MARKET SOLUTIONS

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MARKET SOLUTIONS

Editor
Dorcas Pearce

Contributing Editors*
Marc-Alain Galeazzi
Barbara Mendelson

Market Solutions is a quarterly newsletter about the activities of the Financial Markets Association as well as legislative/regulatory developments of interest to FMA members. The opinions expressed in this publication are those of the authors, not necessarily those of the Association and are not meant to constitute legal advice. *Market Solutions* membership service of the **Financial Markets Association**, 333 2nd Street, NE - #104, Washington, DC 20002, ***dp-fma@starpower.net,*** 202/544-6327, ***www.fmaweb.org.*** Please let us have your suggestions on topics you would like to see addressed in future issues.

Regulation Best Interest: Implementation Considerations

By Susan Krawczyk, Issa Hanna and Nicholas Rinaldi
Eversheds Sutherland (US) LLP

What Happened?

On June 5, the U.S. Securities and Exchange Commission (SEC) adopted Regulation Best Interest (Reg. BI), a new rule establishing a "best interest" standard of conduct for broker-dealers and their natural associated persons when making recommendations to retail customers of any securities transaction or investment strategy involving securities or regarding the opening of an account.[1]

The compliance effective date of June 30, 2020, for Reg. BI will be upon us before we know it. This legal alert provides an overview of Reg. BI, and offers ten implementation considerations for firms to consider as they start to prepare for compliance with the new rule.

The New and Enhanced Broker-Dealer Standard of Conduct

Reg. BI, codified as Rule 15*l*-1 under the Securities Exchange Act of 1934 (the Exchange Act), imposes a new best interest standard of conduct on broker-dealers providing retail investment advice. The structure of Reg. BI consists of three parts: a part setting out the general best interest obligation, a part describing the four components of the general best interest obligation, and then a definitions part. To satisfy Reg. BI's general best interest obligation, a broker-dealer must comply with each of the four component obligations. The overall structure of Reg. BI is outlined below:

— **General Obligation**: The first part (Rule 15*l*-1(a)) imposes the general obligation on a broker-dealer and its associated persons to act in a retail customer's best interest when recommending a security or investment strategy involving securities without placing their interest ahead of the retail customer's interest.

— **Components of the General Obligation**: The second part (Rule 15*l*-1(a)(2)) provides that the general obligation is satisfied when the following four component obligations are met:

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Route to: ❑ Audit ❑ Compliance ❑ Legal ❑ Risk Management ❑ Back Office ❑ Training

Legislative/Regulatory Actions

This column was written by lawyers from Morrison & Foerster LLP to update selected key legislative and regulatory developments affecting financial services and capital markets activities. Because of the generality of this column, the information provided herein may not be applicable in all situations, and should not be acted upon without specific legal advice based on particular situations.

In this issue, we address selected developments from the federal banking regulators, the Financial Crimes Enforcement Network (FinCEN), the Office of Foreign Assets Control (OFAC), and the Consumer Financial Protection Bureau (CFPB).

FEDERAL BANKING REGULATORS

Agencies Publish Final Rules to Simplify and Tailor Application of Enhanced Prudential Standards and Resolution Plan Requirements

On October 10, 2019, the Board of Governors of the Federal Reserve System ("Federal Reserve") approved a final rule to further tailor enhanced prudential standards (EPS) for the largest and most complex banking organizations using a tiered approach. Soon after, on October 28, 2019, the Federal Reserve and the Federal Deposit Insurance Corporation (FDIC) approved a final rule adopting the same tiered approach and simplifying the resolution plans required under the Dodd-Frank Act (together, the "Final Rules"). The tiered approach is consistent with requirements established by the Economic Growth, Regulatory Relief, and Consumer Protection Act, enacted in 2018, as well as recent efforts of the federal banking agencies to tailor regulations to the risk profiles of banking organizations.

The tiered approach will be used to tailor application of a number of requirements currently applicable under Regulations YY and QQ. These include capital requirements, liquidity requirements, stress testing requirements, requirements to establish a risk committee, and a requirement to prepare a resolution plan.

The final rule divides firms into four different categories, as follows:

- Category I standards apply to all U.S. global systemically important banks (or GSIBs).

- Category II standards apply to banking organizations that are not U.S. GSIBs and meet the following requirements:

  - For U.S. bank holding companies and U.S. intermediate holding companies:

    - $700 billion or more in average total consolidated assets; or

    - $100 billion or more in average total consolidated assets and $75 billion or more in average cross-jurisdictional activity.

  - For foreign banking organizations:

    - $700 billion or more in average combined U.S. assets; or

    - $100 billion or more in average combined U.S. assets and $75 billion or more in average cross-jurisdictional activity.

- Category III standards apply to banking organizations that do not qualify for Category I or Category II standards and meet the following requirements:

  - For U.S. bank holding companies and U.S. intermediate holding companies:

    - $250 billion or more in average total consolidated assets; or

    - $100 billion or more in average total consolidated assets and $75 billion or more in any of the following risk-based indicators: nonbank assets; weighted short-term wholesale funding; or off-balance sheet exposure.

  - For foreign banking organizations:

    - $250 billion or more in average combined U.S. assets; or

    - $100 billion or more in average combined U.S. assets and $75 billion or more in any of the following risk-based indicators: nonbank assets; weighted short-term wholesale funding; or off-balance sheet exposure.

- Category IV standards apply to banking organizations that do not qualify for Category I, Category II, or Category III standards and meet the following requirements:

  - U.S. bank holding companies and U.S. intermediate holding companies having average total consolidated assets of $100 billion or more:

  - Foreign banking organizations having average combined U.S. assets of $100 billion or more.

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- »» **Disclosure Obligation**: providing certain prescribed disclosure before or at the time of the recommendation, about the recommendation and the relationship between the retail customer and the broker-dealer
- »» **Care Obligation**: exercising reasonable diligence, care, and skill in making the recommendation
- »» **Conflict of Interest Obligation**: establishing, maintaining, and enforcing policies and procedures reasonably designed to address conflicts of interest associated with recommendations
- »» **Compliance Obligation**: establishing, maintaining, and enforcing policies and procedures reasonably designed to achieve compliance with Reg. BI

— **Definitions of Key Terms**: The third part (Rule 15*l*-1(b)) defines the terms "retail customer," "retail customer investment profile," and "conflict of interest."

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"The compliance effective date of June 30, 2020… will be upon us before we know it."

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The General Obligation

Reg. BI requires a broker-dealer (or associated person), when recommending a securities transaction or investment strategy involving securities, to act in the retail customer's best interest and not place its (or his or her) own interests ahead of the retail customer's interests.[2] However, in a key change from the version of Reg. BI that the SEC proposed in April 2018 (proposed Reg. BI),[3] an "investment strategy" recommendation explicitly includes recommendations of account types and rollovers or transfers of assets. As explained in the Reg. BI Adopting Release, this general obligation also covers implicit hold recommendations resulting from agreed-upon account monitoring, as well as rollover recommendations, i.e., recommendations to rollover assets from a retirement plan into an account with the broker-dealer.

Implementation considerations: Firms that offer more than one type of customer account (e.g., brokerage accounts and direct held accounts) might want to consider adopting policies and procedures for ensuring that account-type recommendations are in the best interests of retail customers. Policies and procedures could, for example, require a comparison of fees and costs, a comparison of features and benefits available, or consideration of the best interest scenario for each account type. Similarly, a firm that recommends rollovers might also want to consider adopting policies and procedures for ensuring that such rollover recommendations are in the best interests of retail customers.

The Disclosure Obligation

Under Reg. BI's Disclosure Obligation, prior to or at the time of a recommendation, a broker-dealer (or associated person) must provide "full and fair" disclosure in writing of all material facts relating to the scope and terms of the relationship with the retail customer, including the following:

- a disclosure that the firm or representative is acting in a broker-dealer capacity
- the material fees and costs the customer will incur
- the type and scope of the services to be provided, including any material limitations on the recommendations that could be made to the retail customer
- all material facts relating to conflicts of interest associated with the recommendation

In the Reg. BI Adopting Release, the SEC explains that "material facts" relating to conflicts of interest associated with a recommendation would include facts that might incline a broker-dealer to make a recommendation that is not disinterested, including, for example, conflicts associated with proprietary products, payments from third parties, and compensation arrangements.[4]

Individualized Fee Disclosure Not Required. The Disclosure Obligation does not mandate individualized fee disclosure particular to each retail customer.[5] Instead, the SEC makes clear that broker-dealers may disclose material facts about material fees and costs in more standardized numerical and narrative terms, such as standardized or hypothetical amounts, dollar or percentage ranges, and explanatory text where appropriate.[6] However, a broker-dealer will have to supplement this standardized disclosure with more particularized information if the broker-dealer concludes that such information is necessary to fully and fairly disclose the material facts associated with the fees or charges associated with a recommendation (e.g., through the delivery of a product prospectus).[7]

Capacity Disclosure. While not evident from the text of Reg. BI, the Reg. BI Adopting Release explains that the first disclosure item above—regarding the capacity—effectively prohibits a broker-dealer and its associated persons from using the term "adviser" or "advisor" if the broker-dealer is not a registered investment adviser or the associated person is not a supervised person of a registered investment adviser.[8] Readers might recall that when the SEC issued the Reg. BI Proposing Release, the SEC also issued another release proposing, among other things, the adoption of a rule that would have restricted broker-dealers and their associated persons, when communi-

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cating with a retail customer, from using the term adviser or advisor as part of a name or title, unless they were registered as, or supervised persons of, an investment adviser.[9] The SEC decided not to adopt that rule, but instead addressed this matter by expressing the view in the Reg. BI Adopting Release that such use of the term adviser or advisor would be presumed to be a violation of the capacity disclosure requirement under the Disclosure Obligation.[10]

Implementation considerations: Dual registrants or stand-alone broker-dealers who currently permit their associated persons to use the term adviser or advisor in their designation will likely have to revisit this practice if their associated persons are not also registered as an, or supervised by a registered investment adviser. Moreover, a stand-alone broker-dealer whose business name includes the term adviser or advisor will likely have to consider a change in its name. Firms might also want to consider designations for their associated persons that appear in marketing collateral, such as websites, account agreements, marketing materials, and associated-person stationery.

Integration of Disclosure. The Reg. BI Adopting Release provides extensive guidance regarding the scope of disclosure the SEC expects a broker-dealer to provide, including guidance on the integration of disclosure across various existing documents, such as account documentation, confirmations, and prospectuses, as well as with the relationship summary required to be delivered under a separate rule, Rule 17a-14, adopted by the SEC in conjunction with Reg. BI.[11]

Implementation considerations: Firms might want to consider whether to integrate new disclosures developed to comply with Reg. BI with disclosures across various existing documents, or create a single stand-alone comprehensive Reg. BI disclosure. Firms might want to consider developing multiple Reg. BI disclosures for different types of recommendations being made – e.g., one disclosure for account-opening recommendations and another for transaction recommendations. Firms should keep in mind, though, their requirements to record the delivery of the Reg. BI disclosures.

The Care Obligation

The Care Obligation in Reg. BI[12] contains a three-part "reasonable basis," "customer specific," and "quantitative" best interest requirement based upon FINRA's suitability rule guidance. It also requires a broker-dealer to exercise *reasonable diligence, care,* and *skill* when making a recommendation to a retail customer, without mentioning the term "prudence," which was included in proposed Reg. BI. The Reg. BI Adopting Release explains that, in the SEC's view, the term prudence was creating legal uncertainty and confusion; the term was redundant regarding what the SEC intended in requiring broker-dealers to exercise diligence, care, and skill; and removal of the term does not change the requirements under the Care Obligation.[13]

Implementation considerations: To meet the customer-specific best interest requirement under Reg. BI, firms want to consider whether their existing suitability standards, training, and suitability rules engines (or other processes for reviewing transactions for suitability) should be enhanced in order to satisfy Reg. BI's best interest requirements. In addition, firms will want to ensure that their "rules engine" for automated transaction review is able to differentiate between transactions recommended to retail customers and those effected for customers not covered by Reg. BI.

Inclusion of Costs. The Care Obligation requires the broker-dealer to understand potential risks, rewards, and costs associated with the recommendation. Notably, "costs" did not appear in proposed Reg. BI, and was added to the Care Obligation when the SEC finalized Reg. BI. In the Reg. BI Adopting Release, the SEC emphasizes that, "while cost must be considered, it should never be the only consideration," as it "is only one of many important factors to be considered regarding the recommendation and that the standard does not necessarily require the 'lowest cost option.'"[14]

Reasonably Available Alternatives. The Reg. BI Adopting Release includes an extensive discussion of the SEC's view that the Care Obligation requires a broker-dealer to consider "reasonably available alternatives," if any, offered by the broker-dealer in determining whether it has a reasonable basis for making the recommendation.[15] Notably, the SEC's view in this regard is not reflected in the Reg. BI rule text itself, but only the Reg. BI Adopting Release.

