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P R O C E E D I N G S

MR. WISEMAN: Does this work? All right. I'm probably the only one who could conceivably need any introduction in this panel and I'm Michael Wiseman from Sullivan & Cromwell. The organizers of this conference wisely saved this panel until late in the today because they knew it would retain their audience.

The only real question, I thought we'd start off by having each of these folks talk a little bit about whatever they wanted to talk about, since that's why you're here. And I was trying to figure out what order to do it in without offending anyone, because I really don't want to offend any of these people. So, I thought I would do it in terms of longevity of the agency and go Comptroller, Federal Reserve, FDIC and then the Bureau.

MR. GOULD: Oh sorry. Sorry about that the light was not lit up, I'm used to waiting for the light to go on to talk. Well, thank you very much for having me. I know a lot of my colleagues, including my boss have already been here and answered all your questions. So, I'll try to just fill in a few gaps.

So, at the risk of preempting some of my colleagues, I was going to just kind of go through some of the things we've accomplished over the last year and then think about what's coming in the year ahead. And then talk about some, both on the substantive kind of side, as well as kind of organizational side of the OCC because the OCC has undergone some organizational changes too over the last year.

So, starting kind of with the kind of rulemaking side, the OCC actually got done with all of its economic growth act rulemakings just recently, just this week, actually. So, I think we're very excited and proud of having gotten that done I think in pretty good time. And obviously, I think only one of those economic growth act rulemakings was actually required by -- was required to be an OCC only and the rest actually worked with our agency, so we're in debt to them to getting all these things done quickly.

Also, this year, we got the cover trading out on Volcker, which I think was a -- at least from my perspective was a successful rulemaking. Hopefully, got the benefit of years now of supervising and seeing what works and what doesn't work, and hopefully rationalize some of the rough edges of the original rollback from 2013.

Just recently, we issued with a kind of in some coordination with the FDIC, a rulemaking to address some of the concerns that we've seen in the market around the Second Circuit Madden Decision. Obviously, we have different statutory authority, but there are a lot of similarities there. And we tried to make sure that we were doing it in a consistent fashion that would address issues for the entire banking community, whether it's state, federal, thrift or commercial or otherwise.

Another area where I just want to mention where I think we've made some progress over the last year is in the BSA AML space. If you look on our website, we put up a new interpretive letter, 1166, which permitted a bank to automate its stars for structuring transactions, which we think again, is a kind of a down payment on our willingness to entertain and hopefully encourage kind of responsible innovation in a lot of areas, but also obviously in the BSA AML compliance area.

In terms of looking forward to the future in the next year, we are looking at a number of OCC only regulations which we feel like can use some updating. This includes our parts five and seven, which address licensing issues as well as things like activities of banks, whether from bank premises to derivatives and a bunch of other things. So, we're kind of looking at that and kind of taking stock both of our existing regulations, where we think there are areas to improve them, where we've learned from experience, where we have kind of substantial history with interpretive letters where we think it might be time to either rationalize those interpret letters or codify them.

On the litigation front, we've had some -- it's been kind of a mixed bag. Here we are in New York. Obviously, we were -- didn't do so well in New York, but it's not over. Obviously, we disagreed with the ruling from the judge on the Special Purpose National Bank Charter up here. And as my boss has noted previously, we do intend to appeal it.

On the licensing front, I know my colleague and head of licensing was just up here on this past panel, but that’s really an area I’m looking to in 2020 where we’re -- the OCC talks a lot about responsible innovation. And I want to make sure that our existing policies and what we’re willing to do from an internal kind of risk tolerance perspective aligns with what we’re saying publicly. We just want to make sure those are aligned. I think that’s kind of good practice and good government.

And then a couple other things to mention. Small Dollar Lending that’s something my boss cares a lot about, and whether through rule or guidance he feels like if the demand’s out there, it’s better that it be served by the traditional banking system, where it can be served more responsibly in his opinion. So, we’re looking to see what we can do to encourage Small Dollar Lending and bring that back into the banking system, to extend it’s kind of migrated outside it.

And of course, CRA, which I won’t say any more on because I think my boss, sorry, already talked about that earlier this week. From an organizational standpoint, the OCC is also undergoing a lot of changes over the last year. We took our Compliance and

Community Affairs Unit and merged back into our Bank Supervision Policy and Supervision Unit. We created a COO function, which serves to kind of bring together all the different supervision lines of business together with ECON and some other units too, to make our, hopefully, our supervision ultimately kind of more efficient and kind of benefit from synergies across different types of banking portfolios that we look at.

Within the law department, we've also undergone some changes organizationally. Particularly within the headquarters group, where we combined a bunch of different units into a single group that now serves kind of all the bank advisory questions that we get. Hopefully, this will kind of put us in a better situation to continue to provide kind of high quality legal services to our supervision clients over the future, by giving people an opportunity to kind of range farther, increasing their professional opportunities, kind of injecting more dynamism into our thinking, increasing our responsiveness to our client. And otherwise kind of flattening our hierarchy.

So, I'll just end on one thing. So, this this morning, I and other members of the OCC Executive Committee, were talking about the value of the charter, and we're actually looking at a late '90s video featuring former comptroller Jerry Hawk on the value of the charter. And he talked about the three Ps, philosophy, bank powers and people. And I was kind of thinking about from the philosophy standpoint, the supervision by risk philosophy, which the OCC was touting back in the late '90s. Well, we were tailoring before that became a thing. Bank powers obviously remains just as important, if not more important today, than it was in the late '90s. And finally, our people which obviously are most important part of organization.

And I'd add that I think one of my responsibilities is to make sure that we, as stewards, keep the federal banking system relevant by ensuring it continues to contribute to a strong national economy going forward. So, we, as lawyers need to do what we can to make sure that as the business of banking continues to evolve, we're evolving with it. 1913.

MR. VAN DER WEIDE: 1913. I'm going to do a similar thing that Jonathan did, do a little bit of a historical account of what we've gotten accomplished over the last year and then turn to what we're working on now. Surprised at actually how little overlap there's going to be between what Jonathan said and what I said, but a different priority list.

[]I'm going to start with a few overlapping items. When I look back on the past year, I would say our primary accomplishment was with the FDIC and the OCC and a little bit I think the CFPB and a few other agencies. We more or less have completed implementation of EGRR CPA. I've not seen Randy Corals in a jumpsuit but there are mission accomplished banners hanging up in various hallways of the fed.

We're actually not quite done. We have a couple little tiny pieces left but all major combat operations are complete.

And I think the statement of kind of major areas of work there that I would focus on. One is a passel of community bank relief, involving a community bank leverage ratio for small banks, a shorter form call report, some exam cycle relief, small bank holding company policy statement relief. A cluster of things there that I think get us to a better burden versus benefit balance on small bank regulation and supervision.

And then secondly was our proposals and final rules with the OCC and the FDIC to tailor the regulatory framework for regional bank holding companies in the U.S. and the U.S. operations of foreign banks. And that involved in part moving to a more risk sensitive framework to do our tailoring. Today we have a mostly asset based way of tailoring the regulatory framework. In the future it's going to be more multi-factor. We're still going to look at assets, assets are important. But we're also going to look at levels of short term wholesale funding, levels of cross border activity, levels of off balance sheet exposures, levels of non-banking activity. And those will all inform what sort of a regulatory category we put different firms in. And I think that's a step in the right direction to do better, smarter tailoring.

