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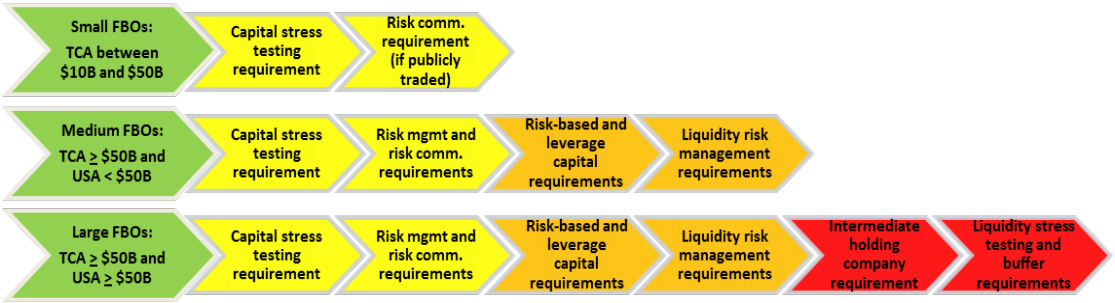
Enhanced Prudential Standards for Foreign Banking Organizations' U.S. Operations—The Dodd-Frank "Quid Pro Quo"

BY LAWRENCE D. KAPLAN

Among the most noteworthy developments of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("DFA") are the significantly increased regulatory requirements imposed on foreign banking organizations ("FBOs") and their U.S. and non-U.S. operations. The increased supervision and oversight is based on a broad mandate from the U.S. Congress to federal financial regulators to oversee the activities and operation of foreign firms that participate in, benefit from, and pose risks to the U.S. financial system as a result of such activities and operations. Examples of DFA requirements with far-reaching implications affecting FBOs include the so-called "Volcker Rule" and its reach to the proprietary trading and covered fund activities of FBOs, imposition of the time-and-resource intensive DFA resolution planning requirement on FBOs, and the cross-border guidance of the Commodity Futures Trading Commission impacting the derivative activities of various financial firms operating outside the U.S. Prudential supervision standards for FBOs with total consolidated assets of $10 billion or more, recently adopted by the Board of Governors of the Federal Reserve System ("FRB"), are the latest requirements imposed on foreign participants in the U.S. banking market.

The FRB final rule ("Final Rule")[1] implementing the FBO enhanced prudential standards was adopted pursuant to Section 165 of the DFA.[2] The rule imposes a tiered system of regulation for FBOs, applying an escalating and more stringent series of requirements based on asset size, beginning with small FBOs (holding total consolidated assets ("TCA") between $10 billion and $50 billion ("Small FBOs")), medium-sized FBOs (holding TCA of at least $50 billion and U.S.-based assets ("USA") of less than $50 billion ("Medium FBOs")), and large FBOs (holding TCA and USA of $50 billion or greater ("Large FBOs")). As discussed herein and highlighted in the graphics below, certain FBOs have specific obligations relating to, among other things, minimum risk-based and leverage capital, capital stress testing, risk management, and liquidity management. Large FBOs with U.S. non-branch assets of $50 billion or more are required to establish or designate a U.S. intermediate holding company that will be subject to enhanced prudential standards.



In explaining the basis for the FBO provisions of the Final Rule, the FRB noted that the requirements of the rule are designed—like many other provisions of the DFA—to prevent another financial crisis. The FBO prudential supervision standards arise out of, and are a response to, the reliance of FBOs operating in the U.S. on the FRB for funding at the onset of the most recent financial crisis. In this regard, the FRB noted in the preamble to the Final Rule that, "the profile of foreign bank operations in the United States changed substantially in the period preceding the financial crisis. U.S. branches and agencies of foreign banking organizations as a group moved from a position of receiving funding from their parent organizations on a net basis in 1999 to providing significant funding to non-U.S. affiliates by the mid-2000s."[3] According to the FRB, "[i]n 2008, U.S. branches and agencies [of FBOs] provided more than $600 billion on a net basis to non-U.S. affiliates."[4]

