



## ML Strategies Update

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## Financial Services Legislative and Regulatory Update

### Leading the Past Week

Yesterday marked the 3<sup>rd</sup> Anniversary of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Going into the fourth year, regulators continue to work towards implementation of the financial reforms with strong indications that most major rulemakings will be completed by the end of the year. For example, last week, in addition to finalizing the cross-border derivatives rules, regulators also hinted that several other key portions of the law could be finalized in coming months, including the CEO pay ratio rule at the Securities and Exchange Commission (SEC) and a re-proposed fiduciary definition at the Department of Labor (DOL). As the Dodd-Frank Act continues to be implemented in the aftermath of the financial crisis that prompted the reforms, Congress is now turning its focus on another major reform, this time focusing on the nation's housing finance industry.

Of course, the biggest news out of last week was the aversion of the nuclear option and the confirmation of a handful of Presidential appointees, including CFPB Director Cordray. How long this détente will last (see, e.g., Watt, Mel) is unclear, but for the time being the Senate once again avoided another self-made crisis.

### Legislative Branch

#### **Senate**

#### *Senate Avoids Nuclear Option, Confirms Cordray to Head CFPB*

On July 16<sup>th</sup>, the Senate voted 66 to 34 to confirm the nomination of Richard Cordray to be the director of the Consumer Financial Protection Bureau (CFPB), with 17 GOP Senators voting to confirm. After months of staunch Republican opposition to any director of the Bureau without other changes to the agency's structure, a cloture agreement was reached as part of a larger deal to avert the so-called nuclear option. According to published reports, the specific elements of the Cordray deal included that Cordray will testify before the Senate Appropriations Committee on the Bureau's budget, despite the fact that the CFPB's budget is derived from the Federal Reserve and the Appropriations Committee does not have jurisdiction. In addition, Senator

Portman introduced legislation that would create an inspector general (IG), subject to Senate confirmation, for the CFPB. While the CFPB currently shares an IG with the Fed, Portman said the measure is a “commonsense step we can take to ensure greater transparency and accountability at the CFPB.” Soon after the Senate confirmation, Financial Services Committee Chairman Jeb Hensarling (R-TX) lifted his ban on appearances by Cordray before the Committee, saying Cordray now meets the statutory requirements for CFPB Director.

#### *Senate Banking Leadership Releases FHA Bill*

On July 15<sup>th</sup>, Chairman Tim Johnson (D-SD) and Ranking Member Mike Crapo (R-ID) released a [discussion draft](#) of legislation which would help address solvency problems at the Federal Housing Administration (FHA). Specifically, the legislation will allow the FHA to charge higher premiums on insured loans, allow the agency to require more lenders to buy back loans when a borrower does not meet payments, and make prompt changes to the agency’s reverse mortgage program through a lender letter as opposed to a formal rulemaking process. In addition to these new powers, the bill would require the FHA to maintain higher capital reserves. While Chairman of the House Financial Services Committee Jeb Hensarling (R-TX) has [introduced](#) some similar changes as part of a broader housing finance overhaul proposal, both Johnson and Crapo have expressed a desire to resolve problems within the FHA before dealing with GSE reforms.

#### *Senate Agriculture Committee Holds First Panel on CFTC Reauthorization*

On July 17<sup>th</sup>, the Senate Agriculture Committee held its first hearing on the CFTC’s reauthorization, hearing testimony from industry stakeholders regarding the Commodity Exchange Act and recent market failures such as MF Global. In her opening comments, Chairman Debbie Stabenow (D-MI) said that the Committee has been “closely monitoring the MF Global case” and is focused on getting back customer money, holding those responsible accountable and ensuring customer protections are sufficient to avoid future failures. [Witnesses](#) included individuals representing, the Securities Industry Markets Association (SIFMA), CME Group, the Managed Funds Association, Better Markets, the National Futures Association, the Futures Industry Association, the Commodity Markets Oversight Coalition, and others. Witnesses reacted to a number of proposals to reform the CFTC, such as decreasing margin calls and the residual interest rule.

