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Financial Services

@Regulatory

News Bulletins: Banking

Former Federal Reserve Official Rich Spillenkothen Joins Deloitte

Richard Spillenkothen, a former high-level federal banking regulator, has joined Deloitte & Touche LLP and will lead the firm's Banking and Finance Regulatory Consulting Practice. Rich spent 30 years at the Federal Reserve Board, including 15 years as the director of the banking supervision and regulation division.

In his new role, Rich will lead a seasoned team that works with financial institutions to develop and deploy integrated programs for identifying, measuring, controlling and monitoring banking and compliance risks and day-to-day operational needs.

As director of banking supervision and regulation for the Federal Reserve, Rich played a leading role in the agency's efforts to strengthen and modernize its approach to banking supervision and technological development. During his tenure, Rich was centrally involved in international efforts to harmonize standards, while promoting enhanced capital assessments and risk management at the largest, most complex financial organizations. He joined the Federal Reserve in 1976 and was appointed the director of the banking supervision and regulation division in 1991. During his time at the agency, he served on the Basel Committee on Banking Supervision and as the chairman of the Association of Supervisors of Banks of the Americas. He also represented the Federal Reserve on domestic interagency policy and coordination committees, including the Federal Financial Institutions Examination Council's Supervision Task Force.

In addition, Rich will serve as an advisor to the newly formed Deloitte Center for Banking Solutions. The Center, formed in January 2007, will provide insight and strategies to solve complex issues affecting the competitiveness of banks operating in the U.S. The Center is led by independent chairman Donald Ogilvie, who served as president and chief executive officer of the American Bankers Association (ABA) for two decades before joining Deloitte in September.

Through independent and shared research, executive forums and industry benchmarking, the Deloitte Center for Banking Solutions will explore new approaches grounded in actionable strategies. The Center will focus on the challenges and opportunities impacting the competitiveness of banks operating in the U.S. by bringing together policy perspective and industry experience related to three core themes; public policy, operational excellence and growth.

FDIC Issues Supervisory Policy on Predatory Lending

On January 22, 2007, the Federal Deposit Insurance Corporation ("FDIC") issued a new Financial Institution Letter (FIL-6-2007) containing its supervisory policy on predatory lending. The policy statement describes the characteristics of predatory lending and the FDIC's supervisory approach, as well as reaffirms the FDIC's policy that such activities are "inconsistent with safe and sound lending and undermine individual, family and community economic well-being." The FDIC released the policy at this time due to its concerns about the increased risk of predatory or abusive practices stemming from the increased availability and complexity of credit products.

The FDIC notes that there is "no simple checklist" to identify predatory lending and that it can impact both subprime and prime borrowers. However, predatory lending can be generally characterized as the lack of a fair exchange or loan pricing that extends beyond the credit profile of the customer.

In This Issue ...

In addition, the FDIC cites the interagency Expanded Examination Guidance for Subprime Lending Programs stating that predatory lending involves the following elements:

- Making unaffordable loans based on the assets of the borrower rather than on the borrower's ability to repay an obligation;
- Inducing a borrower to refinance a loan repeatedly in order to charge high points and fees each time the loan is refinanced ("loan flipping"); and/or
- Engaging in fraud or deception to conceal the true nature of the loan obligation, or ancillary products, from an unsuspecting or unsophisticated borrower.

The FDIC addresses predatory lending through a number of approaches. The primary way is through the examination process, which also incorporates analysis of consumer complaints. When the FDIC finds loans that it believes are predatory in nature, it will criticize the practices as "unsound." Furthermore, the FDIC's response to violations of consumer protection, fair lending and other laws can result in supervisory actions ranging from management/board commitments to imposition of formal enforcement actions. The FDIC also notes that predatory lending can have an adverse impact on the bank's Community Reinvestment Act ("CRA") rating. Finally, on a proactive basis, the FDIC encourages banks to serve all areas of their communities fairly by providing technical assistance and outreach to banks, and providing complimentary information and financial education to consumers to help them make informed choices about credit products.

The full FDIC policy statement on predatory lending can be found on the FDIC's website at www.fdic.gov with reference to FIL-6-2007.