The FBO prudential supervision standards are a response, in part, to the FRB's observation that, as FBOs received less funding from their parent companies, they became "more reliant on less stable, short-term U.S. dollar wholesale funding, contributing in some cases to a buildup in maturity mismatches."[5] Of particular concern to the FRB in developing the prudential standards was that, "[t]rends in the global balance sheets of [FBOs leading into the financial crisis] reveal that short-term U.S. dollar funding raised in the United States was used to provide long-term U.S. dollar-denominated project and trade finance around the world as well as to finance non-U.S. affiliates' investments in U.S. dollar-denominated asset-backed securities."[6] Recognizing that "U.S. supervisors, as host authorities, have more limited access to timely information on the global operations of [FBOs] than to similar information on U.S.-based banking organizations, [the FRB notes that] the totality of the risk profile of the U.S. operations of the [FBOs] can be obscured when these U.S. entities fund activities outside the United States."[7]

To understand the FRB's perspective, it is important to understand how the FRB approached the FBO funding issue going into the recent financial crisis. As noted by the FRB, the agency extended credit to FBOs during the financial crisis because "[c]onsistent with provisions in the Federal Reserve Act, branches and agencies of foreign banks operating in the United States have the same access as domestic banks to the [FRB's] discount window, which is used for borrowing short-term funds."[8] Noting that many FBOs operating in the U.S. experienced funding problems similar to those experienced by domestic institutions, the FRB observed, "[a]ddressing the funding problems of both domestic and foreign-owned financial institutions operating in the United States was essential to restore the flow of credit to U.S. households and businesses and to encourage a stronger economic recovery and a return to full employment."[9]

Backing up the agency's view of its role as the lender of last resort for both domestic and foreign banks operating in the U.S., it is important to understand the very significant role the agency had in providing funding to FBOs during the financial crisis. According to an analysis of information released by the FRB under the DFA and pursuant to various Freedom of Information Act requests, it appears that FBOs were significant recipients of FRB emergency liquidity funding, which was provided for a number of reasons, including to avert cash shortfalls and to "keep the credit markets from grinding to a halt."[10] Based on the compiled data, slightly more than half of the 50 largest borrowers were foreign banks. Thus, it appears that the FRB is relying, in part, on its experience during the financial crisis to support its exercise of authority for the issuance of enhanced prudential standards for FBOs.

Another issue that the FRB referenced in its justification for the FBO enhanced standards is the increasing concentration, complexity and interconnectedness of the largest FBOs operating in the U.S. According to the FRB, as of 2007, "the top ten foreign banking organizations accounted for over 60 percent of foreign banking organizations' U.S. assets, up from 40 percent in 1995."[11] In contrast,

commercial and industrial lending originated by FBOs' U.S. operations as a share of their third-party U.S. liabilities dropped after 2003.[12] Thus, FBO enhanced prudential standards are as much a reaction to greater exposure and vulnerability in the U.S. to the U.S. operations of FBOs as to potential funding exposure. As articulated by the FRB, at the core of the agency's concern is the notion that, "[d]uring periods of financial stress, subsidiaries of [FBOs] may not be able to rely on support from their home-country parent, and therefore, these subsidiaries should have the ability to absorb losses and maintain ready access to funding, meet obligations to creditors and other counterparties, and continue to serve as credit intermediaries without assuming such support."[13] In other words, the FRB wants an FBO's U.S. operations to be self-sufficient and, to the extent possible, self-contained.

It is with this backdrop in mind that the FRB enhanced prudential standards for FBOs should be reviewed and, perhaps, can be better understood.

Summary of Prudential Supervision Requirements Imposed on FBOs

Small FBOs

Beginning on July 1, 2016, Small FBOs (*i.e.*, FBOs having TCA of between $10 billion and $50 billion)[14] will become subject to a number of important requirements targeted at reducing the aggregate risk these institutions pose to the U.S. financial system. These requirements include:

- **Capital Stress Testing** – Each Small FBO must be subject, on a consolidated basis, to a capital stress testing regime by its home-country supervisor meeting certain minimum requirements, and conduct such stress tests (or be subject to a supervisory stress test) and meet any minimum standards set by its home-country supervisor with respect to the stress tests.[15] To comply with this requirement, the capital stress testing regime of the Small FBO must include: (i) an annual supervisory capital stress test or an annual evaluation and review by the home-country supervisor of an internal capital adequacy stress test conducted by the Small FBO; and (ii) requirements for governance and controls of stress testing practices by relevant management and the board of directors (or its equivalent).[16]

  A Small FBO that does not meet the general minimum capital stress testing standard described above must comply with alternative requirements under the Final Rule.[17]

- **Risk Committee Requirements** – A *publicly-traded* Small FBO must certify annually to the FRB that it maintains a committee of its global board of directors (or its equivalent), on a standalone basis or as part of its enterprise-wide risk committee, that oversees risk management policies of the FBO's U.S. operations, and that includes at least one member having experience in identifying, assessing and managing risk at large, complex firms.[18]

