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October First Half Developments

Overview

The banking agencies have observed the government shutdown and there have only been a handful of new proposals. The capital rules could not wait and the OCC and Fed published a mammoth rewriting of the capital requirements for banking organizations.

Mortgages and Equal Credit, RESPA and Truth in Lending

On October 1, 2013, the BCFP published its final rules amending its earlier final rule from January, 2013. These amendments focus primarily on loss mitigation procedures under Regulation X's servicing provisions, amounts counted as loan originator compensation to retailers of manufactured homes and their employees for purposes of applying points and fees thresholds under the Home Ownership and Equity Protection Act and the Ability-to-Repay rules in Regulation Z, exemptions available to creditors that operate predominantly in "rural or underserved" areas for various purposes under the mortgage regulations, application of the loan originator compensation rules to bank tellers and similar staff, and the prohibition on creditor-financed credit insurance. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-10-01/html/2013-22752.htm>

Proposed: <http://www.gpo.gov/fdsys/pkg/FR-2013-07-02/html/2013-15466.htm>

CFTC Emergency Plan in the Event of Government Shutdown

On October 1, 2013, the CFTC published an order describing how it would work in the event of a shutdown—other agencies were not publishing such a public description of how they would handle the shutdown. It is expected that other agencies had similar if private plans. See the CFTC's plan at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-10-01/html/2013-24084.htm>

Capital Rules Implementation of Basel III

On October 10, 2013, the Fed and the OCC published their final rules that revise the risk-based and leverage capital requirements for banking organizations. The final rule implements a revised

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definition of regulatory capital, a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator. In addition, the final rule establishes limits on a banking organization's capital distributions and certain discretionary bonus payments if the banking organization does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. The final rule also codifies the agencies' regulatory capital rules, which have previously resided in various appendices to their respective regulations, into a harmonized integrated regulatory framework.

See the final rules at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-10-11/html/2013-21653.htm>

Proposed: <http://www.gpo.gov/fdsys/pkg/FR-2012-08-30/html/2012-16761.htm>

Proposed: <http://www.gpo.gov/fdsys/pkg/FR-2012-08-30/html/2012-16757.htm>

Proposed: <http://www.gpo.gov/fdsys/pkg/FR-2012-08-30/html/2012-17010.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.