

# *Being better informed*

## FS regulatory, accounting and audit bulletin

*PwC FS Regulatory  
Centre of Excellence*

**June 2013**

*Slew of CRD IV  
consultations*

*Number of EU and UK  
developments in AIFMD*

*CRA III published in  
Official Journal*

*EC consultation on  
banking reform*

*EU legislative proposals  
for single retail banking  
market*

*In-depth review of how  
high frequency trading  
is regulated*



## Executive summary

*Welcome to this edition of “Being better informed”, our monthly FS regulatory, accounting and audit bulletin, which aims to keep you up to speed with significant developments and their implications across all the financial services sectors.*



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In May the pace of regulatory developments remained unabated. The EBA launched a slew of draft RTS and ITS on various aspects of CRD IV. In particular, the consultation on *own funds* will draw much interest as the EBA seeks to harmonise the calculation of capital deductions across the EU. In addition, the EBA's consultation on *defining material risk takers* greatly expands the definition of banks' material

risk takers subject to the cap to include all employees whose total remuneration is greater than €500,000. Asset managers should pay attention to this - similar requirements may be on the cards under UCITS V as politicians look to clamp-down on what they constitute as excessive pay across the wider financial system.

On AIFMD we saw a number of EU and UK developments which push forward on implementation. ESMA published a consultation to flesh out *AIFMD's reporting obligations* which will apply to AIFMs from January 2014. ESMA also approved *cooperation agreements* with over 30 non-EU countries, including regulators in the US, Cayman Islands, Bermuda and Jersey. These agreements are critical to the success of AIFMD because they enable non-EU AIFMs to continue to access the EU market after July 2013. Although negotiated by ESMA on behalf of EU Member States (as well as Croatia, Iceland, Liechtenstein, and Norway), these are bilateral agreements with require signatures of European supervisors with their non-European counterparts to come into effect.

In the UK, HMT published a *Q&A* looking at how AIFMD's transitional period will apply in the UK. Depositaries and non-EU managers received good news, with HMT choosing to apply a year transitional period for these firms. For full details on all the AIFMD developments please see the Asset Management section.

The Liikanen report, published in October 2012, looked at options for structural reform in the EU's banking sector. In May the EC published its second *consultation* on the available options. The EC raises some fundamental questions and any actual legislative proposal from the EC looks to be some way off. Several countries are moving ahead with their own proposals, including the UK and France. Therefore we welcome the EC's decision to take a measured approach.

The EC also published a *legislative proposal* in May for a single market in retail bank accounts across the EU. The proposed Directive would ensure that all EU citizens have access to basic banking services, increase transparency in banking fees and facilitate switching bank accounts, even cross-border. This

Directive is a key element of the EC's work plan for retail financial services.

Lastly, the Council continues to publish progress notes on MiFID II. Only a few sticking points remain, but resolving these sticking points may still prove challenging. MiFID II has been debated for over 18 months now, and the task of taking negotiations forward will surely now carry forward to the Lithuanian Presidency from 1 July. This month's feature article looks at one of the key features of the MiFID II debate, regulating high frequency trading.

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# HFT and the question of regulation

As we look ahead to MiFID II, regulators in Europe and across the globe are already taking action in one of the key areas that MiFID II will address. Fuelled in part by controversy surrounding so-called ‘flash crashes’, regulators have been spurred to investigate market abuse related to high-frequency trading (HFT). The regulatory response has been mixed. In some cases, regulators have found only isolated cases of market abuse, and no evidence that normal HFT distorts markets, and have acted accordingly. In other countries, regulators have introduced onerous legislation to strengthen regulation and oversight of HFT, and have stepped up efforts to identify market manipulation. Regulators have also expressed concerns that HFT threatens market integrity through exacerbating information asymmetries and disadvantage buy-side and small market players.

## What is HFT?

HFT covers a range of activities that share these common characteristics. HFT uses extraordinarily high-speed order systems, with speeds of less than five milliseconds. HFT often involves the use of algorithms for automated decision-making. HFT strategies usually feature very short time-frames for establishing and liquidating positions, and result in a high daily portfolio turnover. HFT often involves the submission of multiple orders which are cancelled in milliseconds if not immediately fulfilled. These strategies seek to end the trading day as flat as possible, with the aim of making profit intra-day, rather than inter-day.

Supporters of HFT believe it provides liquidity to markets, reduces volatility in most circumstances and enhances price discovery. Critics argue that the liquidity provided by HFT is false and can vanish during periods of market stress. While HFT may reduce volatility most of the time, it is also responsible for periodic “flash crashes”, brief periods of extremely high volatility.

## May 2010 flash crash

The 2010 flash crash saw the Dow Jones Index plummet over 700 points in a matter of minutes, dropping nearly 1000 points at its lowest point that day, before recovering to normal levels.

HFT was believed to have played a role in the crash but the cause was not immediately obvious. Some thought it was a result of a ‘fat finger’ error, others pointed to more malicious explanations. A joint SEC-CFTC investigation ran for six months and produced a report which identified the sale of 76,000 E-mini S&P 500 futures contracts by a large institutional investor as the initial motivator which, in turn, triggered further rapid sales by algorithms.

The SEC-CFTC report sets out one key lesson - under stressed market conditions, the automated execution of a large sell order can trigger extreme price movements. This is particularly true when an automated execution algorithm does not take prices into account. The interaction between automated execution programmes, such as the one used by the institutional investor on 6 May 2010, and algorithmic

trading strategies, can quickly erode liquidity and result in disorderly markets.

## #Twitterflashcrash

The most recent flash crash occurred on 23 April 2013. A tweet sent from a hacked Associated Press Twitter account reported explosions in the White House, injuring the President. The Dow Jones immediately plunged 140 points, approximately 1%, but recovered just three minutes later.

Market infrastructure experts pointed to the incident as evidence of the way trading algorithms monitor and react to electronic news feeds. Although regulators have not identified all of the sellers, it is obvious that the decline in markets was triggered by algorithms responding to the combination of keywords such as ‘White House’ and ‘explosion’. The presence of HFT in markets means that when such sell-offs are initiated, high-speed firms are driven into action, exacerbating and accelerating declines.

## Different causes, similar effects, common conclusions

Although the 2010 and 2013 flash crashes had different causes, the effects were similar and some common conclusions can be drawn. The presence of HFT in markets means the effects of events in markets can become exacerbated and in some cases lead to extreme price volatility and a rapid erosion of liquidity. In both cases, it was the interaction of an automated process (the sale in 2010 and the social media reaction in 2013) and the HFT strategies that

led to temporary volatility and disappearance of liquidity.

At the same time, both events were limited and markets were restored to normality within minutes (15 minutes in 2010 and 3 minutes in 2013). But HFT is not a victimless crime. Many investors, particularly those not employing HFT, are unable to respond with sufficient speed when market prices accelerate in these situations, which creates an unlevel playing field. Investors experience financial losses in these circumstances that they could not reasonably be expected to anticipate or protect themselves against. That in turn raises questions about market integrity and reputation of the financial markets.

Flash crashes have brought HFT to the attention of regulators across the globe. Keen to explore the impact of HFT on financial markets, regulators and governments have conducted studies and in some cases have taken steps to increase regulatory oversight. Without the flash crashes happening, and the volatility that HFT can cause being thrown into stark relief, it is unlikely that regulators and legislators would now be giving the practice so much attention.