Implementation considerations: Firms might want to consider whether their policies and procedures relating to product due diligence or product review processes require any changes in order to satisfy Reg. BI's Care Obligation. For example, firms might want to restructure and reframe their policies and procedures to align with the reasonable basis best interest standard in the Care Obligation by incorporating terms like "diligence, care, and skill" and "best interest" in describing processes that are followed. Furthermore, firms might want to consider whether these processes adequately address conflicts presented by each product or service, and a consideration of the costs, risks, and rewards of each product or service.

The Conflict of Interest Obligation

The Conflict of Interest Obligation in Reg. BI[16] requires a broker-dealer to establish, maintain, and enforce reasonably designed written policies and procedures addressing conflicts of

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interest associated with recommendations to retail customers. These policies and procedures must be reasonably designed to identify all such conflicts and at a minimum disclose (or eliminate) them.[17] But Reg. BI identifies three specific conflicts that must be mitigated, prevented, or eliminated:

— **Associated Person Incentives**. The policies and procedures must be reasonably designed to *mitigate* conflicts of interest that create an incentive for an *associated person* of the broker-dealer to place his or her interests or the interest of the firm ahead of the retail customer's interest.[18] In this regard, the SEC identified the following as examples of incentives to an associated person that would require mitigation: (i) compensation from the broker-dealer or from third parties, (ii) employee compensation or employee incentives (e.g., incentives tied to asset accumulation and not otherwise prohibited under the sales contest ban discussed below, special awards, differential or variable compensation, and incentives tied to appraisals or performance reviews, and (iii) commissions or sales charges, or other fees or financial incentives, or differential or variable compensation, whether paid by the retail customer, the broker-dealer, or a third party.[19]

— **Material Limitations on Products**. If a broker-dealer places material limitations on recommendations that may be made to a retail customer (e.g., offering only proprietary or other limited range of products), Reg. BI requires the broker-dealer's policies and procedures to be reasonably designed to identify and disclose such limitations, and *prevent* the limitations from causing the associated person or broker-dealer from placing the associated person's or broker-dealer's interests ahead of the customer's interest.[20]

— **Sales Contests**. Reg. BI requires that a broker-dealer's policies and procedures must be reasonably designed to identify and *eliminate* sales contests, sales quotas, bonuses, and noncash compensation that are based on the sale of specific securities or specific types of securities within a limited period of time.[21] The SEC does not provide a bright-line definition of "limited period of time" for these purposes.

Implementation considerations: Firms will likely need to consider how to structure policies and procedures to identify and eliminate sales contests, sales quotas, bonuses, and noncash compensation that are based on the sale of specific securities or specific types of securities within a limited period of time (collectively, sales contests), and make sure that no such contests are in place on June 30, 2020, when Reg. BI takes effect.

Examples of Mitigation Methods for Associated Person Incentives. The Reg. BI Adopting Release includes an extensive discussion of the SEC's views on the mitigation of associated person-level conflicts of interest,[22] and restates the list of examples of mitigation methods included in the Reg. BI Proposing Release.

Implementation considerations: To the extent not already adopted, firms might want to consider adopting policies and procedures specifically addressing the identification and mitigation of conflicts associated with associated person compensation. Furthermore, firms that already have policies and procedures addressing associated person compensation might want to make sure they adequately address the mitigation of conflicts arising out of such compensation. And, finally, firms might want to consider use of some of the illustrative examples of mitigation methods provided in the Reg. BI Adopting Release.[23]

The Compliance Obligation

Under the Compliance Obligation in Reg. BI,[24] a broker-dealer must also establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg. BI as a whole. Thus, a broker-dealer's policies and procedures must address not only conflicts of interest but also compliance with its Disclosure and Care obligations under Reg. BI.

Implementation considerations: Throughout the Reg. BI Adopting Release, the SEC instructs firms that their policies and procedures "should" address certain topics or require a prescribed process. Firms might want to consider whether the guidance the SEC provides is applicable to their respective business models and, if so, whether they should adopt policies and procedures consistent with that guidance.

Definitions

No Best Interest Definition. Despite requests from many commenters that the SEC do so, the SEC did not define best interest in Reg. BI, instead opting to explain in Reg. BI and through the Reg. BI Adopting Release what "acting in the best interest" means. In the SEC's view, "whether a broker-dealer has acted in the retail customer's best interest in compliance with Regulation Best Interest will turn on an objective assessment of the facts and circumstances of how the specific components of Regulation Best Interest—including its Disclosure, Care, Conflict of Interest, and Compliance Obligations—are satisfied at the time that the recommendation is made (and not in hindsight)."[25]

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New Conflict of Interest Definition. Reg. BI adds a new definition for "conflict of interest": an interest that might incline a broker, dealer, or a natural person who is an associated person of a broker or dealer—consciously or unconsciously—to make a recommendation that is not disinterested.[26] In the Reg. BI Adopting Release, the SEC explains that it drew upon the description of a conflict of interest that has developed under the Advisers Act.[27]

Retail Customer. Reg. BI defines "retail customer" as any natural person, or the legal representative of such natural person, who (a) receives a recommendation of any securities transaction or investment strategy involving securities from a broker, dealer, or a natural person who is an associated person of a broker or dealer; and (b) uses the recommendation primarily for personal, family, or household purposes.[28]

Implementation considerations: Firms that will continue to provide broker-dealer services to customers who are not retail customers (e.g., institutional customers or retirement plan sponsors that are not deemed the legal representative of a natural person) might want to ensure that their systems are able to identify accounts that would not be considered retail customer accounts subject to Reg. BI. Firms will also want to keep in mind that they will need to preserve their existing compliance and operational structure for customer accounts that are not covered by Reg. BI.

Retail Customer Investment Profile. Reg. BI's definition of "retail customer investment profile" includes, but is not limited to, "the retail customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the retail customer may disclose to the broker, dealer, or a natural person who is an associated person of a broker or dealer in connection with a recommendation."[29]

Recordkeeping Requirements

In connection with adopting Reg. BI, the SEC added new provisions to the record-making and recordkeeping rules under the Exchange Act corresponding to Reg. BI. In particular, new Rule 17a-3(a)(35) under the Exchange Act requires broker-dealers to make and keep a record of all information collected from and provided to retail customers pursuant to Reg. BI, as well as the identity of each natural person, if any, responsible for each account. Neglect, refusal, or inability of a retail customer to provide or update any required information excuses the broker-dealer from obtaining it.

Furthermore, new Rule 17a-4(e)(5) requires broker-dealers to maintain the information collected pursuant to new Rule 17a-3(a)(35) until at least six years after the earlier of the date the account was closed or the date on which the information was collected, provided, replaced, or updated.

Implementation considerations: Given the long lead time that many broker-dealers' information technology and software development teams need to develop and deploy new or modified systems to capture required information, firms will want to notify these teams as soon as possible of the new recordkeeping requirements. ■

1 *See* "Regulation Best Interest: The Broker-Dealer Standard of Conduct," SEC Release No. 34-86031 (June 5, 2019), available at https://www.sec.gov/rules/final/2019/34-86031.pdf (the "Reg. BI Adopting Release"). The Reg. BI Adopting Release also covers the adoption of amendments to rules 17a-3 and 17a-4 under the Exchange Act to establish new record-making and recordkeeping requirements for broker-dealers with respect to certain information collected from or provided to retail customers.
2 Rule 15*l*-1(a)(1).
3 *See* Regulation Best Interest, Release No. 34-83062 (Apr. 18, 2018) ("Reg. BI Proposing Release").
4 *See* the Reg. BI Adopting Release at the text accompanying n. 17.
5 *See* the Reg. BI Adopting Release at the text accompanying n. 373-4.
6 *Id*.
7 *See* the Reg. BI Adopting Release at the text accompanying n. 375.
8 *See* the Reg. BI Adopting Release at the text accompanying nn. 323-24.
9 *See* Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures in Retail Communications and Restrictions on the Use of Certain Names or Titles, Release No. 34-83063, IA-4888 (Apr. 18, 2018) (the "Form CRS Proposing Release").
10 *See* the Reg. BI Adopting Release at the text accompanying nn. 323-24.
11 *See generally* the Reg. BI Adopting Release at Section II.C.1.a., "Disclosure Obligation – Material Facts Regarding Scope and Terms of the Relationship." The relationship summary rule is described in "Form CRS Relationship Summary; Amendments to Form ADV," (June 5, 2019) SEC Release No. 34-86032, available at https://www.sec.gov/rules/final/2019/34-86032.pdf.
12 Rule 15*l*-1(a)(2)(ii).
13 *See* the Reg. BI Adopting Release at the text accompanying nn. 576-85.
14 *See* the Reg. BI Adopting Release at the text accompanying n. 73-4.
15 *See generally* the Reg. BI Adopting Release at Section II.C.2.c., "Application of the Care Obligation—Reasonably Available Alternatives and Otherwise Identical Securities."
16 Rule 15*l*-1(a)(2)(iii).
17 Rule 15*l*-1(a)(2)(iii)(A).
18 Rule 15*l*-1(a)(2)(iii)(B).
19 *See* the Reg. BI Adopting Release at the text accompanying n. 745-6.
20 Rule 15*l*-1(a)(2)(iii)(C).
21 Rule 15*l*-1(a)(2)(iii)(D).
22 *See generally* the Reg. BI Adopting Release at Section II.C.3.e., "Conflict of Interest Obligation – Mitigation of Certain Incentives to Associated Persons."
23 *See* the Reg. BI Adopting Release at the text accompanying nn. 753-61.
24 Rule 15*l*-1(a)(2)(iv).
25 *See* the Reg. BI Adopting Release at the text accompanying n. 66-7.
26 Rule 15*l*-1(b)(3).
27 *See* the Reg. BI Adopting Release at the text accompanying nn. 421-22.
28 Rule 15*l*-1(b)(1).
29 Rule 15*l*-1(b)(2).

For more information, please contact Susan Krawczyk, Partner (202/383-0197; susankrawczyk@eversheds-sutherland.com), Issa Hanna, Counsel (212/389-5034; issahanna@eversheds-sutherland.com) or Nicholas Rinaldi, Associate (212/301-6586; nicholasrinaldi@eversheds-sutherland.com).

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With respect to EPS, under the Final Rules, banking organizations subject to Category I standards would continue to be subject to the most stringent requirements, which were largely unchanged. Banking organizations subject to Category II standards must comply with global standards developed by the Basel Committee on Banking Supervision and other requirements appropriate for large and internationally active firms. Banking organizations subject to Category III and IV requirements will be subject to less stringent standards appropriately calibrated to their risk profile. A chart prepared by the Federal Reserve summarizing the requirements applicable to each tier of banking organization is available at https://www.federalreserve.gov/aboutthefed/boardmeetings/files/tailoring-rule-visual-20191010.pdf.

With respect to the resolution plan requirements, banking organizations subject to Category I requirements are now only required to file resolution plans every two years, alternating between a full plan and a targeted plan. Firms subject to Category II and Category III requirements are now only required to file resolution plans every three years, alternating between a full plan and targeted plan. Finally, foreign banking organizations subject to Category IV requirements that also have $250 billion or more in average total consolidated assets are now only required to file a reduced resolution plan every three years.

A number of firms are now exempt from the resolution plan requirement altogether, unless otherwise directed by the Federal Reserve. These include:

- U.S. banking organizations subject to Category IV requirements;
- Foreign banking organizations with less than $250 billion in total global consolidated assets, and combined U.S. assets of less than $100 billion; and
- U.S. banking organizations with less than $100 billion in total consolidated assets.

For our client alert on the EPS proposal, which was adopted in a substantially similar form, please see: https://www.mofo.com/resources/insights/181120-large-bank-supervision.html. For our client alert on the resolution plan proposal, which was also adopted in substantially similar form, please see: https://www.mofo.com/resources/insights/190422-fdic-proposed-changes.html.

FDIC Issues Proposed Rule on Brokered Deposit Restrictions

On December 12, 2019, the FDIC issued a notice of proposed rulemaking (NPR) to update and clarify the regulatory framework for analyzing whether deposits placed through deposit placement arrangements qualify as brokered deposits. This modernization responds to technological changes in the banking landscape since the law on brokered deposits was first enacted in 1989.

The FDIC's rules define a "brokered deposit" as a deposit that a bank obtains through a "deposit broker." A "deposit broker," in turn, is a person engaged in the business of placing, or facilitating the placement of, deposits of third parties with insured depository institutions (IDIs). The FDIC has traditionally broadly interpreted this definition, as it considers these deposits to be somewhat risky.

Brokered deposits include arrangements between IDIs and third parties, such as fintech companies and new technologies, which IDIs use to interact with their customers. This proposal would establish a clearer standard for determining whether an entity is a deposit broker.

