GE Decision Will Push FSOC to Get Fierce

By Gregory Shulas, Alex Padalka, *Ignites*, April 20, 2015 [subscription required]

GE's disclosure that its decision to shed most of General Electric Capital Corp was driven largely by the fact that it had been tagged as a "systemically important financial institution" by the Financial Stability Oversight Council will embolden the super-regulator to designate more non-bank firms as such, according to an *Ignites* reader poll. But fund shops are unlikely to feel pressure to follow GE's lead, attorneys and others say.

"The divestiture of GE Capital, which provided nearly half of **General Electric**'s revenue, is a watershed event for capital markets," says **Dan Crowley**, a partner at law firm K&L Gates and a former chief government affairs officer at **ICI**. "Evidently, 'innovation' now means shedding financial operations in order to avoid draconian capital standards and liquidity requirements."

However, fund firms should not be overly concerned about greater FSOC incursion on the mutual fund industry, attorneys and strategic consultants say, as similar sell-offs in the fund industry are unlikely. Indeed, the Securities and Exchange Commission may very well intervene on the industry's behalf, as it may view the FSOC's actions as a threat to its own status as the industry's watchdog, attorneys say.

"The SEC is also going to fight any extension of banklike regulation over mutual funds, as the primary regulator of the industry," says **Niels Holch**, executive director of the Coalition of Mutual Fund Investors.

He also points to political uncertainty over the FSOC's power, since the group was formed under the Obama administration and a change in leadership could impact its mandate. That's particularly true with a Republican Congress likely interested in reining in regulation.

* * * * *

Earlier this week, Fidelity, BlackRock and Pimco met with the global Financial Stability Board to apparently discuss such oversight, as reported. The meetings occurred after the FSB suggested last month that asset managers could receive the designation if their balance sheet total assets are exposed to certain leverage risks, or if assets under management cross the $1 trillion range.

But some argue that the very '40 Act provisions by which mutual funds are bound control for such risks.

"It will be hard for investment companies to be deemed SIFIs because mutual funds do not employ significant amounts of leverage," says Holch of the coalition of mutual fund investors. "The use of a fixed NAV in money market funds did raise systemic risk issues, but those issues have now been resolved by several SEC rulemakings and, most importantly, by the use of a floating NAV for institutional prime money market funds."