#### *Senate Banking Approves Nominations of Mel Watt, Others*

On July 18<sup>th</sup>, after a brief delay from the originally scheduled vote, the Senate Banking Committee voted to advance the nominations of Representative Mel Watt (D-NC) to be Director of the FHFA, Jason Furman to be the Director of the Council of Economic Advisors, Kara Stein and Michael Piwowar to be SEC Commissioners, SEC Chairwoman Mary Jo White to serve another five-year term, and Richard Mettger to be a Board Member of the National Credit Union Administration. While most of the nominees were advanced unanimously by voice vote, Representative Watt was approved on a 12-10 party-line vote. In his opening statement, Ranking Member Crapo (R-ID) noted that Republicans think Watt is too political to lead the FHFA objectively and address complex issues in the housing finance sector.

#### *Senate Banking Subcommittee Examines Debt Collection*

On July 17<sup>th</sup>, the Senate Banking Subcommittee on Financial Institutions and Consumer Protection met to hear testimony from representatives from the CFPB and Federal Trade Commission (FTC) on debt collection practices. Witnesses included Corey Stone, Assistant Director for the Office of Deposits, Cash, Collections, and Reporting Markets at the CFPB, and Reilly Dolan, Acting Associate Director, Division of Financial Practices with the FTC who outlined their agencies’ powers to oversee debt collection.

## House of Representatives

### *House Financial Services Committee Holds First Legislative Hearings on Hensarling's Housing Finance bill*

On July 18<sup>th</sup>, the House Financial Services Committee met in a hearing that lasted close to seven hours to consider the proposals to reform the housing finance sector laid out in the [Protecting American Taxpayers and Homeowners Act of 2013](#) (PATH Act). Despite generally agreeing that Fannie Mae and Freddie Mac should be wound down and the government's role in housing finance diminished, Republican and Democrat lawmakers disagreed on the process. Committee Republicans, who released the PATH Act the week leading up to the hearing, defended the plan to eliminate the GSEs and inject private capital into the market.

However, in response, Democrats released a set of [core principals](#) that they believe should be a part of housing reform, including preserving access to the 30-year fixed rate mortgage, ensuring a continued government guarantee remains, preserving affordable rental housing, and promoting stability and liquidity in the market. Committee Democrats spent much of the hearing fighting for the 30-year fixed rate mortgage, encouraged by comments from witness and Moody's Analytics Chief Economist Mark Zandi, who noted that if the PATH Act were to become law mortgage rates would rise considerable. Senator Mark Warner (D-VA), sponsor of a Senate housing finance proposal, called the PATH Act "purely ideological," adding that it would "destroy the 30-year fixed-rate mortgage."

### *House Oversight Subcommittee Discusses Dodd-Frank Burden on Community Banks*

On July 18<sup>th</sup>, the House Oversight and Government Reform Subcommittee on Economic Growth, Job Creation, and Regulatory Affairs met to discuss the compliance costs of Dodd-Frank regulations on community banks. Most witnesses and lawmakers in attendance agreed that small banks are an important part of the financial system which should be protected from unnecessary regulatory burdens. Three witnesses spoke in opposition to major portions of Dodd-Frank, saying the legislation places high compliance costs on community banks that played no part in creating the financial crisis while providing implicit benefits to large banks that receive systemically important financial institution (SIFI) designations. The fourth witness, former Representative Brad Miller, highlighted provisions in Dodd-Frank that benefit community banks, including new CFPB supervision for non-bank lenders and deposit insurance premium reductions.

## Executive Branch

### **Federal Reserve**

#### *In Semiannual Report to Congress, Bernanke Stresses Fed Will Stay the Course in Bond Buying*

Testifying separately before the Senate Banking Committee and House Financial Services Committee to provide the Fed's semiannual (Humphrey-Hawkins) report to Congress, Chairman Ben Bernanke stressed to lawmakers that, though the economy is improving, the Fed has "not locked into any timetable for scaling back" its bond buying policies. Bernanke, largely responding to fears which emerged after the last Federal Open Market Committee (FOMC) meeting, in which FOMC members indicated a tapering of quantitative easing could occur in the near-term, instead told lawmakers that the Fed's "asset purchases depend on economic and financial developments, they are by no means on a preset course." Speaking before the Senate Banking Committee, Bernanke also addressed the question of "too big to fail" in response to a line of questioning from Senator Elizabeth Warren (D-MA). Bernanke opened the possibility for additional measures to address too big to fail, should the problem not be addressed through current measures by the end of 2014.