We also did a similar parallel tailoring regime for the U.S. operations of foreign banks, with the kind of guiding principle there being national treatment, and quality of competitive opportunity. So, we tried to take the new framework that we did for the large regionals in the U.S. and we taught this Matanzas, cut and pasted it over to the foreign banks, and I think we got to a pretty good place on that, capital liquidity resolution plans, et cetera

Second major accomplishment is, as Jonathan mentioned, we got the Prop Trading Volcker 2.0 rule finalized. I think that also came out pretty well. The objective in general was to hold to the stringency, hold to the text of the statutory prohibition, but find ways to render the prohibition more clear and concrete and to streamline some of the compliance requirements, particularly for banks that had smaller trading books. And I think we did that, we got to a simpler trading account, we got to a more streamlined set of hedging and market making exceptions. We streamlined the metrics reporting requirements. We streamlined the compliance program requirements.

We got some amount of grief for our simplification of the trading account definition. But all in all, our view is that that will only have a de minimis impact on the scope of transactions that are covered by the Volcker Rule.

Third accomplishment was getting out the control proposal earlier this year. Pretty excited about it. Pretty proud of it. Randy is too. And I talked about it a little bit at the last panel for those of you that were here. But we think it's a pretty big step forward on the transparency of our regulatory framework on the government of laws, not government of men, rule-ishness metric. Also on kind of I think sensible, smart, liberalization of the content of our control precedents.

Fourth and last historical look back thing I'll mentioned is Fed Now. After a multiyear process of much cogitation, and as Randy would say fasting and prayer, we did decide that it made sense for the Fed to get into the faster payments business. We announced that in August and expect to go live around 2023. It will take a while.

But we thought doing that met the statutory requirements and met the requirements of our long standing policy for when the Fed does offer new payment systems. And it’s also pretty consistent with our historical track record of operating in competition with the private sector in most of the major payment systems, check, ACH, Fed wire, for example.

We do think that we could achieve long term cost recovery of the program over time, which was our statutory requirement that we had to have to meet. And we also thought that we could do it in a way that was in the public interest. And we also determined that we did not think the private sector would be able to provide the service with reasonable scope and equity.

We are overcome (phonetic) right now on how to parameterize Fed Now, our retail payment -- real time payment systems and we look forward to getting comments on that. You know, one of the things that we’re going to work to do as we build out our Fed Now system is to the extent we can try to create a competitive level playing field with the existing private sector provider. That is one of our core principles as well.

Looking forward a little bit, some of the things that we’re currently working on. There were some eruptions in the repo markets back in September, caused by -- the proximate cause seems pretty clear, it was a supply demand imbalance in the repo markets. And the Fed has taken some open market operations to more or less stabilize the repo markets at this point.

But we aren't doing a pretty comprehensive look at what were the causes of that situation. Among the things that we're going to be looking at is our supervisory and regulatory framework,. As Chair Powell had said -- has said the expectations of that review will not result in any kind of a decline in the capital and liquidity framework for the big banks. But we do want to take a look and see what we might be able to learn from that. And we'll be willing to make changes that we think are useful to prevent recurrence or that kind of a set of dislocations.

Second project that we're working on, that we've been working on for quite a while is the stress capital buffer. This is our proposal to integrate the regular capital rules and the stress testing regime. We first put out a proposal on this in 2018. Vice Chairman Corals has talked earlier this year about some changes that he'd like to make to that outstanding proposal, and we're working on that and trying to find a way to accomplish those goals. And still leave the stress capital buffer framework capital neutral, which is a prime directive that we've got. Hopefully, we will get a re-proposal out soon.

A third cluster of regulatory activity that we're working on is completing the international agenda. And the two major sub chunks of that work are the NSFR, Net Stable Funding Ratio. We put out a proposal on that over three years ago, but we still need to get that done and we're working on a finalization of that rule. Got a lot of comments, a lot of smart comments on that proposal. We're looking to see which ones of those to incorporate and hope to get a final rule out in the not too distant future.

Our Chairman, as recently I think as the penultimate FOMC press conference, kind of reupped Fed's commitment on getting the NSFR out.

And then the last big piece of the international framework that we still need to do is what we call the Basel Three End Game Package in December of 2017. The Basel Committee agreed on a final set of changes on the capital framework for internationally active banks. It's a complicated aircraft carrier kind of a thing. It touches on credit risk, it touches on operational risk, it touches on market risk, and we're kind of working through with our colleagues, OCC, FDIC on how to get that together.

Last regulatory thing I'll flag is Volcker Rule Covered Funds. The Volcker agencies are now actively working on covered funds proposal of get our prop trading work done. And we're now focused on covered funds. Lots of interesting issues there to work on foreign funds, Super 23-A. And have gotten a lot of comments that we should create some additional exceptions from the definition of covered funds, and we're actively kind of going through the list and see what makes sense. So, working on that pretty hard.

International kind of regulatory work, Basel Committee, Financial Stability Board, not a lot of proactive, creative, new regulatory framework work at this point. I think that's mostly done, and we're now kind of in assess, analyze, tweak mode. So, lots of studies, lots of analysis being done in the international groups around how to potentially better achieve some of our resilience objectives in more efficient ways. Much discussion of issues like fragmentation in a variety of ways in our regulatory framework. Crypto assets, stable coins, cyber risk, Libor. But at least at the present moment, no kind of new regulatory framework creations like there had been in the past.

Last thing to note quickly. Vice Chairman Corals has also indicated that he wants to rotate his gaze a little bit in the next two years, a little bit away from regulation and a little bit towards supervision. He certainly won't be turning his gaze totally away from regulation. There's a lot of work there still to do, but he wants to focus more in the next couple of years on supervision. And I view his project there as not dissimilar to the one that he's done on the regulatory side over the last couple of years.

On the regulatory side, in general, I'd say we've preserved the overall stringency of the framework that we built. We found all sorts of ways to make it more transparent, more efficient, more simple, and more tailored. And I think he’s going to look to do a similar kind of a thing on the supervision side. It’s not about watering down the overall stringency of our supervisory framework. But there’s some low, medium, maybe even some high hanging fruit to make the supervisory framework more transparent, more simple, and more tailored and better due process. And we’re going to be doing a lot of work I think, in the next year kind of trying to figure out what that is and how to get it accomplished.

MR. PODSIADLY: I think I’ve got the same mic problem Jonathan has here, but thank you all for sticking around so late and being with us. And I really would -- these guys have gone through the laundry list of a lot of things that I would going to say. But really, I think from the accomplishment bucket, we’ve, just this week on Tuesday, finished at the FDIC, the gripper sort of bucket of regulatory rulemaking so that the FDIC’s version of that is complete. So, we’re all just waiting on Mark to close out.

MR. VAN DER WEIDE: Small, small, small.