### **Market abuse?**

In addition to the impact of flash crash events, some regulators have expressed concern over the ability of HFT to facilitate market abuse. ESMA has identified a number of ways that automated trading can be used to manipulate markets. It is concerned that market participants may use 'ping orders', the practice of entering small orders to ascertain the level of hidden orders. Other abuses include quote stuffing, the practice of entering large numbers of orders to create uncertainty for other participants; layering and spoofing, the practice of entering manipulative orders that are not executed; and momentum ignition, the

practice of entering orders intended to start or exacerbate a trend.

While HFT does not necessary enable these types of market abuse, it offers different and more effective means of engaging in abuses and the speed and volume of trades involved can make it harder for regulators to detect when they are happening.

### **Regulatory responses**

Globally, regulators don't seem to be working on achieving global convergence on the regulatory oversight of HFT. This lack of coordinated effort may be in part because regulators have differing opinions about the dangers – or lack thereof – that HFT poses to financial markets and the wider economy.

In Germany, the High Frequency Trading Act became effective on 15 May 2013. The Act makes HFT a licensed activity, even if it is not a service offered to others. Any high-frequency trader who trades in German securities needs to apply for a BaFin licence or passport an existing licence from another EEA Member State. The Act requires market participants to ensure that they have properly configured trading systems and maintain an adequate ratio of orders to executed trades. Fees will be imposed on those who make "excessive use" of HFT. Market operators have the right to review algorithms and must introduce "circuit breakers" to stop trading in the event of a flash crash. BaFin has been given enhanced supervision and intervention powers; it is now able to request a description of algorithmic trading parameters and can prohibit the use of some of these strategies.

In other jurisdictions, HFT has been targeted through taxation. Under the Italian FTT, which came into force on March 2013, HFT transactions are subject to a 0.02% tax on the counter-value of orders

automatically generated by an algorithm; this includes revocations or changes to the original order. It is still too early to determine the effect this tax has had on HFT.

The US regulatory focus has been two-pronged. The SEC's Quantitative Analytics Unit has teamed up with the FBI to investigate how firms use HFT strategies. The FBI explained that it is helping the regulator tackle the potential threat of market manipulation posed by new computer trading methods that have taken operations beyond the scope of traditional policing. The CFTC established a subcommittee of its Technology Advisory Committee to look at the risks posed by HFT. Opinion within the CFTC seems divided although it looks as though it will publish a paper on HFT in the near future.

In contrast, the UK government commissioned the Foresight Report into the Future of Computer Trading in Financial Markets, which was published in October 2012. The Foresight Report, which followed a two-year study led by HMT and DFBIS identified four specific benefits of HFT for markets: liquidity, reduced volatility, price discovery and reduced transaction costs.

The Australian Securities and Investments Commission (ASIC) conducted a six-month study into HFT, which was published in March 2013. The study found that while there were incidents of market manipulation involving layering and quote stuffing, fears over HFT appear to be exaggerated and it does not seem to be a key driver for changes seen in price formation, liquidity and execution costs.

The lack of consensus amongst regulators globally means that firms employing HFT strategies globally have to stay on top of the detail in all the jurisdictions where they are trading, and deal with compliance and reporting issues one country at time.



## ***MiFID II***

Although some member states, including the UK, question the need for HFT specific regulation, proposed MiFID II Article 17 addresses automated trading, including HFT. While the Level 1 text is not yet finalised, the latest Presidency compromise issued on 15 May 2013 may provide insight into the direction of travel:

- HFT firms must be authorised and subject to regulatory supervision
- Firms should have systems and risk controls in place to make sure trading systems are resilient and have capacity, and prevent the sending of erroneous orders
- Firms should have measures in place to make sure that their trading systems cannot be used in a way that contravenes MAR
- Firms engaging in automated trading should notify their national supervisor, which may require firms to provide details of their algorithmic trading strategies. Firms should keep adequate records so that this information can be provided to the regulator on request
- Firms engaged in market-making should carry their market-making activities out continuously during a specified period of a trading venue's trading hours to provide liquidity on a regular and predictable basis to the trading venues
- Regulated markets should be able to temporarily halt trading if a significant price movement in a financial instrument occurs over a short period, and should have systems in place to limit the ratio of unexecuted orders.

MiFID II will require ESMA to develop technical standards to implement rules on HFT. Those measures will complement action taken by ESMA in February 2012, when it published guidelines on systems and controls in an automated trading environment for trading platforms, investment firms and competent authorities. The guidelines require firms to test and monitor algorithms, and to have procedures in place to minimise the risk that their automated trading activity gives rise to market abuse.

### ***Implications of regulating HFT***

Technology is a key driver of innovation in financial markets. At a time when the industry is faced with mounting constraints from regulation, advancements in technology are increasingly becoming a source of growth and development. Therefore regulators are presented with a tough challenge: maintain the integrity of markets while at the same time, not stifling advances in the development of markets. The divergent global regulatory responses to HFT have revealed a lack of consensus as to the way forward.

The HFT industry will be watching developments in MiFID II particularly closely over the coming months, but all investors have a stake in the outcome. ESMA will be given a significant degree of control over the fate of HFT in Europe as it develops technical standards. Onerous requirements under MiFID II, coupled with uncertainty over the FTT, could leave HFT firms operating in Europe seriously questioning the viability of their business models. Alternatively, an inadequate regulatory response risks leaving other investors without sufficient protection against market volatility and abuse from HFT.

In order to address these competing concerns, policy makers must determine where HFT presents genuinely new risks in need of new legislation, and where existing rules covering market abuse already

apply to HFT. The challenge for regulators is then to keep pace with innovative financial markets, to monitor markets closely however rapidly they move, and to challenge trading activity which harms other market participants.



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# PwC Insights

## Financial services

*Financial crime, LIBOR, suitability... what's next?*

Over the last year a number of high profile incidents have impacted your sector. In this webcast a panel of experts from our Financial Services practice who have helped firms respond to these incidents to discuss why they keep happening. Julie Coates, who leads our UK Financial Services Regulatory practice, will lead the debate on the common themes and what firms can learn to avoid similar surprises in the future.

**Find out more [here](#).**

## Banking

*Taking European Market Infrastructure Reporting (EMIR) transaction reporting in your stride*

EMIR may have the same aims as Dodd-Frank and other G20 derivatives reform legislation, but its transaction reporting requirements are broader.

This paper discusses what could go wrong based on our experiences helping firms set up new reporting operations and reviewing existing transaction disclosure arrangements. It then suggests how you can get on top of the challenges and get to grips with the practicalities of EMIR.

**Find out more [here](#).**

## Asset management

*Three ways to gain from implementing AIFMD efficiently*

With the AIFMD requiring compliance from 22 July 2013 or 2014 (depending on the EU member state in question), fund managers are looking into what they need to do, given the time it may take to embed changes in their businesses. In order to turn obligation into opportunity, even at this late stage, preparing for the Directive efficiently will give managers the flexibility to comply in the way that will bring greatest benefit to their business.

