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March Second Half Developments

Overview

The Fed has published the last of its major rules affecting how foreign banks will be regulated in the U.S. this rule is most notable for its requirement that the foreign banks establish an intermediate holding company. These rules have a somewhat disproportionate impact on foreign banks given that many foreign bank parent organizations exceed \$50 billion, but these banks overall have small footprints in the U.S. This rule will require the largest banks to wholly reorganize their activities in the U.S. all with a view to avoiding future problems related to our last financial meltdown. Foreign banks for the most part had nothing to do with the genesis of those problems but have been paying the price if they want to participate in our economy.

OCC Removes Rules on Privacy and Mortgage Originators

On March 21, 2014, the OCC published its final rules to eliminate certain rules that the Dodd-Frank Act transferred to the BCFP back in 2011. The OCC removed regulations concerning registration of mortgage loan originators, and regulations relating to privacy of consumer financial information. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-21/html/2014-05826.htm>

Presidential Order on Blocking Russian Accounts because of Ukraine

On March 24, 2014, the President published an Executive order because of the annexation of Crimea and the use of force in Ukraine to have the Treasury block accounts of certain Russians. In addition, these same persons would have access to the U.S. cut off. See the final order at:

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-24/html/2014-06612.htm>

Swap Data Repositories access to data by Market Participants

On March 26, 2014, the CFTC published its interim final rule to clarify the scope of permissible access by market participants to swap data and information. The data and information maintained by a registered SDR that may be accessed by either counterparty to the swap does not

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include the identity of the other counterparty to the swap, the identity of the other counterparty's clearing member for the swap, or such counterparty's or clearing member's legal entity identifier. See the interim final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/html/2014-06574.htm>

Swap Data Recordkeeping and Reporting

On March 26, 2014, the CFTC published its request for comments as part of a working group that was formed in early 2014 to review its swap data reporting rules and related provisions. The Commission today requests comment on specific swap data reporting and recordkeeping rules to help determine how such rules are being applied and to determine whether or what clarifications, enhancements or guidance may be appropriate. See the request and the background on swap data at:

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/html/2014-06426.htm>

SEC Standards for Clearing Agencies

On March 26, 2014, the SEC published its proposed rule to establish standards for the operation and governance of certain types of registered clearing agencies that meet the definition of a "covered clearing agency." In essence the new rule would establish requirements for risk management, operations, and governance of registered clearing agencies that meet the definition of a "covered clearing agency." Covered clearing agencies would include registered clearing agencies that (i) have been designated as systemically important, or (ii) provide central counterparty services for security-based swaps. See the proposed rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/html/2014-05806.htm>

Enhanced Prudential Standards for Bank Holding Companies and Foreign Banks

On March 27, 2014, the Fed published its final rule to implement certain of the enhanced prudential standards required under section 165 of the Dodd-Frank Act. The enhanced prudential standards include risk-based and leverage capital requirements, liquidity standards, requirements for overall risk management (including establishing a risk committee) and stress test requirements. The amendments also establish risk-committee requirements and capital stress-testing requirements for certain bank holding companies and foreign banking organizations with total consolidated assets of \$10 billion or more. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-27/html/2014-05699.htm>

This advisory is a service of Connell & Andersen LLP for our clients and friends. It is not a full recitation of all developments. The descriptions are summaries of complex and detailed laws and regulations and may be incomplete or misleading. We invite any of our readers to contact us to discuss any items contained herein for further elaboration.