Stay Tuned – the ILC Debate is Not Over; the FDIC Extends Its Moratorium On Applications for ILCs Owned by Commercial Firms

On January 31, 2007, the Board of Directors of the Federal Deposit Insurance Corporation ("FDIC") voted to extend, for one year, its moratorium on applications for deposit insurance and change in control notices for industrial loan companies ("ILCs") that will be owned by commercial companies. The moratorium extension does not apply to ILCs owned by financial companies; those applications will move forward for decision-making. As a supplement, the FDIC Board voted to issue, for public comment, a proposed rule (Part 354) that is intended to strengthen the FDIC's framework for consideration of applications or notices for industrial banks owned by financial companies not subject to federal consolidated bank supervision.

As background, the original moratorium was put in place July 28, 2006 and was to be in effect until January 31, 2007. Originally the moratorium was to provide Congress an opportunity to address the issue legislatively while the FDIC considered how best to respond to any safety and soundness issues surrounding commercial ownership under existing law. The comments received during this original period indicated there were public policy questions being raised evidenced by the growth of the ILC industry, the trend toward commercial company ownership of ILCs and the nature of some ILC business models. The key policy questions raised include discussions about the risks posed by such ILC activity to the deposit insurance fund.

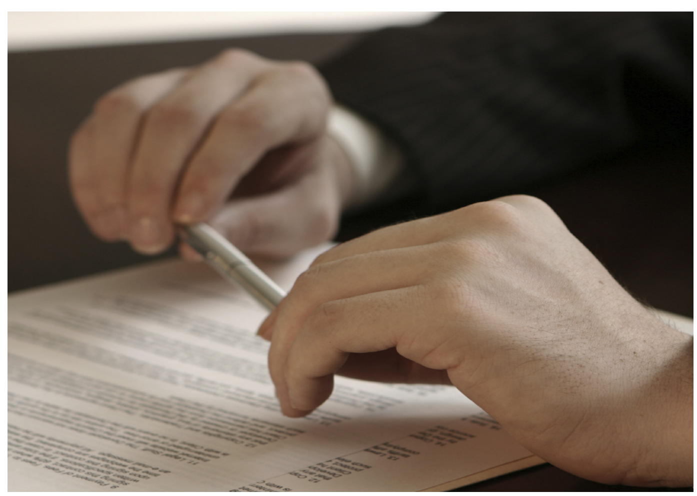
With regard to ILCs owned by companies that are not subject to federal consolidated bank supervision, the FDIC's Board approved a proposed regulation to provide enhanced supervision to ensure that the parent can serve as a more transparent source of strength to the ILC. Among other things, the proposed regulation Part 354 would require that the parent company agree to maintain the capital of the ILC at specified minimum levels and to permit the FDIC to examine or obtain reports from the parent company and its subsidiaries in order to safeguard the continued safety and soundness of the institution. Comments on Part 354 are due 90 days after publication in the *Federal Register*.

The FDIC reported 58 ILCs were operating in seven states and during the moratorium period there were eight ILC applications for deposit insurance and one notice of change in control for an existing ILC pending approval. Of the eight outstanding applications, four of these filings would be subject to the continued moratorium. The FDIC announced it would move forward on the remaining five applications and process them in accordance with their existing application procedures.

News Bulletins: Insurance

Hybrid Securities: A Class of Their Own

Hybrid securities or "hybrids" are investment vehicles structured to combine the attributes of multiple financial instruments, usually of equity (common or preferred stock) and of debt (bond). The most common example is a convertible bond which maintains the features of an ordinary bond (debt), but is heavily influenced by the price movements in the stock (equity) to which it is convertible. The introduction of hybrids into the insurance industry has provided insurers the financial flexibility in approaching equity while simultaneously minimizing the dilution of shareholders' interests which is created by issuing common stock. It is the National Association of Insurance Commissioners' ("NAIC") classification of hybrid securities, however, which has caused concern to investors and insurers.