**Find out more [here](#)**

## Insurance

*Insurance 2020: Unleashing the value from values  
Five golden rules for a high performing culture in the insurance industry*

Organisational culture can sometimes seem like an afterthought when there are so many economic, structural and market challenges to contend with. But to tackle these transformational issues most efficiently, a corresponding change in culture is required. A more agile, innovative, risk-conscious and customer-centric culture is set to be the primary competitive differentiator in the new landscape – if you want to spur real change and deliver real value,

look at your people and the environment in which they operate.

In this paper we suggest that you have to identify people's most telling habits and routines (the 'moments that matter') and actively shape them. The key to achieving this are what we believe are the five golden rules of a high performing culture.

**Find out more [here](#)**

# Cross sector announcements

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## Regulation

### Banking reform

#### *No clear direction on EU banking sector reform*

The EC published a consultation on *Reforming the structure of the EU banking sector* on 16 May 2013. The consultation outlines the EC's response to the report of the High-level Expert Group on reforming the EU banking sector, led by Erkki Liikanen.

The consultation says that the structural reform of banks that are too-big-to fail would directly address intra-group complexity, intra-group subsidies, and excessive risk-taking incentives. It also suggests that structural reforms may increase the credibility and effectiveness of the recovery and resolution process for large and complex banking groups, thereby lowering the risk of ultimate taxpayer pay-outs.

Commenting on the structural reforms that are being pursued in some Member States and third countries, the EC says that while these reforms share the same objective, the specific forms differ. It argues that a lack of coordination at EU level carries the risk that higher regulatory requirements apply to banks in some Member States and that, consequently, undesirable geographic arbitrage might

unintentionally be encouraged. The EC therefore calls for an EU-wide approach that it argues would avoid the costs for banking groups of diverging national bank structural reforms, avoid potential inconsistencies of national reforms and safeguard the EU internal market in financial services.

Given how advanced the UK is with its plans on banking reform (through the Banking Reform Bill) we hope that any decisions on how the EU as a whole should proceed are made quickly to enable banks to coordinate their responses and avoid them incurring additional costs.

The consultation closes on **3 July 2013**.

### Capital and liquidity

#### *EBA consults on transactional exposures*

On 17 May 2013, the EBA published a *consultation paper* on draft RTS on exposures arising from transactions with certain underlying assets covered by the proposed CRR.

These 'transactional' exposures can arise from investments in collective investment undertakings or structured finance vehicles, which themselves invest in underlying assets. The EBA wants firms to look through the exposures associated with each transaction and, where possible, to

identify the credit risk counterparties. Where firms are unable to identify the relevant counterparties they would have to assign that exposure to a hypothetical 'unknown client'. Exposures to the 'unknown client' would be subject to the large exposure rule, so cannot normally exceed 25% of the firm's capital resources.

The finalised RTS will take account of any legal or linguistic changes to CRR arising from the translation process, in addition to feedback to the consultation. The consultation closes on 16 August 2013.

#### *Understanding the "risk retention" rule*

The EBA published a *consultation paper* on draft RTS on the application of the "risk retention" rule for securitisations in the CRR on 22 May. The risk retention rule was introduced in Basel 2.5 and requires the originator, sponsor or original lender to hold a 5% economic interest in the securities issued, so that firms share some of the risks with investors. It also requires those firms to carry out effective due diligence on the underlying securities. The rule is being carried forward in CRD IV.

The proposed RTS confirm the different approaches that lenders can use to identify an appropriate 'slice' of 5% of the securities concerned. Most of the RTS do not differ significantly from the

current practice under Basel 2.5 and the associated CEBS guidance. However, they differ from the current practice by changing the definition of 'sponsor' to remove the option for third parties to the transaction to hold the required 5% stake. Removing this option may lead to increased costs for the originating or structuring firms if they are required to hold the stake themselves.

This consultation also includes draft ITS on the criteria for measuring compliance with the risk retention rule, and the punitive capital charges for firms that do not comply.

The consultation closes on **22 August 2013**.

#### *Changes to own funds requirements*

On 23 May 2013 the EBA launched its third *consultation paper* on proposed RTS on the own funds requirements (i.e. capital resources) outlined in the draft CRR.

- Through these RTS, the EBA wants to: harmonise the calculation of deductions and make the calculation more conservative
- link the level of interest/dividends to the issuer's credit rating
- harmonise the calculation of minority interests.

All RTS related to own funds requirements will ultimately be published as a single draft Regulation.

The consultation is open for comments until **18 July 2013**.

#### *CRD IV passport notifications*

The EBA published two consultation papers on 21 May 2013: a *draft RTS* and a *draft ITS* on the passport notifications allowed under Articles 35, 36 and 39 of CRD IV.

In the draft RTS, the EBA specifies the information financial institutions should provide to its home regulators when passporting a branch or services. The information includes details about the programme of operations, governance arrangements and a three year financial plan.

The standard templates, forms and procedures associated with these notifications are presented in the draft ITS.

Both consultations close on **24 August 2013**.

#### *Cross-border supervision under CRD IV*

The EBA published a consultation paper with draft ITS on *joint decisions on institution-specific prudential requirements under Article 108 of CRD IV* on 20 May 2013.

In the ITS, the EBA outlined the protocol for reaching joint decisions on prudential matters between the consolidating supervisor and other relevant supervisors under CRD IV:

- planning the joint decision process
- the group risk assessment report
- reaching agreement on the joint decision document
- monitoring the application of the joint decision.

The consultation closes on **16 August 2013**.

#### *Reducing the risks of FX lending*

The EBA published a consultation paper with guidelines on *capital measures for foreign currency lending to unhedged borrowers under the Supervisory Review and Evaluation Process (SREP)* on 23 May 2013.

The Guidelines covers the subject matter, scope, definitions and supervisory process that should be followed in managing foreign currency lending to unhedged borrowers. In particular, a materiality threshold is introduced. If this threshold is exceeded, national supervisors should review the risk as part of the SREP. However, national supervisors can also apply these guidelines where the risk is under the threshold but is deemed to be material.

The Guidelines also outlines how supervisors should review FX lending governance arrangements and firms' capital adequacy as well as on how to calculate capital add-on as a result of the SREP.

Although these Guidelines address FX lending to unhedged borrowers, their focus is on prudential requirements and not on consumer protection elements of FX lending. However, they indirectly contribute to consumer protection by potentially making FX lending more costly in terms of capital and, therefore, reducing the likelihood of unaffordable borrowing in the system.

The consultation closes on **23 August 2013**.

#### *EBA consults on liquidity risk*

The EBA published consultation papers on *liquidity outflows* and *liquidity monitoring metrics* on 23 May 2013.

The first paper proposes draft RTS on methods for estimating the additional outflows that may be caused by market shocks, such as changes in the market value of derivatives.

The second paper proposes draft ITS on the monitoring and supervisory reporting of liquidity metrics. This includes reporting templates and data item definitions. To avoid duplication of work, these data item definitions have been aligned as much as possible

with previously issued ITS on liquidity reporting.

Once finalised, these technical standards will form part of the Single Rulebook for prudential regulation in Europe. The consultations are open until **14 August 2013**.

#### *Market risk under CRR*

On 22 May 2013, the EBA published two consultations on market risk under the standardised approach. The first *draft RTS* proposes a definition of the term 'market' for the purpose of calculating the 'general' component of market risk for equities under the standardised rules.

