The Washington Report

Americas FS Regulatory Center of Excellence

The week ended March 31, 2017

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1. Safety and soundness

1.1 BCBS publishes consultative document on revisions to the G-SIB assessment framework

On March 30, 2017, the Basel Committee on Banking Supervision (BCBS) announced that it had completed a review of its framework for assessing global systemically important banks (G-SIBs) and is now proposing changes to that framework to reflect changes in the global banking system.

The BCBS first published the assessment framework in July 2013 as a report entitled the *Global systemically important banks assessment methodology and higher loss absorbency requirement*. It is designed to measure the systemic importance of global banks based on 12 indicators spread across five categories. The bank's higher loss absorbency (HLA) capital requirement is determined based on its G-SIB score. The BCBS agreed to review the framework every three years to ensure that the framework in consistent with any structural changes to the global banking system.

The BCBS proposed the following changes to the framework in its March 2017 report:

- Remove the cap on the substitutability category;
- Expand the scope of consolidation to include insurance subsidiaries;
- Amend the definition of cross-jurisdictional activity;
- Modify the weights in the substitutability category and introduce a trading volume indicator;
- Revise the disclosure requirements;
- Provide further guidance on bucket migration and the associated surcharge; and
- Implement a transition schedule.

Comments on the proposed revisions will be accepted through June 30, 2017.

[Press Statement] [Consultative Document]

1.2 BCBS highlights progress in risk data aggregation and risk reporting principles

On March 29, 2017, the Basel Committee on Banking Supervision (BCBS) issued its fourth report entitled the *Progress in adopting the principles for effective risk data aggregation and risk reporting* as a follow-up to its 2013 report. The 2013 report highlighted principles for effective data aggregation and risk reporting in order to strengthen those practices at global systemically important banks (G-SIBs) with a goal towards improving their risk management practices, decision-making processes, and resolvability. Firms identified as G-SIBs in 2011 and 2012 were required to adopt the principles by January 2016.

The 2017 report cites unsatisfactory progress in G-SIB compliance with the principles, as only one G-SIB subject to a January 2016 deadline was fully compliant with the principles. The BCBS recommended that banks develop clear roadmaps to achieve full compliance with the principles and ensure ongoing compliance. The BCBS also recommended that regulators communicate assessment results to their banks, provide incentives for full compliance; and continue to refine their techniques to assess compliance.

The BCBS has also encouraged national supervisors to apply the principles to domestic systemically important banks (D-SIBs) three years after they receive this designation.

[Press Statement] [Progress Report]

1.3 BCBS publishes enhancements to Pillar 3 disclosure requirements

On March 29, 2017, the Basel Committee on Banking Supervision (BCBS) issued its *Pillar 3 disclosure requirements - consolidated and enhanced framework*, which concludes the second phase of its Pillar 3 review and builds on the revisions to the Pillar 3 disclosures published by the BCBS in January 2015. The enhancements to the disclosure framework contain three main elements:

- Consolidation of all BCBS disclosure requirements into the framework, including the composition of capital, the leverage ratio, the liquidity coverage ratio (LCR), the net stable funding ratio (NSFR), the indicators for determining global systemically important banks (G-SIBs), the countercyclical capital buffer (CCyB), interest rate risk in the banking book, and remuneration;
- Two Pillar 3 enhancements, including a "dashboard" of key prudential metrics and a new disclosure requirement for banks that record prudent valuation adjustments.
- Revisions and additions to Pillar 3 to reflect ongoing reforms to the regulatory framework, including new disclosure requirements for the total loss-absorbing capacity (TLAC) regime for G-SIBs and the revised market risk framework published by the BCBS in January 2016.

Disclosure requirements agreed by the BCBS following the issuance of this standard will be included within the scope of the third phase of the review of the Pillar 3 framework.

[Press Statement] [Review Report]

1.4 BCBS publishes paper on interim regulatory treatment of accounting provisions

On March 29, 2017, the Basel Committee on Banking Supervision (BCBS) released a paper detailing the measures for retaining the current regulatory treatment of accounting provisions for an interim period in response to the forthcoming international accounting standards on expected credit loss (ECL) provisioning. The BCBS paper further sets out the transitional arrangements and the corresponding Pillar 3 disclosure requirements for when IFRS 9 (International Financial Report Standard) takes effect on January 1, 2018. The current ECL model will take effect for certain public banks in January 2020, and for all other banks beginning January 2021 though early application is permitted for all banks beginning January 2019.