Medium FBOs

Effective July 1, 2016, Medium FBOs (*i.e.*, FBOs having TCA of at least $50 billion and USA of less than $50 billion)[19] will become subject to various enhanced prudential requirements targeted at reducing the aggregate risk these institutions pose to the U.S. financial system. These requirements include:

- **Capital Requirements** – Medium FBOs must meet capital adequacy standards, on a consolidated basis, established by their respective home-country supervisors, consistent with the regulatory capital framework published by the Basel Committee on Banking Supervision, as amended from time to time ("Basel Framework"), including any minimum risk-based capital ratios and minimum leverage ratio.[20]

A Medium FBO that does not meet the general minimum capital adequacy standards described above that are consistent with the Basel Framework may be subject to alternative requirements, conditions, or restrictions as may be imposed by the FRB in coordination with "any relevant State or Federal regulator."[21]

- **Risk Management/Committee Requirements** – Similar to the requirement applicable to a *publicly-traded* Small FBO, a Medium FBO must annually certify to the FRB that it maintains a committee of its global board of directors (or its equivalent), on a standalone basis or as part of its enterprise-wide risk committee, that oversees risk management policies of the FBO's U.S. operations, and that includes at least one member having experience in identifying, assessing, and managing risk at large, complex firms.[22]

- **Capital Stress Testing** – Also similar to the requirement applicable for a Small FBO, each Medium FBO must be subject, on a consolidated basis, to a capital stress testing regime by its home-country supervisor meeting certain minimum requirements, and conduct such stress tests (or be subject to a supervisory stress test) and meet any minimum standards set by its home-country supervisor with respect to the stress tests.[23] To comply with this requirement, the capital stress testing regime of the Medium FBO must include: (i) an annual supervisory capital stress test or an annual evaluation and review by the home-country supervisor of an internal capital adequacy stress test conducted by the Medium FBO; and (ii) requirements for governance and controls of stress testing practices by relevant management and the board of directors (or its equivalent).[24]

  A Medium FBO that does not meet the general minimum capital stress testing standard described above must comply with alternative requirements under the Final Rule.[25]

- **Liquidity Risk Management Requirements** – A Medium FBO must certify annually to the FRB the results of an internal liquidity stress test for either the consolidated operations of the FBO, or the combined U.S. operations of the FBO.[26] Such liquidity stress testing must be conducted consistently with the Basel Committee's liquidity risk management principles and incorporate 30-day, 90-day, and one-year stress-test horizons.[27]

  A Medium FBO that does not comply with the annual liquidity testing and certification requirement must limit the net aggregate amount that is owed by the FBO's non-U.S. offices and its non-U.S. affiliates to the FBO's combined U.S. operations to a maximum of 25% of the third party liabilities of the FBO's combined U.S. operations, on a daily basis.[28]

Large FBOs

Beginning on July 1, 2016, Large FBOs (*i.e.*, FBOs having TCA and USA of $50 billion or more)[29] will become subject to the following prudential requirements targeted at reducing the aggregate risk these institutions pose to the U.S. financial system:

- **Capital Requirements** – Large FBOs must meet capital adequacy standards, on a consolidated basis, established by their respective home-country supervisors, consistent with the Basel Framework, including any minimum risk-based capital ratios and minimum leverage ratio.[30]

  A Large FBO that does not meet the general minimum capital adequacy standards described above that are consistent with the Basel Framework may be subject to alternative

requirements, conditions, or restrictions as may be imposed by the FRB in coordination with "any relevant State or Federal regulator."[31]

- **Capital Stress Testing** – Similar to the capital stress testing requirements for Small and Medium FBOs, Large FBOs must be subject, on a consolidated basis, to a capital stress testing regime by its home-country supervisor meeting certain minimum requirements, and conduct such stress tests (or be subject to a supervisory stress test) and meet any minimum standards set by its home-country supervisor with respect to the stress tests.[32] To comply with this requirement, the capital stress testing regime of the Large FBO must include: (i) an annual supervisory capital stress test or an annual evaluation and review by the home-country supervisor of an internal capital adequacy stress test conducted by the Large FBO; and (ii) requirements for governance and controls of stress testing practices by relevant management and the board of directors (or its equivalent).[33]