Among other changes, the NPR proposes revising the "facilitation" prong of the deposit broker definition to apply to any person engaged in one or more of four specified activities. The proposal also suggests expanding the "IDI exception," under certain circumstances, to include wholly owned subsidiaries of IDIs. The IDI exception excludes IDIs from the definition of "deposit brokers" with respect to funds placed with that depository institution.

Additionally, the NPR amends the "primary purpose exception," which excludes from the definition of "deposit broker" any agent or nominee whose primary business relationship purpose with its customers is not the placement of funds with IDIs. The NPR further establishes a transparent application process for an entity to obtain written confirmation of its primary purpose exception. Under certain conditions, the exception may be granted to third parties placing deposits through brokerage sweep accounts and third parties whose primary purpose is enabling customers to make payments. Brokered certificates of deposit, the archetypal brokered deposit which prompted the initial regulations, will still be considered brokered deposits.

The FDIC noted that it plans to codify relevant staff opinions of general applicability and to rescind those that are obsolete. The FDIC is seeking comments regarding this proposal within 60 of publication of the NPR in the *Federal Register*.

The NPR is available at: https://www.fdic.gov/news/board/2019/2019-12-12-notice-dis-b-fr.pdf.

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FDIC and OCC Propose to Modernize Community Reinvestment Act Regulations

On December 12, 2019, the FDIC and the Office of the Comptroller of the Currency (OCC) issued a notice of proposed rulemaking (CRA NPR) to modernize their regulations under the Community Reinvestment Act (CRA). The CRA NPR is designed to increase bank activity in low- and moderate-income (LMI) communities that lack credit, sturdy infrastructure, and easy access to banking services.

The CRA NPR clarifies and expands what qualifies for credit under the CRA, such as loans and investments in Indian country and minority depository institutions. A process would be enacted to confirm whether an activity would receive CRA credit. The FDIC and OCC would also publish lists of qualifying activities. The CRA NPR establishes performance standards that would make the CRA performance evaluation more objective and based on thresholds established before the beginning of a bank's evaluation period.

The CRA NPR also introduces an additional definition of "assessment areas" that is tied to where deposits are located, to ensure LMI persons are served in those areas as well. A new test would be added, updated for the digital age, to determine whether banks need to create additional assessment areas. Additional assessment areas will be required for banks that receive 50% or more of adjusted retail domestic deposits from outside their facility-based assessment areas.

Banks with $500 million or less in total assets would be permitted to adopt the new framework or continue to be evaluated under the current rules.

The FDIC is seeking comments regarding this proposal by March 9, 2020.

The CRA NPR is available at: https://www.fdic.gov/news/board/2019/2019-12-12-notice-dis-a-fr.pdf.

Long Awaited HVCRE Rule Clarifies Capital Treatment of Certain Real Estate Loans

On November 19, 2019, the federal banking agencies issued a final rule (the "HVCRE Rule") that incorporates a new definition of an "HVCRE exposure" into the U.S. regulatory capital rules. The HVCRE Rule is scheduled to go into effect on April 1, 2020.

The prior definition of a high volatile commercial real estate (HVCRE) exposure was a "credit facility that, prior to conversion to permanent financing, finances or has financed the acquisition, development, or construction (ADC) of real property" unless an enumerated exemption applies. This has been amended to include, subject to exemptions, a credit facility secured by land or improved property that, prior to being reclassified as a non-HVCRE exposure, meets three specific conditions: it (1) primarily finances, has financed, or refinanced the acquisition, development, or construction of real property; (2) has the purpose of providing financing to acquire, develop, or improve such real property into income-producing real property; and (3) is dependent upon future income or sales proceeds from, or refinancing of, such real property for the repayment of such credit facilities. This new definition clarifies a number of uncertainties associated with the previous definition. The preamble to the HVCRE Rule also clarifies some interpretative issues of concern, for example, by linking certain terms to specific definitions and report items in the FFIEC Call Report instructions.

To be an HVCRE exposure under the HVCRE Rule, the credit must depend upon future income or future sales proceeds (or refinancing) for repayment. This requirement should exempt acquisition, development, and construction financing if the cash flow generated by the real property is sufficient to support the debt service and expenses of the real property in accordance with the banking organization's applicable loan underwriting criteria for permanent financings.

The HVCRE Rule deviates from prior proposals in several key ways that are favorable to bank lenders, including the treatment of loans to acquire or develop residential condominiums and cooperatives and the use of borrowed funds under certain circumstances to meet the 15% contributed capital requirement for one of the four available exemptions.

While loans originated prior to January 1, 2015 are excluded from characterization as an HVCRE exposure, loans originated after January 1, 2015 but before the effective date, banking organizations may either maintain their current capital treatment or reevaluate the loans under the revised HVCRE exposure definition.

The HVCRE Rule is available at: https://www.fdic.gov/news/board/2019/2019-11-19-notice-sum-c-fr.pdf. For more information, please see our client alert at: https://www.mofo.com/resources/insights/191125-agencies-adopt-hvcre-rules.html.

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FMA Welcomes New Members

Laurent Meyer Abergel	**Schulte Roth & Zabel LLP**
Henry Barkhausen	**OCC**
Christen Boas Hayes	**White & Case LLP**

Legislative/Regulatory Actions

Continued from Page 8

BSA / AML

Federal Regulators Issue Joint Guidance on Banking Hemp-Related Businesses

The federal banking agencies and FinCEN, in consultation with the Conference of State Bank Supervisors, issued guidance on December 3, 2019, announcing that banks are not required to file suspicious activity reports (SARs) on customers solely because they are engaged in the legal growth or cultivation of hemp (the "Guidance"). For hemp-related customers, the Guidance instructs banks to follow standard SAR procedures and file SARs as warranted. As long as a bank maintains a Bank Secrecy Act/anti-money laundering program commensurate with the level and complexity of the risks assumed, it may provide banking services to customers engaged in the growth or cultivation of hemp.

The Agriculture Improvement Act of 2018 removed hemp from the list of Schedule I controlled substances under the Controlled Substances Act. On October 31, 2019, the U.S. Department of Agriculture (USDA) issued an interim final rule establishing a regulatory regime for the legal production of hemp, which delegates authority to state and tribal governments. The new regulatory regime, designed to accommodate the 2020 planting season, permits state and tribal governments to: (i) establish their own USDA-approved plans for monitoring and regulating the production of hemp within their jurisdictions; (ii) rely on a federal licensing program administered by the USDA; or (iii) prohibit the production of hemp altogether. FinCEN noted that it will review the interim rule and provide additional guidance shortly. Marijuana remains classified as a Schedule I controlled substance. For marijuana-related businesses, banks should continue to follow the guidelines set forth in FinCEN's 2014 guidance (FIN-2014-G001).

The Guidance is available at: https://www.fincen.gov/sites/default/files/2019-12/Hemp%20Guidance%20(Final%2012-3-19)%20FINAL.pdf. For more information on the Guidance, please see out client alert: https://www.mofo.com/resources/insights/191205-hemp-related-businesses.html.

Elders Face Increased Financial Threat from Domestic and Foreign Actors

In December 2019, FinCEN released an analysis on elder financial exploitation (EFE) (the "Analysis"). Based on SARs filed between October 2013 and August 2019, FinCEN found that elders face a heightened threat to their financial security from both domestic and foreign actors.

SARs filed on EFE skyrocketed over the six years in question. The dollar amounts of suspicious activity increased each year as well. While money services businesses (MSBs) and depository institutions accounted for most of the filings, other SARs were received from casinos, insurance companies, and securities and futures institutions, among others.

The exploitation usually involved money transfer scams conducted via MSBs or theft conducted through depository and securities and futures institutions. Common scams include: (1) romancing the victim and requesting money to "visit" or for "hardships"; (2) claiming a victim's family member needs money to resolve an emergency; and (3) persuading the victim that they have won a lottery, and must send an "import tax" to collect it. Thefts were commonly perpetrated by the elder's family members or caregivers.

FinCEN collaborates with other governmental bodies, financial institutions, and the public to combat EFE. Financial institutions and their employees should warn elders about risks and report concerns to adult protective services and law enforcement.

The Analysis is available at: https://www.fincen.gov/sites/default/files/shared/FinCEN%20Financial%20Trend%20Analysis%20Elders_FINAL%20508.pdf.

ECONOMIC SANCTIONS

OFAC Sanctions Turkey for Its Invasion of Syria

In early October 2019, after the Trump Administration announced the withdrawal of U.S. troops from Syria, Turkey initiated a military offensive in northern Syria targeting Kurdish populations along the Turkey-Syria border. In response, on October 14, 2019, President Trump issued Executive order ("E.O.") 13894 authorizing the U.S. Departments of State and Treasury to sanction Turkish government agencies, officials, and sectors of the economy, as well as to impose secondary sanctions on non-U.S. financial institutions. Accompanying the new E.O. were sanctions against a small number of Turkish government ministries and officials. The Trump Administration removed the sanctions just over a week later when the Turkish government agreed to a permanent ceasefire in northern Syria. E.O. 13894 remains in place.

Sanctioning a NATO ally represents a dramatic shift in U.S. sanctions policy. Details about the Trump Administration's sanctions against Turkey are available in our client alerts at https://www.mofo.com/resources/insights/191021-trump-on-turkey.html and https://www.mofo.com/resources/insights/191025-trump-reverses-course-turkey.html.

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Congress Authorizes OFAC to Impose Sanctions Related to the Riots in Hong Kong

On November 27, 2019, President Trump signed two bills into law mandating sanctions and export restrictions related to the protests in Hong Kong in another sign of escalating tensions between the United States and China.

The first bill, the Hong Kong Human Rights and Democracy Act of 2019, requires the Trump Administration to submit a report to Congress within six months, and at least annually thereafter, on each foreign person determined to be responsible for extrajudicial rendition, arbitrary detention, torture, or any other gross violations of "internationally recognized human rights" in Hong Kong. The Administration would then be required to sanction anyone named in the reports, including asset freezes, transactional prohibitions, and visa bans.

The second bill, which is untitled, prohibits the executive branch from issuing licenses to allow the export of covered munitions such as tear gas, pepper spray, rubber bullets, stun guns, tasers, and other crowd control-related items to the Hong Kong Police Force. The bill includes narrow exceptions for U.S. national and foreign policy interests.

For our client alert discussing these bills in more detail, please visit https://www.mofo.com/resources/insights/191203-congress-adds-sanctions.html

OFAC Takes Several Notable Enforcement Actions Against Foreign Financial Institutions

In Q4 2019, OFAC issued three monetary penalties against non-U.S. financial institutions operating outside the United States, showing its continued willingness to exercise extraterritorial jurisdiction. The first two cases involved the German Allianz and Swiss ACE Limited operating non-U.S. branches or foreign subsidiaries that sold Cuba-related insurance products. However, in both cases, the non-U.S. subunit involved was owned or controlled by an intermediary U.S. entity, thus bringing those subunits under OFAC's jurisdiction for transactions involving Cuba. OFAC asserted this jurisdiction by imposing a $170,535 penalty against Allianz and a $66,212 penalty against ACE Limited for their sales of Cuba-related insurance policies. The Allianz and ACE Limited cases show the value of considering U.S. sanctions when developing corporate ownership and reporting structures.

The third case involved the British Arab Commercial Bank (BACB). The U.K.-based BACB developed an internal "book transfer" mechanism to process U.S. dollar payments on behalf of Sudanese customers without clearing those transactions through the United States. However, to process the book transfers, BACB needed a supply of U.S. dollars to fund book transfer-related accounts. BACB funded these accounts by sourcing U.S. dollars in bulk from European financial institutions which, in turn, sourced those dollars from the United States. While the book transfer process appears to have successfully avoided U.S. jurisdiction, OFAC found that because BACB's bulk U.S. dollar funding "corresponded" to individual payments related to Sudan, the bulk funding transactions violated U.S. sanctions against Sudan at the time. The BACB case shows the value of carefully considering the U.S. nexus of proposed transactions.

CFPB UDPATE

Regulatory Actions

CFPB Issues Final Rule Implementing HMDA Amendments

On October 10, 2019, the CFPB issued a final rule adopting two parts of a May 2019 proposal to amend Regulation C and the Home Mortgage Disclosure Act (HMDA) by: (1) increasing the threshold for HMDA reporting of home equity lines of credit (HELOCs) to 200 or more lines of credit in each of the prior two calendar years; and (2) increasing the threshold for HMDA reporting of mortgage loans to 50 or more loans originated in each of the prior two calendar years (up from 25). In addition, the CFPB extended for another two years a temporary threshold for HMDA reporting of HELOCs to 500 or more lines of credit in each of the prior two calendar years and asked for comments about doubling the mortgage loan threshold to 100 or more loans.

