NEW RULES FOR FOREIGN BANKS: A LEVEL PLAYING FIELD?

The Federal Reserve Board has approved a final rule strengthening supervision and regulation of large foreign banking organizations. The rule enhances prudential standards with the aim of increasing the resiliency of major bank operations. An EU regulator calls the new capital reserve requirement an "unfair burden."

Areas Being Regulated

The approved standards relate to liquidity, risk management and capital reserves and require any foreign banking organization that has a significant U.S. presence to establish an intermediate holding company (IHC) over its U.S. subsidiary. The rule does not apply to nonbank financial companies that are designated by the Financial Stability Oversight Council for Federal Reserve supervision.

A Stress Test for Banks

As part of the enhanced prudential standards, large foreign banks doing business in the United States must hold a buffer of highly liquid assets based on projected funding needs during a 30-day stress event, as a metric of their financial health with the intention of ensuring that these firms can continue to lend to households and businesses even in times of financial stress.

New Risk Management Requirements

Publicly traded U.S. bank holding companies with total consolidated assets of $10 billion or more are required to establish enterprise-wide risk committees. The new rule requires a foreign banking organization with combined U.S. assets of $50 billion or more to establish a U.S. risk committee and employ a U.S. chief risk officer to help ensure that the foreign bank "understands and manages the risks" of its combined U.S. operations

Equalizing U.S. and Foreign Banking Operations?

The foreign-owned U.S. IHC will be subject to the same risk-based and leverage capital standards applicable to U.S. bank holding companies. However, not all observers agree that the standards are an equalizing measure: Michel Barnier, the European Commissioner for Internal Market and Services, plans to examine the new measures for their "potential impact on the global level playing field" of banking markets to ensure competition "on an equal footing." The EU has also complained that the IHC requirement "imposes a substantial organizational cost" on foreign banks and that the Fed is implementing a "one-size-fits-all regulatory treatment" for all large foreign banks operating in the United States without regard for the regulatory requirements and supervision of their home regulators.

Compliance Deadline Extended

One foreign bank, noting the extended implementation date of July 1, 2016, has had a program in operation for more than a year in order to meet the deadline. If your organization has not yet prepared for the coming compliance deadline, contact GreenPoint Legal today to learn how our global compliance experts can assist in organizing your company's IHC and framing your Risk Management policy.

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