

Financial Regulatory Developments Focus



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In this newsletter, we provide a snapshot of the principal European, US and global financial regulatory developments of interest to banks, investment firms, broker-dealers, market infrastructures, asset managers and corporates.

Derivatives

ESMA Opinion on Voting Procedures for CCP Colleges

On 28 May 2014, the European Securities and Markets Authority (“ESMA”) published an opinion on the voting procedures for CCP colleges under the European Market Infrastructure Regulation (“EMIR”). EMIR requires the national regulator of a CCP applying for authorization under EMIR to establish a CCP college to assist in the assessment of an application. ESMA’s opinion provides further details on the voting procedures of those CCP colleges so as to supplement the detail not included in EMIR. ESMA’s opinion is addressed to national regulators and aims to ensure consistent supervisory practices across the EU for CCP colleges.

ESMA’s opinion is available at: <http://www.esma.europa.eu/system/files/2014-576.pdf>.

CFTC Staff Issues Time-Limited No-Action Letter for Canadian Swap Dealers Concerning Quarterly Risk Exposure Reports

On 30 May 2014, the US Commodity Futures Trading Commission’s (“CFTC”) Division of Swap Dealer and Intermediary Oversight announced the issuance of a time-limited no-action letter that provides relief to each of the five Canadian banks that are registered with the CFTC as swap dealers. The five Canadian banks covered by the no-action letter are: the Bank of Montreal, the Bank of Nova Scotia, the Canadian Imperial Bank of Commerce, the Royal Bank of Canada, and the Toronto Dominion Bank.

The letter provides no-action relief with respect to the requirement that swap dealers furnish risk exposure reports on a quarterly basis, as mandated by Regulation 23.600. In particular, the letter provides time-limited no-action relief covering the quarterly risk exposure reports for any fiscal quarter ending on or before 31 July 2014. Accordingly, the five Canadian banks covered by the letter

will be required to provide their first quarterly risk reports to the CFTC for the fiscal quarter ending on 31 October 2014.

The full text of the CFTC no-action letter is available at:

<http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/14-73.pdf>.

Regulatory Capital

EU List of Common Equity Tier 1 Instruments

On 28 May 2014, the European Banking Authority (“EBA”) published a list of capital instruments that national regulators have classified as Common Equity Tier 1. The list was compiled on the basis of information received by the EBA as at 28 June 2013. The list will be updated regularly. The instruments listed have been deemed compliant with European requirements by national regulators. In the future, the EBA will also monitor and assess compliance of such instruments with the eligibility criteria set out in the Capital Requirements Regulation.

The list is available at: <http://www.eba.europa.eu/-/eba-publishes-list-of-common-equity-tier-1-cet1-capital-instruments>.

EBA Consults on the Benchmarking of Internal Approaches

On 28 May 2014, the EBA launched a consultation on draft technical standards for specifying the benchmarking of internal approaches for calculating own funds requirements for credit and market risk exposures. The EBA is required, under the Capital Requirements Directive, to provide final draft implementing technical standards (“ITS”) and regulatory technical standards (“RTS”) to the European Commission by 30 September 2014 (the deadline was extended with agreement from the European Commission from 31 December 2013). The draft ITS set out the benchmarking portfolios and the templates, definitions and IT solutions that should be applied in the benchmarking exercise. The draft RTS contain procedures for sharing the assessments between national regulators and with the EBA and the standards for the assessment by the national regulators of the internal approaches applied by firms. Responses to the consultation are due by 19 August 2014.

The consultation details are available at: <http://www.eba.europa.eu/-/eba-consults-on-technical-standards-on-supervisory-benchmarking-of-internal-approaches-for-calculating-capital-requirements>.

Updated Classification System for Reporting Frameworks

On 28 May 2014, the European Central Bank (“ECB”) and the EBA published the third version of the classification system which supports EU banks that are required to report to both the ECB and the EBA. The updated version takes into account the ITS on supervisory reporting (adopted by the European Commission in April this year and still awaiting publication in the Official Journal of the

European Union) under CRD IV and recent ECB regulations on securities holding statistics.

The system is available at: <http://www.eba.europa.eu/-/ecb-and-eba-update-the-classification-system-for-their-reporting-frameworks>.