CFPB Plans Proposal on Collection of Small-Business Lending Data

In a brief filed in federal court in November 2019, the CFPB indicated that it plans to release an "outline of proposals" for regulations regarding the collection of small-business lending data in approximately one year. The Dodd-Frank Act requires financial institutions to collect, report, and make public certain data regarding credit applications made for women-owned, minority-owned, and small businesses, but the CFPB has taken the position that the data collection provisions do not take effect until it has promulgated regulations. Although the CFPB has started engaging with the industry about small business data collection, including in a November 2019 symposium, the CFPB has yet to take any concrete steps in the rulemaking process

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Legislative/Regulatory Actions

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CFPB Issues Final Rule Interpreting Screening and Training Requirements for Loan Originators

On November 24, 2019, the CFPB's interpretive rule on screening and training requirements for loan originators under Regulation Z took effect. Under the new interpretive rule, a loan originator organization is not required to comply with certain screening and training requirements under Regulation Z if the individual loan originator employee is authorized to act as a loan originator pursuant to the temporary authority described in the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 amendments to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act").

CFPB Proposes to Change Rule for Remittance Transfers

On December 6, 2019, the CFPB published a proposed rule with request for public comments in the *Federal Register*. The proposed rule would change the CFPB's "Remittance Rule" under Regulation E to mitigate the effects of the expiration of a statutory exception that allows insured institutions to disclose estimates instead of exact amounts to consumers. The exception would expire on July 21, 2020. The proposed rule would also increase a safe harbor threshold under the Remittance Rule related to whether a person makes remittance transfers in the normal course of its business, which would reduce compliance costs for entities that make a limited number of remittance transfers annually. Interested commenters will have until January 21, 2020, to submit comments.

Enforcement Actions

CFPB Files Complaint Against Debt Collector

On September 25, 2019, the CFPB filed a complaint in federal court in the District of Maryland against a debt collector, and its subsidiaries and owner, alleging violation of the Fair Credit Reporting Act and Regulation V. The complaint alleges that the debt collector failed to establish or implement reasonable written policies or procedures regarding the accuracy and integrity of information furnished to consumer reporting companies, including the handling of consumer disputes. The complaint also alleges that the debt collector failed to cease furnishing information about accounts before or without conducting an investigation into the accuracy of the information it was furnishing after receiving identity theft reports from consumers disputing such accounts. Additionally, the complaint alleges that the debt collector and its owner violated the Fair Debt Collection Practices Act when the debt collector represented that consumers owed certain debts when it did not have a reasonable basis to assert that the consumers owed those debts. The CFPB's complaint seeks an injunction, damages, redress, disgorgement of ill-gotten gains, and the imposition of a civil money penalty.

CFPB Files Complaint Against Brokers of Contracts Offering High-Interest Credit

On October 1, 2019, the CFPB and the South Carolina Department of Consumer Affairs filed a lawsuit in federal district court in the District of South Carolina against two affiliated companies engaged in brokering contracts offering high-interest credit, as well as the owner of the companies, alleging violations of the Consumer Financial Protection Act of 2010 (CFPA). The companies were brokers of contracts offering high-interest credit to veterans and other consumers that allegedly misrepresented that the contracts were valid and enforceable when the contracts were actually void under federal and state law. The complaint also alleges that the companies and their owner misrepresented to consumers that the contracts were a sale of payments rather than a high-interest credit offer, and that they failed to inform consumers of the products' interest rates. The CFPB is seeking an injunction against the companies and their owner, as well as damages, redress to consumers, and the imposition of a civil money penalty.

CFPB Files Complaint Against Student Loan Debt Relief Operations

On October 21, 2019, the CFPB filed a complaint and sought a temporary restraining order and preliminary injunction in federal court in the Central District of California against certain student loan debt relief companies. The CFPB alleges these companies operated as a common enterprise that violated the CFPA and the Telemarketing Sales Rule (TSR) by making deceptive representations about the companies' student-loan debt-relief and modification service, as well as collecting improper advance fees before consumers had received any adjustment of their student loans or made any payment toward such adjusted loan. The court granted the request for a temporary restraining order on October 21, 2019. The CFPB's complaint seeks an injunction against the defendants, as well as damages, redress to consumers, disgorgement of ill-gotten gains by the companies and the relief defendants, and the imposition of a civil money penalty.

CFPB Files Proposed Stipulated Judgment with a Consumer Reporting Agency

On November 22, 2019, the CFPB filed a proposed stipulated judgment with a consumer reporting agency (CRA). The complaint alleges that the CRA violated the Fair Credit

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Reporting Act (FCRA) in three ways. First, the complaint alleges that the CRA failed to employ reasonable procedures to ensure the maximum possible accuracy of the information about consumers that the CRA included in its consumer reports. Second, the complaint alleges that the CRA failed to maintain strict procedures to ensure that the public record information about consumers that the CRA included in its consumer reports was complete and up to date or to notify consumers, at the time that such information was reported, of the fact that public record information was being reported. Finally, the complaint alleges that the CRA reported criminal history information and other adverse information about consumers outside of the reporting allowed by the FCRA. The stipulated final judgment and order were entered by the court on November 6, 2019. Under the stipulated judgment, the CRA was required to pay $6 million in monetary relief to affected consumers and a $2.5 million civil money penalty to the CFPB. Additionally, the stipulated judgment includes injunctive relief to prevent the CRA from engaging in the claimed illegal conduct.

CFPB Issues Consent Order Against Companies Involved in Travel Loans

On November 25, 2019, the CFPB issued a consent order against a company that sold and financed airline tickets for service members ("Lender"). The CFPB alleged (1) violations of the CFPA by misrepresenting the true cost of credit for travel loans; (2) violations of the Truth in Lending Act and Regulation Z by failing to provide certain required disclosures about the terms of credit; and (3) violations of the Telemarketing Sales Rule by failing to disclose the total costs of the travel loans in the course of telemarketing the loans. Concurrently, the CFPB filed a consent order against a company that purchased and serviced a debt-cancellation product offered in connection with the travel loans ("Servicer"), in which the CFPB alleged (1) violations of the CFPA by overcharging service members and their families for the debt-cancellation product; and (2) violations of Regulation V because Servicer never established, reviewed, or updated any written policies or procedures regarding the accuracy and integrity of the consumer information it furnished to consumer reporting agencies. The Lender consent order imposes a suspended judgment, requires the Lender to pay a civil money penalty of $1, and prohibits the Lender from future consumer lending targeted to service-members and their families. (The suspension judgment and $1 civil money penalty were based on the Lender's inability to pay.) The Servicer consent order required $54,625 in restitution to borrowers, a civil money penalty of $25,000, a prohibition on the Servicer collecting on or selling the travel loans purchased from the Lender, and a requirement to establish and update reasonable written policies and procedures for the accuracy and integrity of the consumer information it furnishes to consumer reporting agencies.

Other Updates

CFPB and State Attorneys General Launch Innovation Network

On September 10, 2019, the CFPB and the attorneys general of Alabama, Arizona, Georgia, Indiana, South Carolina, Tennessee, and Utah launched the American Consumer Financial Innovation Network (ACFIN) to facilitate information sharing and policy coordination between state and federal regulators. The objectives for ACFIN include minimizing unnecessary regulatory burdens, bolstering regulatory certainty for innovative consumer financial products and services, and keeping pace with the evolution of technology in markets for consumer financial products and services in order to help ensure those markets are free from fraud, discrimination, and deceptive practices. The CFPB extended membership invitations to all state regulators with the goal of promoting regulatory certainty for innovative entities across the country.

CFPB Says the CFPB Is Unconstitutional; SCOTUS Will Decide

The Supreme Court granted certiorari in *Seila Law LLC v. CFPB* and will review whether the CFPB, as an independent agency led by a single director that can only be removed by the president for cause, is constitutional. In September, the CFPB and the U.S. Department of Justice (DOJ) filed a brief in the Supreme Court urging the Court to take up the case and hold that the agency structure is unconstitutional. On the same day the brief was filed, Director Kraninger wrote letters to the congressional leaders stating that the CFPB would no longer defend the constitutionality of the CFPB in court. The Supreme Court has appointed an amicus curiae to defend the constitutionality of the CFPB, given that the CFPB will no longer do so.

New Task Force Aims to Streamline Federal Consumer Financial Laws

On October 11, 2019, the CFPB announced that it will create a task force to study and consider ways in which federal consumer financial laws can be updated and harmonized. The CFPB solicited applications for persons with expertise in consumer financial products or services and a background in senior public service or academia to serve on the task force. The task force will have a chair and approximately six members who will work with CFPB and other government employees to produce new research and legal analysis of consumer financial laws. The task force will focus on the harmonization and modernization of consumer credit laws and their implementing regulations.

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Legislative/Regulatory Actions

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CFPB Wins Court Battle Against Law Firms Accepting Up-Front Fees

A federal court in Wisconsin found in favor of the CFPB in its long-running case against two mortgage relief law firms and their attorney owners. *CFPB v. Mortg. Law Grp., LP*, No. 14-cv-513-wmc, 2019 WL 5698701 (W.D. Wis. Nov. 4, 2019). The law firm and attorneys were ordered to pay $59 million in restitution and civil money penalties for taking up-front payments to help borrowers avoid foreclosure and obtain loan modifications and for not providing the promised services. Generally, lawyers providing mortgage assistance as part of their legal services practice are exempt from the prohibition on advance fees for mortgage relief services; however, the court ruled that the defendants did not qualify for this exception. Notwithstanding that the court found in favor of the CFPB, in assessing the monetary judgment, the court rejected the CFPB's (1) proposed date for calculating the number of violations, (2) method for determining the number of violations, and (3) request to keep any restitution not paid to former customers. On the last point, the court found the CFPB's proposal would amount to exemplary or punitive damages that are prohibited under the CFPA.

CFPB Releases Report with State-by-State Comparisons of Financial Well-Being Scores

The CFPB released a report on November 13, 2019 showing the average financial well-being scores for all adults (age 18 and older) in the United States. The scores are standardized numbers between 0 and 100 that quantify a person's underlying level of financial well-being. The scores for the report were calculated by an individual's responses to ten questions in the CFPB's Financial Well-Being Scale. The average financial well-being score for adults in the United States was a 52, with a low of 50 in Mississippi and a high of 54 in California, the District of Columbia, and Hawaii. The report also examines financial well-being by age groups. The average financial well-being score for younger and middle-age adults (ages 18 to 61) in the United States was 49 in 2018. The financial well-being score for older adults (ages 62 and older) during this same period was 62.

Federal Agencies Issue Joint Statement on Use of Alternative Data in Underwriting

On December 3, 2019, the CFPB, the Federal Reserve Board, the FDIC, the OCC, and the National Credit Union Administration issued a joint statement noting the benefits of the use of alternative data in underwriting by banks, credit unions, and non-bank financial firms. Alternative data consists of information not typically found in a consumer credit report, such as cash flow data derived from a consumer's bank account records. The regulatory agencies emphasized that the use of alternative data could expand access to credit and enable consumers to obtain additional products and more favorable pricing and terms, and reiterated the importance of firms utilizing alternative data in maintaining a well-designed compliance management program for analyzing relevant consumer protection laws and regulations.

CFPB and FTC Host Workshop on Accuracy in Credit Reporting

The CFPB and FTC hosted a public workshop on December 10, 2019, to discuss issues affecting the accuracy of credit reports and background reports. Before the workshop, the agencies requested public comments on a wide range of topics related to the accuracy of consumer reports and the accuracy obligations of consumer reporting agencies and furnishers of credit information, including whether new technologies and data management practices can be used to improve accuracy. Notably, the agencies requested comments on what private sector or government measures, including changes in law, could be taken to improve accuracy in credit reporting. Comments were due on January 10, 2020.

CFPB Issues Financial Literacy Annual Report

On December 23, 2019 the CFPB issued its 2019 Financial Literacy Annual Report. The Dodd-Frank Act requires the CFPB to report on its work to provide consumers with the necessary information so that consumers can make informed decisions about a variety of financial products. To carry out this mandate, the CFPB employed a three-pronged strategy: (1) providing financial education to the public, directly and by expanding and augmenting the local delivery of financial education; (2) sharing research on effective financial education and financial well-being with financial educators and others; and (3) addressing needs for inclusion and financial security of service members and veterans, older Americans, traditionally underserved consumers and communities, and students. As part of this strategy, the CFPB launched "Start Small, Save Up," an initiative to encourage the public to save and be better prepared for emergencies and other unplanned expenditures. As part of the "Start Small, Save Up" initiative, the CFPB launched a multi-week email course guiding members of the public through the fundamentals of saving.■

** Michael V. Dobson, Malka Levitin, Jeremy R. Mandell, Kristofer G. Readling, and Mark R. Sobin contributed to this column.*

Watch For

CFTC

CFTC Press Release 8097-19 (December 18, 2019) – The CFTC approved a final rule and two proposed rules. The final rule was on amendments to derivatives clearing organization general provisions and core principles. The proposed rules were on cross-border application of the registration thresholds and certain requirements applicable to swap dealers and major swap participants and prohibition on post-trade name give-up on swap execution facilities. The two proposed rules have a 60-day comment period following publication in the *Federal Register*.

