

REGULATION RISK READY

POST CREDIT-CRISIS RISK MITIGATION

Across industries and issues, the demands of regulators are ever increasing — perhaps none more than those aimed at the financial institutions (FIs) at the center of our economy. FIs saw the spotlight increase following the 2008 credit crisis, a trend that is expected to continue as regulators continue to expand responsibilities and fine tune longstanding rules. Among the sectors facing a high level of scrutiny are:

- Banking and capital markets.
- Asset management.
- Alternative asset management.
- The insurance industry.

Successfully navigating this landscape — both in the US and internationally — requires an in-depth understanding of regulatory demands and proven insurance and risk management strategies to address them. The following is an overview of the top regulation risks facing the banking and capital markets sector.

BANKING AND CAPITAL MARKETS

1. **CONSUMER ISSUES:** The Consumer Financial Protection Bureau (CFPB) collects data on consumer complaints, writes new rules, monitors financial markets, enforces laws, and administers fines to keep discrimination out of the system.

What to Watch for: The CFPB continues to take strong positions in rulemaking and enforcement actions, with an eye toward things like discriminatory and predatory lending as well as risk mitigation practices. Banks are likely to see increased compliance risk — and cost — to meet CFPB expectations.

2. **MONEY LAUNDERING COMPLIANCE:** The Bank Secrecy Act of 1970 (BSA) requires financial institutions in the US to assist US government agencies in detecting and preventing money laundering.

What to Watch for: The Act allows individual liability for violations of the requirement to maintain an effective anti-money laundering (AML) program. The chief compliance officer (CCO) can face civil and criminal fines and penalties if found guilty; if the negligence is found to be willful, the punishment can include imprisonment.

3. **STRESS TESTING AND CAPITAL PLANNING:** The Federal Reserve Board's Comprehensive Capital Analysis and Review (CCAR) uses stress testing and capital-planning exercises to assess whether banking organizations with assets greater than \$10 billion have sufficient capital to continue operations throughout times of economic and financial stress.

What to Watch for: These exercises have become part of everyday operations, but constitute an ongoing challenge. Effective capital-planning and stress testing requires an institution to combine and coordinate many business lines and functional areas toward the goal of creating a capital plan. This process can significantly influence key decisions and business strategies.

4. **RECOVERY AND RESOLUTION PLANNING:** The Dodd-Frank Act gave the Federal Deposit Insurance Corp. (FDIC) and the Federal Reserve



authority to review resolution plans, often called living wills. These are submitted by systemically important financial institutions and lay out their plans for rapid and orderly resolution in the event of material financial distress or failure of the company.

What to Watch for: Living wills are a key concern, especially for top US banks — all of which had to return to the drawing board after submitting their 2015 plans. If regulators find living wills to be unsatisfactory, it could result in higher capital requirements and restrictions on growth or activities.

5. **CYBER SECURITY:** The FDIC, Securities and Exchange Commission (SEC), Federal Communication Commission (FCC), Federal Trade Commission (FTC), and New York State Department of Financial Services have made repeated statements about the importance of in-house network and data security for banks, and for their ability to monitor the protections in place for their third-party service providers/vendors.

What to Watch for: Banks will need to continue implementation of new and better security measures and monitor vulnerable access points for potential breaches. State and federal regulators' unrelenting focus on cyber security and cyber insurance underscores its importance, both as a risk management tool and as a signal of regulatory compliance.

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