A market can be defined in terms of nationality or currency. Under CRD II, most jurisdictions have already implemented the nationality approach. This approach is more conservative than the currency criterion in terms of capital requirements and assumes that 'general' risk stems from country-specific drivers. However, the currency approach takes account of the growing integration of financial markets. The introduction of a single currency in an already substantially integrated EU Single Market has blurred these country-specific drivers within the Euro-zone.

The second *draft RTS* focuses on non-delta risk options in the standardised market risk approach. This draft RTS

aims at defining a range of methods to reflect, in the own funds requirements, all the risks, other than delta risk, in a manner proportionate to the scale and complexity of institutions' activities in options and warrants.

The EBA's proposal is broadly in line with the Basel II framework which provides for the three following methods:

- a simplified approach to be applied only by institutions that buy options
- the delta-plus method that can be also applied by institutions that sell options
- the scenario approach that is more sophisticated and addressed to institutions dealing with a considerable trading activity in options.

The draft RTS also consults on the possibility of allowing a combination of different methods within an institution or solely between separate legal entities within a group.

The EBA is requested to submit both these draft RTS to the EC by 31 December 2013. Both consultations close on **31 August 2013**.

## Consumer protection

### *Promoting effective consumer protection*

The OECD published *draft effective approaches to support the implementation of the G20 high-level principles of financial consumer protection for informal consultation* on 20 May 2013. The OECD identifies effective consumer protection approaches across the following themes:

- disclosure and transparency
- responsible business conduct of financial services providers and their authorised agents
- complaints handling and redress.

The OECD drew on evidence and information gathered by surveying G20, FSB and OECD members and provided illustrative examples for all financial services sectors to consider.

The consultation closed on 30 May 2013.

## Credit ratings

### *CRA III comes into force soon*

CRA III (*Regulation (EU) No 462/2013*) was published in the Official Journal on 31 May 2013 and will enter into force on 20 June 2013, although some parts will apply later. The Regulation places additional requirements on firms to improve their

own credit risk assessment capabilities to ensure they no longer have to rely solely or mechanically on ratings from third parties.

National supervisors will be mandated to monitor the adequacy of firms' internal credit risk procedures (based on the proportionality principle), assess the use of contractual references to credit ratings and, where appropriate, encourage them to mitigate the impact of such references.

CRA's are required to adopt a specific and rigorous methodology for rating sovereign debt and be subjected to additional transparency and accountability requirements. The Regulation also attempts to spur competition in the highly concentrated CRA market by encouraging the use of smaller rating providers.

Alongside the CRA III, *Directive 2013/14/EU* amending UCITS IV and the AIFMD was also published in the Official Journal on 31 May 2013. The changes here aim to limit fund managers' reliance on external ratings.

In a separate development, ESMA published a final report containing *Technical Advice on the equivalence of regimes in Argentina, Brazil, Mexico, Hong Kong and Singapore* to CRA I (Regulation (EU) No 1060/2009). ESMA followed an objective-based approach and concluded that the legal

and supervisory frameworks for CRA's in Argentina, Brazil, Mexico, Hong Kong and Singapore are equivalent to the EU regulatory regime.

## Dodd-Frank Act

### *CFTC finalises swap rules*

On 17 May 2013 the CFTC published three final rules implementing the requirement to trade swaps on exchange. In doing so, the US becomes the first jurisdiction to implement the G20 requirement. The rules will become effective 60 days after publication.

### *Swap execution facilities (SEF)*

The CFTC published *core principles and other requirements* for SEF to create a new trading venue. The CFTC hopes that SEFs will create a more transparent market and offer more innovative trading opportunities. Trades executed through SEFs can be cleared at different clearing houses, unlike futures exchanges which use a single clearing house, which should promote competition.

### *Minimum swap block sizes*

The CFTC published *procedures* to establish appropriate minimum block sizes for large notional off-facility swaps and block trades. The final rule specifies criteria for determining swap categories and methodologies for calculating the appropriate minimum

block sizes. It also provides increased protection for the identities of swap counterparties to large swap transactions.

The CFTC has established a 67% notional size threshold. Any larger trades in a specific product's range of notional sizes can be executed bilaterally, and will be subject to a reporting delay of half an hour. This time delay is intended to give liquidity providers sufficient time to hedge themselves ahead of the market being notified of a large transaction. The CFTC estimates that 6% of swaps will qualify as blocks under the final standard.

#### *Making swaps eligible for exchange trading*

The CFTC published the process for a designated contract market (DCM) or SEF to make a swap available to trade. All swaps subject to mandatory clearing have to be traded on a DCM or SEF, if a DCM or SEF has submitted an 'available-to-trade' determination to the CFTC.

#### *CFTC tackles anti-disruptive practices*

On 20 May 2013, the CFTC published interpretive guidance and a policy statement on the scope and application of the anti-disruptive practices provisions under the Commodities and Exchange Act. These rules prohibit

persons from engaging in any trading, practice or conduct that:

- violates bids or offers
- demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period
- involves spoofing - i.e. bidding or offering without intending to execute the trade.

#### *No-action letter on FX transactions*

The CFTC's Division of Swap Dealer and Intermediary Oversight published a time-limited no-action letter on 2 May 2013.

Until 1 September 2013, swap dealers and major swap participants can execute foreign exchange transactions with eligible contract participants that have settlement cycles of no more than seven local business days, without complying with the CFTC's External Business Conduct Standards rules. The no-action relief is intended to cover transactions foreign exchange spot transactions that swap dealers can't yet recognise as such due to current operational constraints.

#### *Market infrastructure TR regulatory regime moves forward*

The EC sent ESMA a Formal Request for Technical Advice on possible delegated acts concerning the

#### procedural rules for taking supervisory measures and imposing fines on TRs on 24 May 2013.

Since 15 March 2013 ESMA has direct registration and supervisory powers over TRs. ESMA also has rights to fine and to impose periodic penalty payments on TRs for certain infringements set out under EMIR.

Responsibility has been delegated to the EC to craft a Regulation setting out the details: the EC is consequently asking ESMA for advice on procedures related to:

- guaranteeing the rights of defence both during and upon completion of investigations
- convening oral hearings
- guaranteeing the right of access to the files for the persons subject to investigations

ESMA will present its technical advice to the EC in the form of a draft regulation by 31 December 2013. Given the subsequent endorsement and scrutiny process, the final rules are not expected to come into effect until mid 2014.

#### *More black smoke from Council on MiFID II*

The latest Council progress note on the MiFID II negotiations confirms that there is still no comprehensive

agreement on a general approach. But Council is showing the political will to begin negotiations with the EP on those MiFID areas where the Council has reached a consensus internally, even though it is still debating some issues.

Currently, the most contentious outstanding issues on MiFIR are:

- CCP access to trading venues: CCPs would be required to clear transactions executed on other trading venues where those venues are compliant with necessary operational and technical requirements
- Trading venue access for CCPs: trading venues must provide CCPs with access, including access to data feeds, where the CCP wishes to clear transactions executed on that venue
- Benchmark access for CCPs and trading venues: benchmark operators must provide CCPs and trading venues with access to licences and information relating to benchmarks used to determine the value of financial instruments.

