

# Banking Regulators Increasingly Assert Jurisdiction Beyond Financial Institutions

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Federal and state banking regulators have broad and largely discretionary supervisory and enforcement powers over the financial institutions they regulate, which include banks and their affiliates. Key regulators in this area include the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Consumer Financial Protection Bureau and state banking authorities, such as the New York State Department of Financial Services. Over the past several years, these regulators have increasingly applied their examination and enforcement powers to companies that do business with regulated financial institutions. Targets have included technology and other service providers, consultants, law firms and marketing companies. We expect this trend to continue in 2016.

Banking regulators employ a number of tools to examine or bring enforcement action against otherwise unregulated service providers and business partners of regulated financial institutions. Regulators have asserted direct jurisdiction based on provisions in several old and new statutes, including the Bank Service Company Act; the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and Title X of the Dodd-Frank Act. Regulators also have leveraged their substantial direct power over banks as a tool to oversee the companies that do business with them. For example, banking regulators have issued guidance on third-party relationships that directs banks to include certain provisions in their contracts with service providers, including that the banking regulator may access and examine the service provider's conduct of activities for the bank.

The bank regulatory regime has become, and will remain, an important consideration for companies that enter into service contracts and other business partnerships with regulated financial institutions.

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