Banking and Finance Law Daily Wrap Up, TOP STORY—Banking agencies make further changes to capital rule to encourage lending to households and businesses, (Mar. 27, 2020)

Banking and Finance Law Daily Wrap Up

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The banking agencies—Fed, FDIC, and OCC—have taken additional regulatory action to support lending to households and businesses.

The Federal Reserve Board, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency have taken further regulatory action to support the U.S. economy and allow banking organizations to continue lending to households and businesses in light of the economic effect of the coronavirus pandemic.

The latest action addresses the implementation of the agencies' "SA-CCR" rule and new credit loss accounting standard.

Prior action taken by the three agencies included:

- encouraging banking organizations to use their capital and liquidity buffers; and modifying the definition of eligible retained income and thereby allowing banking organizations to more freely use their capital buffers (see *Banking and Finance Law Daily*, March 17, 2020);
- changes to the agencies' capital rules to allow banking organizations effectively use the newly-created Money Market Mutual Fund Liquidity Facility (see *Banking and Finance Law Daily*, March 19, 2020);
- revision to the OCC's short-term investment fund (STIF) rule for national banks acting in a fiduciary capacity (see *Banking and Finance Law Daily*, March 23, 2020); and
- a revision of the definition of eligible retained income for purposes of the Fed's total loss-absorbing capacity (TLAC) rule to allow any automatic limitations on capital distributions that could apply under the TLAC rule more gradual (see *Banking and Finance Law Daily*, March 23, 2020).

SA-CCR rule. The "standardized approach for measuring counterparty credit risk" rule, also known as SA-CCR, was finalized by the agencies in November 2019, with an effective date of April 1, 2020; and a mandatory compliance date will remain Jan. 1, 2022. It reflects improvements made to the derivatives market since the 2007-2008 financial crisis, such as central clearing and margin requirements (see *Banking and Finance Law Daily*, Nov. 19, 2019).

The agencies issued a notice allowing banking organizations to implement the SA-CCR rule for the first quarter of 2020, on a best efforts basis if the banking organization chooses to do so. A banking organization that elects to adopt the SA-CCR methodology must adopt the SA-CCR methodology for all derivative contracts; it cannot implement the SA-CCR methodology for a subset of its derivative contracts. However, a banking organization may adopt some of the other amendments described in the SA-CCR rule regardless of whether it chooses to early adopt the SA-CCR methodology.

The agencies stressed that the "SA-CCR rule effective date will remain April 1, 2020, and the mandatory compliance date will remain January 1, 2022."

CECL transition. The second action taken by the agencies is an interim final rule that allows banking organizations to mitigate the effects of the "current expected credit loss," or CECL, accounting standard in their regulatory capital.

Banking organizations that are required under U.S. accounting standards to adopt CECL this year can mitigate the estimated cumulative regulatory capital effects for up to two years. This is in addition to the three-year

transition period already in place. Alternatively, banking organizations can follow the capital transition rule issued by the banking agencies in February 2019. The agencies are providing this relief to allow banking organizations to better focus on supporting lending to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the coronavirus disease 2019 (COVID-19).

The interim final rule noted, "The transitional relief provided in the interim final rule is intended to be simple to implement without imposing undue operational burden, while reducing the potential for competitive inequities across banking organizations during this time of economic uncertainty and maintaining the quality of regulatory capital."

A joint press release provided that the changes will be effective immediately and the agencies will accept comments on the CECL interim final rule for 45 days.

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