

# SFbulletin

By Stephen Barlas, Ryan Leist

## GOVERNMENT



### New Derivatives Worry for Corporate Finance Execs

By Stephan Barlas

Business groups have raised a new concern about the cost of their use of nonfinancial derivatives under the Dodd-Frank Act. When Thomas C. Deas, Jr., vice president and treasurer of FMC Corporation, appeared at a recent hearing of the House Financial Services Committee, he cited a proposed rule issued in June 2012 by the “prudential regulators,” a group of agencies that includes the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (FDIC). The proposed rule is called *Advanced Approaches; Risk-Based Capital Rule; Market Risk Capital Rule* (the Capital Proposal). It’s a response to actions taken by the Basel Committee on Banking Supervision—not the requirements of Dodd-Frank, which contains margin requirements that business groups are also protesting. The House Agriculture Committee has passed a bill called the Business Risk Mitigation and Price Stabilization Act of 2013 (H.R. 634) that would clarify the Dodd-Frank margin requirements to satisfy business groups, but it doesn’t address the Basel response being pushed by the prudential regulators.

Deas testified on behalf of the Coalition for Derivatives End Users, saying, “The Capital Proposal implements a new Credit Valuation Adjustment (CVA) that would increase the current capital bank counterparties would have to hold against derivatives in anticipation of a possible future deterioration in the financial markets

such as that experienced in 2008.” Deas said the Coalition’s analysis shows that the cost for FMC to enter into a “seven-year cross-currency swap could increase by a factor of three compared to current rules.” He compared the U.S. response to Basel to the European response, which is to “recognize that end-users’ hedging activities are in fact reducing risks; and so, should attract less capital than activities of financial entities keeping open positions or making markets in derivatives,” he said, arguing that “they propose to exempt nonfinancial end-users from the additional capital requirements for CVA risk. The absence of a U.S. exemption will put American companies at a meaningful competitive disadvantage compared to our European competitors.”

### Investors Worried about Protections from Private Pool Solicitations

Securities & Exchange Commission (SEC) Chairman Mary Jo White is under intense pressure from Congress to put out a final rule on Title II of the Jumpstart Our Business Startups Act (the JOBS Act). Title II requires the SEC to revise the Rule 506 safe harbor of Regulation D from registration to allow general solicitation or general advertising for offers and sales of securities made under Rule 506, provided that all purchasers of securities are accredited investors. The change in the law, which created the exemption, was intended to allow small businesses to raise capital. Former SEC Chairman Mary Schapiro had been worried about complaints from both investment companies and consumer groups—an odd couple in most instances—that the protections the SEC was considering were insufficient and that private investment pools would be allowed to run wild. At a hearing in April, Rep. Patrick McHenry (R.-N.C.), chairman of a House Financial Services sub-

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## BOOKS



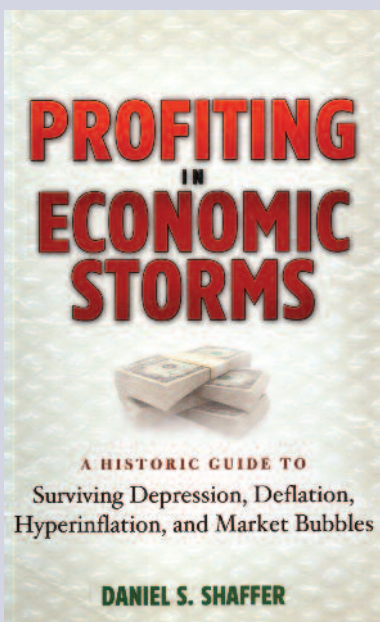
# Planning for an Economic Storm

**I**n his book *Profiting in Economic Storms*, Daniel S. Shaffer draws on his experiences from Wall Street to provide a historical context for the economic environment in 2010 and supply economic predictions for the next decade.

Shaffer forecasts a deflationary depression cycle from 2012 to 2014 leading to a 40-year stock market cycle low that will be followed by gradual increases to inflation, creating hyperinflation around 2020. He predicts Ben Bernanke, chairman of the Federal Reserve, won't be able to stabilize markets, and the Federal Reserve will cease to exist in its current form. Thankfully the market hasn't crashed yet, and the quantitative easing programs used by the Federal Reserve have pushed the stock market into all-time highs this year.