Supporters believe that these measures will enhance competition and transparency. Opponents believe that the changes will increase market fragmentation, thereby damaging liquidity. They also fear the changes will undermine the intellectual property



rights of benchmark operators, discouraging development of new benchmarks. Opposition appears split between Member States seeking further amendments and those seeking to delete these provisions.

The Irish Presidency supports these measures. If the Council cannot reach agreement on these areas, the Presidency recommends that it instead agree to begin negotiations with the EP on areas of agreement, with the understanding that outstanding points will require further work.

The desire to begin trilogue negotiations with the EP before the Council agrees a general approach indicates both the level of disagreement within the Council which is in tension with the strong political desire to progress MiFID II.

Even if the Council manages to reach an agreement, Council representatives will not have much room for manoeuvre during negotiations with the EP. The planned EP plenary vote on MiFID II in October 2013 appears optimistic - EU legislators may not be able to complete negotiations by that time.

#### *EMIR update for non-EU CCPs*

The EC issued *Practical implementation of the EMIR framework to non-EU CCPs* on 13 May 2013, providing an update on the CCP

third-country equivalence assessment and recognition process.

The EC reiterated that all third-country CCPs that want to continue providing services to local branches of EU firms should apply for recognition under EMIR by 15 September 2013. This procedure applies to all types of CCP clearing services and all financial products, not only OTC derivatives.

ESMA is due to issue its decision on equivalence for 8 jurisdictions by 15 July 2013. The EC clarified that CCPs can submit their applications earlier, but ESMA's final decision to grant the CCP recognition will depend on ESMA finding its home country is equivalent under EMIR.

#### *Pensions*

##### *No solvency requirements for pension funds?*

The EC *announced changes* to IORP on 23 May 2013. The initial IORP draft looked at transparency, governance and solvency requirements for occupational pensions, but the solvency elements will remain an open issue for now. We still expect proposals on transparency and governance in Q3 2013.

The solvency requirements, similar to the Solvency II requirements for insurers, could have significantly increased the prudential requirements

of pension funds – particularly defined benefit arrangements.

#### *EIOPA consults on EU-single market for personal pension products*

EIOPA published a *DP on a possible EU-single market for personal pension products (PPPs)* on 16 May 2013, seeking views on developing prudential regulations and consumer protection measures needed to create a single market for PPPs.

The consultation ends on **16 August 2013**.

#### *Securities & derivatives*

##### *EMIR cross border proposals due in September*

On 13 May 2013 ESMA published a *letter* from the EC (dated 22 April 2013) requiring ESMA to deliver proposals on the cross border application of EMIR by 25 September 2013.

EMIR contains high level provisions extending its mandatory clearing and risk management for non-centrally cleared trade obligations to derivative counterparties established outside the EU (third country entities). ESMA is tasked with drafting technical standards to implement these provisions.

ESMA was originally asked to prepare these proposals in 2012. However, the deadline was deferred until 2013 to

allow international regulators and standard setters (such as the FSB and IOSCO) time to develop a global approach to the cross border application of OTC derivative rules.

In the US, the SEC recently published its cross border proposals and the CFTC is set to publish near final proposals this summer. We expect ESMA to publish a consultation on these issues shortly.

#### *ISDA launches 2013 Reporting Protocol*

ISDA announced the launch of the *ISDA 2013 Reporting Protocol* on 13 May 2013. The Reporting Protocol contains a counterparty's consent to disclosing formation and facilitates market participants' compliance with mandatory trade reporting requirements under Dodd-Frank and EMIR.

ISDA explains that the Reporting Protocol might be particularly useful for market participants who, due to the nature or level of their trading activity, may not be required to comply with certain provisions of Dodd-Frank and EMIR but who nonetheless face trade reporting obligations.

Alongside the Reporting Protocol, ISDA published templates for side letters, into which parties can enter bilaterally, that contain the same consent language as found in the Protocol.



## Too Big to Fail

### Resolving RRD

ECOFIN reached an *agreement* on key directional issues on RRD at its meeting on 14 May 2013. Finance ministers agreed the broad scope for bail-in, a central component of the proposed RRD.

The Irish Presidency recognised that some country-specific concerns should be addressed in the final text of RRD, particularly between those countries inside and outside the Eurozone. For example, national authorities should have limited discretion in how they implement recovery and resolution tools, including bail-in.

Ministers re-affirmed their commitment to ensuring that all deposits under €100,000 would be guaranteed under the new regime. A number of countries expressed support for depositor preference (i.e. last category of assets to be bailed-in) for deposits over €100,000, but some had reservations about giving preference to large corporate deposits.

Adopting the RRD before the SSM's launch in the summer 2014 will put in place a crucial element of the new supervisory regime. The Council has emphasised on a number of occasions the need to complete the RRD legislation by June this year. The Irish Presidency plans to re-submit the

dossier to the Council at its meeting on 21 June, aiming to agree its general approach so it can enter trilogue negotiations with the EP and the EC. If that happens, we may see final agreement reached in Q4 2013.

### Scenario planning under RRD

The EBA published two consultations on RRD on 20 May 2013. The first *draft RTS* focuses on assessing recovery plans prepared under the draft Directive. It outlines the range of scenarios that firms should use when testing their recovery plans. Banks will be responsible for selecting the most appropriate scenarios based on their size, activity, funding model and interconnectedness. National supervisors will be tasked with assessing the adequacy of the chosen scenarios.

However, the RTS provides a number of relevant events which need to be considered by banks when designing the most appropriate scenarios. Moreover, the RTS also requires at least three scenarios to be used: one covering a system-wide event, one covering an idiosyncratic event and one covering a combination of both types of events.

The second *draft RTS* outlines the matters that national supervisors must assess when reviewing individual and group recovery plans developed by financial institutions. The main

objective is to ensure a common approach across the EU regarding the assessment of recovery plans, to facilitate joint assessments of group recovery plans by different supervisors.

The RTS provides the general criteria which supervisors should follow when assessing both individual and group recovery plans. Those criteria are based on three key features: completeness, quality and overall credibility.

Both consultations close on **20 August 2013**.

## Accounting

### IASB

#### Revised leases exposure draft issued

On 16 May 2013, the IASB and FASB issued a revised exposure draft (ED) of a standard for leases.

At a high level, the proposed model appears simpler to apply than the previous proposals. But this might underestimate the impact of having to identify and recognise assets and liabilities in respect of all leases, as well as the need to re-think which accounting model to apply to different types of leases.

The ED does not propose an effective date, but we anticipate that the final standard will not be effective before 2017.

See *Straight away 118* and our *press release* for details.

### New interpretation on accounting for levies

The IASB issued IFRIC 21, 'Levies', an interpretation on the accounting for levies imposed by governments (e.g. FSCS levies) on 20 May 2013, which will be effective for annual periods beginning on or after 1 January 2014.

See *Straight away 119* and our *press release* for details.

### IASB amends IAS 36, 'Impairment of assets'

The IASB published 'Recoverable amount disclosures for non-financial assets' (amendments to IAS 36). These narrow-scope amendments to IAS 36, 'Impairment of assets', address the disclosure of information about the recoverable amount of impaired assets if that amount is based on fair value less costs of disposal.

See *Straight away 120* and our *press release* for details.

