The Debrief

Details on Bank Regulatory Relief Continue to Emerge

Debevoise & Plimpton

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Yesterday, Federal Reserve Board ("FRB") Vice Chairman Randal Quarles gave a speech outlining how the FRB is considering further tailoring its post-crisis regulatory and supervisory framework. The impetus for the speech is the Economic Growth, Regulatory Relief, and Consumer Protection Act (the "Regulatory Relief Act"), which directs the FRB to further tailor its regulations for large firms and was enacted in late May 2018 (see our prior analysis on the Regulatory Relief Act). Vice Chairman Quarles stated that in his view the FRB should issue a proposal for public comment in the near future.

Key points from the views Vice Chairman Quarles shared in the speech are as follows:

- When determining how to apply enhanced prudential standards to firms with total assets between $100 billion and $250 billion, the following factors should be important:
  - The indicators for determining whether a firm is a global systemically important bank holding company ("GSIB"), including cross-border activity, defined as "assets and liabilities related to transactions with foreign banks, individuals, and companies, among others";
  - Short-term wholesale funding, another GSIB surcharge indicator; and
  - Nonbank activities (e.g., dealer activities).
- There should be a clear differentiation between the regulatory and supervisory framework that applies to firms with more than $250 billion in assets that are not GSIBs and, on the other hand, GSIBs.
- Risk-based and leverage capital should remain core components of regulation for firms with more than $100 billion in assets, and supervisory stress testing and the recently proposed stress capital buffer are critical for these firms (see our prior analysis on the stress capital buffer proposal).

- Company-run stress testing could be made less frequent, including for firms with more than $250 billion in assets.

- "Less complex and less interconnected firms" could be exempted from the advanced approaches capital rules for risk-weighted assets.

- Liquidity regulation should remain critical at firms with more than $100 billion in assets, but could be further tailored (including by differentiating between GSIBs and non-GSIBs with $250 billion or more in assets).

- Resolution planning could be removed entirely for firms with assets between $100 and $250 billion and, more generally, should be limited to the "largest, most complex, and most interconnected banking firms." For this latter category, resolution planning could occur less frequently than annually and could be more targeted.

Notably, Vice Chairman Quarles did not mention how the FRB's tailoring efforts might apply to foreign banking organizations, a key omission in a discussion of the efforts that the FRB needs to undertake to implement the Regulatory Relief Act. In addition, he did not provide details on how the so-called Basel III "end-game" might be implemented, including how it would differentiate among different categories of firms (see our prior analysis on Basel III finalization). All of the above issues are critical and no doubt will be subject to a robust public dialogue.

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