  In addition, by January 5 of each calendar year, a Large FBO must provide to the FRB a summary report regarding its stress testing activities and results, including: (i) a description of the types of risks used in the stress test; (ii) a description of the conditions or scenarios used in the stress test; (iii) a description of the methodologies used; (iv) estimates of aggregate losses, pre-provision net revenue, total loan loss provisions, net income before taxes; (v) *pro forma* regulatory capital ratios used by its home country supervisor; and (vi) an explanation of the most significant causes for changes in regulatory capital ratios.[34] Additional information is required for Large FBOs in a net due from position.[35]

  A Large FBO that does not meet the general minimum capital stress testing standards described above must comply with alternative requirements under the Final Rule.[36]

- **Risk Management/Committee Requirements** – Large FBOs must establish and maintain a risk committee that approves and periodically reviews the risk management policies of the FBO's combined U.S. operations and oversees the risk management framework for such operations, which must be commensurate with the structure, risk-profile, complexity, activities, and size of the FBO, and meet certain minimum requirements under the Final Rule.[37] If the Large FBO is required to have a U.S. intermediate holding company (discussed below), the FBO must maintain its U.S. risk committee as a committee of the board of directors of its U.S. intermediate holding company.[38] Among other requirements, the risk committee must meet at least quarterly, have at least one member with experience in identifying, assessing, and managing risk exposures of large, complex financial firms, and have at least one member who is not, and was not, an officer or employee (or a member of the immediately family of an executive officer) of the FBO or its affiliates during the last three years.[39]

  In addition, a Large FBO must appoint a U.S. chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.[40] The U.S. chief risk officer must fulfill certain responsibilities and comply with corporate governance and reporting requirements.[41] The U.S. chief risk officer must also undertake specific responsibilities relating to liquidity risk management as discussed below.

  A Large FBO that does not meet the general minimum risk management standards described above may be subject to alternative requirements, conditions, or restrictions as may be imposed by the FRB in coordination with "any relevant State or Federal regulator."[42]

- **Liquidity Risk Management** – In addition to the above noted risk management and risk committee requirements, a Large FBO is required to maintain a robust liquidity risk management program that includes, among other things, active involvement by the Large FBO's U.S. risk committee, responsibilities for the U.S. chief risk officer, and an independent review component.

  In particular, a Large FBO's U.S. risk committee must approve, on at least an annual basis, the acceptable level of liquidity risk that the FBO may assume in connection with its operating strategies for its combined U.S. operations (liquidity risk tolerance).[43] The committee must also assess, at least semi-annually, whether an FBO's U.S. operations are operating in accordance with the established liquidity risk tolerance, and ensure that the liquidity risk tolerance is consistent with the enterprise-wide liquidity risk tolerance of the FBO.[44] In addition, the U.S. risk committee must review and approve the annual contingency funding plan for the combined U.S. operations (including any periodic updates).[45] Other responsibilities of the committee include reviewing, at least annually, significant business lines and products of the Large FBO to evaluate impact on liquidity risk to combined U.S. operations.[46]

  The U.S. chief risk officer of a Large FBO fills a key role in the organization's liquidity risk management framework, including reviewing the strategies, policies, and procedures established by management to manage liquidity risk;[47] monitoring and providing updates to the U.S. risk committee regarding whether the combined U.S. operations of the Large FBO are operating in accordance with the established liquidity risk tolerance; and evaluating and approving new products and business lines for impact on liquidity risk to combined U.S. operations.[48] The U.S. chief risk officer must also review and monitor cash-flow projections of the Large FBO;[49] establish and monitor liquidity risk limits;[50] and regularly review and approve the liquidity stress testing practices, methodologies, and assumptions used by the Large FBO.[51]

  A Large FBO must establish and maintain a review function that is independent of management functions that execute funding for the Large FBO's combined U.S. operations to evaluate the liquidity risk management for the combined U.S. operations.[52] The function must, at least annually, review and evaluate the adequacy and effectiveness of a Large FBO's risk management processes within the combined U.S. operations, including its liquidity stress test processes and assumptions. It must also satisfy other functions that include reporting to the U.S. risk committee and the enterprise-wide risk committee on material liquidity risk management issues requiring corrective action.[53]

  Liquidity risk management requirements also include establishing a methodology for, and regular monitoring and updating of, short-term cash-flow projections, conducted on a daily basis, and updating longer-term cash-flow projections, which must be done on a monthly basis.[54] In addition, a Large FBO must have a contingency funding plan that meets certain requirements and is commensurate with the capital structure, risk profile, complexity, activities, size, and the established liquidity risk tolerance for the FBO's combined U.S. operations, which plan must be updated at least annually and when conditions warrant.[55]