### PwC publications

The May 2013 edition of IFRS News, our monthly newsletter highlighting developments at the IASB considers:

- international Integrated Reporting Council consultation
- new interpretation on accounting for levies

- update on the Insurance Contract project and other key accounting changes
- Cannon Street Press:
  - Exposure draft on interim standard for regulatory deferral accounts
  - New Chairman of FASB
  - EU endorses amendments to IFRS 10, 11 and 12
- questions and answers on fair value.

#### *Interim reporting disclosure checklist 2013*

Our *IFRS interim reporting disclosure checklist* outlines the minimum disclosures required by IAS 34, 'Interim financial reporting'.

The updated checklist includes the disclosure requirements relating to the standards that are effective from 1 January 2013.

#### *Update on BIS reporting regulations*

The Department for Business, Innovation & Skills (BIS) has issued an update on the progress of its proposed narrative reporting and remuneration reporting regulations. Both of these sets of regulations will apply for 30 September 2013 year-end reporters but neither has been finalised yet, so companies will be given very little

notice of the new requirements before they have to be applied.

For guidance on how companies can prepare for the new disclosure requirements see *Straight away 119b*.

# Banking and capital markets

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## Banking & Capital Markets



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## Regulation

### Mortgages

#### *Mortgage Credit Directive nearly finalised*

On 8 May 2013 the Irish Presidency *announced* that Member State representatives have approved the latest version of the text of the Mortgage Credit Directive agreed with the EP. This announcement signals the start the final stages of the legislative process with formal adoption of the text by the EP and the Council, prior to publication in the Official Journal.

The indicative date for the EP plenary vote is 9 September.

### Retail banking

#### *Bank accounts for all*

The EC published a proposal for a Directive on the transparency and comparability of payment account fees, payment account switching and access to a basic payment account on 8 May 2013.

The proposal tackles access to payment accounts. The EC wants to allow EU consumers to open payment accounts in other countries where they aren't resident, enabling them to receive their salary, pensions and allowances or pay utility bills etc.

The proposal addresses two related issues:

- comparability of payment account fees: by making it easier for consumers to compare the fees charged for payment accounts by banks and other payment service providers in the EU
- payment account switching: by establishing a simple and quick procedure for consumers who wish to move their payment account from one bank or payment service provider to another.

EU Internal Market and Services Commissioner Michel Barnier believes that improving the transparency and comparability of fees, together with a smoother switching process, should enable consumers to benefit from better offers and lower costs for their bank accounts.

The EC also believes that the financial services industry will benefit from clients' increased mobility and from reduced barriers to entry, resulting in more cross-border service offerings. A simple and quick procedure for payment account switching, may counteract consumers' well documented inertia against switching bank service providers.

# Asset management

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## Asset Management



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## Regulation

### AIFMD

#### *Two more Level 2 Regulations for AIFMD*

Two further AIFMD Implementing Regulations ('Level 2' measures) were published in the Official Journal on 15 May 2013:

- *establishing a procedure for determining the Member State of reference of a non-EU AIFM*
- *establishing the procedure for AIFMs which choose to opt in under AIFMD.*

Under AIFMD, non-EU AIFMs managing EU AIFs or marketing AIFs in the EU must determine a 'Member State of reference' in the EU. The first Implementing Regulation establishes criteria to allow non-EU AIFMs to determine which country they should consider as their Member State of reference in a number of different situations.

The second Implementing Regulation sets out how Member States should authorise out-of-scope AIFMs that choose to opt-in to gain access to the AIFMD marketing passport. The

procedure for authorising these AIFMs will be the same as for authorising any other AIFM that is already in scope.

The Implementing Regulations come into force on 4 June 2013 and apply from 22 July 2013.

#### *Defining an AIF*

ESMA published *Final report: guidelines on key concepts of the AIFMD* on 24 May 2013.

The guidelines clarify the definition of an 'AIF' under AIFMD, in particular what is meant by using the terms 'collective investment undertaking', 'raising capital', 'number of investors' and 'defined investment policy'.

ESMA made a number of changes to its initial guidelines to reflect industry feedback. Additionally, ESMA clarified that if a Member State deems a vehicle located in that Member State is an AIF, then it is subject to full AIFMD requirements (including use of the marketing passport). That is the case even if another Member State does not deem that type of vehicle as being within scope. ESMA also clarified that if one investment compartment of a fund vehicle (e.g. an umbrella fund or a protected cell company) is deemed to

be within scope of AIFMD, then the whole fund is in scope.

The feedback to the initial consultation also included a number of further questions around the scope of AIFMD. ESMA is not willing to give more information in answer to these questions, suggesting the Level 2 Regulation published in the Official Journal in March 2013 and the recent Q&As published by the EC provide sufficient detail for firms at this stage. It may however provide more guidance on some of these topics in future.

The guidelines apply to both AIFMs and Member State competent authorities from 24 July 2013.

#### *More information on AIFMD reporting*

ESMA published *Consultation paper: guidelines on reporting obligations under Article 3 and Article 24 of the AIFMD* on 24 May 2013. ESMA is also requesting *feedback* on the suggested reporting schema that institutions will use for to regulators under these Articles.

AIFMD sets out the new regulatory reporting requirements for AIFMs. All AIFMs that market AIFs in the EU are subject to the new reporting

obligations, no matter where they are located.

These requirements were substantially fleshed out in the *Level 2 Regulation*, in particular in the reporting template in Annex IV. However, ESMA believes that AIFMs need more guidance on their reporting obligations, and a standardised template for submitting the required information to regulators. By using a standard template ESMA hopes to facilitate more knowledge sharing between regulators.

The consultation includes a number of Annexes which provide additional information for firms, including a useful flow diagram in Annex V clarifying the reporting obligations for different AIFMs.

As expected, ESMA recommended that reporting obligations be aligned with the calendar year, and not an AIFM's individual accounting period. Whilst this approach will allow regulators to compare different AIFs and AIFMs, it does increase the reporting burden on some AIFMs by imposing different reporting periods to their usual financial reporting.

ESMA also recommends that AIFMs be authorised or registered at 23 July 2013 and thereafter should commence

reporting under AIFMD from January 2014. This means that AIFMs will need to report for the first time to regulators by 31 January 2014 for the period 23 July 2013 – 31 December 2013.

The consultation also provides guidance on how AIFMs should interpret the reporting template provided in the Level 2 Regulation. Unfortunately ESMA's proposed approach differs in a number of respects from the approach taken in other jurisdictions, such as in the US with Form PF. This divergence of regulatory requirements increases the challenge for global firms that will report under AIFMD and Form PF in future.

The consultation closes for comments on **1 July 2013**.

### *Third countries sign-up to AIFMD*

On 30 May 2013, ESMA published an update on the cooperation agreements it has arranged under AIFMD with third countries.

Previously, ESMA announced that agreements had been signed with Switzerland and Brazil. This latest update reflects ESMA has reached agreements now with over 30 non-EU countries, including with regulators in

countries that are critical in the alternative fund universe, such as:

- US
- Cayman Islands
- Dubai
- Jersey
- Hong Kong
- Canada
- Bermuda
- Australia
- Singapore.