## **CFPB**

### *Bureau Gets New Chief of Staff and Chief Operating Officer*

On July 15<sup>th</sup>, the CFPB [announced](#) a number of new senior hires including, Sartaj Alag to be Chief Operating Officer of the Bureau and Christopher D'Angelo to be Chief of Staff. The Bureau also named Nora Dowd Eisenhower to be the new Assistant Director for the Office of Older Americans and Laurie Maggiano to serve as Program Manager for Servicing and Securitization Markets in the Division of Research, Markets, and Regulations.

### *CFPB Releases First Consumer Financial Literacy Report*

On July 18<sup>th</sup>, the Bureau issued its first annual [Financial Literacy Report](#) to Congress, outlining its strategy for improving financial education. The Bureau's goal is to motivate and support positive financial decisions through a three-pronged approach to improving financial literacy opportunities for consumers: education, evidence-based research, and outreach to consumers and financial education stakeholders. Speaking on the report, Director Cordray said that "the best and most immediate form of consumer protection is self-protection."

### *GAO to Investigate CFPB Data Collection*

In response to a [letter](#) sent to the GAO on July 2<sup>nd</sup> by Ranking Member of the Senate Banking Committee Mike Crapo (R-ID), the GAO [said](#) it will investigate how the CFPB collects consumer data. This issue has been in question of late, as the House Financial Services Committee also had a hearing on CFPB data collection practices earlier in July.

## **SEC**

### *SEC Reported to Be Close to Finalizing Pay Ratio Rule*

Last week, sources familiar with the proceedings said that the SEC could vote as soon as August 21<sup>st</sup> to introduce regulations to require public companies to disclose how much more their executives are paid than their workers. The proposal, included in the Dodd-Frank Act, requires companies to calculate and report CEO compensation as a multiple of the average worker pay. While proponents of the measure appreciate that it will allow shareholders to make better informed decisions, detractors, such as the Chamber of Commerce, have questioned the costs potentially imposed by the rule.

## **CFTC**

### *CFTC Holds Second Cross-Border Vote*

On July 15<sup>th</sup>, the CFTC voted for a second time on its [final guidance](#) and [exemptive order](#) for cross-border derivatives rules. The vote approves technical changes and language changes and reflects the Commissions desire for "an abundance of caution" in the process. The guidance was originally approved in a 3 to one vote on July 12<sup>th</sup>.

## **Department of Labor**

### *Fiduciary Re-Proposal Expected in October*

On July 18<sup>th</sup> Assistant Attorney General Tom Perez was approved by the Senate to serve as the Labor Secretary. While the DOL's fiduciary rule was a sticking point during Perez's debate over Perez's nomination, industry experts do not expect to affect his confirmation to greatly alter the timeline for re-proposal of the fiduciary rule. According to the DOL's [Semiannual Regulatory Agenda](#) released earlier in July, the re-proposal to amend the definition of fiduciary under the Employee Retirement Income Security Act (ERISA) is due to be out in October.

## International

### *FSB Designates New Global Systemically Important Insurers*

On July 18<sup>th</sup>, the Financial Stability Board (FSB) [designated](#) nine institutions which will face

additional regulation as globally systemically important insurers (G-SIIs). The FSB, in coordination with the International Association of Insurance Supervisors (IAIS), named Allianz SE, American International Group, Inc., Assicurazioni Generali S.p.A., Aviva plc, Axa S.A., MetLife, Inc., Ping An Insurance Company of China, Ltd., Prudential Financial, Inc., and Prudential plc. While the FSB allows each country to determine how to implement recommendations on July 19<sup>th</sup>, IAIS [released](#) proposed policy measures which the companies will have to follow, including “backstop” capital requirements and higher “loss absorbency” requirements.

#### *Basel Committee Proposes Framework for Banks to Disclose Liquidity Data*

On July 19<sup>th</sup>, the Basel Committee on Banking Supervision [proposed](#) a framework for banks to disclose their liquidity coverage ratio (LCR) which ensure that the institution has significant assets to cover 30-days’ worth of obligations. The framework would apply to banks’ first set of financial statements after the LCR takes effect, January 1, 2015, and continue with each additional quarterly financial statement. The Basel Committee said in a press release it sought to balance “the benefits of promoting market discipline against the challenges associated with disclosure of liquidity positions.”