MR. PODSIADLY: I'm just joking. But that was a big accomplishment. The interagency process worked very well on it. It was -- there was a lot of dialogue and constructive feedback, and it was very smooth. And a lot of things you all don't see other than the final rule coming out, go behind doing that and making those things come to life. And so kudos to all the different teams for working on that.

From the FDIC sort of specific view obviously, we tend to view the veins of both the large macroeconomic policy and the impact on the banking system, and then also sort of the community banking sphere. That's sort of our supervisory bucket of clients that we deal with.

So, the focus on the tailoring aspects of the community bank leverage ratio, the short form call report, the more relaxed exam cycle. Those were really important we think for promoting and preserving the community banks across the country who are under significant stress with compressed margins on spreads and too the sort of development of tech-based banking and applications. And the need to put capital expenditures into those products and services for clients that were traditionally not a community banking product.

As well as certain economies that have been stressed. Ag economy has been very stressed. We have a significant portion of our banks we supervise across the Midwest, our ag banks, and those stressors are starting to show up, nothing to worry about this point. But nonetheless, something we're really actively monitoring, in our sort of resolution in receivership view.

But with the supervisory vein one of the other undertakings the chairman has developed a sort of an approach to try to modernize a supervisory approach going forward now that the sort of post regulatory environment is set aside. And looking to leverage technology across all functions of the FDIC from the resolution side to qualified financial contracts to deposit insurance tracking for timely determinations.

Those regulations that are out there can we use technology to leverage better outcomes with those. We've talked to a number of folks about whether those rules need to be updated. So, we'll be looking forward on those to see if there's anything that can be done to streamline process and make things more efficient, from a tech perspective.

We also are looking at whether supervisors -- the typical notion of the onsite supervisory can be revised and sort of reviewed using technology for off-site and data transfer. So, they're not large onsite reviews, can we reduce the amount of time for community banks that are supervisors are inside the bank and take the burden off. You know, oftentimes you have these community banks, which will have eight people and one of them is a teller who also serves as the chief risk officer for the institution.

And when you bring in the exam team, you can really take away and hurt their core functioning. So, we are cognizant of the burden that it can place on those smaller institutions.

But again, we have that view of the world, but then it competes against our macro mission, which is ensuring that the markets are strong and that the banks are operating safe, sound, and in a manner that we can resolve.

So, we are always watching for asset bubbles or anything that's out there. The Chairman, I think has spoke pretty clearly of her monitoring the CLO market to make sure that leverage lending is in a safe condition for the financial institutions from a market risk area.

So, those are our regular meetings that we have on economics and understanding those at the top of the house and what those risks are. Because, as I always say, the other side of the hat I wear is the resolution side of the law firm, and we have 252 active receiverships ongoing at this point. So, I think we are now caught up to 2007 is the latest.

So, with those projected batch of banks to close somewhere in 2038-ish. So, these failures have long tentacles and so we're always concerned about what those costs to deposit insurance fund are.

But with regards to regulations and going forward we put out two proposals this week. One in concert with Jonathan, really our work on the Madden versus Midland issue in trying to bring some certainty to interest rate environment. And it also satisfied the secondary mission, which I think all of us are looking at, is the role of guidance versus rulemaking in our process.

And I'll be the first to admit the FDIC has built a significant house of guidance. And in particular with regard to interest rates, as our statute has -- largely tracks the statute of National Bank Act, it's 1831(d). However, we never issued a regulation interpreting that and those words as interest rate. When does the rate get assigned to loan at the time it's made? Those are what we're undertaking in the rulemaking.

But we had a general counsel's opinion that has served that function for 20 years and it seemed that to bring certainty to the marketplace, good government best practices, take that in, codify it and bring certainty, tie it to the National Bank Act, the way that the courts have interpreted, but doing in a more open and transport manner with the Chairman's Transparency Initiative.

The other one we put out this week, of a very similar vein, was Section 19 on prohibitions. And for those who have criminal conduct in their background and whether they can operate -- or work in an environment, the financial institution. The statement of policy we've had had been around for a number of years, and most recently it was modified just several years ago. But again, to the notion of guidance versus rulemaking, it was not placed into the CFR. And so we are actually taking on to codify that.

But secondarily, on a policy matter, we asked a number of questions that we would like industry feedback, and feedback from all over, including individuals who have been either restricted from or have not sought a waiver. But about the process, to how seeking those waivers could be expedited, cleaned up. Whether we can put some margins around what the notion of an expunged record is, where there's individuals who have not been able to participate in banking, even though the record had been expunged because of some administrative anomalies.

Those are the things we're seeking to iron out and to add comment, recognizing we have some statutory requirements there that prohibit us from providing too much leniency. But whether or not we can make cognizant recommendations of where to ensure that to Congress, that they could tinker at the margins if we think that there are cases that warrant it.

Namely the ten year look back, is it ten years for all types of violations, and can we have some newer updates to that, recognizing we're in a very low unemployment rate market. And there are those that have reentered society, served their debt, and now can we find a role for them in the banking system that does not put the banks at safe and sound risk but whether we can help them raise up local economies as well. So, that's something we're considering and would love some comment on.

But looking forward, I think the big two that we have going into the next cycle here will be CRA, which I think Jonathan's boss and mine have spent -- said a lot in the last 24 hours on that. So, we'll leave that there. But then really broker deposits is the other one that we're focusing on, the FDIC.

Again, part of that is part of the Transparency Initiative where a number of the broker deposit determinations and regulations and rules, including an FAQ that's very interpretive, are really in this sort of guidance bucket. I think we have a general counsel's opinion, that is not a general counsel's opinion, but it's an advisory opinion that covers roughly $700 billion of the Deposit Suite Marketplace. And we think that it would be good government to consider that as part of a formal process. So, going forward, those would be the big ones we're focusing on.

MR. VAN METER: Hello. Thanks for having me here. I'm very happy to be here on behalf of not only Mary McLeod, our general counsel, but the Bureau at large. One thing I do have to say though, is that on what I'm here on behalf of the Bureau, what I say does not constitute legal advice, interpretations or guidance of the Bureau. And in fact may not even reflect the Bureau's views.

Some of you are probably lucky enough to be here, probably most of you are lucky enough to be here for lunch and the keynote speaker, my boss's boss, basically. And so, that in some sense, I don't really want to like repeat what Kathy said about the Bureau's priorities, and about the approach to like carrying out the Bureau's mission that she has adopted since becoming our Director. And as a consequence of her listening tour and getting to know kind of more about the Bureau, I think you've heard that from the source and I don't need to go over it again.

Fortunately, like there's plenty for me to say because great timing BPI, the Unified agenda came out yesterday. And that means there's more that I can talk about than I ordinarily would not have been able to.

There's the Unified Agenda has more comprehensive information about our rulemaking agenda. But I just wanted to cover some highlights. I think you all probably know that, because of concerns about both the legal and factual predicates of our mandatory underwriting provisions in the 2017 Payday Rule, the Bureau earlier this year proposed, not only to rescind those provisions, but to delay the effective date of those provisions, because we could tell that that would probably be necessary given the timeline.