Under NAIC regulation, insurers of hybrid securities are to apply specific standards in determining whether hybrid securities are to be reported on statutory financial statements as debt, preferred stock or as common stock. These standards, however, are not verified or enforced by the Securities Valuation Office ("SVO"), unless requested by an insurer or a regulator. An equity or debt classification of hybrid securities is of particular importance to insurers because, when a hybrid security is determined by the SVO to be equity rather than debt, the insurer faces substantially higher risk-based capital ("RBC") charges. (A RBC is the formula used to calculate the minimum capital and surplus requirement for insurers). Prior to 2006, insurers reported most hybrids as bonds or preferred stock rather than as common stock in order to achieve the lowest RBC charge, typically 0.3% and 1.0% for bonds and preferred stock, as opposed to 15%-30% for common stock. Consequently, a shift in the classification of a hybrid security from a debt or preferred stock to a common stock would result in a significant RBC charge increase for insurers.

In September 2006, the RBC Hybrid Working Group, which reports directly to the NAIC Financial Condition (E) Committee, fashioned a formal short-term proposal to define hybrid securities. Within the short term proposal, "hybrids" were defined as:

> Securities whose proceeds are accorded some degree of equity treatment by one or more of the NRSROs and/or which are recognized as regulatory capital by the issuer's primary regulatory authority. Hybrid securities are designed with characteristics of debt and of equity and are intended to provide protection to the issuer's senior note holders[1].

Under this proposal (effective December 31, 2006), the NAIC recommends all hybrid securities, as defined above, to be reported as preferred stock until the earlier of January 1, 2008 or the adoption of a long-term proposal is reached by the NAIC. In the case of hybrid securities issued after August 18, 2005 and classified as common stock in 2006 by the SVO, the securities will be notched down by one NAIC designation. Furthermore, those hybrid securities determined to be debt in 2006 will continue to be classified as debt and those classified as preferred stock in 2006 will remain preferred stock and both will not be notched down.

Looking ahead, the 2007 calendar year will certainly be a telling year in the future of hybrid security classification. A long-term decision to classify hybrids as equities will certainly disfavor the securities as investments while the long-term classification for hybrids as debt may potentially persuade insurance companies to reenter the market. Whichever the case, the upcoming long-term solution will shade a dramatic impact over the insurance industry, capital markets, and hybrid security market.

[1] Campbell, Leigh, Serge Benchetrit, and Richard Reinhold. "NAIC Regulatory Treatment of Hybrid Securities." The Metropolitan Corporate Counsel. November 2006. http://www.metrocorpcounsel.com/current.php?artType=view&artMonth=December&artYear=2006&EntryNo=5711

Feature Article: Banking

GLBA's Push-Out Provisions – The Final Round of Rule-making?

Background

Six years after the Financial Modernization Act, or Gramm-Leach-Bliley Act ("GLBA"), was passed (November 1999), the Securities and Exchange Commission ("SEC") and Board of Governors of the Federal Reserve System ("Federal Reserve") announced in December 2006 the release of joint proposed rules to implement the "broker" exceptions for banks under Section 3(a)(4) of the Securities Exchange Act of 1934. These broker exceptions were to be adopted as part of the passage of GLBA.

In developing these proposed joint rules, the SEC and Federal Reserve consulted with other federal banking regulators, including the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision. Comments on the proposed rules are due within 90 days of publication in the *Federal Register*. This represents the third rule-making effort to implement GLBA bank brokerage exceptions. The SEC also extended the existing temporary bank exemption from the definition of "broker" until July 2, 2007 in order to allow the agencies time to publish the proposal and to consider comments.

Key Elements

The proposed rules are intended to further define the scope of securities activities that banks are permitted to conduct without registering with the SEC as a securities broker, and to accommodate the business practices of banks while keeping investor protection as a top priority. They would implement the most important "broker" exceptions for banks adopted by GLBA. Specifically, these proposed rules would implement the statutory exceptions that allow a bank, subject to certain conditions, to continue to conduct securities transactions for its customers as part of the bank's trust and fiduciary, custodial and deposit "sweep" functions, and to refer customers to a securities broker-dealer pursuant to a networking arrangement with the broker-dealer.

Networking Arrangements

Under the proposed rules, a bank could pay nonregistered bank employees a nominal one-time cash payment for referring bank customers to a broker-dealer who has a contractual networking arrangement with the bank. A bank could also pay an employee a contingent type of referral fee of more than a nominal amount (upon the execution of a securities transaction) for high net worth customers or institutional referrals. However, bank employees providing an institutional referral would be prohibited from making transaction recommendations, and transactions resulting from a referral would be subject to a traditional self-regulatory organization suitability analysis by the executing broker-dealer, as if that broker-dealer recommended the transaction itself.

