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Risk Panel, Lloyds Capital, Pharma Overtime: Compliance

By Carla Main - Jun 19, 2012 8:20 AM ET

U.S. financial regulators should speed up designation of systemically important nonbank firms to bolster efforts to prevent a repeat of the 2008 credit crisis, according to members of the newly formed Systemic Risk Council.

The council, a group of former regulators, lawmakers and business leaders holding an inaugural meeting in Washington yesterday, was formed to counter industry lobbying that members say may undermine Dodd-Frank Act measures enacted in response to a collapse that led to U.S. bailouts for the biggest banks and nonbank companies including American International Group Inc. (AIG)

The panel is led by former Chairman Sheila Bair of the Federal Deposit Insurance Corp. Bair, now a senior adviser to Washington-based Pew Charitable Trusts, said in an interview that while the panel is not anti-industry, "it's independent of the industry."

Council members, who have criticized delays in Dodd-Frank implementation, plan to monitor the regulatory overhaul and identify systemic risks to U.S. financial markets. They will provide commentary on, and release reports to, the Financial Stability Oversight Council and the Treasury Department's Office of Financial Research, both created by Dodd-Frank.

The group's members also include former U.S. Treasury Secretary Paul O'Neill; John S. Reed, former co-chairman and co- chief executive officer of Citigroup Inc. (C); and Brooksley Born, former chairman of the U.S. Commodity Futures Trading Commission. Former Federal Reserve Chairman Paul Volcker will serve as the council's senior adviser.

Compliance Policy

EU Bonus Curbs Won't Be Weakened by Lawmakers, Lamberts Says

European Union lawmakers rejected an attempt by national governments to water down a planned cap on banker bonuses as part of negotiations on a Basel capital law.

Political groups spurned a compromise proposal by Denmark, which holds the presidency of the EU, to cap bonuses at two or even three times a banker's fixed pay, with a loophole that would allow even larger bonuses approved by shareholders, said Philippe Lamberts, a Belgian member of the EU Parliament. The offer was made during meetings on the draft law, which must be approved by governments and the assembly.

Public outrage and shareholder rebellions have forced some banks, such as Barclays Plc (BARC) and Citigroup Inc., to retreat from their initial pay plans. Lawmakers and national governments adopted competing proposals last month to implement financial regulation rules, with the parliament seeking a one-to-one ratio on bonuses to pay, and the 27 nations not including any pay standards.

Preben Aamann, a spokesman for the Danish presidency, declined to comment on the negotiations on the draft law.

EU Isn't Considering Full-Fledged Spain Bailout, Official Says

The European Union isn't considering a full-fledged economic bailout for Spain and remains focused on a more limited banking-sector rescue, an EU official said.

Spain this month became the fourth euro member to seek a bailout since the start of the region's debt crisis more than two years ago, with a request for as much as 100 billion euros ($126 billion) to rescue its banks.

Prime Minister Mariano Rajoy characterized the deal as a credit line for banks and an endorsement of his policies.

Spain hasn't submitted a formal request for the bank rescue, the official said yesterday on condition of anonymity because the talks aren't completed.

The details of the proposed bailout will take shape after the June 21 conclusion of independent reviews of Spain's banks.

Compliance Action

U.K. Bankers Face Bans as FSA Wields 'Weapon of Last Resort'

London bankers are increasingly being banned for life for breaking market abuse rules by a regulator that is trying to burnish its image as a tougher watchdog.

The Financial Services Authority banned 71 people from the banking and mortgage industries in the year that ended in April 2011. That compares with 56 the previous year and only four in 2003. The FSA will put out the latest figures in a report to be published today.

The use of stricter penalties comes as bankers remain pressured by forces stemming from the financial and sovereign debt crises. European lawmakers have introduced legislation to cap bonuses, and employment in the London financial industry may fall to its lowest levels in 16 years.

