Federal Banking Agencies Respond to COVID-19: Recent Actions At a Glance (March 15–23, 2020)

The past several days have seen a flurry of activity among the federal banking agencies to take both proactive and responsive steps to address the impacts of COVID-19 on the banking industry and support continued lending to the real economy as the crisis unfolds. In case you missed it, here's a quick recap of recent federal banking agency actions, along with links to Covington's full client alerts and blog posts for the details.

FEDERAL RESERVE RATE CUT, EXPANDED BALANCE SHEET, AND LONGER-TERM, LESS EXPENSIVE DISCOUNT WINDOW LENDING

On Sunday, March 15, the Federal Reserve's Federal Open Market Committee cut the target range of the federal funds rate to 0 to 1/4 percent, and the Federal Reserve announced a series of complementary actions to support financial markets and promote the flow of credit to households and businesses, including (i) a major expansion of the Federal Reserve's balance sheet, (ii) a reduction in pricing and extension of available maturities on U.S. dollar liquidity Swap Lines it maintains with foreign central banks, (iii) a reduction of the primary credit rate on discount window loans by 150 basis points to 0.25 percent and grant of permission to depository institutions to borrow from the discount window for periods as long as 90 days (rather than overnight only), and (iv) a reduction of reserve requirement ratios to zero percent. Details here.

SPECIAL LIQUIDITY PROGRAMS

The Federal Reserve resurrected four 2008-09 financial crisis-era special liquidity programs using its authority under section 13(3) of the Federal Reserve Act to support liquidity across multiple channels of the financial system:

- ***Primary Dealer Credit Facility.*** On Tuesday, March 17, the Federal Reserve announced the creation of a Primary Dealer Credit Facility ("PDCF") to provide a liquidity backstop to primary dealers of the Federal Reserve Bank of New York, which include the nation's largest broker-dealers. The PDCF will provide short-term loans to primary dealers in an effort to smooth market functioning and facilitate the availability of credit to businesses and households in light of the economic conditions caused by the COVID-19 pandemic. Details here.
- ***Commercial Paper Funding Facility.*** Also on Tuesday, March 17, the Federal Reserve provided a backstop of commercial paper ("CP") in the form of a Commercial Paper Funding Facility ("CPFF") that establishes a special purpose vehicle to acquire eligible CP directly from eligible issuers so as to provide liquidity to CP issuers that may otherwise face issues rolling over their CP as a result of economic disruptions caused by COVID-19. Details here.
- ***Money Market Mutual Fund Liquidity Facility & Related Capital Relief.*** On Wednesday, March 18, the Federal Reserve announced the creation of a Money Market Mutual Fund Liquidity Facility ("MMLF") to provide liquidity support to money market mutual funds by facilitating their sale of certain assets to meet redemption requests. In connection with the creation of the MMLF, the Federal Reserve, OCC, and FDIC issued an interim final rule designed to neutralize the effect of transactions with the MMLF on financial institutions' risk-based and leverage capital ratios. Details here.
- ***Term Asset-Backed Securities Loan Facility.*** On Monday, March 23, the Federal Reserve announced that it will re-establish the crisis-era Term Asset-Backed Securities Loan Facility ("TALF"), which will serve as a funding backstop to facilitate the issuance of asset-backed securities by making non-recourse loans to eligible borrowers with a term of three years that are fully secured by eligible asset-backed securities. Details here.

The Federal Reserve also created two new and unprecedented special liquidity programs using its authority under section 13(3) of the Federal Reserve Act targeted at the corporate debt market:

- ***Primary Corporate Credit Facility.*** On Monday, March 23, the Federal Reserve announced the creation of a Primary Corporate Credit Facility ("PCCF") to serve as a funding backstop for investment-grade U.S. corporate debt issuers by purchasing qualifying bonds from eligible issuers and providing eligible loans to such issuers. Details here.
- ***Secondary Market Corporate Credit Facility.*** On Monday, March 23, the Federal Reserve announced the creation of a Secondary Market Corporate Credit Facility ("SMCCF") that will purchase eligible corporate bonds and eligible corporate bond portfolios in the form of exchange traded funds in the secondary market. Details here.

REGULATORY CAPITAL

- ***Interim Final Rule Revising Capital Buffer Requirements to Promote Lending.*** On Tuesday, March 17, the OCC, Federal Reserve, and FDIC released an interim final rule that revises the definition of “eligible retained income” in the regulatory capital rules that apply to U.S. banking organizations. The rule, which will be effective immediately upon publication in the Federal Register, is intended to incentivize banking organizations to more freely use their capital buffers, thereby promoting increased lending activity in light of the global economic turmoil created by COVID-19. Details here.
- ***Interim Final Rule Eases Application of TLAC Buffer.*** On Monday, March 23, the Federal Reserve issued an interim final rule that revises the definition of “eligible retained income” for purposes of the total loss-absorbing capacity (“TLAC”) buffer requirements that apply to global systemically important banking organizations. The revised definition is consistent with the revised definition of the same term in the final interim regulatory capital rule announced last week. Details here.

ACCOUNTING STANDARDS

- ***Potential Delay of Implementation of the Current Expected Credit Loss (“CECL”) Methodology.*** On Thursday, March 19, FDIC Chairman Jelena McWilliams sent a letter to the Financial Accounting Standards Board requesting that FASB take three specific actions to ease the impact of certain U.S. GAAP standards in light of the economic conditions created by the COVID-19 pandemic: (i) announcing that loan modifications offered to borrowers affected by COVID-19 will not be classified as troubled debt restructuring, (ii) providing that banks that are already subject to CECL may postpone CECL implementation, and (ii) delay the ongoing phase-in of CECL for other banks. Details here.
- ***Interagency Statement on COVID-19 Related Loan Modifications.*** On Sunday, March 22, the Federal Reserve, OCC, FDIC, NCUA, CFPB and the Conference of State Bank Supervisors released an Interagency Statement encouraging financial institutions to work with borrowers affected by COVID-19, and providing that COVID-19 related loan modifications will not automatically be classified as troubled debt restructurings. Details here.

BSA/AML

- ***FinCEN Guidance on SAR Filings.*** On Monday, March 16, FinCEN issued guidance that urged financial institutions affected by the COVID-19 pandemic to contact FinCEN’s Regulatory Support Section and their functional regulator as soon as practicable if they have concerns about potential COVID-19-related delays to their ability to timely file Suspicious Activity Reports and other Bank Secrecy Act reports, and advised financial institutions to remain alert to malicious or fraudulent transactions involving bad actors seeking to exploit the pandemic. Details here.

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