CFTC Press Release 8096-19 (December 18, 2019) – Three divisions of the CFTC announced that each has issued a no-action letter that provides relief to swap dealers and other market participants as it relates to the industry-wide initiative to transition from swaps that reference the London Interbank Offered Rate (LIBOR) and other interbank offered rates to swaps that reference alternative benchmarks.

CFTC Press Release 8093-19 (December 10, 2019) – The CFTC approved one final rule and two proposed rules. The final rule amended Part 13 of the Commission's regulations (public rulemaking procedures). The first proposed rule was on capital requirements for swap dealers and major swap participants – reopening the comment period and requesting additional comment. The reopening provides for a 75-day comment period following publication in the *Federal Register*. The second proposed rule would reinstate the expired alternative compliance frameworks for the inter-affiliate swaps clearing exemption, with minor revisions to reflect the current variation margining practices of affiliated counterparties electing the exemption. This proposed rule has a 60-day comment period following publication in the *Federal Register*.

CFTC Press Release 8090-19 (December 4, 2019) – The CFTC's Division of Swap Dealer and Intermediary Oversight issued an advisory that provides guidance and staff recommendations for Chief Compliance Officer Annual Report preparation for futures commission merchants, swap dealers, and major swap participants. The advisory addresses a number of areas of the CCO Annual Report, including: 1) areas for improvement; 2) material non-compliance issues; 3) financial, managerial, operational, and staffing resources; 4) the certification requirement; 5) furnishing the annual report; and 6) other related matters.

CFTC Press Release 8085-19 (November 25, 2019) – The CFTC's Division of Enforcement issued its Fiscal Year 2019 Annual Report. This report details DOE's FY 2019 accomplishments, including key metrics such as cases filed, relief obtained, and trends among enforcement actions.

CFTC Press Release 8084-19 (November 25, 2019) – The CFTC approved amendments to Part 4 (registration and compliance requirements for commodity pool operators and commodity trading advisors) that will harmonize CFTC and SEC regulations for asset managers.

CFTC Press Release 8072-19 (November 5, 2019) – The CFTC unanimously approved a proposed rule that would amend Commission Regulation 160.30 by establishing specific requirements for policies and procedures to protect customer records and information.

CFTC Press Release 8060-19 (October 24, 2019) – The CFTC announced that it is further extending the comment period for the proposed rulemaking to amend certain CFTC regulations related to swap data reporting from October 28, 2019 to January 27, 2020. The proposed amendments to Parts 23, 43, 45, and 49 of the CFTC's regulations would, among other things, update requirements for swap data repositories to verify swap data with reporting counterparties, update requirements to correct swap data errors and omissions, and update and clarify certain SDR operational and governance requirements. Notice of the extension will be published in the *Federal Register*.

CFTC Press Release 8054-19 (October 16, 2019) – The CFTC voted to approve two proposed rules. The Commission voted unanimously to approve a proposed amendment to Regulation 23.161 – Compliance Schedule Extension. The Commission also approved proposed amendments to the Margin Rules for Uncleared Swaps – 23.151 and 23.157. Each proposed rule has a 60-day comment period following publication in the *Federal Register*.

FDIC

FDIC Press Release (December 20, 2019) – Five federal agencies announced they will reopen and extend until January 23, 2020, the comment period on a proposal to change the swap margin rules to facilitate the implementation of prudent risk

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FMA Welcomes *More* New Members

Nikki Brinkerhoff	**Oyster Consulting, LLC**
Chris Brown	**Office of House Ranking Member Patrick McHenry**
Elizabeth Ciallella	**Franklin Templeton**
Kevin Clarke	**UBS**
Troy Cornell	**Cornerstone Research**
Luke Dembosky	**Debevoise & Plimpton LLP**
Christine Docherty	**Federal Reserve Bank of Boston**
Mark Drebot	**UBS**

Watch For

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management strategies at certain banks and swap entities. The agencies extended the comment period to allow interested persons more time to analyze the issues and prepare their comments, which were originally due by December 9, 2019.

FDIC Press Release (December 20, 2019) – The FDIC and FRB announced that they will extend until February 28, 2020, the deadline on the request for information on their use of the Uniform Financial Institutions Rating System, also known as the CAMELS rating system. The agencies extended the comment period to allow interested persons more time to analyze the issues and prepare their comments, which were originally due by December 30, 2019.

FDIC Press Release (December 12, 2019) – The FDIC issued a notice of proposed rulemaking to modernize its brokered deposit regulations. The proposal would, among other things, modernize a regulatory framework built for a different era to remove regulatory disincentives to offering deposit accounts to customers through different channels. Comments will be accepted for 60 days after the NPR is published in the *Federal Register*.

FDIC Press Release (December 3, 2019) – Five Federal financial regulatory agencies issued a joint statement on the use of alternative data in underwriting by banks, credit unions, and non-bank financial firms. The statement from the Federal Reserve, CFPB, FDIC, OCC, and NCUA notes the benefits that using alternative data may provide to consumers, such as expanding access to credit and enabling consumers to obtain additional products and more favorable pricing and terms. The statement explains that a well-designed compliance management program provides for a thorough analysis of relevant consumer protection laws and regulations to ensure firms understand the opportunities, risks, and compliance requirements before using alternative data.

FDIC Press Release (December 3, 2019) – Four federal agencies (FRB, FDIC, FinCEN, OCC and CSBS) in conjunction with the state bank regulators issued a statement clarifying the legal status of hemp growth and production and the relevant requirements under the Bank Secrecy Act for banks providing services to hemp-related businesses. The statement emphasizes that banks are no longer required to file suspicious activity reports for customers solely because they are engaged in the growth or cultivation of hemp in accordance with applicable laws and regulations. For hemp-related customers, banks are expected to follow standard SAR procedures, and file a SAR if indicia of suspicious activity warrants. This statement provides banks with background information on the legal status of hemp, the U.S. Department of Agriculture's interim final rule on the production of hemp, and the BSA considerations when providing banking services to hemp-related businesses. This statement also indicates that the Financial Crimes Enforcement Network (FinCEN) will issue additional guidance after further reviewing and evaluating the USDA interim final rule.

FDIC Press Release (November 19, 2019) – Three federal bank regulatory agencies jointly announced a final rule updating how certain banking organizations are required to measure counterparty credit risk for derivative contracts under their regulatory capital rules. The final rule implements the "standardized approach for measuring counterparty credit risk," also known as SA-CCR. The FRB, FDIC and OCC jointly issued the final rule. It will be effective on April 1, 2020, with a mandatory compliance date of January 1, 2022.

FDIC Press Release (November 19, 2019) – The FDIC is proposing a new rule to clarify the Federal law governing interest rates state banks may charge their customers. The FDIC's proposal is intended to address marketplace uncertainty in the wake of a 2015 court ruling that called into question the enforceability of interest rate terms following the sale or assignment of a loan originated by a national bank to a third-party non-bank.

FDIC Press Release (November 19, 2019) – The FDIC's Board of Directors approved establishing a new advisory committee for state regulators and the FDIC to discuss a variety of current and emerging issues that have potential implications on the regulation and supervision of state-chartered financial institutions.

FDIC Press Release (November 14, 2019) – The FDIC released a multi-part analysis of changes in the U.S. banking system since the 1950s, especially changes occurring since the financial crisis in 2008. These analyses address the shift in some lending from banks to nonbanks; how corporate borrowing has moved between banks and capital markets; and the migration of some home mortgage origination and servicing from banks to nonbanks.

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FMA Welcomes *More* New Members

Kurt Eidemiller	**Bureau of the Fiscal Service**
Wendell Faria	**Dentons US LLP**
Brandon Faske	**Schulte Roth & Zabel LLP**
Greg Frischmann	**Federal Reserve Board**
Catherine Fuchs	**Senate Banking Committee**
Melissa Goldstein	**Schulte Roth & Zabel LLP**
John Han	**Moore & Van Allen PLLC**
Cam Hughes	**Private Contractor**
Brad Jones	**The Institute of Internal Auditors**

Watch For

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Federal Reserve Board

Federal Reserve Press Release (December 17, 2019) – The Federal Reserve Board announced that it will hold a series of "fintech innovation office hours" across the country to meet with banks and companies engaged in emerging financial technologies, popularly known as fintech. The sessions will serve as a resource for banks and fintech firms to meet one-on-one with Federal Reserve staff members with relevant expertise to discuss fintech developments and ask questions. Also, the Board launched a new section of its website specifically focused on fintech innovation.

Federal Reserve Press Release (November 19, 2019) – Three federal bank regulatory agencies jointly announced a final rule updating how certain banking organizations are required to measure counterparty credit risk for derivative contracts under their regulatory capital rules. The final rule implements the "standardized approach for measuring counterparty credit risk," also known as SA-CCR. This updated methodology better reflects improvements made to the derivatives market since the 2007-2008 financial crisis such as central clearing and margin requirements. SA-CCR would replace the "current exposure methodology" for large, internationally active banking organizations, while other, smaller banking organizations could voluntarily adopt SA-CCR. The FRB, FDIC and OCC jointly issued the final rule. It will be effective on April 1, 2020, with a mandatory compliance date of January 1, 2022.

Federal Reserve Press Release (October 28, 2019) – Five federal agencies announced a proposal to change the swap margin rules to facilitate the implementation of prudent risk management strategies at certain banks and swap entities. The swap margin rule would no longer require swap entities to hold initial margin for uncleared swaps with affiliates. However, inter-affiliate transactions would still be subject to variation margin requirements. Swap entities regulated by the FDIC, OCC and Federal Reserve Board also would be subject to requirements under sections 23A and 23B of the Federal Reserve Act.

Federal Reserve Press Release (October 18, 2019) – The FDIC and Federal Reserve Board are inviting public comment on their use of the Uniform Financial Institutions Rating System, also known as the CAMELS rating system. The agencies seek comments on the consistency of ratings assigned under the CAMELS system.

Federal Reserve Press Release (October 17, 2019) – Four federal financial regulatory agencies requested comment on a proposed Interagency Policy Statement on Allowances for Credit Losses. This proposed policy statement is intended to promote consistency in the interpretation and application of the FASB's credit losses accounting standard, which introduces the current expected credit losses (CECL) methodology.

2020 SEC Examination Priorities

https://www.sec.gov/news/press-release/2020-4

2020 FINRA Risk Monitoring and Examination Priorities

https://www.finra.org/media-center/newsreleases/2020/finra-releases-2020-risk-monitoring-and-examination-priorities

2020 OCC Bank Supervision Operating Plan

https://www.occ.gov/news-issuances/news-releases/2019/nr-occ-2019-111.html

2019 FINRA Report on FINRA Examination Findings

https://www.finra.org/rules-guidance/guidance/reports/2019-report-exam-findings-and-observations

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Federal Reserve Press Release (October 10, 2019) – The Federal Reserve Board finalized rules that tailor its regulations for domestic and foreign banks to more closely match their risk profiles. The rules reduce compliance requirements for firms with less risk while maintaining the most stringent requirements for the largest and most complex banks. The rules establish a framework that sorts banks with $100 billion or more in total assets into four different categories based on several factors, including asset size, cross-jurisdictional activity, reliance on short-term wholesale funding, nonbank assets, and off-balance sheet exposure.

FINRA

FINRA Regulatory Notice 20-03 (January 14, 2020) – In November 2017, FINRA launched a retrospective review of Rule 5250 (Payments for Market Making), which generally prohibits members from receiving payments for market making, to assess its effectiveness and efficiency. This Notice summarizes the review process, the predominant themes that emerged from stakeholder feedback and the basis for the determination.

FINRA Regulatory Notice 20-02 (January 9, 2020) – FINRA is conducting a retrospective review of Rule 4530 (Reporting

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Requirements) to assess its effectiveness and efficiency. This Notice outlines the general retrospective rule review process and seeks responses to several questions related to firms' experiences with this specific rule. The comment period expires March 9, 2020.

FINRA Regulatory Notice 20-01 (January 2, 2020) – FINRA is issuing this Notice to help firms review, reconcile and respond to their Final Statements in E-Bill as well as view the reports that are currently available in Web CRD/IARD for the annual registration renewal process. The payment deadline is January 17, 2020.

FINRA Regulatory Notice 19-37 (December 19, 2019) – The SEC approved a rule change to amend FINRA Rule 5130 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings) and FINRA Rule 5131 (New Issue Allocations and Distributions) to modify the rules to enhance regulatory consistency and address unintended operational impediments. These changes become effective on January 1, 2020.

