MARSH

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 insurance sector.

THE INSURANCE INDUSTRY

1. **CAPITAL AND SOLVENCY REQUIREMENTS IN THE EU AND US:** The EU's Solvency II Directive came into effect in January 2016. It requires insurers to hold strong capital levels to reduce the risk of insolvency. In the US, the National Association of Insurance Commissions (NAIC) launched its Solvency Modernization Initiative in 2008, following the onset of the financial crisis. As part of this process, starting in 2015, most medium and large insurers were required to submit an Own Risk Solvency Assessment (ORSA), which is an internal review of the company's risk management and its current and prospective solvency positons under various stress scenarios.

   What to Watch for: Unintended consequences and the ability to keep up. One concern of insurers in the EU is that the new rules will undermine economic growth and stability across Europe by increasing the costs associated with making long-term investments and providing attractive returns to policyholders. Similarly, insurers may be forced to reduce historical dividend payments to their shareholders in order to maintain the required solvency ratios. In the US, the heightened transparency and disclosure around solvency may lead to additional regulatory scrutiny and more aggressive action by the various state insurance regulators.

2. **STANDARD OF CARE:** The US Department of Labor (DOL) released the final version of its highly anticipated Conflict of Interest Rule in April 2016. The rule essentially expands to whom the definition of "fiduciary" applies and addresses the fees or compensation paid by investors in connection with the investments in their IRA, 401(k), and other retirement related accounts. The new rule is slated to take effect in April 2017.

   What to Watch for: The rule potentially impacts any firm that owns an asset manager or broker-dealer. The insurance industry is directly impacted by the specific inclusion of the sale of variable annuities as a transaction that would warrant a fiduciary obligation. Some have speculated that the rule will greatly impact firms' profitability and that it will lead to more mergers and acquisitions. It may also require significant compliance training for companies' sales forces.

3. **SIFI CONCERN:** The term systemically important financial institution (SIFI) came out of the US Dodd-Frank Act in the wake of the financial crisis. It identifies institutions whose failure could trigger another financial downturn. The Financial Stability Board (FSB) designation comes with heightened oversight from federal regulators.

   What to Watch for: Continued use of the SIFI designation, which means further federal oversight for the nation's largest financial institutions. In some cases, lawsuits are being filed to remove the label and avoid what is seen as onerous regulation. Even for companies that are not designated as SIFIs, there is concern that regulators may block potentially beneficial mergers and acquisitions based on antitrust grounds, particularly in the life and health space.