The FSA, which will be split into two separate regulators at the end of this year, was heavily criticized by lawmakers following the 2008 financial crisis for failing to crack down on wrongdoing, including insider trading. Its “light-touch” regulation model during the boom times was widely blamed for allowing banks to take unnecessary risks.

Getting around the bans generally requires moving to another country outside the FSA’s jurisdiction.

For more, click here.

AIJ’s Asakawa Among Four Arrested for Suspected Fraud in Japan

AIJ Investment Advisors Co. President Kazuhiko Asakawa, who acknowledged hiding losses on pension money his firm managed, was among four people arrested on suspicion of fraud today by Tokyo police.

AIJ director Shigeko Takahashi, head of brokerage firm ITM Securities Co. Hideaki Nishimura and ITM official Koichi Kosuge were also detained, a Tokyo Metropolitan Police Department spokeswoman said on condition of anonymity, citing police policy. They allegedly defrauded pension funds in Tokyo and Nagano Prefecture of about 7 billion yen ($89 million), the person said.

Japanese regulators said in March that Asakawa hid trading losses by fabricating reports to attract pensions, a scandal that raised concerns about the safety of retirement assets in the world’s fastest aging nation. The SESC said today that it conducted a fresh investigation into fraud by Asakawa and Takahashi.

Two phone calls to AIJ’s office in Tokyo’s Nihonbashi district today were directed to an automated recording that didn’t take messages. A call made to ITM’s office in the same building went unanswered.

Asakawa said in parliamentary testimony in April that he never intended to lie to his Japanese clients. Nishimura, president of ITM, told the Diet on April 13 that he was ordered by Asakawa to hand the reports on net asset values of the Cayman Island-based funds without checking the content.

For more, click here.

SMBC Nikko Told to Pay 200M Yen Penalty by Brokerage Association

Sumitomo Mitsui Financial Group Inc. (8316)'s brokerage unit was told to pay 200 million yen as a penalty to the Japan Securities Dealers Association, the regulatory organization said in a statement on its website. The decision was based on organization rules, according to the statement.

The penalty follows the business improvement order from Japan's Financial Services Agency issued on April 20. The agency's investigation unit found 23 sales staff at the brokerage disclosed information to clients ahead of the announcement of an unidentified company's equity offering. SMBC Nikko was ordered by the Financial Services Agency to improve compliance and internal controls after the breach.

Siemens Settles EU Probe With Areva Over Nuclear Joint Venture

Siemens AG (SIE) and Areva SA settled an antitrust probe with European Union regulators after cutting back a non-compete deal over a nuclear-reactor joint venture.

The European Commission is satisfied with the companies' offer to reduce a non-compete clause to three years, dating from Areva's 2009 acquisition of sole control of the joint venture Areva NP and to drop the non-compete clause for products not related to the civil nuclear technology. The EU antitrust regulator opened the investigation in 2010.

Siemens and Areva can be fined up to 10 percent of their yearly revenue if they violate today's settlement.

Siemens has said that the offer won't result in any payments by Siemens or financial obligations. Siemens decided to end its involvement in nuclear technology after the Fukushima disaster in Japan last year.

Lloyds Should Boost Capital With Debt Exchange, Hohn Says

Lloyds Banking Group Plc (LLOY), Britain's second biggest publicly owned lender, should boost capital by exchanging some of its debt securities for common equity, the hedge fund Children's Investment Fund Management LLP said.

Lloyds's Enhanced Capital Notes shouldn't count toward core capital because the threshold at which they convert into equity is too low, Christopher Hohn, managing partner of London-based TCI, wrote in a June 14 letter to Andrew Bailey, a copy of which was obtained by Bloomberg News.

Bailey is the head of U.K. banking supervision at the Financial Services Authority. The U.K. owns about 40 percent of the London-based lender.

Lloyds would have to suffer “a 20 billion-pound ($31 billion) post-tax loss” before the FSA could force the company to issue equity, Hohn wrote. The fund called on the regulator to disallow the ECNs or risk damaging the FSA’s reputation and the economy by allowing an “under-capitalized U.K. banking system to remain unchallenged and uncorrected.”