Trust and Fiduciary Activities

Under the proposed rules, a bank could facilitate securities transactions in its trustee or fiduciary capacity, as long as such transactions are conducted in the bank's trust department. In addition, the bank must be ''chiefly compensated" for such transactions on the basis of "relationship compensation" as defined in the proposed rule. The proposed rule lowers the bankwide ratio of relationship compensation to sales compensation that banks must meet to be "chiefly compensated" by relationship compensation from 90% to 70%, The "chiefly compensated" test could be done on an account-by-account basis or on a bank-wide basis.

Money Market Sweeps

Under the proposed rules a bank could sweep deposit funds into no-load money market funds. In addition, deposits could be swept into money market funds that do not qualify as no-load, but the bank would be required to provide another banking service to the customer, beside the sweep, to ensure that a legitimate banking relationship exists and provide customer disclosure.

Safekeeping and Custody

Under the proposed rules, a bank could accept orders for securities transactions from custodial account customers and increase the types of those accounts from which a bank may accept orders to include: employee benefit plans, individual retirement accounts, health savings accounts, and similar accounts for which the bank acts as custodian, administrator, or recordkeeper. The proposed rules would provide various restrictions including the types of fees received, the provision of investment advice, employee compensation, and advertising.

Proposed Compliance Date

The SEC proposes to provide banks until the first day of their first fiscal year beginning on or after June 30, 2008 to come into compliance with proposed Regulation R. The SEC also voted to separately publish proposed revisions to certain exceptions for bank dealer activities, including relaxing a bank's due diligence requirement in Regulation S resale transactions, and providing technical amendments to Rule 15a6.

Summary

With this latest round of rule-making for GLBA's bank broker exemptions, many banks are evaluating where they stand vis-à-vis the revised rules. Many have already made adjustments to their organizations.

For a copy of the proposed rules, please refer to the Federal Reserve's website at www.federalreserve.gov or the SEC's website at www.sec.gov. For additional information and to discuss the specifics of this proposed rule-making, please contact Irena Gecas-McCarthy, Principal, Deloitte & Touche LLP, igecasmccarthy@deloitte.com, +1 212 436 5316.

Feature Article: Insurance

National Association of Insurance Commissioners Amends the NAIC Viatical Model Regulation

In December 2006, the Life Insurance and Annuities (A) Committee of the National Association of Insurance Commissioners ("NAIC") voted to amend the NAIC Viatical Settlements Model Regulation ("Model Regulation"). The Model Regulation is one of the many model laws and regulations promulgated by the NAIC that states may use as models when drafting legislation. The Model Regulation can be drafted so that it is applicable to both viatical settlements and life settlements.

Viatical settlements allow a terminally ill person (one with a life expectancy of two years or less) to sell his/her life insurance policy to collect cash while he/she is alive. A life settlement transaction is similar to a viatical settlement except the insured's life expectancy is generally between two and ten years and the names of the players in the transactions are slightly different. The viator (known as the "insured" in a life settlement), sells his/her life insurance policy for more than the cash surrender value but less than its net death benefit to a "viatical" or "life" settlement provider. In return, the settlement provider pays the future premiums to keep the policy in force and receives the face amount of the life insurance policy when the viator/insured dies.

The viatical settlement market emerged in the 1980s as a way to give terminally ill AIDS patients access to their life insurance death benefits. Now a secondary market has developed in which viatical and life settlement providers sell interests in a large policy to investors (settlement purchasers) or create a pool of purchased policies and then sell shares of the pool in the anticipated payout (i.e., death benefits when the viators/insureds die). This secondary market has captured the attention of the NAIC, as well as securities regulators and legislators, due to a steady stream of bad press involving accusations of sales abuses. For example, viatical settlement providers have been accused of making secret payments to suppress competitive bids and not disclosing extraordinarily high commissions that significantly cut into what the seller could have received. Settlement brokers have been accused of, among other things, failing to disclose the risks associated with investing in viatical settlements and selling "wet-ink policies." ("Wet-ink policies" are life insurance policies that were applied for to sell immediately after being issued, before the "ink has time to dry.") The North American Securities Administrator Association ("NASAA") listed viatical settlements in its 2005 list of top ten threats investors face.

