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November Second Half Developments

Overview

The OCC has finalized its rules on deposit advance products, making these more difficult for banks to offer and ceding the field to the nonbank parties that offer these high-cost bank products. At the time these rules were originally offered both the Fed and the FDIC proposed similar rules, but this time around, those agencies have not finalized their rules. The introductory materials presented as part of the Fed's stress testing rules give an excellent background on the steps taken by the Fed to shore up the capital position of banks and the tools used by the Fed to respond to the financial crisis.

New Swap Participant Identification Forms

On November 18, 2013, the CFTC published its final rule regarding the requirement for swap participants to file trader identification and market participant data. The new and amended forms require the reporting of certain trading accounts active on reporting markets that are designated contract markets or swap execution facilities. The proposed rules also collect ownership and control information, through a dedicated ownership and control report ("OCR"), for trading accounts active on reporting markets that are designated contract markets or swap execution facilities. These rules will assist the CFTC in its surveillance activities given the overwhelming volume of trading reports. As of last year, the CFTC received over 7 million trading records per day from the designated contract markets. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-18/html/2013-26789.htm>

Proposed: <http://www.gpo.gov/fdsys/pkg/FR-2012-07-26/html/2012-16180.htm>

Community Reinvestment Act Q&A

On November 20, 2013, the Agencies published final Interagency Questions and Answers on CRA. The agencies published five Q&A advisories that regulated to community development activities. See the revised questions at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-20/html/2013-27738.htm>

Proposed: <http://www.gpo.gov/fdsys/pkg/FR-2013-03-18/html/2013-06075.htm>

Fed revisions to Policy on Daylight Overdrafts and Posting Rules

On November 22, 2013, the Fed published revisions to its policy statement for the settlement of debits and credits to institutions' Federal Reserve accounts for different payment types. The policy may be found at: www.federalreserve.gov/paymentsystems/psr_policy.htm. The application of these posting rules determines an institution's intraday account balance and whether it has incurred a negative balance (daylight overdraft). This change relates to information that is no longer provided to banks by the Treasury. See the policy changes at: <http://www.gpo.gov/fdsys/pkg/FR-2013-11-22/html/2013-28028.htm>

Consumer Leasing

The BCFP has published new thresholds for exempt leases under the Consumer Leasing Act Dodd-Frank required that the dollar threshold for exempt consumer leases be adjusted annually by any annual percentage increase in the CPI. The Fed and the Bureau are adjusting the exemption threshold to \$53,500, effective January 1, 2014. Conforming changes are being made in Regulation Z as well. See the changes at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-25/html/2013-28194.htm>

See the Regulation Z changes at: <http://www.gpo.gov/fdsys/pkg/FR-2013-11-25/html/2013-28195.htm>

Deposit Advance Products

On November 26, 2013, the OCC published its final guidance on deposit advance products. A deposit advance product is a small-dollar, short-term loan or line of credit that a bank makes available to a customer whose deposit account reflects recurring direct deposits. The customer obtains a loan, which is to be repaid from the proceeds of the next direct deposit. Banks should be aware that deposit advance products could pose a variety of credit, reputation, operational, compliance, and other risks. The OCC is issuing the Guidance to ensure that any bank offering these products does so in a safe and sound manner and does not engage in practices that would increase these risks. The traditional use of such products has previously been noted to be an element of predatory lending. See the final guidance at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-26/html/2013-28361.htm>

Proposed: <http://www.gpo.gov/fdsys/pkg/FR-2013-04-30/html/2013-10094.htm>

Boycotts

On November 27, 2013, the Treasury published its most recent list of the countries that require participation in international boycotts. See the list at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-27/html/2013-28490.htm>

Interagency Liquidity Risk and Coverage Ratios

On November 29, 2013, the agencies published a proposed rule that would implement a quantitative liquidity requirement consistent with the liquidity coverage ratio standard established by the Basel Committee on Banking Supervision. The proposed rule would apply to all internationally active banking organizations, generally, bank holding companies and depository institutions with more than \$250 billion in total assets or more than \$10 billion in on balance sheet foreign exposure. The requirement is designed to promote the short-term resilience of the liquidity risk profile of internationally active banking organizations, thereby improving the banking sector's ability to absorb shocks arising from financial and economic stress, as well as improvements in the measurement and management of liquidity risk. The Fed also is proposing on its own a modified liquidity coverage ratio standard that is based on a 21-calendar day stress scenario rather than a 30 calendar-day stress scenario for bank holding companies and savings and loan holding companies without significant insurance or commercial operations that, in each case, have \$50 billion or more in total consolidated assets. See the proposed rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-29/html/2013-27082.htm>

Stress Testing Scenarios Policy Statement

On November 29, 2013, the Fed published its final policy statement on the approach to scenario design for stress testing that will be used in connection with the supervisory and company-run stress tests conducted under the Board's regulations pursuant to Dodd-Frank. Stress testing is a tool that helps both bank supervisors and a financial company measure the sufficiency of capital available to support the financial company's operations throughout periods of stress. See the final policy at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-29/html/2013-27009.htm>

Proposed: <http://www.gpo.gov/fdsys/pkg/FR-2012-11-23/html/2012-28207.htm>

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