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Financial Regulatory Reform: Dodd-Frank and Beyond

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To learn more about the proposed regulation regarding securitization please visit the following links.

Securitization Proposed Regulations Summaries and Links

Governmental Agency Rulemaking

Disclosure for Asset-Backed Securities
Agency designated: Securities and Exchange Commission
Text of Proposed Rule

Summary: A proposed SEC rule requiring securitizers of asset-backed securities to disclose fulfilled and unfulfilled repurchase requests across all transactions. The proposals would also require nationally recognized statistical rating organizations to include information regarding the representations, warranties, and enforcement mechanisms available to investors in an asset-backed securities offering in any report accompanying a credit rating issued in connection with such offerings, including a preliminary credit rating.

Issuer Review of Assets in Offerings of Asset-Backed Securities
Agency designated: Securities and Exchange Commission
Text of Proposed Rule

Summary: Under the SEC's proposed rule, issuers registering the offer and sale of asset-backed securities must perform a review of the assets underlying the security. The proposed regulation also requires the issuer to disclose the nature of its review, as well as the findings and conclusions of its review. If the issuer has employed a third-party to conduct the review, then the issuer must disclose the third-party as well as certain disclosures related to third-party due diligence providers.

Prohibition Against Fraud, Manipulation, and Deception in Connection with Security-Based Swaps
Agency designated: Securities and Exchange Commission
Text of Proposed Rule

Summary: Pursuant to Section 761(a) of the Dodd-Frank Act, the SEC has proposed a new rule under the Exchange Act of 1934 that is intended to prevent fraud, manipulation, and deception in connection with the offer, purchase, or sale of any security-based swap, the exercise of any right or performance of any obligation under a security-based swap, or the avoidance of such exercise or performance.

Security-Based Swap Data Repository Registration, Duties and Core Principles
Agency designated: Securities and Exchange Commission
Text of Proposed Rule

Summary: The SEC is proposing a new rule under the Exchange Act of 1934 governing the security-based swap data repository registration process, duties, and core principles.

Regulation of SBSR; Reporting and Dissemination of Security-Based Swap Information
Agency designated: Securities and Exchange Commission
Text of Proposed Rule

Summary: Proposed Regulation SBSR would provide for the reporting of security-based swap information to registered security-based swap data repositories or the Commission and the public dissemination of security-based swap transaction, volume, and pricing information. Registered security-based swap data repositories would be required to establish and maintain certain policies and procedures regarding how transaction data are reported and disseminated, and participants of registered security-based swap data repositories that are security-based swap dealers or major security-based swap participants would be required to establish and maintain policies and procedures that are reasonably designed to ensure that they comply with applicable reporting obligations.

Market Risk Capital Requirements
Agencies designated: The Office of the Comptroller of the Currency, Federal Reserve Board, and Federal Deposit Insurance Corporation
Text of Proposed Rule

Summary: The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation are proposing to revise their market risk capital rules to modify their scope to better capture positions for which the market risk capital rules are appropriate; reduce procyclicality in market risk capital requirements; enhance the rules' sensitivity to risks that are not adequately captured under the current regulatory measurement methodologies; and increase transparency through enhanced disclosures. The proposal does not include the methodologies adopted by the Basel Committee on Banking Supervision for calculating the specific risk capital requirements for debt and securitization positions due to their reliance on credit ratings, which is impermissible under the Dodd-Frank Wall Street Reform and Consumer Protection Act. The proposal, therefore, retains the current specific risk treatment for these positions until the agencies develop alternative standards of creditworthiness as required by the Act. The proposed rules are substantively the same across the agencies.

Collateral to Requirements to Margin, Guarantee or Secure Swaps
Agency designated: Commodity Futures Trading Commission
Text of Proposed Rule

Summary: Under the proposed rule, the Commodity Futures Trading Commission would alter the requirements for swap dealers and major swap participants with respect to the treatment of collateral posted by their counterparties to margin, guarantee, or secure uncleared swaps.

Certification and Approval of New Financial Products
Agency designated: Commodity Futures Trading Commission
Text of Proposed Rule

Summary: The Commodity Futures Trading Commission is proposing to implement new rules and amend existing ones that apply to designated contract markets, derivatives clearing organizations, swap execution facilities, and swap data repositories. The proposed rules implement the new statutory framework for certification and approval for new products, new rules and rule amendments submitted to the Commodity Futures Trading Commission by registered entities. Furthermore, the proposed rules prohibit event contracts based on certain excluded commodities, establish special procedures for certain rule changes proposed by systemically important derivatives clearing organizations, and provide for the tolling of review periods for certain novel derivative products pending the resolution of jurisdictional determinations.