FINRA Regulatory Notice 19-36 (November 11, 2019) – FINRA is requesting comment on a proposed rule to limit a registered person from being named a customer's beneficiary or holding a position of trust for or on behalf of a customer. The comment period expires January 10, 2020. If the proposed rule is approved, FINRA would assess registered persons' and firms' conduct pursuant to the rule to determine the effectiveness of the rule in addressing potential conflicts of interest and evaluate whether additional rulemaking or other action is appropriate.

FINRA Regulatory Notice 19-35 (October 30, 2019) – The 2020 Renewal Program begins on November 11, 2019 when FINRA makes the Preliminary Statements available to all firms in E-Bill. Preliminary Statements are not mailed to firms. FINRA advises FINRA-registered firms that failure to remit full payment of their Preliminary Statements to FINRA by December 16, 2019, may cause the firm to become ineligible to do business in the jurisdictions where it is registered, effective January 1, 2020. FINRA-registered firms will also be subject to a late fee if payment is not received by December 16, 2019. Questions concerning this Notice should be directed to the FINRA Gateway Call Center at 301/869-6699.

FINRA Regulatory Notice 19-34 (October 18, 2019) – In April 2018, FINRA launched a retrospective review of the annual compliance meeting requirement in Rule 3110(a)(7) and corresponding Supplementary Material .04, to assess its effectiveness and efficiency. Based on the assessment, which involved feedback from both internal stakeholders and a wide range of external stakeholders, FINRA has determined to maintain the requirement without change. While the review confirmed the continuing importance of Rule 3110(a)(7), some stakeholders asked for some clarifying guidance concerning the various ways in which annual compliance meetings may be conducted. That guidance is also set forth in this Notice.

FINRA Information Notice (October 2, 2019) – Several member firms recently notified FINRA that they have experienced email account takeovers while using cloud-based email platforms, including Microsoft Office 365. Attackers used compromised email accounts to defraud member firms by requesting fraudulent wire requests or stealing confidential firm information or non-public personally identifiable information. This Notice outlines the attackers' tactics in executing ATOs, as well as steps taken by member firms to address ATO risks when using cloud-based email systems.

FINRA Regulatory Notice 19-33 (October 1, 2019) – FINRA and the other U.S. members of the Intermarket Surveillance Group have updated certain data elements for Electronic Blue Sheets to reflect the SEC's December 21, 2018 approval of MIAX Emerald and the name change of Chicago Stock Exchange to NYSE Chicago, Inc. The updates are effective immediately. Firms are reminded that failure to properly fill out the EBS fields is a violation of FINRA Rule 8211 or 8213.

FINRA Regulatory Notice 19-32 (September 26, 2019) – The SEC has approved a proposed rule change to amend FINRA Rules 2210 (Communications with the Public) and 2241 (Research Analysts and Research Reports) to conform to the requirements of the Fair Access to Investment Research Act of 2017 (FAIR Act). The rule change creates a filing exclusion under Rule 2210 for investment fund research reports that are covered by SEC rules under the FAIR Act, and eliminates the "quiet period" restrictions in Rule 2241 on publishing a report or making a public appearance concerning such funds. The implementation date was August 16, 2019.

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FMA Welcomes *More* New Members

Kim Koves	**Wiand Guerra King P.A.**
Jeffrey Kruszewski	**U.S. Bank**
Michael Loesch	**Winston & Strawn LLP**
Gus Macedo	**MCG Consulting**
Benjamin McDonough	**Federal Reserve Board**
Kären McRoberts	**BBVA Investments**
Jacqueline Maero Blaskowski	**Schulte Roth & Zabel LLP**
Marne Marotta	**Arnold & Porter Kaye Scholer LLP**
Lori Motto	**Citizens Bank**
Eileen O'Neill	**FinCEN**

Watch For

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MSRB

MSRB Press Release (January 10, 2020) – The MSRB published its 2019 Annual Report and audited financial statements.

MSRB Press Release (January 8, 2020) – The MSRB's Board of Directors released information on the qualifications it seeks in a new Chief Executive Officer. The Board described its preferred candidate as a mission-driven leader with understanding of regulation in the securities industry, ideally with municipal securities. The CEO position summary and candidate profile is available on the MSRB's website. The Board named MSRB Chief Financial Officer Nanette D. Lawson to serve as interim CEO following the September 2019 retirement of Lynnette Kelly, who led the organization for 12 years. To facilitate a broad, nationwide search for a new CEO, the Board created a CEO Search Special Committee and retained global executive search firm Spencer Stuart. Candidate inquiries may be directed to MSRB@spencerstuart.com and will remain confidential.

January 6, 2020 – The MSRB reminds regulated entities that amendments to MSRB Rule G-11, on primary offering practices, and new MSRB Rule G-32, on disclosures in connection with primary offerings, become effective on January 13, 2020. See MSRB Notice 2019-15. The MSRB also advises regulated entities that it has published a notice providing interpretive guidance on the obligations of senior syndicate managers utilizing electronic communication under Rule G-11. See MSRB Notice 2020-01.

December 20, 2019 – The MSRB has established a compliance date of November 30, 2020, for amendments to Form G-32. The amendments allow for the collection of new data from underwriters related to primary offerings of municipal securities through the MSRB's EMMA Dataport system. The SEC approved these amendments on June 27, 2019. The MSRB anticipates making amended Form G-32 available in advance of this date, likely by early summer 2020. See MSRB Notice 2019-21.

MSRB Press Release (November 8, 2019) – The MSRB received approval from the SEC to implement amendments to interpretive guidance under MSRB Rule G-17, on conduct of municipal securities and municipal advisory activities. The amended guidance streamlines disclosures by underwriters to focus more narrowly on the risks and conflicts most relevant to a given transaction. A new disclosure requirement requires the sole underwriter or syndicate manager to highlight the fiduciary obligation of a municipal advisor, an important distinction between an underwriter and municipal advisor. The MSRB will announce the effective date of the revised guidance in a notice within 90 days following publication of the SEC's approval order in the *Federal Register*.

MSRB Notice 2019-19 (October 18, 2019) – The MSRB filed a proposed rule change with the SEC to revise the content outline for the Municipal Advisor Principal Qualification Examination (Series 54). The content outline for the Series 54 examination has been revised to incorporate MSRB Rule G-40, on advertising by municipal advisors, add a description of the functions and knowledge required to perform the supervisory tasks related to Rule G-40.

October 15, 2019 – The MSRB has released a new compliance resource to enhance understanding of provisions under MSRB Rule G-12, on uniform practice, related to close-outs. The compliance resource provides answers to frequently asked questions regarding close-outs and includes sample calendars illustrating the timeframe by which to complete a close-out under certain conditions.

MSRB Notice 2019-18 (October 11, 2019) – The MSRB's permanent Municipal Advisor Principal Qualification Examination (Series 54) will be available beginning November 12, 2019. As provided for under MSRB Rule G-3, municipal advisor principals are required to take and pass the Series 54 examination in order to become appropriately qualified to engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons. The MSRB will publish a notice announcing the filing of the revised content outline with the SEC and will post the revised outline on MSRB.org.

October 9, 2019 – The MSRB filed with the SEC amendments to its proposal to revise 2012 interpretive guidance under MSRB Rule G-17, on conduct of municipal securities and municipal advisory activities. The amendment would clarify when underwriters in a syndicate must provide disclosures to an issuer regarding the specific characteristics of a recommended transaction and exclude dealers serving as a primary distributor in a continuous offering of municipal fund securities from the disclosure requirements of the notice.

September 24, 2019 – The MSRB filed a proposed rule change with the SEC to modify the fee charged under MSRB Rule A-11, on assessments for municipal advisor professionals. The amendments to Rule A-11 increase the annual municipal advisor professional fee to $1,000 from $500 over a two-year phase-in period. The proposed rule change is immediately effective, although the first payment at the amended rates is not due until April 30, 2020.

OCC

OCC Bulletin 2020-5 (January 16, 2020) – The OCC and FDIC issued a joint statement on heightened cybersecurity risk to remind supervised financial institutions of sound cybersecurity risk management principles. These principles elaborate on standards in the *Interagency Guidelines Establishing Information Security Standards* and in resources provided by the FFIEC members, such as the joint statement on destructive

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malware issued in March 2015. The joint statement provides examples of cybersecurity and information technology risk management practices and controls important to safeguard against threats, especially from ransom and other destructive malware.

OCC News Release 2019-145 (December 9, 2019) – The OCC reported operational, credit, and interest rate risks are among the key themes for the federal banking system in its *Semiannual Risk Perspective for Fall 2019*. The report also highlights cybersecurity and technology management as a special topic in emerging risks.

OCC Bulletin 2019-61 (December 3, 2019) – The OCC, FRB, FDIC and FinCEN issued a statement to provide clarity regarding the legal status of commercial growth and production of hemp and relevant requirements for banks under Bank Secrecy Act and its implementing regulations.

OCC Bulletin 2019-56 (November 14, 2019) – On November 14, 2019, the OCC, FRB, CFTC, FDIC and SEC published a final rule amending the regulations that implement section 13 of the Bank Holding Company Act, commonly known as the Volcker rule. These amendments are intended to simplify the rule in a manner that is consistent with section 13 of the BHC Act. The effective date for the final rule is January 1, 2020, and the compliance date is January 1, 2021. The final rule adopts many of the proposed changes to the 2013 rule, with targeted adjustments based on comments received. Like the proposal, the final rule tailors compliance program obligations based on the level of trading activity of a banking entity, revises the definition of trading account, adopts new exclusions from the definition of proprietary trading, generally streamlines the proprietary trading and covered fund exemptions, and revises the rule's metrics reporting requirements.

OCC Bulletin 2019-54 (November 13, 2019) – The OCC, FRB and FDIC have published a final rule in the *Federal Register* that permits certain banking organizations to implement on January 1, 2020, simplifications to the capital rule that were finalized on July 22, 2019. The July 22, 2019, final rule titled "Regulatory Capital: Simplifications to the Capital Rule Pursuant to the EGRPRA of 1996" (Capital Simplifications Final Rule) initially provided an April 1, 2020, implementation date. It applies to banking organizations that are not subject to the advanced approaches capital rule, which generally applies to banks that are part of banking organizations with $250 billion or more in total consolidated assets or $10 billion or more in total consolidated foreign financial exposure. Banking organizations not subject to the advanced approaches capital rule are permitted to implement the simplifications in the Capital Simplifications Final Rule for the quarter beginning January 1, 2020, or to wait until the quarter beginning April 1, 2020. The simplifications in the Capital Simplifications rule are described in more detail in OCC Bulletin 2019-34, "Simplifications to the Capital Rule: Final Rule."

OCC Bulletin 2019-53 (November 8, 2019) – The OCC, FRB, FDIC, FCA and FHFA are seeking comment on a proposed rule that would amend their regulations regarding the minimum margin and capital requirements for registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants. The OCC's Swap Margin Rule applies to certain national banks, federal savings associations, and federal branches and agencies of foreign banking organizations.

OCC Bulletin 2019-52 (November 1, 2019) – The OCC, FRB and FDIC published a final rule in the *Federal Register* on November 1, 2019, that revises the framework for determining the applicability of regulatory capital and standardized liquidity requirements for large U.S. banking organizations, the U.S. intermediate holding companies of certain foreign banking organizations, and certain of their depository institution subsidiaries. The final rule is effective as of December 31, 2019.

OCC News Release 2019-128 (November 1, 2019) – The OCC announced a final rule to tailor capital and liquidity requirements for certain banking organizations with more than $100 billion in total consolidated assets to more closely match their risk profiles. The final rule builds on the OCC's existing practice of tailoring capital and liquidity requirements based on the size, complexity, and overall risk profile of banking organizations. The final rule, which was developed jointly by the OCC, FRB and FDIC, establishes risk-based categories for determining applicability of requirements under the regulatory capital rule, the liquidity coverage ratio rule, and the proposed net stable funding ratio rule for large U.S. banking organizations. The final rule is consistent with a separate rule issued by the Federal Reserve that applies certain prudential standards for large U.S. banking organizations based on the same categories. The final rule will become effective 60 days after publication in the *Federal Register*.

OCC Bulletin 2019-49 (October 17, 2019) – The OCC, FRB, FDIC and NCUA are seeking public comment on the proposed

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FMA Welcomes *More* New Members

Tabitha Parker	**Emerging Capital Partners**
Paul Pashkoff	**SEC**
Nicholas Podsiadly	**FDIC**
Joseph Savage	**FINRA**
Michael Seaman	**SEC**
Glen Sears	**House Financial Services Cmte**

Watch For

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"Interagency Guidance on Credit Risk Review Systems" published on October 17, 2019. Comments must be received by December 16, 2019.