- **Liquidity Stress Testing Requirement –** On at least a monthly basis, a Large FBO must conduct stress testing to separately assess the potential impact of liquidity stress scenarios on the cash flows, liquidity position, profitability, and solvency of: (i) the FBO's combined

U.S. operations as a whole; (ii) its U.S. branches and agencies on an aggregate basis; and (iii) any U.S. intermediate holding company (discussed below).[56]

The stress testing requirement is subject to a number of minimum requirements, including having in place appropriate policies and procedures, management information systems, as well as control and oversight procedures.[57] Stress tests must take into account various considerations including balance sheet exposures, off-balance sheet exposures, size, risk profile, complexity, business lines, organizational structure, and other characteristics of the FBO and its combined U.S. operations affecting its liquidity risk profile in the U.S.[58] The stress tests must also address various scenarios that include adverse market conditions and idiosyncratic stress events for U.S. branches, agencies, and/or any intermediate holding company, and address various planning horizons that include overnight, 30-day, 90-day, and one-year planning scenarios.[59]

A Large FBO must maintain a liquidity buffer for its U.S. intermediate holding company (if any), as discussed below, and a separate liquidity buffer for its U.S. branches and agencies (if any), both of which are to be calculated according to minimum standards set forth in the Final Rule.[60]

- **Intermediate Holding Company Requirement** – A Large FBO with U.S. non-branch assets of $50 billion or more is required to establish a U.S. intermediate holding company ("IHC"), or designate one from an existing subsidiary that meets the requirements for an IHC.[61] The IHC must then hold all of the Large FBO's ownership interests in any U.S. subsidiaries.[62] Each IHC will be subject to enhanced prudential standards generally consistent with the requirements applicable to Large FBOs, but focused on the FBO's U.S. activities. The IHC structure will facilitate supervision and oversight by the FRB akin to the agency's treatment of bank holding companies ("BHCs"), including with respect to examination and inspection by the FRB.[63] Prudential standards applicable to an IHC include the following:

  - *Capital and Leverage Requirements*: Subject to transition provisions for leverage,[64] an IHC is required to calculate and meet all capital adequacy standards set forth in the FRB's capital adequacy rules for BHCs, savings and loan holding companies, and state member banks,[65] and comply with all restrictions associated with applicable capital buffers, in the same manner as a BHC.[66] An IHC is also subject to the capital planning requirements generally applicable to BHCs with average total consolidated assets of $50 billion or more.[67]

  - *Risk Management and Risk Committee Requirements*: An IHC is also required to establish and maintain a risk committee that approves and periodically reviews the risk management policies and oversees the risk management framework of the IHC, which risk management framework shall have the same required contents as discussed above for Large FBOs.[68] The risk committee must be a committee of the board of directors of the IHC (or equivalent thereof), and may also serve as the Large FBO's U.S. risk committee for its combined U.S. operations.[69]

  - *Liquidity Requirements*: An IHC is required to comply with the liquidity risk management requirements, conduct liquidity stress tests, and hold a liquidity buffer pursuant to the same requirements as discussed above that are applicable to Large FBOs.[70]

– *Stress Test Requirements*: Subject to transition provisions for stress testing,[71] an IHC is required to comply with the prudential supervision requirements for supervisory and company-run stress tests in the same manner as applicable to U.S. BHCs.[72]

While affected Large FBOs have until July 1, 2016 to establish the IHC, Large FBOs with U.S. non-branch assets of $50 billion or more as of June 30, 2014 are required to submit an implementation plan by January 1, 2015 outlining the Large FBO's proposed process to come into compliance with the IHC requirement and certain other minimum requirements.[73]

The following table provides an overview of the various FBO prudential standards, discussed above, including the applicable section of the Final Rule where each requirement is addressed:

	Small FBOs **TCA between $10B to $50B**	**Medium FBOs** **TCA ≥ $50B and USA < $50B**	**Large FBOs** **TCA ≥ $50B and USA ≥ $50B**
Capital Stress Testing Requirement	✓ **(§ 252.122)**	✓ **(§ 252.146)**	✓ **(§ 252.158)**
Risk Management and Risk Committee Requirements	✓* ***If publicly traded** **(§ 252.132)**	✓ **(§ 252.144)**	✓ **(§ 252.155)**
Risk-based and Leverage Capital Requirements		✓ **(§ 252.143)**	✓ **(§ 252.154)**
Liquidity Risk management Requirements		✓ **(§ 252.145)**	✓ **(§ 252.156)**
Intermediate Holding Company Requirement			✓ **(§ 252.153)**
Liquidity Stress Testing and Buffer Requirements			✓ **(§ 252.157)**

