



# The Washington Report

**Americas FS Regulatory Center of Excellence**

The week ended July 14, 2017



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# 1. Safety and soundness

## 1.1 FDIC seeks public comment on procedures manual for deposit insurance applications

The Federal Deposit Insurance Corporation (FDIC) released a new procedures manual on July 10, 2017, addressing applications for deposit insurance. The FDIC indicates the manual was developed to assist FDIC staff as they evaluate and process deposit insurance applications. It is intended to complement other resources available from the FDIC on establishing a de novo institution.

The FDIC is seeking public comment on the manual and is especially looking for feedback on how well the manual helps bank organizers understand the FDIC's application process. Comments will be accepted through September 8, 2017.

[\[Press Statement\]](#) [\[Procedures Manual\]](#)

## 1.2 Agencies issue fourth update on PFMI implementation

On July 14, 2017, the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) issued its fourth update report on the progress their member jurisdictions are making toward

implementing the *Principles for financial market Infrastructures* (PFMI) released by these standards setting bodies in 2012. The PFMI are international standards for payment, clearing and settlement systems, and trade repositories. They are designed to ensure that the infrastructure supporting global financial markets is robust and well placed to withstand financial shocks.

The current report reflects the self-assessments provided by the 28 participating jurisdictions regarding the adoption of legal, regulatory, and policy frameworks necessary to implement the 24 Principles and five Responsibilities for authorities. The report shows that, as of January 6, 2017, progress continues to be made by all of the participating jurisdictions. Twenty of the 28 jurisdictions achieved a "4" rating for all types of Principles. All but three of the jurisdictions achieved the top rating of "4" for Responsibilities.

[\[Publication\]](#) [\[Report\]](#)

# 2. Enterprise and consumer compliance

## 2.1 CFPB bans mandatory arbitration clauses that forbid class action lawsuits

On July 10, 2017, the Consumer Financial Protection Bureau (CFPB or Bureau) issued a final rule that prohibits covered providers of certain consumer financial products and services from using a pre-dispute arbitration agreement that prevents a consumer from participating in a class action concerning the covered consumer financial product or service.

Covered providers include all persons engaged in an activity that is a covered financial product or service "in the core consumer financial markets of lending money, storing money, and moving or exchanging money," unless specifically excluded by the final rule. Excluded persons include, among others, persons regulated by the Securities and Exchange Commission or Commodity Futures Trading Commission, broker/dealers and investment advisers subject to state regulation, and state and tribal governments.

The final rule also requires covered providers that are involved in an arbitration pursuant to a pre-dispute arbitration agreement to

submit to the CFPB certain records, including initial claims and counterclaims, the related answers, and arbitration awards. The CFPB intends to post this information (with appropriate redactions of personal information) on its web site beginning July 2019.

The rule will become effective 60 days after publication in the Federal Register and will be applicable to contracts entered into more than 180 days after the effective date.

[\[Press Statement\]](#) [\[Final Rule\]](#) [\[Blog\]](#)

## 2.2 FTC announces second notice on proposed study of class action settlement notice programs

On July 12, 2017, the Federal Trade Commission (FTC) issued a second Federal Register notice regarding its proposal to study consumer perceptions and understanding of class action notices and the options they provide, including the process for participating in a settlement. The notice addresses comments received in response to the FTC's first public notice and indicates that the FTC is continuing to seek clearance from the Office of Management and Budget (OMB), as required by the

Paperwork Reduction Act, to conduct the study. The FTC will accept comments on the current notice through August 17, 2017.

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

### **2.3 CFPB proposes changes to mortgage data rule reporting threshold**

On July 14, 2017, the Consumer Financial Protection Bureau (CFPB or Bureau) issued a proposed rule that would temporarily raise the threshold for collecting and reporting data for home-equity lines of credit under the requirements of the Home Mortgage Disclosure Act (HMDA). Beginning January 1, 2018, financial institutions are required to report home-equity lines of credit if they made at least 100 such loans in each of the past two years. The proposal would increase the relevant threshold to 500 loans for a period of two years (calendar years 2018 and 2019). Comments will be accepted through July 31, 2017.

[\[Press Statement\]](#) [\[Proposed Rule\]](#)

### **2.4 OCC reports improved mortgage performance in first quarter of 2017**

The Office of the Comptroller of the Currency (OCC) published its *OCC Mortgage Metrics Report* on July 13, 2017 highlighting that the overall performance of first lien residential mortgages included in the report improved during the first quarter of 2017 compared with a year earlier, as 95.6 percent of mortgages included in the report were current and performing at the end of the quarter, compared to 94.9 percent a year earlier. The OCC also reported that there was a 4.5 percent increase in new foreclosures over the previous quarter, the first quarter-over-quarter increase in two years.