TCI successfully pushed in 2007 for the breakup of ABN Amro Holding NV, sparking the biggest takeover battle in the financial-services industry.

A Lloyds spokeswoman, Nicole Sharp, declined to comment on the contents of the letter. Officials at TCI declined to comment on the firm’s interests in Lloyds.

For more, click here.

Separately, Lloyds Banking Group, of which the government owns 40 percent, may float its 632 U.K. branches as an independent bank, the London-based Times reported.

Prospects of a sale of the business, called Verde, to the Co-operative Group Ltd. are fading, as some Co-op board members feel the purchase would be too risky, the newspaper said. Unless there’s a breakthrough in talks in the next few days, Lloyds is likely to go ahead with plans for an initial public share offering next year, the Times said.

Courts

Drugmakers Don’t Owe Sales Force Overtime, High Court Says

Drugmakers don’t have to pay overtime to their sales representatives, the U.S. Supreme Court ruled in a decision that saves the industry billions of dollars and marks a defeat for the Obama administration.

The justices, voting 5-4 in a case involving a GlaxoSmithKline Plc unit, said pharmaceutical salespeople are exempt from a federal wage-and-hour law. More than a dozen wage- and-hour cases had been filed against drugmakers -- including Johnson & Johnson (JNJ), Bristol-Myers Squibb Co. (BMY) and units of Novartis AG (NVS) and Merck & Co. (MRK) -- by workers charged with persuading doctors to prescribe the company’s products. Business groups said billions of dollars were at stake.

The Obama administration threw its support behind the sales representatives in a 2009 court filing. The administration said the exemption in the Fair Labor Standards Act for "outside salesmen" doesn't apply to drug-industry representatives.

The court yesterday said that position wasn't entitled to any special deference because the Labor Department laid out its views in court papers rather than through a formal rulemaking proceeding.

The case split the court along ideological lines. Justice Samuel Alito wrote the majority opinion, joined by Chief Justice John Roberts and justices Antonin Scalia, Anthony Kennedy and Clarence Thomas.

The suit, which sought class action status, targeted GlaxoSmithKline LLC, a U.S. unit of the London-based drugmaker.

The case is Christopher v. SmithKline Beecham, 11-204.

Morgan Stanley May Settle Sisters of Charity U.K. Bond Lawsuit

Morgan Stanley (MS) is close to a settlement with two groups of nuns, an Irish charity for veterinarians and 129 private investors who say they lost $20 million in a bond sale.

Andrew Sutcliffe, a lawyer representing the private investors, told a U.K. court yesterday that a settlement is close to being reached by Irish investors who said the investment bank failed to sell notes soon enough after they were downgraded. No figures were discussed at the court hearing in London.

The Sisters of Charity of Jesus and Mary, the Holy Faith Sisters, the Irish Veterinary Benevolent Fund and individual investors in 2010 sued Morgan Stanley and Saturns Investments Europe Plc, a special-purpose vehicle set up by the New York- based bank.

The investors bought the notes through the Irish brokerage firm Bloxham, which has since been liquidated, in 2005, according to documents filed at the U.K. high court. Morgan Stanley and Saturns waited until June 2009, after the price of the underlying bonds had risen significantly, to redeem the notes, the investors said.

Alon Riza, a spokesman for Stewarts Law LLP which represents the 132 investors, didn't immediately respond to requests for comment. Michael Wang, a spokesman for Morgan Stanley in London, declined to comment.

The case is The Sisters of Charity of Jesus and Mary v. Morgan Stanley & Co, 10/960, High Court of Justice, Queen's Bench Division (London).

Cioffi, Tannin Settlement With SEC Approved by U.S. Judge

A $1.05 million settlement between former Bear Stearns Cos. hedge-fund managers Ralph Cioffi and Matthew Tannin and the U.S. Securities and Exchange Commission was approved by a U.S. judge in Brooklyn, New York.