NOTE: Citations are to 12 CFR Part 252. The prudential standards apply to FBOs with TCA greater than $10B (as of June 30, 2015) and will generally be effective beginning July 1, 2016.
TCA = Total Consolidated Assets | USA = U.S.-based Assets

Consequences of Non-Compliance

Because the purpose of the Final Rule is to prevent or mitigate risks to the U.S. financial system, in lieu of a traditional enforcement approach, the Final Rule authorizes the FRB to take swift and broad action against a non-compliant FBO. For example, the failure of any covered FBO to comply with the risk management and risk committee requirements contained in the Final Rule can result in the imposition of specific requirements, conditions, or restrictions relating to the activities or business operations of the combined U.S. operations of an FBO.[74] Similarly, a Medium or Large FBO failing the capital requirements imposed in the Final Rule can be subject to requirements, conditions, or restrictions, including risk-based or leverage capital requirements, relating to the activities or business operations of the U.S. operations of the FBO.[75] For example, a Medium FBO that fails to comply with the Final Rule's liquidity risk requirements must limit the net aggregate amount owed by the FBO's non-U.S. offices and its non-U.S. affiliates to the combined U.S. operations to 25% or less of the third party liabilities of its combined U.S. operations, on a daily basis.[76]

In addition, an FBO that fails an applicable capital stress test must maintain higher-quality assets in its U.S. branches and agencies. Specifically, Medium and Large FBOs failing a capital stress test would be

required to maintain, on a daily basis, not less than 105% and 108%, respectively, of the average value over each day of the previous calendar quarter of the total liabilities of all U.S. branches and agencies of the FBO, as well as be subjected to additional requirements relating to stress testing and reporting.[77]

The requirements, conditions, and restrictions that the FRB is authorized to impose, as well as the requirement to hold additional assets in the United States, creates significant incentives for a covered FBO to ensure compliance with the various prudential requirements of the Final Rule. Failing to do so, could subject an impacted FBO to a significant competitive disadvantage vis-à-vis its global competitors with respect to their U.S. operations.

A significant portion of the Final Rule's requirements imposed on Small and Medium FBOs involve providing the FRB with information on policies and procedures an FBO has prepared or is compliant with in connection with its home-country supervision. In contrast, many of the requirements imposed on Large FBOs under the Final Rule will exceed those imposed by their home-country supervisors, and will also involve additional and significant FRB oversight. However, it is important to highlight that these Large FBO requirements are substantially similar to the requirements that the FRB imposes on similarly-sized U.S.-based bank holding companies. Thus, the effect of the Final Rule with respect to Large FBOs is to level the playing field among large providers of financial services in the United States. In effect, the FRB has imposed a regulatory regime that is intended to treat FBOs that have the same access to the benefits of U.S. jurisdiction as domestic banks (via the discount window, etc.) to the same oversight and supervision as comparably sized U.S. banks. In this manner, the FRB intends to exercise its oversight of FBOs, generally, and Large FBOs, in particular, to reduce the aggregate risk these institutions pose to the U.S. financial system.

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Paul Hastings attorneys are actively working with FBOs and U.S.-based BHCs in connection with their efforts to implement the prudential standard requirements adopted by the FRB pursuant to Section 165 of the Dodd-Frank Act. If you have any questions regarding these requirements, please feel free to contact one of the members of the Paul Hastings Global Banking and Payment Systems Group listed below.

Atlanta

Todd W. Beauchamp
1.404.815.2154
toddbeauchamp@paulhastings.com

Chris Daniel
1.404.815.2217
chrisdaniel@paulhastings.com

Erica Berg Brennan
1.404.815.2294
ericaberg@paulhastings.com

Heena A. Ali
1.404.815.2393
heenaali@paulhastings.com

Kevin P. Erwin
1.404.815.2312
kevinerwin@paulhastings.com

Meagan E. Griffin
1.404.815.2240
meagangriffin@paulhastings.com

Diane M. Pettit
1.404.815.2326
dianepettit@paulhastings.com

Chicago

Louis R. Hernandez III
1.312.499.6065
louishernandez@paulhastings.com

London

Michelle Duncan
44.20.3023.5162
michelleduncan@paulhastings.com

Justin S. Jowitt
44.20.3023.5163
justinjowitt@paulhastings.com

Stephen Parker
44.20.3023.5168
stephenparker@paulhastings.com

Hanna Keever
44.20.3023.5183
hannahkeever@paulhastings.com

Sierra M. Taylor
44.20.3023.5190
sierrataylor@paulhastings.com

Milan

Alberto Del Din
39.02.30414.288
albertodeldin@paulhastings.com

Alessandro Stoppa
39.02.30414.248
alessandrostoppa@paulhastings.com

Marc-Alexandre Courtejoie
39.02.30414.230
marcalexandrecourtejoie@paulhastings.com