OCC Bulletin 2019-47 (October 10, 2019) – The OCC published a final rule in the *Federal Register* on October 10, 2019, that will amend the OCC's stress testing rule at 12 CFR 46. The final rule implements the requirements imposed by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). The final rule is effective as of November 24, 2019, consistent with the effective date for section 401 of the EGRRCPA.

OCC News Release 2019-114 (October 2, 2019) – The OCC issued a final rule amending the OCC's stress testing rule at 12 CFR 46 (which implements the stress testing requirements of section 165(i)(2) of the Dodd-Frank Act), consistent with section 401 of the EGRRCPA. The final rule revises the minimum threshold for national banks and federal savings associations to conduct stress tests from $10 billion to $250 billion; revises the frequency by which certain national banks and federal savings associations are required to conduct stress tests; reduces the number of required stress testing scenarios from three to two; and makes certain additional technical changes to the stress testing requirements. The final rule is effective as of November 24, 2019.

OCC News Release 2019-111 (October 1, 2019) – The OCC released its bank supervision operating plan for fiscal year (FY) 2020. Supervisory strategies for FY 2020 focus on: cyber-security and operational resiliency; Bank Secrecy Act/anti-money laundering (BSA/AML) compliance management; commercial and retail credit underwriting practices and oversight and control functions; impact of changing interest rate outlooks on bank activities and risk exposures; preparedness for the current expected credit losses account standard, and preparation for the potential phase-out of the London Interbank Offering Rate; and technological innovation and implementation. The OCC will provide periodic updates about supervisory priorities through the *Semiannual Risk Perspective* in the fall and spring.

SEC

SEC Press Release 2019-265 (December 18, 2019) – The SEC voted to propose amendments to the definition of accredited investor, one of the principal tests for who is eligible to participate in our private capital markets. The proposal seeks to update and improve the definition to more effectively identify institutional and individual investors that have the knowledge and expertise to participate in our private capital markets. The proposal would also expand the list of entities that may qualify as accredited investors by, among other things, allowing any entity that meets an investments test to qualify. The public comment period will remain open for 60 days following publication in the *Federal Register*.

SEC Press Release 2019-263 (December 18, 2019) – The SEC adopted a package of rule amendments, guidance, and a related order to expand and improve the framework for regulating cross-border security-based swaps, including single-name credit default swaps. The rule amendments will become effective on the later of March 1, 2020 or 60 days after publication of the adopting release in the *Federal Register*. As noted in previous Commission releases, the compliance date for registration of SBS Entities will be 18 months after the effective date (the "Registration Compliance Date"). The compliance date for the amendments to Rule 3a71-3 will be two months prior to the Registration Compliance Date. The compliance date for the amendments to Rules 18a-5 and 15Fb2-1 will be the same as the Registration Compliance Date. The compliance date associated with the other rule amendments adopted today will be the same as the effective date.

SEC Press Release 2019-262 (December 18, 2019) – The SEC voted to adopt rules (Rules 15Fi-3, 15Fi-4, and 15Fi-5) requiring the application of risk mitigation techniques to portfolios of uncleared security-based swaps. The Commission also adopted amendments to its existing cross-border rule to provide a means to request substituted compliance with respect to the portfolio reconciliation, compression, and trading relationship documentation requirements. Finally, the Commission amended its recently-adopted recordkeeping, reporting, and notification rules to incorporate records relating to the new risk mitigation requirements. In a separate action, the Commission also adopted rules and guidance addressing the cross-border application of certain security-based swap requirements, which establish the date on which SBS Entities are required to register with the Commission. Rules 15Fi-3 through 15Fi-5 complete the final set of substantive requirements applicable to those SBS Entities. The rules will become effective 60 days after publication in the *Federal Register*. The compliance date for the new rules and rule amendments is 18 months after the effective date of the final rules and guidance addressing the cross-border application of certain security-based swap requirements, which the Commission also adopted today in a separate release.

SEC Press Release 2019-242 (November 25, 2019) – The SEC voted to propose a new rule designed to enhance the regulation of the use of derivatives by registered investment companies, including mutual funds, exchange-traded funds and closed-end funds, as well as business development companies. The proposed rule would provide an updated and more comprehensive approach to the regulation of funds' derivatives use. Broker-dealers and investment advisers are encouraged to submit additional feedback on the proposed sales practice rules.

SEC Press Release 2019-233 (November 6, 2019) – The SEC's Division of Enforcement issued its annual report for fiscal year 2019. The report details the division's efforts and initiatives on behalf of investors, highlights several significant actions, and

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presents the activities of the division from both a qualitative and quantitative perspective.

SEC Press Release 2019-232 (November 5, 2019) – The SEC voted to propose amendments to modernize the rule that governs the process for shareholder proposals to be included in a company's proxy statement. The public comment period will remain open for 60 days following publication of the proposing release in the *Federal Register*.

SEC Press Release 2019-230 (November 4, 2019) – The SEC announced that it has voted to propose amendments to modernize the rules under the Investment Advisers Act addressing investment adviser advertisements and payments to solicitors. The proposed amendments are intended to update these rules to reflect changes in technology, the expectations of investors seeking advisory services, and the evolution of industry practices. The public comment period will remain open for 60 days following publication of the proposal in the *Federal Register*.

SEC Press Release 2019-229 (November 4, 2019) – The SEC issued an extension of an Oct. 26, 2017 no-action letter it provided to assist market participants regarding their U.S.-regulated activities as they engage in efforts to comply with the provisions relating to research in the Markets in Financial Instruments Directive II (MiFID II) and related implementing rules and regulations. Under the extension of the temporary no-action letter, the staff would not recommend enforcement action to the Commission under the Investment Advisers Act of 1940 (Advisers Act) against broker-dealers receiving payments in hard dollars or through research payment accounts from clients subject to MiFID II. This no-action letter, which was set to expire July 3, 2020, has been extended until July 3, 2023. Separately, the extension letter notes the continued ability of broker-dealers to receive payments for research under section 28(e) of the Securities Exchange Act of 1934 through client commission arrangements, including that the use of CCAs does not affect whether the exclusion for broker-dealers from the definition of "investment adviser" under the Advisers Act may be available.

SEC Press Release 2019-217 (October 17, 2019) – The SEC issued a statement that invites exchanges and other market participants to submit innovative proposals designed to improve the secondary market structure for exchange listed equity securities that trade in lower volumes, commonly referred to as "thinly traded securities." Low trading volumes may drive higher transaction costs for investors, may present challenges for investors seeking to establish or unwind meaningful positions, and may negatively impact an issuer's cost of capital. The Commission is interested in proposals to address these issues by improving the secondary market structure for thinly traded securities. The Commission's statement lays out various considerations that may be helpful for a proposal to address, including whether and under what circumstances it would be appropriate to suspend unlisted trading privileges on multiple exchanges and whether exemptive relief from Regulation NMS and other rules under the Securities Exchange Act of 1934 would improve trading and liquidity.

Available Publications

OCC Bulletin 2019-57 (November 14, 2019) – The Federal Financial Institutions Examination Council revised the "Business Continuity Management" booklet, one of a series of booklets that make up the *FFIEC Information Technology Examination Handbook*. The revised booklet replaces the "Business Continuity Planning" booklet issued in February 2015 and rescinds OCC Bulletin 2015-9, "FFIEC Information Technology Examination Handbook: Strengthening the Resilience of Outsourced Technology Services, New Appendix for Business Continuity Planning Booklet." This booklet applies to the OCC's supervision of all national banks and federal savings associations.

SEC Press Release 2019-233 (November 6, 2019) – The SEC issued its annual report for fiscal year 2019. The report details the division's efforts and initiatives on behalf of investors, highlights several significant actions, and presents the activities of the division from both a qualitative and quantitative perspective.

OCC Bulletin 2019-44 (September 30, 2019) – The OCC issued updates to the "Bank Supervision Process," "Federal Branches and Agencies Supervision," and "Large Bank Supervision" booklets of the *Comptroller's Handbook*. The updated booklets replace the booklets of the same titles previously issued.

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FMA Welcomes *More* New Members

Mark Sobin	**Morrison & Foerster LLP**
Sandra Sojka	**FinCEN**
James Stephens	**UMB Financial Corporation**
Michael Townsley	**Conference of State Bank Supervisors**
Carl Tugberk	**Wells Fargo & Company**
Elisha Tuku	**Senate Banking Committee**
Barbara Voute	**MSRB**
Dana Weekes	**Arnold & Porter Kaye Scholer LLP**
Lisa Wilhelmy	**MSRB**
Kelsey Wiseman	**Cypress Group**
Mark Wolfe	**SEC**
Beth Zorc	**Wells Fargo**

Program Update

2020 Securities Compliance Seminar

Registrations are now being accepted for FMA's 29th Securities Compliance Seminar taking place **April 29 - May 1** at the Sheraton Suites Old Town Alexandria in **Alexandria, Virginia** (metro Washington, DC & close to Reagan National Airport). This annual program is a three-day educational and networking experience for securities compliance professionals, internal auditors, risk managers, attorneys and regulators.

The Planning Committee has been hard at work developing varied agenda topics and confirming noted industry leaders and regulators as speakers. Members include: **Nikki Brinkerhoff** *(Oyster Consulting, LLC)*; **Kevin Kohmann** *(The Huntington National Bank)*; **Kären McRoberts** *(BBVA Investments)*; **Saliha Olgun** *(Wells Fargo)*; **Matthew White** *(Baker Donelson)* and **Lisa Wilhelmy** *(MSRB)*.

An ebrochure, including the complete agenda, will be distributed next week and will then be available on the FMA website – ***www.fmaweb.org***. Currently, the working agenda includes these general sessions and confirmed speakers:

Pre-Seminar *Interactive* Workshop: Identifying Conflicts and Mitigating Their Risk

- **Louis Dempsey** — **Renaissance Regulatory Services**
- **Matthew Hardin** — **Hardin Compliance Consulting**

Key 2020 (and Beyond) Legislative and Regulatory Initiatives

- **Jay Gould** — **Winston & Strawn LLP**
- **Michael Post** — **Bank of America Merrill Lynch**
- **Jonathan Robilotto** — **Morgan Stanley** *(Invited)*

Regulation Best Interest

- **Jennifer Juergens** — **Cornerstone Research**
- **Ben Marzouk** — **Eversheds Sutherland (US) LLP**
- **James Wrona** — **FINRA**

Internal Audit Hot Topics and Emerging Issues/Risks

- **Jeff Fischer** — **BMO Harris Bank** *(Invited)*
- **Kevin Kohmann** — **The Huntington National Bank**
- **Justin Lindberg** — **U.S. Bank**
- **Daniel New** — **EY**

Cybersecurity and Data Privacy: Practical Considerations for Mitigating Risk and Responding to Incidents

- **Matthew Chevraux** — **United States Secret Service**
- **Anthony Ferrante** — **FTI Consulting**
- **Amanda West** — **First Horizon Bank**

Amendments to MSRB Rules and Data Collection Related to Primary Offering Practices

- **Margaret Blake** — **Jones Day**

2-for-1 "locals", first-timer & team registration discounts are available.

- **David Hodapp** — **MSRB**
- **Joseph Reece** — **Commerce Bank**

Banking Regulatory Forum

- **Representatives from the OCC, FDIC and Federal Reserve Board** *(Invited)*

Compliance Risk Monitoring and Effective Regulator Communication

- **Alex Egan** — **Kaufman Rossin**
- **Thomas McGonigle** — **Murphy & McGonigle, P.C.**
- **Denise Morrison** — **Regions Bank**
- **Jose Santelli** — **SEC** *(Invited)*

Elder Financial Exploitation

- **Joseph Borg** — **Alabama Securities Commission**
- **Kendra Kuehn** — **National Adult Protective Services Association**
- **Robert Mascio** — **FINRA**

Data Integrity / AML Developments

- **Catherine Banks** — **Refinitiv**
- **Rachel Dondarski** — **OFAC** *(Invited)*
- **Bruce Gousie** — **Raymond James Financial**
- **Dan Scagliarini** — **Refinitiv**
- **Daniel Tannebaum** — **Oliver Wyman**

Complex Products and Due Diligence Requirements: Hot Topics

- **Andrew Barnham** — **Cetera Financial Group** *(Invited)*
- **Lori Patterson** — **Baker Donelson**
- **Joseph Price** — **FINRA**
- **Richard Wallace** — **LPL Financial** *(Invited)*

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Program Update

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Emerging Risks of Cryptocurrency

- **Jeff Horowitz** — **Coinbase** *(Invited)*
- **Alex Khachaturian** — **FINRA**
- **Jared Shaw** — **Gemini Trust Company, LLC**
- **Maggie Sklar** — **Federal Reserve Bank of Chicago**

Compliance Risk Assessments (CRA) vs. Risk Control Self Assessments (RCSA)

- **Steve Brown** — **PwC**
- **Jin Choi** — **Morgan Stanley** *(Invited)*

Securities Regulatory Forum

- **Cynthia Friedlander** — **FINRA**
- **Donald Litteau** — **FINRA**
- **Gail Marshall** — **MSRB** *(Invited)*
- **John Polise** — **SEC** *(Invited)*

The Increased Electronification of Trading in the Fixed Income Markets

- **John Bagley** — **MSRB**
- **John Cahalane** — **Tradeweb**
- **Patrick Geraghty** — **FINRA**
- **Richard Goettke** — **Wells Fargo Securities** *(Invited)*

Digital Communications

- **Gene Gunderson** — **Synovus Securities**

Informal group dinners will take place Wednesday and Thursday evenings. Let Dorcas Pearce know if you'd like to sign up for these casual networking opportunities. Please note the cost is not included in the registration fee…everyone will be on their own.