#### *France Lobbies for Foreign Exchange Trading to be Included in FTT Proposal*

On July 17<sup>th</sup>, France Finance Minister Pierre Moscovici spoke on the European Commission’s [proposal](#) to tax financial transactions, saying that the plan, which already would tax derivatives, swaps, and forwards, should also extend to spot foreign exchange trades. Although supporting increasing the scope of the tax, Moscovici also echoed sentiments within the European Commission, saying that the current proposal is excessive and must be scaled back. In an update to its website earlier in July, the Commission announced that the tax would be delayed until 2014 and indicated it would consider lowering the rate at which government bonds would be taxed.

#### *EU Considering Credit Card Fee Cap*

According to a proposal obtained by news outlets last week, the European Commission is considering a proposal which would cap interchange fees on credit card transactions at 0.2 percent for debit cards and 0.3 percent for credit cards. These caps would at first apply only to cross-border transactions before expanding to domestic payments within two years. Estimates by the Commission, which will be released with the proposal on July 24<sup>th</sup>, estimate that the proposal will cut total debit fees from €4.8 billion to €2.5 billion and total credit fees from €5.7 billion to €3.5 billion. The proposal is broadly rooted in antitrust agreements with Visa and MasterCard which required the two companies to cap fees to comply with competition regulations.

#### Miscellaneous

##### *SIFMA Coordinates Simulated Cyber-attack on Financial Sector*

Last week, bankers and government officials participated in a multi-day exercise testing the financial industry’s ability to respond to cyber threats. The event, dubbed “Quantum Dawn 2”, was organized by the Securities Industry and Financial Markets Association. Over 50 financial institutions, including banking giants JP Morgan, Citigroup, and Bank of America, participated along with the FBI, SEC, DHS, and the Treasury Department. During the drill, participants received pieces of information representing possible cyber-attacks and monitored a fake stock exchange for irregular activity, allowing bankers to practice identifying threats, mitigating damage to their firms, sharing information within the financial sector, and coordinating with government agencies. The exercise comes before a Senate Commerce Committee hearing on its draft cyber security legislation set to take place later this week.

## Upcoming Hearings

On Tuesday, July 23<sup>rd</sup> at 10am, in 138 Dirksen, the Financial Services and General Government Subcommittee of Senate Appropriations Committee will hold a markup on draft legislation that would make fiscal 2014 appropriations for programs under its jurisdiction.

On Tuesday, July 23<sup>rd</sup> at 10am, in 538 Dirksen, the Senate Banking, Housing, and Urban Affairs Subcommittee on Financial Institutions and Consumer Protection will hold a hearing titled “Examining Financial Holding Companies: Should Banks Control Power Plants, Warehouses, and Oil Refineries?”

On Tuesday, July 23<sup>rd</sup> at 10am, in 1300 Longworth, the General Farm Commodities and Risk Management Subcommittee of House Agriculture Committee will hold a hearing on Commission perspectives titled the “Future of the CFTC.”

On Tuesday, July 23<sup>rd</sup> at 10:15am, in 2128 Rayburn, the House Financial Services Committee will meet to mark up the Protecting American Taxpayers and Homeowners (PATH) Act of 2013.

On Tuesday, July 23<sup>rd</sup> at 3pm, in 538 Dirksen, the Senate Banking, Housing, and Urban Affairs Subcommittee on Securities, Insurance, and Investment will hold a hearing titled “Creating a Housing Finance System Built to Last: Ensuring Access for Community Institutions.”

On Wednesday, July 24<sup>th</sup> at 10am, in 538 Dirksen, the Senate Banking, Housing, and Urban Affairs Committee will hold a legislative hearing on “The FHA Solvency Act of 2013.”

On Wednesday, July 24<sup>th</sup> at 10am, in 1300 Longworth, the General Farm Commodities and Risk Management Subcommittee of House Agriculture Committee will hold a hearing on end user perspectives titled “Future of the CFTC.”

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