Paris

Nicolas Faguer
33.1.42.99.04.97
nicolasfaguer@paulhastings.com

San Francisco

Thomas P. Brown
1.415.856.7248
tombrown@paulhastings.com

Samuel Zun
1.415.856.7206
samuelzun@paulhastings.com

Paul M. Schwartz
1.415.856.7090
paulschwartz@paulhastings.com

Washington, D.C.

V. Gerard Comizio
1.202.551.1272
vgerardcomizio@paulhastings.com

Behnam Dayanim
1.202.551.1737
bdayanim@paulhastings.com

Lawrence D. Kaplan
1.202.551.1829
lawrencekaplan@paulhastings.com

Robert E. Winter
1.202.551.1729
robertwinter@paulhastings.com

Ryan A. Chiachiere
1.202.551.1767
ryanchiachiere@paulhastings.com

Michael A. Hertzberg
1.202.551.1797
michaelhertzberg@paulhastings.com

Amanda Kowalski
1.202.551.1976
amandakowalski@paulhastings.com

Kristin M. Cleary
1.202.551.1848
kristincleary@paulhastings.com

[1] The Final Rule, with portions applicable to FBOs adopted as subparts L through O to FRB Regulation YY, was issued by the FRB on Feb. 18, 2014, and is available at: http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20140218a1.pdf. In significant part, the Final Rule is similar to proposed regulations issued in December 2012, with certain changes addressing public comments and with an enhanced phase-in schedule for FBOs to become fully compliant, and a 2018 implementation date for certain obligations.

[2] Codified at 12 U.S.C. § 5365.

[3] Preamble to the Final Rule, at 90.

[4] *Id*.

[5] *Id*.

[6] *Id*.

[7] *Id*.

[8] FRB Current FAQs, available at: http://www.federalreserve.gov/faqs/banking_12843.htm.

[9] *Id*.

[10] *See* "The Fed's Liquidity Lifelines," Bloomberg News, available at: http://www.bloomberg.com/data-visualization/federal-reserve-emergency-lending/#/overview/?sort=nomPeakValue&group=none&view=peak&position=0&comparelist=&search.

[11] Preamble to the Final Rule, at 91.

[12] *Id*.

[13] *Id*. at 239.

[14] Based on TCA as of June 30, 2015 (or the first day of the ninth quarter after meeting the asset threshold). 12 C.F.R. §§ 252.121 and 252.131. *See generally* 12 C.F.R. Part 252, Subparts L & M (§§ 252.120 *et seq*.).

[15] 12 C.F.R. § 252.122(a)(1).

[16] 12 C.F.R. § 252.122(a)(2).

[17] 12 C.F.R. § 252.122(b).

[18] 12 C.F.R. § 252.132.

[19] Based on TCA as of June 30, 2015 (or the first day of the ninth quarter after exceeding the asset threshold). 12 C.F.R. § 252.152. *See generally* 12 C.F.R. Part 252, Subpart O (§§ 252.150 *et seq*.).

[20] 12 C.F.R. § 252.143.

[21] 12 C.F.R. § 252.143(c).

[22] 12 C.F.R. § 252.144.

[23] 12 C.F.R. § 252.146(b)(1).

[24] 12 C.F.R. § 252.146(b)(2).

[25] 12 C.F.R. § 252.146(c).

[26] 12 C.F.R. § 252.145(a).

[27] 12 C.F.R. § 252.145(a).

[28] 12 C.F.R. § 252.145(b).

[29] Based on TCA as of June 30, 2015 (or the first day of the ninth quarter after exceeding the asset threshold). 12 C.F.R. § 252.152. *See generally* 12 C.F.R. Part 252, Subpart O (§§ 252.150 *et seq*.).

[30] 12 C.F.R. § 252.154.

[31] 12 C.F.R. § 252.154(c).