FMA's room block at the Marriott expires **April 7**. After that date, room rates will increase and there's also a chance the block could sell out well before then. Click here to make a reservation – **Book your group rate for Financial Markets Association 2020 Compliance Seminar** (OR copy and paste this link into a web browser – **https://www.marriott.com/event-reservations/reservation-link.mi?id=1572889838987&key=GRP&app=resvlink)**. You can also call 703/836-4700 (main hotel #) or 888/627-7049 (call center) — *mention "Financial Markets Association"* when making your reservation to get FMA's low group rate of $219. Once the block is gone, contact Dorcas Pearce. FMA may have a few rooms in reserve at the group rate that will be given out on a first-come, first-served basis.

Register today for this important spring conference – CPE / CLE accreditation and multiple registration discounts (team / first-timer / 2-for-1 'locals' (DC/VA/MD only) are available. Contact Dorcas Pearce at ***dp-fma@starpower.net*** or 202/544-6327 with questions and/or to register. Online registration is also available at ***www.fmaweb.org***.

Pre-Seminar Workshop
Identifying Conflicts and Mitigating Their Risk

Louis Dempsey, CRCP, CSCP, CAMS (Renaissance Regulatory Services); and **Matthew Hardin** (Hardin Compliance Consulting LLC) will lead an optional two-hour pre-seminar workshop on Wednesday, April 29 from 8:30–10:45 am. This interactive session will explore areas within the firm where hidden risks may lurk and provide insight into mitigating those risks, as well as discussing methods to alleviate the regulatory risk associated with common industry conflicts.

Although no additional registration fee will apply, **space is limited and early registration is required**. Contact Dorcas Pearce at ***dp-fma@starpower.net*** or **202/544-6327** for details and/or to register.

FMA gratefully acknowledges these sponsors of FMA's 2020 Securities Compliance Seminar

Hardin Compliance Consulting LLC

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2019 Legal and Legislative Issues Conference

FMA's 28th **Legal & Legislative Conference** took place **October 24–25** at The Madison Hotel in Washington, DC. This annual program is a high-level forum for banking, securities and regulatory attorneys as well as senior compliance officers/risk managers, internal auditors and regulators. The two-day event provided participants with a unique opportunity to share information on current legal and regulatory developments as well as network with peers in an intimate environment. And**, attendees were eligible for CLE and CPE accreditation** (among others).

Congratulations to the Program Planning Committee for developing a timely agenda that included noted industry leaders and senior regulatory officials. Members included: **Joseph Bielawa** (M&T Bank); **Jay Gould** (Winston & Strawn LLP); **Daniel Kearney** (WilmerHale); **Gary Klein** (Fifth Third Bank); **Cece Baute Mavico** (LPL Financial); **Barbara Mendelson** (Morrison & Foerster LLP); **Joseph Vitale** (Schulte Roth & Zabel LLP) and **Charles Yi** (Arnold & Porter Kaye Scholer LLP).

The agenda, which focused on current areas of regulatory and Congressional activity/scrutiny, included these sessions and noted speakers:

Banking General Counsels

- **Jonathan Gould** — **OCC**
- **Nicholas Podsiadly** — **FDIC**
- **Laurie Schaffer** — **FRB**

Legislative Update

- **Chris Brown** — **Office of House Ranking Member Patrick McHenry (R-NC)**
- **Catherine Fuchs** — **Senate Banking Committee**
- **Glen Sears** — **House Financial Services Committee**
- **Elisha Tuku** — **Senate Banking Committee**

Revisiting the Dodd-Frank Enhanced Prudential Standards – Federal Reserve and Other Agency Tailoring Proposals

- **Henry Barkhausen** — **OCC**
- **Christine Docherty** — **Federal Reserve Bank of Boston**
- **Gregory Lyons** — **Debevoise & Plimpton LLP**
- **Benjamin McDonough** — **Federal Reserve Board**

Data Privacy and Security in Today's Financial World – States Blur the Privacy Line

- **Jessica Dipre** — **Fifth Third Bank**
- **Eric Richardson** — **Vorys, Sater, Seymour and Pease LLP**

- **Randy Sabett** — **Cooley LLP**
- **Eulonda Skyles** — **BakerHostetler LLP**

Fintech: Do New Technologies Require New Regulatory Approaches?

- **Christopher Allen** — **Arnold & Porter Kaye Scholer LLP**
- **Nicole Moran** — **Cornerstone Research**
- **Michael Townsley** — **Conference of State Bank Supervisors**

Regulatory Inspections and Enforcement Actions

- **Carolyn Campbell** — **Emerging Capital Partners**
- **Sarah Curran** — **Promontory Financial Group, an IBM Company**
- **Chris Lombardy** — **Duff & Phelps, LLC**
- **Michael Wheatley** — **Lincoln Financial Group**

Defining "Control" Under the BHCA and HOLA

- **Jennifer Docherty** — **Sandler O'Neill + Partners, L.P. (now Piper Sandler)**
- **Greg Frischmann** — **Federal Reserve Board**
- **Brian Knestout** — **Goldman Sachs**

Securities General Counsels

- **Daniel Davis** — **CFTC**
- **Marie-Louise Huth** — **SEC**
- **Anne Joves** — **National Futures Association**
- **Gail Marshall** — **MSRB**
- **Joseph Savage** — **FINRA**

SEC Division Reports

- **Melissa Hodgman** — **Enforcement**
- **Brian Johnson** — **Investment Management**
- **John Polise** — **OCIE**
- **Michael Seaman** — **Corporation Finance**
- **Mark Wolfe** — **Trading and Markets**

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Perspectives on Economic Sanctions and Anti-Money Laundering Developments

- **John Smith** — **Morrison & Foerster LLP**
- **Katrina Carroll** — **LPL Financial**
- **Heather Epstein** — **Barclays**
- **Jeffrey Kruszewski** — **U.S. Bank**

Thanks to all the committee members, speakers, moderators and attendees for their participation at this annual fall conference.

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FMA gratefully acknowledges these sponsors of FMA's 2019 Legal and Legislative Issues Conference

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Cornerstone Research

2019 Legal and Legislative Issues Conference

FMA's 29th **Legal and Legislative Issues Conference** will take place in the fall here in Washington, DC. Dates and hotel are now being explored. Further information will appear in future issues of *Market Solutions* and e-blasts.

Contact Dorcas Pearce (***dp-fma@starpower.net*** or **202/544-6327**) to volunteer…as a committee member, moderator or speaker…or to offer topical and/or speaker suggestions.

CPE / CLE accreditation (among others) will be available, so be sure to budget for, and plan to attend, the 29th annual Legal and Legislative Issues Conference later this year.

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Who's News

Karen Aavik has joined Wells Fargo as an Enterprise Risk Officer. Previously, Karen was a Compliance Executive – Corporate and Wholesale Practices at KeyBank.

Tracy Angulo has joined Guidehouse as an Associate Director. Previously, Tracy was Associate Director, AML Compliance at Navigant Consulting.

David Bottom has been appointed Chief Information Officer at the SEC. In this role, Mr. Bottom will be responsible for overseeing the security and overall functions of the agency's information technology systems.

Sylvia Burns has been named Chief Information Officer and Chief Privacy Officer at the FDIC.

Cory Claussen has been named Senior Director, Office of Government Affairs at FINRA.

Jessica Dipre has been promoted to SVP, Associate General Counsel at Fifth Third Bank.

Upon completion of the merger of Piper Jaffray and Sandler O'Neill & Partners, LP, **Jennifer Docherty** has joined Piper Sandler as Managing Director and Assistant General Counsel. Previously, Jennifer was Managing Director at Sandler O'Neill + Partners, L.P.

Cam Funkhouser, EVP at FINRA, retired at the end of last year after more than 35 years with the organization.

Jay Gallagher has been named Deputy Comptroller for Systemic Risk Identification Support and Specialty Supervision at the OCC. In this new role, he will serve as a key advisor to the Committee on Bank Supervision and other OCC senior leaders, the Chief Operating Officer, and the Comptroller on supervisory program matters.

Kevin Greenfield has been named Deputy Comptroller for Operational Risk at the OCC. In this role, he will oversee development of policy and examination procedures addressing operational risk, bank information technology, cybersecurity, critical infrastructure resilience, payments systems, and corporate and risk governance. Mr. Greenfield is filling a vacancy created when the previous Deputy Comptroller for Operational Risk, **Beth Dugan**, became a Deputy Comptroller for Large Bank Supervision.

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Who's News

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Julian Hammar has joined FisherBroyles, LLP as Partner. Previously, Julian was Of Counsel at Morrison & Foerster LLP.

Kelley Hoffer has joined Bank of America as Managing Director, Country Head of Compliance & Operational Risk (Canada). Previously, Kelley was VP, Regulatory Compliance at RBC.

Jessica Hopper has been promoted to EVP and Head of Enforcement at FINRA. She has been Acting Head of Enforcement since Susan Schroeder announced her departure in September 2019.

Marie-Louise (Malou) Huth has been named Chief Counsel for the SEC's Division of Economic and Risk Analysis. She will lead DERA's Office of the Chief Counsel, which provides guidance to the Chief Economist and other staff regarding legal issues implicated by the Division's broad mandate. As Chief Counsel, Ms. Huth will be responsible for collaborating with staff from across the Commission on matters related to the integration of the DERA's economic analyses into Commission rulemakings and other Commission actions. She will also provide guidance on a variety of mission-related legal and policy matters involving risk assessment, data analytics, and structured disclosure.

Ernesto Lanza has joined the SEC's Office of Municipal Securities as Attorney/Adviser. Previously, Ernie was a Senior Counsel at Clark Hill PLC.

Kristina Littman has been named Chief of the SEC's Division of Enforcement's Cyber Unit, a national, specialized unit that focuses on protecting investors and markets from cyber-related misconduct. Ms. Littman succeeds Robert Cohen, who left the Commission in August 2019.

Rochelle McAllister has joined LaSalle Investment Management as Legal Counsel and Chief Compliance Officer.

Ann-Marie Mason has joined Penn Mutual as VP & Head of Shared Services-Enterprise Ethics & Compliance. Previously, she was VP & Counsel at FINRA.

A. Duer Meehan has started **a new position** as CCO, SVP at FINRA CAT.

Jenny Menna has been promoted to Deputy Chief Information Security Officer, Business Security Solutions at U.S. Bank.

Melissa Netram has been named Director of LabCFTC, the CFTC's fintech innovation hub. She will be responsible for coordinating closely with international and U.S. regulators and Capitol Hill to facilitate market-enhancing innovation, inform public policy, and ensure the CFTC has the understanding to keep pace with the ever changing financial services industry.

Sean O'Malley has joined Integrated Risk, LLC as Managing Director, AML Risk Management. Previously, Sean was Head of AML Risk Management at State Street.

Richard Pagnotta, Sr. has been promoted to General Manager / Senior Vice President at Itaú USA.

Carolina Palacios has joined City National Bank as a Corporate Policy Management Officer. Previously, Carolina was a Compliance Officer/Sales Suitability at Banco Santander.

Clare Pierce has been promoted to Head, Compliance Advisory, BMO Wealth Management at BMO Financial Group.

Rick Sherley has been promoted to General Counsel at GQG Partners.

Maggie Sklar has joined the Federal Reserve Bank of Chicago as Senior Policy Advisor and Director of International Engagement. Previously, Maggie was Senior Counsel at CFTC's LabCFTC and Senior Counsel to former CFTC Chairman J. Christopher Giancarlo.

Kenneth Somma has joined ACS Group (American CyberSystems) as Vice President of Financial Services. Ken was previously Director of Sales - Treasury and Securities Solutions Division at SS&C Technologies.

Dan Vogel has been named Head of Regulatory and Data Security, Legal at Bloomberg LP.

Elizabeth Watkins has joined Crescent Grove Advisors as CCO. Previously, Liz was CCO at Stifel Asset Management.

Ellen Zimiles has joined Guidehouse as Head of Financial Services, Advisory and Compliance. She previously held the same role at Navigant Consulting, Inc., which was acquired by Veritas Capital-backed Guidehouse in October, 2019.

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