The first-lien mortgages included in the report comprise approximately 35 percent of all residential mortgages outstanding as the end of the first quarter of 2017.

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

## 3. Capital markets and investment management

### **3.1 FINRA issues guidance on Rule 2232 enhanced confirmation disclosure requirements**

On July 12, 2017, the Financial Industry Regulatory Authority (FINRA) released guidance relating to enhanced confirmation disclosure requirements for corporate and agency debt securities pursuant to FINRA Rule 2232, which is scheduled to take effect May 14, 2018. The rule requires member firms to disclose additional transaction-related information to retail customers for trades in certain fixed income securities. The guidance is in the form of frequently asked questions (FAQ) covering various topics, including when the new disclosure requirements are triggered, the scope of securities and transactions subject to the new rule, the required content and form of disclosure, and the determination of prevailing market price.

[\[Press Statement\]](#) [\[Regulatory Notice 17-24\]](#)

### **3.2 FINRA launches reporting of Treasury transactions**

The Financial Industry Regulatory Authority (FINRA) announced that as of July 10, 2017 the implementation of a new requirement for securities firms to report secondary-market transactions in Treasury securities, except savings bonds, to FINRA's Trade Reporting and Compliance Engine

(TRACE) was successful. The new report came in response to the need to collect U.S. Treasury cash market transaction information in a centralized repository in order to increase understanding and enhance surveillance of the market. FINRA is not publicly disseminating the information on transactions in Treasuries but is including the information in the TRACE regulatory feed it provides to federal financial agencies.

[\[Press Statement\]](#)

### **3.3 SEC approves reduced delay period for corporate and agency debt data sets**

On July 11, 2017, the Financial Industry Regulatory Authority (FINRA) published a notice announcing that the Securities and Exchange Commission (SEC) had approved FINRA's proposal to reduce the delay period applicable to Historic TRACE Data for corporate bonds and agency debt, including Rule 144A transactions, from 18 months to six months. Historic TRACE Data will be made available on a six-month delay beginning on October 2, 2017. FINRA will retain the current 18-month delay for the Historic SP Data Set.

[\[Regulatory Notice 17-23\]](#)

### 3.4 CFTC's Division of Market Oversight announces review of swaps reporting regulations

On July 10, 2017, the Commodity Futures Trading Commission's (CFTC) Division of Market Oversight (DMO) initiated a comprehensive review of the CFTC's swap data reporting regulations in parts 43, 45 and 49. The goal of the review is to ensure accurate, complete, and high quality data on swaps transactions as well as to streamline reporting, reduce messages that must be reported, and right-size the number of data elements reported to meet the agency's priority use-cases for swaps data.

The DMO also published a *Roadmap to Achieve High Quality Swaps Data*, which lays out rule change proposals addressing i) swap data repository (SDR) operations and the confirmation of data accuracy by swap counterparties, and ii) reporting workflows, including standardizing data fields and potentially delaying reporting deadlines.

The CFTC has opened a 40-day comment period to solicit input generally on the regulations under review as well as on the roadmap. Comments are requested by August 21, 2017. The DMO is aiming to complete the review, issue final rules, and achieve full industry implementation by the end of 2019.

[\[Press Statement\]](#) [\[Staff Letter\]](#) [\[Document\]](#)

### 3.5 Agencies issue fourth update on PFMI implementation

On July 14, 2017, the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) issued its fourth update report on the progress their member jurisdictions are making toward implementing the *Principles for financial market Infrastructures* (PFMI) released by these standards setting bodies in 2012. The

PFMI are international standards for payment, clearing and settlement systems, and trade repositories. They are designed to ensure that the infrastructure supporting global financial markets is robust and well placed to withstand financial shocks.

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[\[Publication\]](#) [\[Report\]](#)

*[This item was also covered under the Safety and Soundness section.]*

### 3.6 Enforcement Actions

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

- The SEC charged 13 individuals with fraud for their part in engaging in two cold calling scams that defrauded investors out of more than \$10 million through high-pressure boiler room-style sales tactics and misrepresentations. The SEC is seeking permanent injunctions, disgorgement with interest, civil penalties, and penny stock bars. The U.S. Attorney's Office for the Eastern District of New York has brought a parallel criminal action.

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