The Model Regulation attempts to address some of these abuses with a particular focus on deterring a form of a life settlement transaction called stranger-originated life insurance ("STOLI"). In a STOLI arrangement, individuals are approached by "strangers" (speculators) to apply for life insurance policies on themselves in return for cash. Premiums are paid by the insured but are funded by a loan during the two year contestability period so the insured doesn't experience any out of pocket loss to pay the premiums. At the end of two years, the investor group will offer to buy the policy at its fair market value or the insured can choose to pay back the loan for the premiums and keep the policy. To deter this practice, the Model Regulation amendment restricts the sale of a life insurance policy for five years (previously two years) when the policy is purchased for the purpose of selling it into the secondary market.

In addition to the NAIC, other regulators such as the National Association of Securities Dealers ("NASD") and the Securities and Exchange Commission ("SEC") are taking notice of the viatical and life settlement market. While it is relatively clear which regulators oversee transactions in the primary market (i.e. when someone purchases a life insurance policy from a life insurance company), regulatory oversight in the secondary market by state departments of insurance, NASD and the SEC can be less clear. State insurance departments have differing views on whether or not sales of interests in viatical or life settlements are securities. Depending on a particular state's point of view either the state's securities division or insurance department may oversee these transactions.

The NASD made its position on life settlements clearer with the publication of NASD *Notice to Members* ("NTM") *06-38*. The NTM reminds NASD members that life settlement transactions involving the recommendation to sell an existing variable life policy to a third party is subject to applicable NASD rules. More interestingly, the NTM closes with the following comment "…entities participating in the sale and marketing of interests in life insurance policies, variable or not, for investment purposes may trigger broker-dealer registration requirements under the Securities Exchange Act of 1934." This statement may foreshadow a time when all viatical and/or life settlement transactions, whether they involve fixed or variable policies, will be subject to NASD rules.

The SEC argued in a recently settled civil case against a Florida based viatical company that investments in viatical settlement contracts are securities and under the jurisdiction of the SEC. The company was accused of cheating investors out of nearly $1 billion by using false projections of how long the insured people would live and not informing investors of the risks in investing in viatical settlements. The defendants argued that interests in viatical settlement contracts were insurance products and did not come under the purview of the SEC. However, their motion to dismiss was denied when the courts concluded that viatical settlement contracts are "investment contracts" within the meaning of the Securities Acts of1933 and 1934.

Viatical and/or life settlements involve sick and elderly people (aka "constituents"), a demographic of particular interest to regulators because of their vulnerability to deceptive sales practices. As the market expands and complaints of abuses are brought to the regulators attention, viatical and life settlement companies can expect more scrutiny around sales practices, supervision, suitability and more from both state insurance and securities departments and the NASD and SEC. The recent amendments to the NAIC Viatical Settlement Model Regulations represent only the beginning of increased scrutiny in this unique market.

For additional information on STOLI and the secondary market for viatical and life settlements, see *Stranger-Owned Life Insurance, Free insurance? Found money? A good investment? A scam? What is it anyway?* by Barry D. Flagg, CFP, CLU, ChFC The Insurance Advisor.com, Inc. and *Regulating The Secondary Market For Life Insurance Policies* by Neil A. Doherty and Hal J. Singer. The NAIC website, www.naic.org, also provides important information on this issue.

For additional information on viatical and life settlements, please contact Naru Navele, Partner, Deloitte & Touche LLP, nnavele@deloitte.com, +1 973 683 6801 and Karen Vaughn, Manager, Deloitte & Touche LLP, kvaughn@deloitte.com, +1 617 585 5964.