Interestingly only the Federal Reserve and SEC in the US have reached agreement with ESMA - no agreement is in place with CFTC yet. This gap may provide challenges in future for funds only registered with the CFTC because they will be unable to market their funds in the EU. However, we do expect more agreements to be signed in the coming months, which might include the CFTC.

Although agreement has been reached with ESMA, the actual agreements will be signed individually between EU regulators and the third country regulators. Only when they are formally signed can AIFMs in those countries

market their funds into a Member State.

In the UK, HMT stated in its Q&As that it believes third countries do not need agreements in place until 22 July 2014 because they can make use of the transitional provisions in AIFMD before this. We do not yet know whether all other Member States share this view.

### *Clarifying AIFMD for UK managers*

HMT published Transposition of AIFMD: Questions and Answers (Q&A) on 1 May 2013. The Q&A clarifies some areas of AIFMD where questions have been raised.

In a number of areas, HMT goes beyond the clarifications provided previously by the EC and ESMA. It confirms that transitional provisions are valid for all AIFMs (both EU and non-EU), suggesting non-EU AIFMs and AIFs can still be marketed in the UK between July 2013 and July 2014 as they are now, without the need for a memorandum of understanding to be agreed, as required under AIFMD.

In relation to depositaries, HMT allows some transitional time, so depositaries without the new regulated permission of "depositary of an AIF" can still act as

depositary of an AIF with an authorised AIFM, as long as they have applied to the FCA for the new permission.

Due to industry responses to its consultations, HMT is making a number of changes to the draft AIFM Regulations 2013 which will implement AIFMD. HMT appears to have listened to concerns about the practical impact AIFMD will have on the alternative investment industry and is being more flexible in its interpretation of the provisions to benefit the industry.

### *HMT updates plans for AIFMD*

HMT also published Transposition of AIFMD: response to consultation and an updated draft of the AIFMD Regulations 2013 on 13 May 2013.

The response sets out the views submitted by industry to HMT's first AIFMD consultation and the changes HMT subsequently made to its draft Regulations. In most cases the changes improve the regulatory treatment for industry participants. For example, authorised fund managers outside of AIFMD's scope (due to being under the assets under management size limits) will now only be subject to their existing requirements, rather than having to meet full AIFMD requirements as originally proposed.

Third country managers also benefit - the FCA will no longer be required to formally approve all non-EU AIFs, and EU AIFs with non-EU AIFMs, before they can market in the UK under AIFMD. Instead fund managers will simply need to notify the FCA about each non-EU AIF that they market in the UK. This change will streamline the process for AIFMs and remove any uncertainty that the need for formal approval might create.

We expect HMT to publish a similar document and updated Regulations shortly, to reflect the feedback to their second consultation. The Regulations will then be finalised and laid before Parliament in time for the 22 July 2013 deadline.

## **Product rules**

### *How to value CIS*

IOSCO published its final report on *principles for the valuation of CIS* on 3 May 2013. IOSCO has updated its principles for valuing CIS to reflect that CIS have increased their investments in assets that are hard to value, such as OTC derivatives and some structured financial instruments.

IOSCO's final report has 11 principles for CIS operators. They should:

- establish comprehensive and documented principles for valuing the CIS's assets
- have policies and procedures to establish how assets will be valued
- ensure that policies and procedures should address conflicts of interest
- consistently value the CIS' assets
- have procedures that detect, prevent and correct pricing errors, making good any errors that result in investor detriment
- periodically review the valuation policies and procedures to ensure they remain appropriate and effective, with annual review by a third party
- perform due diligence on any third party that provides valuation services to the CIS
- appropriately disclose valuation processes to investors
- not affect redemptions or investments at historic NAV
- value the CIS on any day that investors can purchase or redeem units
- provide investors with access to the latest NAV free of charge.

IOSCO states that the principles are directly relevant to open-ended CIS, and their operators, which are subject to regulatory valuation requirements. However, the principles also may act as a best practice guide for all CIS operators, who may want to review and implement their ideas.

# Insurance

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## Insurance



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## Regulation

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### ***Solvency II***

#### *EIOPA promotes Solvency II guidelines*

In an *interview* for Insurance Risk, Gabriel Bernardino (Chairman of EIOPA) answered a number of questions about EIOPA's interim Solvency II guidelines, including:

- why the guidelines are needed
- what support there is for them
- implementation issues
- progress on EIOPA's upcoming report on long-term guarantees.



# Monthly calendar

## Open consultations

Closing date for responses	Paper	Institution
24/06/13	<u><a href="#">Draft ITS on asset encumbrance reporting under Article 95a of the draft CRR</a></u>	EBA
24/06/13	<u><a href="#">Draft ITS on supervisory reporting on forbearance and non-performing exposures under Article 95 of the draft CRR</a></u>	EBA
28/06/13	<u><a href="#">Guidelines on complaints handling by insurance intermediaries</a></u>	EIOPA
28/06/13	<u><a href="#">Call for expression of interest in the EBA's Banking Stakeholder Group</a></u>	EBA
30/06/13	<u><a href="#">Green paper on insurance of natural and man-made disasters</a></u>	EC
01/07/13	<u><a href="#">Form 8957 – FATCA registration process</a></u>	US IRS
01/07/13	<u><a href="#">Consultation paper – guidelines on reporting obligations under Article 3 and Article 24 of the AIFMD</a></u>	ESMA
03/07/13	<u><a href="#">Consultation paper on the structural reform of the banking sector</a></u>	EC
14/07/13	<u><a href="#">Improving the efficiency of the handling of cash: cash cycle models</a></u>	EPC
18/07/13	<u><a href="#">Consultation paper on draft RTS for own funds – Part III</a></u>	EBA

Closing date for responses	Paper	Institution
19/07/13	<u>Public consultation – ESFS review</u>	EC
19/07/13	<u>Consultative document: consumer protection in third-pillar retirement products</u>	EC
14/08/13	<u>Consultation paper on draft ITS on additional liquidity monitoring metrics</u>	EBA
14/08/13	<u>Consultation paper on draft RTS on additional collateral outflows</u>	EBA
16/08/13	<u>Discussion paper on a possible EU single market for personal pension products</u>	EIOPA
16/08/13	<u>Consultation paper on draft RTS on the determination of the overall exposure to a client or a group of connected clients in respect of transactions with underlying assets under Article 379 of the proposed CRR</u>	EBA
16/08/13	<u>Consultation paper on joint decisions on institution-specific prudential requirements</u>	EBA
20/08/13	<u>Consultation paper on draft RTS on the assessment of recovery plans</u>	EBA
20/08/13	<u>Consultation paper on draft RTS specifying the range of scenarios to be used in recovery plans</u>	EBA
21/08/13	<u>Consultation paper on draft RTS on the definition of material risk takers for remuneration purposes</u>	EBA
21/08/13	<u>Consultation paper on draft ITS on passport notifications</u>	EBA
21/08/13	<u>Consultation paper on draft RTS on passport notifications</u>	EBA
23/08/13	<u>Consultation paper on draft guidelines on capital measures for foreign currency lending</u>	EBA
22/08/13	<u>Consultation paper on draft RTS on securitisation retention rules</u>	EBA

Closing date for responses	Paper	Institution
31/08/13	<u>Consultation paper on draft RTS on the definition of market</u>	EBA
31/08/13	<u>Consultation paper on draft RTS on non-delta risk of options in the standardised market risk approach</u>	EBA