[32] 12 C.F.R. § 252.158(b)(1).

[33] 12 C.F.R. § 252.158(b)(2).

[34] 12 C.F.R. § 252.158(b)(2).

[35] 12 C.F.R. § 252.158(c)(2).

[36] 12 C.F.R. § 252.158(d).

[37] 12 C.F.R. § 252.155(a).

[38] 12 C.F.R. § 252.155(a)(3).

[39] 12 C.F.R. § 252.155(a)(5).

[40] 12 C.F.R. § 252.155(b)(1).

[41] 12 C.F.R. § 252.155(b)(2) and (3).

[42] 12 C.F.R. § 252.155(d).

[43] 12 C.F.R. § 252.156(a)(1)(i).

[44] 12 C.F.R. § 252.156(a)(1)(ii).

[45] 12 C.F.R. § 252.156(a)(1)(iii).

[46] 12 C.F.R. § 252.156(b)(3)(ii).

[47] *See* 12 C.F.R. § 252.156(g).

[48] 12 C.F.R. § 252.156(b).

[49] 12 C.F.R. § 252.156(b)(4).

[50] 12 C.F.R. § 252.156(b)(5) and (f).

[51] 12 C.F.R. § 252.156(b)(6).

[52] 12 C.F.R. § 252.156(c)(1).

[53] 12 C.F.R. § 252.156(c)(2).

[54] 12 C.F.R. § 252.156(d).

[55] 12 C.F.R. § 252.156(e).

[56] 12 C.F.R. § 252.157(a)(1).

[57] 12 C.F.R. § 252.157(a)(6) and (7).

[58] 12 C.F.R. § 252.157(a)(1).

[59] 12 C.F.R. § 252.157(a)(3) and (4).

[60] 12 C.F.R. § 252.157(c).

[61] 12 C.F.R. § 252.153(a)(1).

[62] 12 C.F.R. § 252.153(b).

[63] 12 C.F.R. § 252.153(b)(3) and (e).

[64] An IHC that is required to be established by July 1, 2016 must comply with the leverage capital requirements beginning on January 1, 2018, provided that each subsidiary BHC and insured depository institution controlled by the Large FBO immediately prior to the establishment or designation of the IHC, and each BHC and insured depository institution acquired by the FBO after establishment of the IHC, is subject to leverage capital requirements under 12 CFR Part 217 until December 31, 2017. 12 C.F.R. § 252.153(e)(ii)(B).

[65] 12 C.F.R. § 252.153(e)(2)(i), *referencing* 12 CFR Part 217 and any successor regulation.

[66] 12 C.F.R. § 252.153(e)(2)(i).

[67] 12 C.F.R. § 252.153(e)(2)(ii) *referencing* 12 C.F.R. § 225.8.

[68] 12 C.F.R. § 252.153(e)(2)(ii).

[69] 12 C.F.R. § 252.153(e)(3).

[70] 12 C.F.R. § 252.153(e)(4) *referencing* 12 C.F.R. §§ 252.156 and 252.157.

[71] An IHC that is required to be established by July 1, 2016 must comply with the stress test requirements beginning on October 1, 2017, provided that each subsidiary BHC and insured depository institution controlled by the Large FBO immediately prior to the establishment or designation of the IHC, and each BHC and insured depository institution acquired by the FBO after establishment of the IHC, must comply with the stress test requirements in 12 C.F.R. Part 252, Subparts B, E, or F, as applicable, until September 30, 2017. 12 C.F.R. § 252.153(e)(ii)(C).

[72] 12 C.F.R. § 252.153(e)(4) *referencing* 12 C.F.R. Part 252, Subparts E (§§ 252.40-252.47) and F (§§ 252.50-252.58).

[73] 12 C.F.R. § 252.153(d).

[74] A Small FBO or Medium FBO has a 14-day period to request reconsideration of such requirements, conditions, or restrictions. 12 C.F.R. §§ 252.132(d), 252.144(d). Such request for reconsideration would stay the application of the requirements, conditions, or restrictions until the FRB upon the request for reconsideration. As adopted, Large FBOs are not granted a similar right of review. 12 C.F.R. § 252.155.

[75] *See* 12 C.F.R. §§ 252.143 and 252.154. These requirements would be subject to a request for reconsideration and would stay the application of the requirement until the FRB acts upon the request for reconsideration.

[76] 12 C.F.R. § 252.145(b).

[77] 12 C.F.R. §§ 252.146(c)(i) and 252.158(d)(i).