Cioffi agreed to pay $800,000 to settle the suit and Tannin agreed to pay $250,000.

In November 2009, a federal jury in Brooklyn acquitted Cioffi and Tannin of conspiracy and securities and wire fraud in the first criminal trial stemming from a federal probe of the collapse of the subprime-mortgage market. The men managed two hedge funds that filed for bankruptcy in July 2007.

The SEC filed a related civil suit alleging the two men misled investors about the funds' deepening financial troubles and their own holdings in the investment pools.

Edward Little, Cioffi's lawyer in the SEC case, said he was pleased with the accord in which neither Cioffi or Tannin admits or denies the allegations.

Susan Brune, Tannin's lawyer, said in a statement, "With the swift jury verdict of acquittal in the criminal case and now this SEC settlement, Mr. Tannin is pleased to have resolved these matters."

John Nestor, a spokesman for the SEC, didn't return a voice-mail message seeking comment on the judge's approval of the settlement.

The case is Securities and Exchange Commission v. Cioffi, 08-cv-2457, U.S. District Court, Eastern District of New York (Brooklyn).

Interviews/Hearings

Dimon Faces 'Harsher and Crazier' House Crowd in Second Round

Jamie Dimon won't get off as easy at his second congressional hearing this month when he tries to explain how JPMorgan Chase & Co. (JPM) lost at least $2 billion on trades that he has said "violated common sense."

The U.S. House Financial Services Committee will be a tougher audience for Dimon when he testifies today after members of the Senate Banking Committee spent much of their June 13 hearing complimenting the chief executive officer or asking his advice on financial law, banking analysts said.

The House hearing will take more time and won't be nearly as controlled as Dimon faces more than 60 lawmakers, most of whom are up for re-election in November and motivated to capture local headlines, said Mark Calabria, director of financial regulation studies at the Cato Institute and a former senior aide to the Senate Banking Committee. Calabria predicted the questions will be "harsher and crazier" to attract more press coverage, noting the House always has "a bit more wildness to it."

Dimon is also speaking on the second panel, following testimony from regulators including Securities and Exchange Commissioner Mary Schapiro and Comptroller of the Currency Thomas Curry. He faces Democrats who have pressed for tighter regulations on Wall Street's largest firms, including the co-author of the 2010 Dodd-Frank Act. Lawmakers who have called to shrink or break up the largest financial institutions are also on the roster.

For more, click here.

Separately, Dimon, in prepared testimony for House hearing today on JPMorgan, said the synthetic credit portfolio morphed into something that created new, possibly larger risks than it was meant to offset.

"As a result, we have let a lot of people down, and we are sorry for it," he said.

Testimony for the House Financial Services Committee hearing was the same as Dimon's prepared remarks last week before Senate Banking Committee hearing.

Dimon, U.S. Securities and Exchange Commission Chairman Mary Schapiro and other regulatory chiefs are expected to testify today.

The SEC is still reviewing causes and implications of JPMorgan's trading losses, Chairman Mary Schapiro said in prepared remarks for today's hearing.

"Once we have a fuller understanding of these issues, we will be in a better position to determine whether additional regulatory or legislative action is appropriate," Schapiro said in the prepared remarks.

While the SEC doesn't discuss investigations publicly, the agency's main focus relates to "appropriateness and completeness" of the bank's financial reporting, other public disclosures, financial accounting, and internal control over reporting, she said.

London's Status as Financial Center Under Threat, Sants Tells FT

London's role as an international financial center is at risk because business models aren't responding quickly enough to a new political and regulatory reality, Hector Sants, the outgoing Financial Services Authority chief executive officer told the Financial Times in an interview.

Sants cautioned that banks, brokers and insurers all require “radical re-engineering” in the next five years to reflect changes in savings patterns, the movement of growth to emerging markets and stricter rules on in areas such as capital and liquidity, according to the FT.

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