The delay rule actually was finalized and became effective on August 16th. So, the new compliance date for those mandatory underwriting provisions is

November of next year. The comment period on the rescission itself has closed and we're evaluating comments in anticipation of issuing a final year -- a final rule next year, hopefully in early spring.

Also, this past year we issued, in May, we issued the first set of substantive regulations ever under the Fair Debt Collection Practices Act. Among other things, that rule will set some very clear, bright light limits on how often every week debt collectors can contact consumers that are in their portfolios.

It'll clarify how debt collectors can communicate with consumers using newer, by which I mean since 1977, communications technologies that were not contemplated when the FDCPA was passed. And there are other provisions that require debt collectors to give consumers information, really to empower them to be able to identify the debts in question and how to -- and respond to the collection attempts.

There's lots going on with respect to HMDA. Last December, you all may recall that we issued some final policy guidance relating to the modifications we would apply to the loan level data, financial institutions report, in order to protect consumer privacy. We plan to follow that up with notice and comment rule this year, this next year. We’re hoping to get a an NPRM out in the summer.

We also, this past May, issued and NPRM proposing to raise the coverage thresholds for both closed end and open and loans, and we had an ANPR that solicited comment on issues relating to certain of the data points added by the 2017 rule and some coverage issues. And I guess the only other thing to mention is in October, we finalized certain parts of that May NPRM related to like the -- extending the current 500 keylock threshold, and also to incorporate some GRIPA provisions.

The last rulemaking I feel I have to mention, of course, is ATRQM. I think probably it’s safe to say that one of our very biggest priorities is to figure out how best to address the planned expiration of the GSE patch, which is scheduled for January of 2021. January 20, 2021 that’s just about 14 months away.

So, in July, we announced we had an ANPR, in which we announced that we plan to either let that expire as scheduled or have a short extension of the GSE patch to facilitate an orderly transition away from it. And we're also obviously considering what to do about the underlying substance of the rule and what, if anything, needs to get changed, if the patch goes -- when the patch goes away. That's going to be involved -- that's going to involve a lot of legal and policy thinking over the next year at least. And there's a lot of work ahead on that.

I think folks who have been here for the whole conference have probably heard many CFPB employees talk about how much we really do want to promote these new initiatives of our Office of Innovation. And I just -- there's more I could say about that, but I think one -- probably the only thing new I could add to what they have mentioned, is that two of those initiatives, the Trial Disclosure Program, and then the Now Action Letter Program, like they've been around. The Bureau's had one of them since 2013. One of them since 2016.

There have been precisely zero trial disclosure programs that have rolled out under that program. The Now Program was infinitely more successful as a mathematical matter. There was one that was issued a couple years ago. And, I think, I don't want to say that around the Bureau we would consider that fail, but it's definitely a disappointment.

And so there is a lot of active interest and energy going into encouraging people to be developing the sorts of innovations that are -- that these programs are intended for, and to bring them to us, and see what kind of relief under the Office of Innovation programs is available. I'll stop there.

MR. WISEMAN: Let me lead off of questions. And by the way, there's going to be no shortage of questions. Let me start with the question -- a question on preemption, and I'll focus to Jonathan, but Nick as well. You put out the proposals this week, which I think in response to Madden were very helpful. But there are - there's been a lot of litigation around the edges of lending activity, the escrow cases, for example, that were decided last year.

One thing is it -- the OCC does not seem to have been as active in court pressing federal preemption as it may be the OCC historically had been at one point.

I’m wondering whether this rule proposal, presages a more activist approach on the part of the agency in defending federal preemption.

MR. GOULD: The short answer is yes. I think our current views are kind of more in line with historical positions. That being said, we’re a litigation team of ten. So, we have some real limitations on what we can do and what we can track on a regular basis. So, we look for opportunities to articulate our views, whether they’re in briefs, potentially in rules if necessary, and other for where appropriate.

But we really depend upon kind of the banking bar, the banking committee at large to help us track some of these things. You know, as a non-litigator coming to this job I’ve been -- it has been a real learning experience to understand what a game of kind of whack a mole it is where on any given day you’ve got some judge somewhere come up with something which in the case of something like Madden really up ends I think what most people thought was well established and well understood for centuries.

So, it’s challenging us -- for us just from a logistical standpoint to track all that. And so what we do is we really look for situations where the issue is kind of presented really cleanly, where we feel like, given our kind of limited resources, we can weigh in and might actually be persuasive. You know, obviously we look for opportunities where some of the other agencies might have an interest too. And the -- I think, in Madden that was a great opportunity really for us, and obviously had a great partner to work together with on that.

You know, so to clean these up cleanly, and we hope that’s what we’ve done with the Madden MDR, but obviously, welcome feedback from everyone on both sides of the issue as to whether or not we’ve gotten that one, right. But we -- one of the things I’ve seen is that you can try to tee up an issue and you hope you get the courts to rule on the issue that you want them to rule on, but they can they’re obviously very clever. And they can find all kinds of other issues to rule instead of the issue that you actually were hoping them to rule on.

So, again, we try to keep these issues as clean as possible to maximize the chance that the court will focus on the issue that we want them to resolve, as well as to minimize kind of any collateral damage, which can sometimes happen as they potentially reexamine other parts of other statutes that we think are well settled and well understood and perhaps a particular judge on a particular day has a different view.

So, on the on the escrow requirements, that is something we've also been following and weighed in on. And I mean, we weighed in on that one with an Amicus Brief back in April 2018 and the (inaudible) Ninth Circuit Decision, which I think from our perspective really muddled the Barnett Standard. So, that's been frustrating.

You know, we filed more recently, I think in the Himes case in the Eastern District of New York. And note, there was an interlocutory appeal to the Second Circuit there, and we're kind of watching what's happening in the Fourth Circuit down in Maryland, with the Clark versus Bank of America case as well.

So, we are tracking these things and we just are trying to be realistic with the resources we have and trying to find good fact patterns where we can weigh in hopefully effectively. But really kind of welcome everyone helping us kind of hone in on the things that where you feel like we can be helpful and teed up kind of cleanly to hopefully, again, increase the likelihood we get and outcome we want, as well as the court not kind of weighing in on an ancillary issue and causing potential collateral damage somewhere else that we didn’t immediately perceive.

MR. WISEMAN: Turning to a question which I think all of you could weigh in on very productively is, the question of guidance versus regulations. And I think one I want to say your comments have made it clear that you intend to move more towards regulation to, and not you know, leave -- and then presumably leave guidance to be stuff that you really intend to be guidance.

I don’t propose to get into discussion of the Congressional Review Act, which you will probably be pleased with that decision. But the, I guess, the things that you decide are left as guidance. Do you have thoughts on how you're going to communicate to your clients out in the field, that some stuff is guidance and it's not regulation and not binding? I think the real when you cut through a lot of the debate around guidance and comments from the industry, it reflects a concern that some of the examiners aren't distinguishing between what's binding and what's not. So, which of you would like to take that on?

MR. PODSIADLY: I can jump in on the first run and then hand it off as necessary. But I think from our perspective I mentioned it earlier, the FDIC does have a lot of guidance out there. Lots of various supervisory lenders, FAQs and things like that. So, we are -- is one of our going forward plans, reviewing all of these and seeing if we need to quantify them. And we showed this week we're finding something that we really feel do.