Feature Article: Securities

NASD and NYSE Announce Plans to Merge Regulatory Operations

On November 28, 2006, the National Association of Securities Dealers ("NASD") and New York Stock Exchange ("NYSE") announced plans to merge their regulatory operations into one self-regulatory organization ("SRO"). When the merger was first announced, it had already been approved by the directors of the NYSE's Regulation, Inc. and the directors of its parent, the NYSE Group, Inc. ("NYSE Group") but still needed approval from NASD member firms and the Securities & Exchange Commission ("SEC"). NASD member firms had from December 8, 2006 until January 19, 2007 to vote on the proposed by-law amendments associated with the merger. The voting results, released on January 22nd, showed that nearly 83% of eligible NASD firms voted on the issue, with 64% approving the merger[2].

SEC approval is still required before the merger takes effect. Assuming that the SEC approves the merger, the goal is to have the combined SRO in operation by the end of the second quarter of 2007.

While the merger was announced in November, there had been talks of merging the regulatory functions of the NASD and NYSE for several years. In particular, the Securities Industry and Financial Markets Association ("SIFMA") had been lobbying intermittently since 2000 for the two regulatory bodies to merge. Additionally, in 2005 the SEC issued a concept release that identified four problems with the current regulatory system:

- conflicts of interest between regulators and regulated parties;
- cost inefficiencies due to duplicative regulation;
- difficulty regulating the markets with the increase in cross-market trading; and
- adequacy of resources that the current SRO's are dedicating to regulation.

A single, unified SRO is being presented as the solution to these problems.

Merger Details

Until the merger is completed, the NASD and NYSE Regulation, Inc. will continue to operate as each currently does. However, NASD and NYSE Regulation, Inc. will begin to coordinate examinations more closely.[3] The new SRO will consist of all 2400 NASD employees and approximately 470 of the NYSE Regulation team. Responsibilities of the new SRO include:

- Oversight of all member compliance exams, rule writing, member training, licensing, registration, arbitration, and mediation;
- Assumption of the regulatory duties that NASD currently performs for other exchanges (e.g., NASDAQ, AMEX, International Stock Exchange and Chicago Climate Exchange);
- Oversight of industry utilities, such as the Alternative Display Facility, the OTC Bulletin Board, and Trade Reporting Facilities; and
- Regulation of margin and sales practices and branch regulation.

The NYSE will continue to regulate compliance of NYSE-listed companies and its own trading markets (NYSE and NYSE Arca). Additionally, the NASD has asserted that it will pay the NYSE $103 million in order to make the transaction revenue neutral for shareholders of the NYSE Group during the transition period. A 23-member Board of Governors, consisting of 11 public governors, 10 industry governors, a Chairman and a Chief Executive Office will oversee the new SRO. Large firms (500 or more registered persons) and small firms (150 or fewer) will each elect three seats on the new board. Medium firms (151-499), NYSE floor members, independent dealer/insurance affiliated firms, and investment companies will each elect one seat on the new board.

Additionally, the NASD and NYSE announced:

- NASD member firms will receive a one-time payment of $35,000 in recognition of the anticipated cost savings and NASD member fees will be lowered to the minimum required amount for the next five years;
- Net capital requirements for NASD member firms will not increase;
- No minimum trade requirements will exist under the new SRO;
- NASD regulated firms will continue to be subject to NASD, not NYSE, rules. NYSE/NASD dual-member firms will work with the new SRO to consolidate redundant rules into a single set of rules; and
- Each NASD member firm will get one vote for all by-law changes, district committee elections, and board elections in their firm category

Asserted Effects of the Merger

The proposed merger has both supporters and opponents. Proponents of the merger include the SEC, SIFMA, the Financial Services Institute (FSI), the National Association of Independent Broker-Dealers (NAIBD), and the Investment Company Institute (ICI). These advocates assert that the merger will eliminate the cost inefficiencies of having two regulatory staffs and two enforcement systems, and eliminate the likelihood of redundant, conflicting, or inconsistently interpreted regulations. Additionally, the potential conflict of interest for the NYSE Group would be reduced between its market operations and market regulation, as the current situation involves the NYSE seeking trading business from the same firms it regulates. The SROs also assert that the merger could save industry firms tens of millions of dollars annually, an important factor because of the dramatic increase in compliance costs over the past few years. According to a SIA study released in 2006, compliance costs to firms have nearly doubled over the past few years, from $13 billion in 2002 to $25 billion in 2005.[4]

[2] National Associaton of Securities Dealers. "2007 News Releases," "NASD Member Firms Embrace Streamlined, More Efficient Regulation." Jan. 21, 2007. http://www.nasd.com/RegulatoryConsolidation/index.htm
[3] National Association of Securities Dealers. "Frequently Asked Questions." http://www.nasd.com/RegulatoryConsolidation/index.htm.
[4] Carlson, Stephan and Frank Fernandez. "The Cost of Compliance in the U.S. Securities Industry." SIA Research Reports. Volume VII, No. 2. Feb. 22, 2006.