To lay the foundation of his guidance, Shaffer explains the impact of human nature when experiencing economic turmoil: "Nature allows us to have two very important elements: hope and fear. As human beings, we can be very hopeful through different situations or decisions. In determining an investment strategy, that hopefulness can be a danger."

He offers solid, basic advice for long-term investment success: (1) trust your own instincts, (2) avoid the crowd effect, and (3) keep your ego out of the market. Taking stock in ourselves is just as important as investing in the markets. Through conscious awareness of our natural tendencies, we all have the ability to alter



**"Nature allows us to have two very important elements: hope and fear."**

our thoughts to strive for positive results.

To develop a historical perspective, Shaffer examined fallen civilizations, leading to his conclusion that a decline in morals and ethics contributed to their demise. The Roman Empire's complacency, along with the belief that their superiority would continue, are very relatable to our current environment. Political corruption, opposition between the Senate and Emperor, and constant wars with heavy military spending all contributed to the

decline. The resulting high inflation and high unemployment ultimately brought down the Empire financially. Shaffer then connected this phenomenon to corporate and high-level government corruption occurring today in the United States.

One highlight of the book is the section on "Famous Market Manias" that included the Tulip Bulb Mania of 1634 to 1637, the South Sea Bubble, the Nikkei 225 Index, and the current Dow Jones Index, showing the short-term irrationality of markets.

The final part of the book examines nature's role in engineering markets and connects natural cycles to investment cycles. Shaffer believes that when we look at the financial markets through the prism of nature, there are four lessons we can learn: (1) change will occur, and we need to learn how to cope with it; (2) everything is interconnected; (3) too much regulation of a system can have a negative impact; and (4) choose your advisors wisely.

I would read this book with an open mind and do some further investigating into Shaffer's theories by taking his advice to trust your instincts, cut your losses, and reevaluate the situation with a clear head and conscience. The most important point to remember is that the market moves in cycles and, to profit, you should plan for the next economic storm before it occurs.

—Ryan Leist, CMA, CPA, CDFM, CGFM,  
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committee, told SEC Commissioner Elisse B. Walter that he expected the SEC to put out a final rule very soon. On April 23, however, investor groups sent a letter to White saying, “We recognize that considerable pressure is being brought to bear on the Commission, and you as its new chairman, to rush ahead with implementation of the general solicitation rule without first addressing the serious concerns raised by investor advocates, including the SEC’s Investor Advisory Committee.”

## SEC Pushed on Cybersecurity Risks in Financial Statements

Sen. Jay Rockefeller, IV (D.-W.Va.), chairman of the Senate Committee on Commerce, Science, and Transportation, is pressuring the SEC to issue “Commission-level guidance on disclosure obligations for companies on cybersecurity risks, including cyber incidents they experience, and the steps they are taking to manage those risks.” Rockefeller believes that the actions publicly traded companies take to address cybersecurity risks are just as important and significant to investors and the American public as companies’ readiness to manage financial and operational risks.

The SEC has issued staff-level guidance—in part due to Rockefeller’s past prompting. But Rockefeller, who has announced his retirement from the Senate at the end of next year, believes formal guidance from the Commission would signal to companies that cybersecurity efforts

need to be taken seriously. Federal securities law already requires publicly traded companies to disclose “material” risks and events, including cyber risks and network breaches, and the SEC has long-standing authority to publish “interpretive guidance” to clarify corporate responsibilities, protect investors, and promote fair and efficient markets.

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You can be a student member, a young professional, in the midst of your career, or retired. If you would like to write an IMA Life article, please e-mail Kathy Williams at [kwilliams@imanet.org](mailto:kwilliams@imanet.org).

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#### ERRATA

The April 2013 story, “XBRL in America: Are We There Yet?” included the statement: “By 2013, large foreign companies that report under IFRS will also be submitting their financial returns to the SEC using XBRL.” This wasn’t formally supported by the SEC at that time. The statement should have read: “By 2013, large foreign issuers that report under IFRS may also be allowed to submit their filings using IFRS XBRL, but the SEC has yet to release a formal approval of the IFRS taxonomy.” We apologize for any inaccuracies or confusion.





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