With regard to what the examiners and the supervisors in the field are finding I took it upon myself a month ago to go, to come up here to New York, and we had a meeting of all our regional directors, our deputy regional directors. And we talked for almost two hours about what is guidance and what is a rule? And what can be enforced and what shouldn't be enforced? And really tried to just focus on what they see in the field and how it may come up in different scenarios.

And I think the best way to address it is a constructive dialogue myself and Doreen Epperly (phonetic) we're talking to her team, we're talking to Mark Pierce's team who does consumer protection exams for us. And really focusing on the relationship of just call the legal department if you have a question and whether can I enforce against this, or how should I write this, or how should I discuss this, and what is the what is the applicability of this?

And there are maybe areas where we need to do a rulemaking based on things they're seeing in the field and having that two way dialogue is the best way to ensure that we get to the proper outcome while also ensuring that the financial institutions have certainty in what that enforcement process is based, on a true rule and not a guidance. And we have our interagency statement of guidance that we did put out last year. And I think that there are ongoing discussions about way we can make that more robust.

MR. VAN DER WEIDE: Just briefly, I think I agree with everything that Nick just said. Maybe I'll just say what he said in a different order. But for me I think the right first step was what we did back in September of last year, which is to issue that inter agency guidance on guidance and make very clear to the public, to our examiners, to the banking system that guidance is guidance, it's not binding, it's done forcible, you can't base enforcement action. You can't base supervisory criticism on that. And I think that was kind of the right first step to take.

And then like the FDIC, we've been engaged in a pretty comprehensive, rigorous, intensive process of talking to our examiner's and making sure that they understand what that guidance on guidance means and the right ways to use guidance, and the wrong ways to use guidance. That education process has been done at the staff level. But the vice chairman, Commissioner Corals has also been doing a tour of the Reserve Banks and going around and talking to them about the supervisory process and part of those conversations involves guidance too. So, as high as at the Vice Chairman we're reinforcing that message out in all the provinces of the Federal Reserve System.

We have also gone we're taking a tour through our guidance as well to see if there are pieces of it that are too prescriptive, that needs to be redone, rewritten, rescinded. Or turned into a rule, as the FDIC has done, or is doing now in a couple places. So, we're doing a similar review there.

And the last thing I'll mention is we did get a petition from the BPI and the APA recently to turn our guidance on guidance into a rule on guidance. And we're having very active fruitful conversations with all of us here about what we should do about that.

MR. GOULD: I'll just -- I agree with my what my colleagues have said and similar discussions underway at the OCC. I mean we have also certainly been guilty in the past of issuing guidance. That really should be a rule. And you know, I think we want to be -- one of the things that I think we're trying to encourage is a better communication and more intellectual honesty, with supervision. And if we think something should be a requirement, let's just say that. Not kind of hide the ball. And if we were going to make it a requirement, let's make sure we comply with the APA.

One thing that I think we worry about and want to make sure it doesn't happen is that we wind up in a situation where we're not issuing guidance. We think guidance is extremely valuable. We hope you, industry, find it valuable as well in a lot of cases. Hopefully, in most, if not, nearly all cases you find it valuable. And we don't want to get into a situation I think as an agency where we're not issuing that guidance.

All that being said again I go back to what I said at first. We want to make sure that if something's a requirement we're going to do it through the proper legal channels and not issue it as guidance. So, we want to be intellectually honest with ourselves, but we don't want to create a situation where we're just not issuing guidance anymore either, because I think that would be bad for our industry and frankly, I think bad for the agencies too. Stephen?

MR. VAN METER: Stephen. Yeah so the is maybe in a slightly different -- I mean I think it's probably true for all of our agencies that it has always been our policy and our understanding that there is this distinct fundamental distinction between guidance and rules. Only the ladder of which have the force of law, or binding, or to be cited in enforcement actions or supervision.

And I think since like other agencies since that -- since the guidance on guidance was issued a year or so ago, we've tried to get out there into the field, into our regions, make sure that everybody understands that. But I'm not -- to some extent I believe that that effort is a little superfluous from the point of view of the Bureau.

That's not the because we are more virtuous than other agencies. It is -- there are just differences between our supervision and the supervision that is conducted by our prudential brethren.

One of those differences is that -- is just the nature of what we supervise for. I mean yes we look at compliance management systems, we look at that very carefully. But for the most part where the -- where things like nobody has ever thought that like we're going to cite somebody for a violation of law because they're -- they have a weakness or deficiency in their CMS, period. Like nobody thinks that.

So, mostly what our supervision is about is, did the bank or non-bank manage to comply with federal consumer financial law or not? And so, that's not to say those are easy questions, but we are not -- we're not having to deal with the sorts of very difficult, prudential judgments that examiners at the prudential regulators do.

I think a second difference at the CFPB is like, and I'm probably because the focus of supervision is so much on legal violations are, we are structured in a way that is -- that the exam review process is much more centralized, I think then than it is at other agencies.

We have an office of supervision policy that reviews -- that is mostly a bunch of lawyers. They get these issues and they're reviewing every single exam. So, I mean I can't swear to you that this has never happened, but I'd be really surprised if there's like, if any of you have gotten an exam report that cites you for violating some CFPB guidance document, or anybody else's guidance document. It just hasn't. But it's, again, it's not because we're more virtuous, it's a different structure, it's a different focus of supervision.

MR. WISEMAN: Let me shift a little bit and take advantage of the fact that all the agencies are up here. One of the things I think that a lot of us have found, particularly in the last few years has been cumbersome to deal with the requirements around confidential supervisory information.

And Mark, you've put out a proposal to start to address that, and I think you've got a fair amount of feedback on the proposal. This is an area where the Bureau is probably somewhat out in front because it was the most recent to have put out its regulations. But certainly dealing CSI has become -- it is some -- it has been burdensome, even sharing CSI of one of the U.S. Federal Bank Regulatory Agency with other bank regulatory agencies as people busily excise directors' minutes and so forth from -- between agencies.

Is there hope that the other agencies who joined the Fed or there'll be some coordination and some common ground, so if this becomes a channel that we can actually navigate?

MR. VAN DER WEIDE: You got the person who just talked about our proposal. So, we've had to take a fresh look at our CSI regulation a year ago or so. And we found it antiquated in a number of dimensions, antediluvian probably even in some dimensions. And so we've got a proposal earlier this year to update it.

It's always like everything, it's you got to balance the costs against the benefits. You do want on the one hand allow relatively free flow of CSI to folks in and around the bank, that can help the bank address some of the issues that get identified in exam reports. But at the same time, you don't want CSI free floating out there in the universe and leaking to everywhere.

But when we looked at our rule, we decided we kind of, I think erred too much on the direction of the tight hold in order to provide more flexibility. So, we did propose to provide more flexibility to allow banks to share our CSI with affiliates, with lawyers and auditors, with other service providers beyond lawyers and auditors, and to other state and federal supervisory agencies.

