CLIFFORD CHANCE

Client memorandum

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# Federal Reserve Board Adopts Final Rule Implementing Enhanced Prudential Standards for US Operations of Non-US Banks

On February 18, 2014, the Federal Reserve Board approved the publication of a final rule – available here – implementing certain of the enhanced prudential standards required for large US bank holding companies and non-US banks ("foreign banking organizations" or "FBOs") under Section 165 of the Dodd-Frank Act. The final rule establishes a US intermediate holding company ("IHC") requirement for FBOs with $50 billion or more in US non-branch assets and imposes enhanced risk-based and leverage capital requirements and enhanced liquidity risk management, stress test and buffer requirements on all FBOs with consolidated worldwide assets of $50 billion or more. In addition, the final rule establishes capital stress test requirements for FBOs with consolidated worldwide assets of $10 billion or more and US risk committee requirements for FBOs meeting the $10 billion threshold that are publicly traded. Foreign banking organizations will be subject to the requirements of the final rule beginning on July 1, 2016.

The treatment of FBOs under the final rule differs from the Federal Reserve Board's December 2012 proposed rule (which we discussed in a client memorandum available here) in several important respects.

- The threshold at which FBOs must establish an IHC has been increased from $10 billion to $50 billion in US non-branch assets.
- IHCs remain subject to the same capital adequacy standards as US bank holding companies, but an IHC is not required to comply with the advanced approaches risk-based capital rules, even if it meets the thresholds at which the advanced approaches rules would apply to a US bank holding company.

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- The initial compliance date for FBOs has been extended by one year, from July 1, 2015 to July 1, 2016. An FBO with $50 billion or more in US non-branch assets has until January 1, 2015 to submit an implementation plan outlining its proposed steps to comply with the IHC requirement.
- Application of leverage capital requirements to IHCs has been delayed until January 1, 2018.
- The liquidity buffer required for the US branch and agency network of FBOs with combined US assets of $50 billion or more has been reduced from 30 days to 14 days of projected net stressed cash-flow need.

In addition, the Federal Reserve Board has postponed the adoption of final rules for FBOs regarding early remediation under Section 166 of the Dodd-Frank Act and regarding single counterparty credit limits.

At more than 400 pages, the final rule is complexly detailed and calls for careful study and evaluation. The following chart summarizes the enhanced prudential standards for foreign banking organizations and the thresholds at which the various requirements are applicable.

## Enhanced Prudential Standards for US Operations of Foreign Banking Organizations – Final Rule