



# 2016 Delaware Trust Conference

## Songs in the Key of Wealth

October 25<sup>th</sup> & 26<sup>th</sup>

Chase Center on the Riverfront, Wilmington, Delaware



2016  
Delaware  
Trust  
Conference

Songs  
in the  
Key of  
Wealth

Wednesday, October 26  
Session Number 1

“Hot, Hot, Hot!” – Regulatory Hot Topics for 2016

Panelists:

Phoebe Papageorgiou – American Bankers Association

David Chaves – Federal Bureau of Investigation

Lisa W. Collison – Office of the Delaware State  
Bank Commissioner

Moderator:

Mark V. Purpura, Esq. - Richards, Layton & Finger, P.A.

# Regulatory Hot Topics for 2016

2016 Delaware Trust Conference  
Wednesday, October 26<sup>th</sup>

Phoebe Papageorgiou  
American Bankers Association

# FinCEN Customer Due Diligence Rule

- FIs must identify and verify identity of beneficial owners of legal entity customers
- Beneficial owner: individual(s) with  $\geq 25\%$  equity interest in or single individual with controlling/managing authority over legal entity
- Legal entity: corporations, LLCs, partnerships, business trusts. Excludes trusts, financial institutions, publicly-traded companies, governmental entities
- Compliance date: May 11, 2018

# FinCEN Proposal for Trust Companies

- FinCEN proposes to subject Financial institutions that lack a “federal functional regulator” to meet minimum standards for AML programs, CIP, and CDD
- Majority of state banking regulators (including DE) require their uninsured trust companies to comply with FinCEN’s BSA/AML and CIP rules, even though not mandated by FinCEN itself
- Need for staggered transitional period

# OCC Part 9 Proposed Amendments

- 9.13: *Custody of Fiduciary Assets*
- 9.18: *Collective Investment Funds*
- 9.8 & Part 12: *Electronic Recordkeeping and Communications*
- ABA's 2014 Comments on Part 9

# OCC Proposal for Receivership of NTCs

- Proposed rules address OCC's receivership of failed uninsured national banks
- Currently, all uninsured national banks are limited purpose trust companies
- The proposal generally addresses:
  - Appointment of a receiver
  - Handling and priority of claims against the bank
  - Powers, duties and administrative expenses of the receiver
  - Disposition of fiduciary and custodial assets

# Other Developments

- OCC Semiannual Risk Perspective
  - Fiduciary & custody account investments in MMFs
  - Low interest rate environment and asset managers
- FSOC and FSB Reports on Asset Management Risks
- Focus on preventing elder financial abuse
  - Administration and Congress
  - Consumer Financial Protection Bureau
  - FINRA



# Changing Fiduciary Boundaries

## DOL Final Rule on Fiduciary Definition

- Differentiating between investment education v. advice
- Referrals to and from the bank
- Rollover discussions

Meanwhile, SEC still considering a uniform standard of care for broker-dealers and registered investment advisers

# SEC: Money Market Fund Final Rule

Type	NAV	Permissible Investors	Liquidity Fees & Redemption Rules Apply?
Government Funds	Stable	All	Permissible, not required
Retail Prime Funds (10/14/16)	Stable	“Retail Investors”	Yes
Institutional Prime Funds (10/14/16)	Floating	All	Yes

# SEC: Money Market Fund Final Rule

- Omnibus Investments in Retail MMMFs
- Retail or Institutional Investors?
  - Irrevocable and Revocable Trusts
  - Estates
  - Defined Benefit Plans
  - Defined Contribution Plans
  - Investment Management Accounts
- 2016 OCC Guidance

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# Regulatory Hot Topics for 2016: OSBC Perspective

Lisa W. Collison  
Review Examiner

David Chaves  
Special Agent  
White Collar Coordinator  
Federal Bureau of Investigation



Office of the State Bank  
Commissioner

# Regulatory Hot Topics for 2016: OSBC Perspective

Lisa W. Collison  
Review Examiner

# Overview





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# Overview

- Non-deposit and Limited Purpose Trust Companies
- Total Assets Under Management and Non-Managed Assets
- Examination Staff
- Examination Process

# Delaware Code



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# Delaware Code

- Title 5 Banking
  - Chapters 7, 9, and 11
  
- Title 12 Decedents' Estates and Fiduciary Relations
  - Chapters 33, 35, and 38
  
- Title 31 Welfare
  - Chapter 39

**BSA/AML  
COMPLIANCE**



## ➤ BSA/AML COMPLIANCE

- ❖ Requirements for Nonbank Financial Institutions in Delaware
- ❖ FinCEN Customer Due Diligence Rule

# Cybersecurity



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# Cybersecurity

## ➤ CYBERSECURITY FUNCTIONS

❖ IDENTIFY

❖ PROTECT

❖ DETECT

❖ RESPOND

❖ RECOVER

# **Risk Committees**





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# Risk Committees

- Risk Management Committees
  - ❖ Requirements for Nonbank Financial Institutions
  - ❖ Roles / Duties



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