Conformance Period for Entities Engaged in Prohibited Proprietary Trading or Private Equity Fund or Hedge Fund Activities
Agency designated: Federal Reserve Board
Text of Proposed Rule

Summary: The proposed rule would implement the conformance period during which banking entities and nonbank financial companies supervised by the Board must bring their activities and investments into compliance with the prohibitions and restrictions on proprietary trading and relationships with hedge funds and private equity funds, as specified by the Volcker Rule (Section 619 of the Act).

Conformance Period for Entities Engaged in Prohibited Proprietary Trading or Private Equity Fund or Hedge Fund Activities
Agency designated: Federal Reserve Board
Text of Proposed Rule

Summary: The Volcker rule (Section 619 of the Act) prohibits banking entities from engaging in proprietary trading or from acquiring or retaining any ownership interest in, or sponsoring, a hedge fund or private equity fund, with some exceptions. The FRB has proposed rule that would implement the conformance period during which banking entities and nonbank financial companies supervised by the FRB must bring their activities and investments into compliance with the Volcker rule's prohibitions and restrictions on proprietary trading and relationships with hedge funds and private equity funds.

Assessment Dividends, Assessment Rates and Designated Reserve Ratio
Agency designated: Federal Deposit Insurance Corporation

Text of Proposed Rule

Summary: In order to implement a comprehensive, long-range management plan for the Deposit Insurance Fund, the FDIC is proposing to amend its regulations to: implement the dividend provisions in the Dodd-Frank; set assessment rates; and set the designated reserve ratio at 2 percent.

Assessments, Assessment Base and Rates
Agency designated: Federal Deposit Insurance Corporation
Text of Proposed Rule

Summary: The FDIC is proposing to amend its regulations to implement revisions to the Federal Deposit Insurance Act made by the Dodd-Frank regarding the definition of an institution's deposit insurance assessment base; alter the unsecured debt adjustment in light of the changes to the assessment base; add an adjustment for long-term debt held by an insured depository institution where the debt is issued by another insured depository institution; eliminate the secured liability adjustment; change the brokered deposit adjustment to conform to the change in the assessment base and change the way the adjustment will apply to large institutions; and revise deposit insurance assessment rate schedules, including base assessment rates, in light of the changes to the assessment base.

Deposit Insurance Regulations: Permanent Increase in Standard Coverage Amount
Agency designated: Federal Deposit Insurance Company
Text of Final Rule

Summary: Section 335 of the Dodd-Frank Act makes permanent the standard maximum deposit insurance amount of $250,000.

Deposit Insurance Regulations: Unlimited Coverage for Noninterest Bearing Transaction Accounts
Agency designated: Federal Deposit Insurance Company
Text of Final Rule

Summary: Section 343 of the Dodd-Frank Act provides for unlimited deposit insurance on noninterest-bearing transaction accounts for two years starting December 31, 2010.

Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies
Agency designated: Federal Stability Oversight Council
Text of Proposed Rule

Summary: The newly created Federal Stability Oversight Council (FSOC) has been delegated the authority under the Dodd-Frank Act to require a nonbank financial company to be supervised by the Board of Governors of the Federal Reserve System and subject those companies to the prudential standards if the FSOC determines that material financial distress at such a firm, or the nature, scope, size, scale, concentration, interconnectedness, or mix of activities of the firm, could pose a threat to the financial stability of the United States. This proposed rule seeks to describe the criteria used to inform and the processes and procedures used to inform the FSOC's designation of a nonbank financial company.

Authority to Designate Financial Market Utilities as Systematically Important
Agency designated: Federal Stability Oversight Council
Text of Proposed Rule

Summary: The Dodd-Frank Act defines a "financial market utility" as any person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and that person. The Act gives the FSOC the authority to determine whether a financial market utility is systematically important if the FSOC determines that a failure, or disruption to the functioning of such a utility could create or increase the risk of significant liquidity or credit problems spreading among financial institutions. The proposed rule asks for public comments regarding the criteria and analytic framework that the FSOC should use to designate a financial market utility.

Non Governmental Sources on Rulemaking

The Brookings Institute

Dechert LLP

KPMG

Morrison | Foerester

Orrick, Herrington & Sutcliffe LLP