The BCBS is detailing the transitional arrangement to lessen any negative impact on regulatory capital arising from the introduction of ECL accounting. The BCBS set out two approaches for a transitional arrangement:

- Day 1 impact on CET1 (common equity tier 1) capital spread over a number of years: This approach compares CET1 capital based on the opening balance sheet using an ECL accounting standard with CET1 capital based on the closing balance sheet under the existing incurred loss accounting approach.
- Phased prudential recognition of IFRS 9: In this approach, a bank would phase in Stage 1 and Stage 2 provisions over the transition period. This approach is based on the principle that the amount of total provisions that is due to the new ECL accounting will fluctuate over time.

[Press Statement] [Report]

2. Enterprise and consumer compliance

2.1 CFPB monthly complaint report highlights credit card complaints

The Consumer Financial Protection Bureau (CFPB or Bureau) released its monthly complaint snapshot on March 28, 2017. The monthly report highlights consumer complaints about credit cards. As of March 1, 2017, the Bureau had handled approximately 116,200 consumer complaints about credit cards. Some of the findings in the snapshot included:

- Fraudulent charges: Consumers complained about bills for charges that were not initiated by them or other authorized account users. Furthermore, consumers also complained about difficulty in having these charges removed even after receiving notice that the dispute had been resolved in their favor.
- Reward programs: Consumers complained that online information about reward programs differed from what was told them by customer service representatives. They also complained of ongoing difficulties in taking advantage of the reward programs.
- Identity theft: Consumers complained about fraudulent credit card accounts being opened in their name even after an alert was placed on their credit file.

The CFPB handled approximately 27,000 complaints in February 2017. Of these, complaints related to debt collection, credit reporting, and mortgages accounted for more than 60 percent of the total number of complaints.

[Press Statement] [Monthly Complaint Report]

2.2 Enforcement Actions

The Federal Trade Commission (FTC) announced the following enforcement action in the past week:

- A prepaid card company agreed to settle with the FTC on the allegations that it deceived consumers about access to funds deposited on their debit card. The company is required to refund $53 million in deposits and fees paid by consumers who loaded funds onto the cards but never had access to their money.

3. Capital markets and investment management

3.1 FINRA receives SEC approval on rules addressing financial exploitation of seniors and other specified adults

On March 30, 2017, the Financial Industry Regulatory Authority (FINRA) released Regulatory Notice 17-11 announcing that the Securities and Exchange Commission (SEC) has approved its proposed rules addressing the financial exploitation of seniors and other specified adults. The new rules provide for:

- Rule 2165 (Financial Exploitation of Specified Adults), a new rule, which allows firms to place a temporary hold on a disbursement of funds or securities from the account of a specified adult when there is reasonable belief of financial exploitation. A "specified adult" is defined as i) a natural person age 65 and older or ii) a natural person age 18 and older who is reasonably believed to have a mental or physical impairment that renders the individual unable to protect his or her own interests.
- Amendments to Rule 4512 (Customer Account Information) that require firms to make reasonable efforts to obtain the name and contact information for a trusted contact person of a customer's account.

The effective date is February 5, 2018.

[Press Statement] [Regulatory Notice 17-11]

3.2 IOSCO approves enhanced standard for cross-border enforcement cooperation

On March 31, 2017, members of the International Organization of Securities Commissions (IOSCO) approved the Enhanced Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (EMMoU) to provide regulators with additional enforcement powers that would safeguard the integrity and stability of markets, protect investors, and deter misconduct and fraud. The IOSCO launched the MMoU in 2002 to help securities regulators fight cross-border financial fraud and misconduct.

In response to market developments, including new technologies and regulation and the growing role of market-based finance, the IOSCO developed an enhanced standard on cross-border enforcement information exchange that goes beyond the MMoU. The enhancements will enable members to:

- Obtain and share audit work papers, communications and other audit related information;
- Compel physical attendance for testimony through sanctions for non-compliance;
- Freeze assets, if possible, or advise and provide information on how to freeze assets at the request of another signatory;
- Obtain and share existing Internet service provider records, including with the assistance of a prosecutor, court or other authority, and obtain the content of such communications from authorized entities; and
- Obtain and share existing telephone records, including with the assistance of a court, prosecutor, or other authority, and to obtain the content of such communications from authorized entities.

[Press Statement]

3.3 Enforcement Actions

The Financial Industry Regulatory Authority (FINRA) and the Securities and Exchange Commission (SEC) announced the following enforcement actions in the past week:

- FINRA along with leading stock exchanges announced that they have begun disciplinary proceedings against a brokerage firm and its CEO for aiding and abetting its customers in market manipulation. The brokerage firm is also charged with failing to comply with the SEC's market access rule, Rule 15c3-5, by failing to have adequate risk-management controls and supervision over its customer account. It is also charged with violating other rules, including know your customer (KYC) rules.
- The SEC issued an asset freeze and temporary restraining order against an investment adviser and

his financial management company based on allegations they defrauded elderly investors. The SEC alleged that the adviser and his unregistered investment advisory firm used client funds to pay personal and business expenses.

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