We also as kind of a secondary objective in the project, tried to align our rules a little bit more with the rules of these people to my left and right. Might not have made as much progress there as we should have. But I think that was kind of a secondary objective of the project. We've gotten a lot of comments and we're looking to finalize that in the not too distant future. But that's what we == that's where we are.

MR. WISEMAN: Others?

MR. GOULD: I mean well we have been reviewing the comments that the Fed has received from folks. I've been both a consultant and a lawyer. I remember as a consultant one of things I did was I did actually have to go compare and contrast because I see the different agency regs and how hard was it going to be for me to get access to CSI as a consultant. And I did learn that lawyers generally is a lot easier for them than for a consultant. So, I have some firsthand knowledge of some of the frustrations of CSI sharing.

I mean I would certainly welcome to comment on if you see issues or problems with the, with the OCC regulations around our port for regulations addressing CSI.

We think we’re relatively kind of liberal in terms of a process that works, and people get permission to share with whether it’s your consultant or lawyer or whatever. But certainly welcome kind of folks just telling me what’s wrong with it. I think like, as Mark said, I mean we also have to try to find the right balance between kind of protecting this stuff both for the benefit of the the regulated entity as well as for the potential of the agency and the relationship there.

But obviously wanted to make sure that people who need it can get it to do their job. So, we too kind of work on that balance, but would welcome kind of people’s thoughts and certainly look forward to, and our have already been reviewing the comments that the Fed has received on their proposal.

MR. PODSIADLY: And I’ll just say that from the FDIC’s perspective, we share all the similar comments and in fact, this just was put on my desk the other day from an institution who had a sharing issue and the redaction problem, and so it’s something that we’re going to take a look at.

MR. WISEMAN: Mark you touched upon the disruption in the repo market during your remarks. And I guess I’d be curious to hear your thoughts and thoughts of others more broadly on how you evaluate ten years in the effect of the very dramatic changes in the financial system systemic reform. And certainly, I think everybody would agree we have a much stronger banking system, much more of a fortress banking system than we did. But I risk I assume hasn’t left the economy and how you’re thinking about the overall issue of systemic risk in the new -- the new bank regulatory world.

MR. VAN DER WEIDE: Sure, happy to start. I won’t use the word fortress. I think you’re asking for divine retribution if say stuff like that. But I think in general, and mostly what I’ll do here is give you a pretty severe overview of the Fed’s Financial Stability Report that came out recently.

I do think our overall assessment is that we are in a pretty good place as far as the resilience of the banking system goes. Banks have roughly twice the capital they had before the crisis, at least large banks, at least three times the high quality liquid assets on the asset side of their balance sheet than they had before the crisis.

You can measure short term wholesale funding lots of different ways, but I would say it's down 50 percent from what it was before the crisis. Resolution, much, much better place. So, overall, I think we're saying when we look at the resilience and resolvability of the banking system. But it's an eternal vigilance kind of a situation.

And we're also kind of constantly monitoring what risks might be emerging inside the banking system or outside the banking system. And that's party in our supervision function, that's partly in our financial stability function.

When we look at the banking system, you can read some of this from our supervision reports, as well as our financial stability reports. Some of the things that we continue to focus on quite intensely our cyber risk. I think that's going to be a perpetual warfare kind of a situation.

CRE, underwriting is still going to be something that we're going to be quite focused on. Corporate credit, leverage lending is another area of focus. And I think that's a kind of a difficult story.

On the one hand, there's lots to worry about corporate credit levels are quite high as a percentage of GDP, as a percentage of corporate balance sheets. At the same time, risk does appear to be increasing in the corporate loan sector. Underwriting standards have declined. But there are also kind of emulating effects as well. Its interest coverage ratios in the corporate sector are quite low, quite manageable because of the low interest rates.

Banks are managing their pipeline risk pretty well. And most of the leveraged loans are not being held in the banking system, they're being held outside the banking system, and a very large chunk of those are being held in CLOs that have fairly stable funding structures. So, something we're watching very carefully as well.

We also pay quite a bit of attention to what's going on outside the banking system, we have a lot less control and meaningfully less visibility into what's going on outside the banking system. But we try to watch there too. And if you look at our financial stability report, you can see some of the things that we're watching there. Many of them are sort of eternal things to watch. Some of them are more conjunctural.

But we still pay close attention to money market mutual funds, they're pretty important player in our financial markets. They have been recrudescing over the last couple of years. Prime money funds are roughly doubled, their assets under management in the last few years. Money funds in general are up about a trillion in the last couple of years. So, we're watching those important players in the short term funding markets.

We're still also paying attention to loan and bond mutual funds, pretty significant amount of maturity transformation going on there. They're not growing like they had been five years ago but still something that we're going to watch.

CCP's is another thing that we're going to watch. Because of the Dodd Frank Act and other trends, a lot more activity is getting pushed to CCP's. A lot more financial activity. They have a pretty good track record of being safe and sound, but they're doing a lot more transactions and a lot of new transaction types that they weren't doing ten years ago, 50 years ago. We've done a lot to make them more resilient and resolvable, but we want to really make sure that we've made the maximally resilient, recoverable, resolvable, and that's going to be a continued focus for us and others.

We're going to also be taking a pretty close look at the repo markets. And I think we've dealt with the kind of proximate problem that arose in September, but we're going to do a pretty comprehensive postmortem and make sure that we've reduced the incidence and severity of any other kinds of dislocations that might come up in the repo markets. I'll stop there.

MR. WISEMAN: And when you get out of the banking system, if you decide there are issues, what do you do about it?

MR. VAN DER WEIDE: Yeah, we have much fewer tools to deal with those issues. We're not toolless, we have some tools. And we have more tools now than we did a decade ago. You know, some of the tools that we have many, many elements of the non-bank financial system, do rely on banks. And we do regulate banks. So, we do regulate the connections between regular banks and shadow banks. And we've tightened up in many ways the capital rules, the liquidity rules in the way banks connect themselves to non-banks. So, we have that tool.

The FSOC has a non-bank Sifi designation process that we can go out and get those individual systemically important non-banks and bring them inside the regulatory perimeter. We do have a little bit more, what I call prudential market regulation in place now, Title VII of Dodd Frank is one example of that.

We've got a decent amount of more transparency into what's going on in the shadow banking system. But it remains the case that our tools are relatively limited to constraints, some of the risks that are emerging outside of the banking system.

MR. WISEMAN: Others?

MR. GOULD: I guess one thing that I would add is just, when you think about certain activities, that pre-crisis may have been part of the traditional banking system ,like mortgage servicing, and over time it's kind of kind of migrated to the to the edge or if not outside. You know one of the things that I think we should, a question we should ask ourselves is are we making these -- is that intentional? Do we understand what we're doing? Are we making policy by accident?

If it's the latter, I think that should really concern us. I think there's a danger of injecting more and more regulatory complexity in the system. And the danger, of course, is that we no longer understand what we're doing. Luckily, there are a lot of smart people in the room. A lot of smart people in our agencies. But that is a danger. And so I think we should ask ourselves the question, always you know, is this the right policy? Do we understand? And are we intentionally making these policy decisions? Or is it a byproduct of other things that we're doing that have one or two primary goals, but they have these ancillary goals that we don't think about ahead of time.