Small-firm groups are among the central opponents of the merger, most notably the Financial Industry Association (FIA). The FIA argues that the NASD and NYSE are rushing to merge due to the FIA's success in contesting NASD elections in 2006.[5] Additionally, many small-firm groups believe that the merger will strip smaller firms of their ability to influence regulation because the current governance of one-firm, one-vote will be eliminated. Small firms argue that this will leave them with a disproportionately low amount of control because 4,600 of the 5,100 (90%) NASD member firms are small firms and they believe that they should have a proportionate amount of influence in shaping regulations. However, large firms with over 500 brokers counter this argument by stating that large firms account for 75% of members' employment and 85% of revenues. In addition, opponents of the merger argue that merging the NASD and NYSE regulatory teams into one SRO will eliminate competition among the regulators, and the quality of regulation may decline as a result.

What to Watch for in the Coming Months

While both sides have articulated reasons why the merger is either a potentially positive or negative outcome, the impact of the merger can be more completely evaluated once more details about the following are known:

- Consolidation of the NASD and NYSE rule books;
- Evidence of a more coordinated or consolidated examination module and enforcement. One may presume that the respective examination departments began to coordinate their examination and enforcement efforts before the announcement of a merger. More formalized work will most likely be done to consolidate the exam modules.
- Tangible evidence of more efficiency. The new organization should evaluate where those stated efficiencies will come from (systems or personnel) and the amount of time that will be required to achieve them.
- Composition of the senior management team of the new SRO. For instance, while both SROs have their own executives running their respective examination and enforcement programs, the leadership structure and the individuals leading the various newly formed departments could provide insight into the future direction of the new firm.

Deloitte & Touche LLP will continue to closely monitor further developments of the proposed merger and share insights in future editions of @Regulatory. For additional information and to discuss the specifics of this merger, please contact Grant Ward, Senior Manager, Deloitte & Touche LLP, gward@deloitte.com, +1 202 572 7554.

[5] The FIA, an organization with a history of opposing NASD senior management, has been gaining significant influence with the NASD membership. FIA backed nominees won two of four NASD governors' seats and 15 of 34 NASD district committee seats in 2006.

Contributors

The Editors would like to thank the following additional contributors from Deloitte & Touche LLP for their work on the News Bulletins: Ryan McCaughey (Insurance), Patrick Mondile (Insurance), John Graetz (Banking) and Nicholas Korn (Investment Management) for his contribution to the Securities feature article.

Our Apologies…

To Brendan Flavin, Consultant, Deloitte & Touche LLP, for omitting his name as a contributor to the January 2007 article "The SEC Tackles Identity Theft."

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Managing Editor

Irena Gecas-McCarthy
Principal
National Bank Regulatory Services
Deloitte & Touche LLP
igecasmccarthy@deloitte.com
+1 212 436 5316

Sector Editors:

John Graetz
Principal – Banking
Deloitte & Touche LLP
jgraetz@deloitte.com
+1 415 783 4242

Naru Navele
Partner – Insurance
Deloitte & Touche LLP
nnavele@deloitte.com
+1 212 436 3960

Michael Chung
Senior Manager – Investment Management
Deloitte & Touche LLP
michung@deloitte.com
+1 312 486 5382

Moshe Sinensky
Senior Manager – Securities
Deloitte & Touche LLP
msinensky@deloitte.com
+1 212 436 5421

Editorial Assistant

Jeanne–marie Smith
Deloitte Services LLP
jeasmith@deloitte.com
+1 202 879 5611

Regulatory Practice Leader Financial Services

Kevin McGovern
Partner
Deloitte & Touche LLP
kmcgovern@deloitte.com
+1 617 437 2371

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