Conclusion of the EFMLG Task Force on US Intermediate Holdco Regulation

In summary, having reviewed the final rule, the discussion on this topic suggested that whilst this area continues to be of significant interest to EFMLG members, and should be monitored by the group, the areas of risk and uncertainty inherent in the proposal are not at this stage primarily of a legal nature, so it would not be appropriate for the EFMLG to take a public stance with the Commission or others at this stage. It may nevertheless be appropriate for concerns on the impact of the final rule on international regulation to be discussed in appropriate contexts in the forthcoming US Quadrilateral Meeting.

Background

Most large financial institutions and market commentators have been supportive of the broad policy positions around US structural reform and resolution planning. However, a number of concerns had been raised around the likely effect of the final rule ahead of its publication, in particular as it impacts on FBOs. Among the concerns raised last year were:

- The rigidity of the IHC framework could lead to a fragmented global financial system, as it tends to suggest a more interventionist approach from US authorities and less reliance on home country supervisors.
- It is arguable that the IHC framework fails to take full account of improvements in the regulatory supervision of risk management in FBOs, FBO parental support or co-operation between regulators who apply home country standards of supervision to FBOs; in this way the rule could fail to incentivise global regulatory convergence, and impose restructuring costs on FBOs' US operations which are not accurately related to risk.
- A "one size fits all" approach fails to recognise the benefits of having a diversity of business models involved globally but specifically in the US market. If the application of leverage ratios makes certain businesses uneconomic for FBOs, they may either be pushed towards riskier business or withdraw from markets, concentrating risk in the hands of a smaller number of market participants. This capacity withdrawal could affect repo market participants in particular, leading to reduced liquidity and shock absorbance in times of market stress.

Recent comment

The largest banks including FBOs are assessing their forthcoming obligations against the requirements of the Final Rule. In a speech on May 8 Governor Dan Tarullo of the Fed suggested that continued thought was being given to the parameters of regulation as it applies to US banks. He suggested that the full requirements of Dodd Frank Rule 165 arguably only needed to apply to institutions with $100bn (rather than $50bn) of assets, and considered a number of related issues on regulation. FBOs were not directly covered but will read these remarks closely. Other regulators such as the Bank of England have commented on the danger of fragmenting global regulation.

Papers shared within the group:

Governor Tarullo May 8th 2014 speech on DF 165:

http://www.federalreserve.gov/newsevents/speech/tarullo20140508a.htm

2013 Barclays comment letter on DF165:

Barclays Section
165 Comment L...