I also think just generally, the regulatory complexity that we have now leads to opacity and obscurus accountability. You know, as a former Congressional staffer, it's extremely hard to penetrate what's going on, given all the regulations we have these days. You know, folks have raised concerns about, in the aggregate, how these things all interact.

Again, we have a lot of smart people in the agencies and in this room and at the the companies you work for, but it still as a challenge. So, I just think we should be cautious and be thoughtful that we are not doing things by accident, making policy decisions by accident, but are doing them intentionally and understanding what we're going to get into.

MR. PODSIADLY: From the FDIC perspective, one of the things that we've been doing to address sort of the ongoing market stability and review of resolution plans and large institutions, is the chairman earlier this year stood up a new division within the FDIC, sort of merging various functions among three different divisions that now focus on resolution activities of large institutions. So, the new Division of Complex Institution Supervision and Resolutions Focuses on bringing sort of a -- the arm of our previous resolutions and receivership team that focuses on large banks together with the large bank backup examiners, as well as some of the onsite supervisory functions that those folks have.

So, it kind of creates a more integrated approach for large institutions for us and gives us a broader view of those kind of, in the $100 billion dollar plus range. And so that's something we've been focusing on internally reorganizing and addressing.

MR. WISEMAN: Nick, could you talk a little bit about the proposal that you folks put out with the Fed on the use of CAMEL's ratings?

MR. PODSIADLY: Sure. You know, I think that the idea here was that CAMEL system was created in 1979-ish and updated periodically along the way, but hasn't seen an update in 25 years. And so kind of an opportune time to find out how the different institutions are finding the rating system working, whether there are issues that need to be addressed, whether there are discrepancies in any one of the individual metrics within the rating.

And so we decided to join up with the Fed and to go out and put some questions out to the marketplace and ask them what could be done better, what's working, what's not working, and take it in and then kind of think through it all.

MR. VAN DER WEIDE: Not a whole lot to add, very happy to partner with the FDIC to get some public input on this other kind of ancient rating system that we got put in place.

We took a look at our bank holding company rating system quite recently for the large people, large banks. And we changed it to the new LFI rating system. And we felt like a lot of regulatory changes, supervisory changes have been made since the financial crisis. And our, I don't know, 2002, 2003 rating system for holding companies, large bank holding companies was already out of date. So, we moved to a whole new rating system on the bank holding company side.

And we thought was time for at least a fresh look at the CAMEL system to see if there are some potential ways of improving it, achieving greater consistency across agencies, across banks. And also, if there are some elements of the rating system that can render more objective, predictable for the banking system, we're going to be open to fresh ideas there.

MR. WISEMAN: Somebody in the audience asked a very pointed question of Jonathan. Can he provide insight into why the OCC declined to join in that RFI?

MR. GOULD: Well we get the benefit of all the comments that people provide, so we didn't necessarily feel the need to join in on the process? I think there are also -- so we obviously get the benefit of it. But I think just given the nature of the fact that some of these things are CSI themselves, it makes the -- it can make the public comment dialogue more challenging, frankly.

And so but certainly welcome kind of discussions, one on one, if people have concerns about the system. But other than that, I mean we're probably going to look to the common set that folks provide and see if there are things we want to assess about the system that we currently use.

MR. WISEMAN: Mark, one of the participants in the audience would like you to share any further thoughts about what constitutes "low hanging fruit" in the vice chairman's upcoming fairness and supervision review.

MR. GOULD: I think I want the client to answer that question in a concrete way. Yeah, so there's just a lot of work I think we have yet to do on that side. We've been pretty advanced, and on the regulatory front, and have changed a lot of things to improve tailoring transparency, efficiency, simplicity.

But we're a little more in the early innings of kind of figuring out what changes to do on the supervisory side. We've done a few things already. The guidance on guidance, for example, and some of our work that we've done on making sure guidance is done right and issuing some changes to our rating systems. But you have to stay tuned I think for what more we're going to do on the supervision front. And whatever Mike Gibson said yesterday, my old boss you can go with that.

MR. WISEMAN: Okay, we're going to give you an opportunity to duck. So, another question for you, Mark, is what steps is a Fed taking to prepare for the well predicted upcoming year end turmoil in the markets that will occur, as G-Sibs engage in various actions to manage their balance sheets and to optimize against the BG’s surcharge?

MR. VAN DER WEIDE: So, we’re well aware of the historical track record of the performance of various different financial markets at month ends, quarter ends and year ends. And you certainly did see a pretty big spike in say the repo rates at year end in 2018. So, we’re well aware of what happened in the past, and are well of where what happened in mid-September, not even a month end, or a quarter end, or a year end.

So, we’ve already made some adjustments on the open market operations sides to provide stability to the short term funding markets. And I think we’re in a pretty good place on that. But something that we’re watching very carefully.

You know, we are as part of the comprehensive portion of the postmortem on the S&R side. In the wake of mid-September, you know one of the things that we’re going to take a harder look at is the -- our regulations that do only require compliance on month ends and quarter ends and year ends. And in the end, maybe we'll change nothing, but I think we do want to take a hard look at those sorts of regulations that do incentivize window dressing by banks, and there may be a better way to do some of those rags. And that's going to be on our list of things to take a look at.

MR. WISEMAN: Turning for the -- to the consumer side. One member of the audience notes that there appears to have been some confusion about whether or not the CFPB has exclusive authority to examine large banks for compliance with consumer protection statutes. Why are the Fed and the OCC examiner still conducting consumer compliance exams at large banks?

MR. VAN METER: Well I'm happy to take that. So, we have -- the Bureau has exclusive supervisory authority for large banks, and their affiliates, with respect to federal consumer financial laws. There are federal consumer protection laws in the financial services world that are not federal consumer financial laws. The most obvious one's to me, the ones that come up all the time, are the Fair Housing Act and the Federal Trade Commission Act.

The latter of which is like it's not only not listed as a federal consumer financial law, it's in the definition like specifically carved out. Like just in case somebody would read in the Federal Trade Commission Act into the definition of federal consumer financial law, you're told no, don't do that.

So, there's still actually quite a bit of authority that remains in the prudential regulators, visa vie large banks in the consumer protection space. And that's not even kidding into like --

MR. VAN DER WEIDE: SCRA.

MR. VAN METER: SCRA.

MR. VAN DER WEIDE: (Inaudible) Protection Act. Military Lending.

MR. VAN METER: Yeah there's a lot.

MR. VAN DER WEIDE: Compliance Management Systems, generally.

MR. VAN METER: Yeah. So, I think that's the answer.

MR. WISEMAN: Any comments?

MR. GOULD: What he said. That was pretty comprehensive.

MR. WISEMAN: I could go on with number of these pointed questions, but it's been pretty shilling for you folks. But the people in the audience want to actually raise some questions to their own? Straight up. Steve.

STEVE: So, this is for Mark. So, on October 22nd, the GAO sent a couple of letters to Senator Phillips and Senator Fraser and some others that talked about a couple of SR letters that they said were -- that they qualified as rules. And they've now been submitted to Congress under the CRA. Which of course means they never took effect. What is, in terms of the program that you're going to do with supervision, looking forward, when do the CRA's typically get submitted to Congress? When is -- is that going to be part of (inaudible)?

