleges that the firm made illicit profits of more than \$21 million over five years from a layering scheme in which orders were placed and then canceled after tricking others into buying or selling stocks at artificial prices, resulting in illicit profits.

4. Insurance

4.1 IAIS launches major consultation package

On March 6, 2017, the International Association of Insurance Supervisors (IAIS) released a consultation package on proposed revisions to the IAIS Insurance Core Principles (ICPs) and materials related to the IAIS Common Framework for the

Supervision of Internationally Active Insurance Groups (ComFrame). The consultation covers the following topics:

- Information Sharing and Confidentiality Requirements (ICP 3) – addresses information sharing among regulators and other governmental authorities;

- Suitability of Persons (ICP 5) – addresses required qualifications for directors, officers, and other key executives (consultation covers only ComFrame guidance);
- Corporate Governance (ICP 7) – addresses requirements for insurers’ corporate governance framework (consultation covers only ComFrame guidance);
- Risk Management and Internal Controls (ICP 8) – addresses required risk management and internal controls, including compliance, actuarial matters and internal audit (consultation covers only ComFrame guidance);
- Supervisory Review and Reporting (ICP 9) – addresses regulators’ examination authority over insurers’ business, financial condition, market conduct, corporate governance, risk profile and legal compliance;
- Preventative Measures, Corrective Measures and Sanctions (ICP 10) – addresses preventive and corrective measures and sanctions that may be imposed by regulator to avoid or respond to breaches of regulatory requirements;
- Exit from Market and Resolution (ICP 12) – addresses pre-resolution planning as well as the powers that a supervisor should have in resolution (portfolio transfer, run-off, restructuring, liquidation); and
- Supervisory Cooperation and Coordination (ICP 25) – addresses cross-border cooperation and coordination among regulators and other governmental authorities.

The IAIS is seeking feedback on revised ICPs and draft ComFrame material integrated with selected ICPs through public consultation by June 1, 2017.

Additionally, IAIS is seeking consultation for a draft application paper on group corporate governance, which is intended to create a common understanding on how to assess or evaluate the governance frameworks of insurance groups, particularly those with international operations. The deadline for comments on the application paper is April 3, 2017.

[\[Press Statement\]](#) [\[Consultation: Revised Insurance Core Principles \(ICPs\) and ComFrame material integrated with ICPs\]](#)
[\[Consultation: Application Paper on Group Corporate Governance\]](#)

4.2 NAIC creates new technology task force

The National Association of Insurance Commissioners (NAIC) announced on March 9, 2017 the creation of its Innovation and Technology (EX) Task Force to help insurance regulators keep up with the development of new products and services. This includes oversight of the Big Data Working Group, the Cybersecurity Working Group and the Speed-to-Market Working Group. Michigan Insurance Director Patrick M. McPharlin will chair the task force and Oregon Insurance Commissioner Laura Cali Robison will serve as the vice chair.

[\[Press Statement\]](#)

5. Financial Crimes

5.1 OCC and FinCEN fine bank for Bank Secrecy Act deficiencies

The Office of the Comptroller of the Currency (OCC) and the Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) announced penalties of \$1 million and \$7 million, respectively, against a bank to address deficiencies for alleged willful violations of Bank Secrecy Act (BSA) provisions in monitoring and compliance related to the BSA and Anti-Money Laundering (AML) that resulted in violations of previous consent orders.

The OCC found the bank to have inadequacies in risk assessment, internal controls, suspicious activity monitoring, and due diligence programs. The previous consent orders

required the bank to correct deficiencies in internal controls, independent testing, responsible individuals, and training. The bank neither admitted nor denied the violations.

FinCEN stated that the bank failed to implement an adequate AML program, conduct due diligence on its foreign correspondent accounts, and detect and report suspicious activity. According to the FinCEN enforcement action, many of the transactions were conducted on behalf of money service businesses (MSBs) that were owned or managed by bank insiders who encouraged staff to process these transactions without question or face potential dismissal or retaliation. Bank insiders allegedly interfered with staff’s attempts to investigate suspicious activity related to these insider-owned

accounts. The \$1 million OCC penalty will be credited towards satisfaction of the FinCEN penalty.

5.2 FinCEN renews “Geographic Targeting Orders” to identify high-end cash buyers

The Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) announced on February 23, 2017 that it has renewed the Geographic Targeting Orders (GTOs), which require U.S. title insurance companies to identify the natural persons behind shell companies that are used to pay “all cash” for the purchase of high-end residential real estate in six (6) major metropolitan areas. FinCEN has

found in analyzing previously reported activity from the original GTOs that about 30 percent of the transactions covered by the GTOs involve a beneficial owner that was also subject to a previous suspicious activity report. The GTOs renewed include: all boroughs of New York City; Miami-Dade, Broward, and Palm Beach counties; Los Angeles County; San Francisco, San Mateo, and Santa Clara counties; San Diego County; and Bexar County in Texas.

[\[Press Statement\]](#)

6. New administration updates

6.1 Trump Administration releases annual agency cybersecurity report

On March 10, 2017, the Trump Administration released the FY 2016 Federal Information Security Modernization Act of 2014 (FISMA) Annual Report to Congress. The report describes the state of Federal cybersecurity and includes a summary of cybersecurity incidents at agencies. The report highlighted

progress in the use of multi-factor Personal Identity Verification (PIV) cards, improved anti-phishing and malware capabilities, and Information Security Continuous Monitoring to safeguard high value IT assets.

[\[FISMA blog post\]](#) [\[Report\]](#)

7. Alternative finance

7.1 OCC head discusses FinTech regulation

On March 6, 2017, Thomas J. Curry, Comptroller of the Currency, addressed a financial industry conference on financial technology (FinTech) innovation and emphasized the importance of technological innovation to expand financial inclusion and improve the delivery of banking products and services. He provided updates on initiatives taken by the Office of the Comptroller of the Currency (OCC) to support responsible innovation within the federal banking system. He also mentioned the role of the OCC’s Office of Innovation, a central point of contact and clearinghouse for requests and

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[\[Press Statement\]](#) [\[Remarks\]](#)

This item has also been covered under the [Safety and Soundness](#) section above.

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