Bank Prudential Regulation

ECB Consults on Levy for Supervisory Fees

On 27 May 2014, the ECB published a consultation paper on the supervisory fees it is entitled to levy on euro banks under the Single Supervisory Mechanism (“SSM”) Regulation to recover expenses incurred in its supervisory role. The ECB estimates that it will incur approximately EUR 260 million in expenses in 2015. Responses to the consultation are due by 11 July 2014. The ECB will begin its supervisory tasks under the SSM on 4 November 2014.

The consultation paper is available at:

<http://www.ecb.europa.eu/ssm/consultations/shared/pdf/fees/draft-ssm-fees-regulation201405.en.pdf>.

Financial Market Infrastructure

Report on the Implementation of the PFMI

On 28 May 2014, the Committee on Payment and Settlement Systems (“CPSS”) and the International Organization of Securities Commissions (“IOSCO”) published a report on the implementation of monitoring of the Principles for Financial Market Infrastructures (“PFMIs”). The report summarizes the steps, as at 11 January 2014, taken by jurisdictions to implement the legal, regulatory and policy frameworks for financial market infrastructure. The Principles were adopted in April 2012 by the CPSS and IOSCO and apply to CCPs, trade repositories, payment systems, securities settlement systems and central securities depositories. The CPSS and IOSCO intend to publish a further update report later this year.

The report is available at:

<http://www.iosco.org/library/pubdocs/pdf/IOSCOPD440.pdf>.

Financial Services

European Commission Requests Technical Advice for Implementing Acts Under the Market Abuse Regulation

On 2 June 2014, the European Commission published a request (dated 28 May 2014) to ESMA for technical advice on implementing acts required on the recently agreed Market Abuse Regulation relating to the reporting of actual or potential infringements of the Regulation. ESMA is requested to provide the advice eight months after entry into force of the Market Abuse Regulation which

will be on the twentieth day after it is published in the Official Journal of the European Union (such publication is currently estimated for 12 June 2014).

The request is available at:

http://ec.europa.eu/internal_market/securities/docs/abuse/140528-esma-mandate_en.pdf.

Enforcement

Three Men Jailed for Money Laundering Offences

On 23 May 2014, the owner of a London currency exchange and his two employees were sentenced at Southwark Crown Court for money laundering offences under the Proceeds of Crime Act 2002. The three men were found guilty of laundering over £100 million between 2005 and 2009, changing cash from criminal activities into “clean” €500 notes and taking a percentage from each transaction.

A related HMRC press release is available at:

<http://www.mynewsdesk.com/uk/hm-revenue-customs-hmrc/pressreleases/money-bureau-boss-jailed-for-laundering-over-ps100m-1000923>.

People

Bank of England Appoints New Directors

On 30 May 2014, the Bank of England announced the appointment of ten new directors. These appointments form part of the bank’s Strategic Plan announced in March this year. The new directors are:

- David Bailey, Director, Financial Markets Infrastructure Supervision
- Sarah Breedon, Director, International Banks
- Phil Evans, Director, International
- Andrew Hauser, Director, Markets Strategy
- Sasha Mills, Director, Prudential Policy
- Lea Paterson, Director, Independent Evaluation
- James Proudman, Director, Major UK Deposit Takers
- Gareth Ramsay, Director, Monetary Analysis
- Vicky Saporta, Director, Prudential Policy (Financial Policy)
- Martin Stewart, Director, Banks, Building Societies and Credit Unions.

The announcement is available at:

<http://www.bankofengland.co.uk/publications/Pages/news/2014/085.aspx>.

SEC Names Stephanie Avakian as Deputy Director of Enforcement

On 29 May 2014, the Securities and Exchange Commission (“SEC”) announced that Stephanie Avakian has been named deputy director of the SEC’s Division of Enforcement.

The full text of the SEC announcement is available at:

<http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370541940107>.

Events

04 June 2014: European Supervisory Authorities Consumer Protection Day.

10 June 2014: EBA public Hearing on Covered Bonds.

16 June 2014: EBA public hearing on Benchmarking.

This newsletter is intended only as a general discussion of these issues. It should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

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