MR. VAN DER WEIDE: So, yes to the second question, or second point. So, we are still analyzing what to do on the Congressional Review Act in the wake of now a number of different GAO letters, on a number of different pieces of supervisory guidance of the Fed and other agencies.

Historically, we've not sent SR letters over to Congress. We've drawn a line between kind of EPA notice and comment rulemakings, and other forms of guidance. Those GAO letters disagreed ethically with our long standing traditional practice of dealing with SR letters and pieces of supervisory guidance.

It's a complex issue. The GAO is not under the law, the official interpreter of the statute, neither is the OMB. But we're still kind of thinking through what to do with those issues. It's an interagency analysis, and ideally we all kind of come to us as similar as possible conclusion around that. But the contemplation analysis continues.

MR. WISEMAN: Mark, I guess one question I have is, since your guidance on guidance documents suggests that the guidance isn't enforceable, what does it mean if, because of the CRA, it's not enforceable?

MR. VAN DER WEIDE: Yeah so that wasn't enforceable before the GAO letter and it remains not enforceable.

MR. WISEMAN: Others? People being very -- okay people being very shy, I'll have to go back to the anonymous list. Can we still expect SCB to be equitable for C-CAR 2020? The timing feels challenging for an NPR comment period and final rule issue.

MR. VAN DER WEIDE: Fortunately for me, my big boss, Jay Powell, recently, just a few days ago, last week in congressional testimony answered that question, and he said we're still working for it to be effective for C-CAR 2020.

MR. WISEMAN: Stephen, was the Payday Lending Rule intended to cover bank wealth management products like brokerage account margin loans, bridge financing for home purchases, et cetera? It seems questionable to think that it should. Is the CFPB willing to clarify the scope of application?

MR. VAN METER: So, we have our hands full with rescinding the mandatory underwriting provisions. And considering, we have got a -- as you can imagine a boatload of comments. Not as many as the millions of comments we got on the original proposal to install those mandatory underwriting provisions, but still a lot. And we have an ambitious timeline for doing that.

We have a petition for rulemaking, relating to the payments provisions, but until -- I mean I think it's just very hard to see where we would get the bandwidth to handle another set of issues and clarifying those. But I mean, to go to like the premise of the question. I mean the rule has a scope and the payment provisions. And I'm surprised that bank wealth management programs fit within them. But if they do like that's something that would be to be like reconsidered.

Some of the issues that we have been hearing about relating to debit cards, for example, those were very much explored in the initial rule. People are asking us to reconsider some of that. I honestly just don't remember to what extent the wealth management implications were delved into at the time.

MR. WISEMAN: Turning back to two payments system issues, one member of the audience Mark, wants to know who should have access to Fed Now? Is it going to be just banks? What about non-bank Fintech's without a bank charter, Amazon, Facebook, Google? And what is your thinking around the rules to access towards the system you're building?

MR. VAN DER WEIDE: I think the short and simple way to answer that is that Congress has pretty much more or less clarified who can have an account at the Fed, its depository institutions as defined in the Federal Reserve Act and we will follow that law.

MR. WISEMAN: Now, I am coming to a point where Nick, you're going to need some audience participation. And we have almost -- we have seven or eight minutes with people you don't get that much time with that often. So, you know.

SPEAKER: A question for Mark, that you were talking about the Basel III finalization. And I was curious if you could give -- shed any light on the thinking on FRTB in terms of timing or substance. And then also with the overall package, whether the Fed or the other agencies are thinking about how to sequence this or propose this all at once. So, there can be some holistic review of capital impact.

MR. PODSIADLY: Thank you for not calling it Basel four. So, we're still kind of in the early days of working interagency, FDIC, FED, OCC on figuring out how to implement the Basel three end game. We at the

Fed at least are quite committed to doing it in a capital neutral way. And to also do it in a very thoughtful, comprehensive way, where we don't kind of finalize various pieces without thinking about the whole, and its accurate impact on the banking system and individual banks.

Our capital neutrality objective by the way doesn't mean it's going to be capital neutral for every single bank that might be subject to the new rules. It's more of an aggregate assessment. But we are thinking through quite carefully every piece of that framework, FRTB, but also the credit risk and operational risk bits.

And I'm sure we'll go out for a round of comment in 2020, to get thoughts from the industry about how best to do that. But it is a pretty important -- it's kind of the last big piece of in the NSFR of the international reforms that we need to do. And we're going to try to do it in a very thoughtful way that I think improves the regulatory capital framework for internationally active banks in the U.S., but doesn't do it in a way that does any kind of a material raise or lowering of the capital calibration.

MR. WISEMAN: Seeing no other questions? Oh sorry, yes.

SPEAKER: I just -- a question for Mark. The board effective assignments for FDOIAC (inaudible) yet, but we're going to be subject to the new ratings that are coming up. Is there any guidance to be given to these examiners in their fields about (inaudible)?

MR. PODSIADLY: Correct me if I'm wrong, but I don't think the board effectiveness guidance for domestic firms has been issued either. Yeah not in final. So, that sort of fell a little bit towards the back burner toward 2019 as we jammed on the EGRR CPA stuff. But it's come back to the -- towards the front of the stove, and we are actively working on the board effectiveness piece at this point. I can't give you any clear vision of when we'll get that done either for the domestic firms or for the foreign firms, but it's something we're pretty actively working on.

You're right, it does create a little bit a complicated task for the examiners to assess board effectiveness when we don't have an outstanding piece of guidance for them to use in the process in a non-binding way. But --

MR. WISEMAN: Hurtful.

MR. PODSIADLY: -- we'll try to get that out as soon as we can. And we understand that there are other special issues, maybe special levels of higher uncertainty for the foreign bank IHC's, and we're committed to get that solved as soon as we can.

MR. WISEMAN: Now, we're down to about two minutes. Oh another question here.

SPEAKER: Yeah I just wanted to check if the capital plan rule is also planned to be released before C-CAR 2020 or if it's a later timing?

MR. VAN DER WEIDE: I can't answer that with any confidence. Sorry.

MR. WISEMAN: Do you have any closing remarks you'd like to make, Mark, on supervisory tailoring on how you see that as --?

MR. VAN DER WEIDE: Sure, briefly. So, really happy, proud, excited about our regulatory tailoring project that we did at the FJC and the OCC last year. So, but there is kind of a natural follow on project to that, which is to, and this will be part of our broader kind of tone of supervision project in the coming years, to try to make sure that our supervisory assessments and programs sync up quite nicely with our new regulatory tailoring category.

So, that will be a major part of our work in the coming year. And we will certainly do that because we do want them to be synchronized as intelligently as possible.

MR. WISEMAN: Will that be done in 2020?

MR. VAN DER WEIDE: As soon as we can, subject to the process.

MR. WISEMAN: How does as soon as we can come to soon as we do the other.

MR. VAN DER WEIDE: I'd love to tell you that.

MR. WISEMAN: I'd like to thank you all for coming and participating today. It's been a great panel. And it's a privilege to have you all together. (Applause)

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CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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