In 2013, substantial progress was made with respect to Basel III implementation in the United States. In June 2012, the banking agencies published three regulatory capital proposals to implement the Basel III capital regime in the United States. These proposals were met with significant opposition on a number of different fronts. In July 2013, the banking agencies finalized these proposals. The banking agencies also proposed a supplemental leverage ratio. In October 2013, the banking agencies published a proposal to implement the liquidity coverage ratio.

Regulators have noted that they intend to propose a long-term debt requirement at the bank holding company level in order to facilitate the single-point-of-entry orderly liquidation authority process contemplated by Title II of the Dodd-Frank Act. In addition, regulators continue to express concerns regarding continued reliance on short-term wholesale funding, as well as concerns regarding encumbrance levels at U.S. banks.

Led by the U.S. Federal Reserve Board on July 2, 2013, the three U.S. federal banking agencies approved a broad and comprehensive revision of the regulatory capital rules applicable to all U.S. banks and bank holding companies (except those with less than $500 million in total consolidated assets). The new rules are intended to replace existing Basel I-based capital requirements, implement the Basel III capital standards and comply with certain requirements under the Dodd-Frank Act, including the Collins Amendment provision and the requirement that all references to external credit ratings be removed from federal agencies’ regulations and replaced with new standards of creditworthiness (Section 939A). The effectiveness of the new rules will be phased in according to different start dates, ranging from January 1, 2014 to January 1, 2019, and different phase-in periods, ranging from two years to nine years. The new rules consist of the following:

- The Basel III Capital Rule introduces the Basel III standards for the components of, adjustments to and deductions from regulatory capital (the numerator in risk-based capital and leverage ratios), as well as the new minimum ratios under the prompt corrective action framework. The Basel III Capital Rule, among other things:
  - subjects U.S. banks and bank holding companies to the following minimum regulatory capital requirements: a common equity Tier 1 capital ratio of 4.5% (newly introduced requirement), a Tier 1 capital ratio of 6% (increased from the current 4%), a total capital ratio of 8% of total risk-weighted assets (unchanged from the current requirement), a Tier 1 leverage ratio of 4% and, for those U.S. banks and bank holding companies subject to the Advanced Approaches Rule, an additional leverage ratio of Tier 1 capital to total leverage exposure of 3%; and
  - introduces regulatory capital buffers above the minimum common equity Tier 1 ratio, including a capital conservation buffer of a further 2.5% of common equity Tier 1 capital to risk-weighted assets and, for those U.S. banks and bank holding companies subject to the Advanced Approaches Rule, a countercyclical buffer of up to 2.5% of common equity Tier 1 capital to risk-weighted assets that may be deployed as an extension of the capital conservation buffer.

- The Basel III Capital Rule does not include instruments classified as liabilities in additional Tier 1 capital, even with a going-concern loss-absorption feature. As a result, contingent capital instruments with a conversion feature will not qualify for Tier 1 treatment in the U.S. because it will be increasingly difficult, if not impossible, to obtain debt accounting treatment for Tier 1 instruments once the Basel III requirements are fully implemented. Further, the Basel III Capital Rule also does not specify a minimum capital ratio trigger point (the European proposals specify as a trigger a common equity Tier 1 capital ratio of 5.125%).

- The Standardized Approach Rule generally introduces a modified version of the Basel II standardized approach for calculating risk-weighted assets (the denominator in risk-based capital ratios) and would, together with the Basel III Capital Rule, become the new Collins Amendment “floor” for certain U.S. banks and bank holding companies.

- The Advanced Approaches Rule modifies the existing Basel II advanced approaches rules for calculating risk-weighted assets to implement Basel III and to comply with Section 939A and also applies (along with the Market Risk Final Rule) to U.S. savings associations and savings and loan holding companies that meet the applicable thresholds.
The Market Risk Final Rule modifies the existing market risk rules to implement rules for calculating capital charges for market risk (commonly known as “Basel 2.5”) and to comply with Section 939A. This rule applies to U.S. banks and bank holding companies that have significant trading activity and became effective on January 1, 2013.

In addition, in July 2013, the U.S. federal banking agencies proposed for comment a supplemental leverage ratio for U.S. banking organizations that are global systemically important banks ("GSIBs"), which would be fully effective as of January 1, 2018. The proposal consists of the following two elements:

- A minimum supplemental leverage ratio of 6% of Tier 1 capital for any insured subsidiary bank of a GSIB.
- A minimum supplemental leverage ratio of 3%, plus an additional "leverage buffer" of 2%, or a total 5% supplemental leverage ratio, of Tier 1 capital to be maintained at the holding company level, for GSIBs.

On October 24, 2013, the banking agencies released a notice of proposed rulemaking implementing a liquidity coverage ratio ("LCR") requirement. With certain exceptions, the Proposed LCR Rule is broadly consistent with the Basel LCR Standard. In summary:

- The Proposed LCR Rule applies to internationally-active banking organizations with $250 billion or more in total consolidated assets or $10 billion or more in on-balance-sheet foreign exposure, as well as designated nonbank systemically important financial institutions that do not have substantial insurance operations.
- A modified, less stringent LCR requirement applies to depository institution holding companies that are not internationally active, but have more than $50 billion in total consolidated assets.
- Under the Proposed Rule, these companies would be required to hold high-quality, liquid assets ("HQLA") of at least 100% of the company’s total net cash outflows over a prospective 30-calendar-day period. The Proposed Rule details the manner in which the numerator (i.e., HQLA) and denominator (i.e., total net cash outflows) are calculated. The calculation under the Proposed Rule would be more restrictive than the Basel LCR Standard in certain respects.
- The Proposed Rule would provide for a shorter transition period than is contemplated in the Basel LCR Standard. An accelerated transition period is proposed: covered companies would be required to maintain an LCR of 80% as of January 1, 2015; an LCR of 90% as of January 1, 2016; and an LCR of 100% as of January 1, 2017.
- The comment period has now closed.

At the international level, much of the Basel III framework has been finalized. In late 2012 and April 2013, the Basel Committee concluded a Basel III implementation study assessing the regulatory capital requirements in various jurisdictions. The study concluded that the U.S. regulatory capital proposals were largely compliant with the Basel III framework.

In January 2013, the Basel Committee issued revised standards for the LCR, which will now be phased in between 2015 and 2019. In January 2014, the Basel III Committee issued leverage ratio framework and disclosure requirements, which maintain a minimum requirement (Tier 1 divided by total exposures) of 3%, but modify the treatment of certain exposures. Final calibration is expected by January 2017. Also in January 2014, the Basel Committee issued proposed revisions to the Basel framework’s Net Stable Funding Ratio. The revisions include: reducing cliff effects within the measurement of funding stability, improving the alignment of the NSFR with the Liquidity Coverage Ratio and revising the calibration of the NSFR to focus greater attention on short-term funding sources. Finally, the Basel Committee also issued final requirements (to become effective in January 2015) for LCR-related disclosures.

“Bail-in” capital also remains a topic of discussion. U.S. regulators are likely to monitor carefully developments and legislative proposals in other jurisdictions.