### *Forthcoming publications in 2013*

Date	Topic	Type	Institution
<b>Capital and Liquidity</b>			
Q2 – Q3 2013	CRR/CRD IV	76 regulatory technical standards, 32 implementing technical standards and 20 guidelines	EBA
Q2 2013	Review of Financial Conglomerates Directive	Legislative proposals	EC
TBC 2013	Revision of Financial Conglomerates Directive (FICOD II)	Legislative proposals	EC
TBC 2013	The development of technical standards on risk concentrations and intra-group transactions	Draft technical standards	ESAs
<b>Consumer protection</b>			
Q2 2013	An EU framework for collective redress	Legislative proposals	EC
Q2 2013	Investor Guarantee schemes - revision	Legislative proposals	EC
<b>Financial crime, security and market abuse</b>			
Q2 2013	Financial message data transfer from the EU to the USA for the purposes of the Terrorist Finance Tracking Program	Report	EC
Q4 2013	Market Abuse Review	Technical advice	ESMA

Date	Topic	Type	Institution
TBC 2013	Third Anti-Money Laundering Directive	Legislative proposals	EC
<b>Insurance</b>			
Q3 2013	Institutions for Occupational Retirement Provision	Legislative proposals	EC
Q4 2013	Technical standards for Omnibus II	Technical standards	ESMA
TBD 2013/2014	Advice or technical standards for IMD2	Technical advice or technical standards	EIOPA
<b>Securities and markets</b>			
Q2 2013	Securities Law Directive	Legislative proposals	EC
Q2 2013	Limitation period and further procedures for fining credit rating agencies	Regulation	EC
Q2 2013	Revision of the Transparency Directive	Discussion papers	ESMA
Q2 2013	Close-out netting	Legislative proposals	EC
Q2 2013	OTC Derivatives, CCP Requirements, Trade Repositories and CCP Interoperability (EMIR)	Guidelines	ESMA
Q2 2013	Guidelines on the enforcement of EMIR provisions on OTC derivatives	Guidelines	ESMA
Q2 2013	Joint technical standards on Article 11 of EMIR (exchange of collateral)	Technical standards	ESAs
Q2 2013	Guidelines on MiFID remuneration	Guidelines	ESMA
Q4 2013	Technical standards following the revision of MiFID (MiFID II and MiFIR)	Technical standards	ESMA
TBD 2013	Credit Rating Agencies III Regulation	Technical advice	ESMA

Date	Topic	Type	Institution
<b>Products and investments</b>			
Q2 2013	European Social Entrepreneurship Funds	Technical advice	ESMA
Q2 2013	European Venture Capital Funds	Technical advice	ESMA
Q3 2013	Technical standards on the revised Transparency Directive: notification requirements and update and maintenance of Q&A	Technical standards	ESMA
TBD 2013	Packaged Retail Investment Products	Technical standards	ESMA/EIOPA
TBD 2013	Development of high level principles for the product approval process	Principles	ESAs
TBD 2013	Undertakings For The Collective Investment Of Transferable Securities V	Technical advice	ESMA
TBD 2013/2014	A framework for the activities and supervision of personal pension schemes	Advice	EIOPA
<b>Recovery and resolution</b>			
Q2 2013	Rescue and restructuring of financial institutions in Europe	Guidelines	EC
TBD 2013	EU framework for recovery and resolution plans	Technical advice	EBA
<b>Solvency II</b>			
Q3 2013	Solvency II - draft Level 2 delegated acts	Level 2 text	EC
TBD 2013	Solvency II Level 3 measures	Level 3 text	EIOPA
<b>Supervision, governance and reporting</b>			
Q2 2013	Corporate reporting	Guidelines/recommendations	ESMA
Q2 2013	EU corporate governance and company law	Action plan	EC
Q2 2013	Storage of regulated information at ESMA	Discussion paper	ESMA



Date	Topic	Type	Institution
Q2 2013	Supervisory convergence	Discussion paper	ESMA
Q2 2013	Revision of Enforcement Standards	Consultation paper	ESMA
Q2 2013	Remuneration and supervisory co-operation arrangements	Guidelines/recommendations	ESMA
TBD 2013	IORP standard on reporting prudential regulation	Impact assessment	EIOPA
TBD 2013	Reporting prudential legislation relevant to occupational pension schemes to EIOPA	Implementing technical standards	EIOPA
TBD 2013	Implementing technical standards on credit ratings and external credit assessment institutions	Implementing technical standards	ESAs
TBD 2013	The equivalence of CRA rules in a number of third countries	Technical advice	ESMA

Main sources: ESMA 2013 work programme; EIOPA 2013 work programme; EBA 2013 work programme; EC 2013 work programme.

# Glossary

2EMD	The Second E-money Directive 2009/110/EC	BBA	British Bankers' Association
ABC	Anti-Bribery and Corruption	BIBA	British Insurance Brokers Association
ABI	Association of British Insurers	BIS	Bank for International Settlements
ABS	Asset Backed Security	BoE	Bank of England
AIF	Alternative Investment Fund	CASS	Client Assets sourcebook
AIFM	Alternative Investment Fund Manager	CCD	Consumer Credit Directive 2008/48/EC
AIFMD	Alternative Investment Fund Managers Directive 2011/61/EU	CCPs	Central Counterparties
AIMA	Alternative Investment Management Association	CDS	Credit Default Swaps
AMICE	Association of Mutual Insurers and Insurance Cooperatives	CEBS	Committee of European Banking Supervisors (predecessor of EBA)
AML	Anti-Money Laundering	CEIOPS	Committee of European Insurance and Occupational Pensions Supervisors (predecessor of EIOPA)
AML3	3rd Anti-Money Laundering Directive 2005/60/EC	CESR	Committee of European Securities Regulators (predecessor of ESMA)
ASB	UK Accounting Standards Board	Co-legislators	Ordinary procedure for adopting EU law requires agreement between the Council and the European Parliament (who are the 'co-legislators')
Basel Committee	Basel Committee of Banking Supervisors (of the BIS)	CFTC	Commodities Futures Trading Commission (US)
Basel II	Basel II: International Convergence of Capital Measurement and Capital Standards: a Revised Framework		
Basel III	Basel III: International Regulatory Framework for Banks		

CGFS	Committee on the Global Financial System (of the BIS)	DG MARKT	Internal Market and Services Directorate General of the European Commission
CIS	Collective Investment Schemes	Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act (US)
ComFrame	Common Framework for the Supervision of Internationally Active Insurance Groups	D-SIBs	Domestically Systemically Important Banks
Council	Generic term representing all ten configurations of the Council of the European Union	EBA	European Banking Authority
CPSS	Committee on Payment and Settlement Systems (of the BIS)	EC	European Commission
CRA1	Regulation on Credit Rating Agencies (EC) No 1060/2009	ECB	European Central Bank
CRA2	Regulation amending the Credit Rating Agencies Regulation (EU) No 513/2011	ED	Exposure Draft
CRA3	proposal to amend the Credit Rating Agencies Regulation and directives related to credit rating agencies COM(2011) 746 final	ECJ	European Court of Justice
CRAs	Credit Rating Agencies	ECOFIN	Economic and Financial Affairs Council (configuration of the Council of the European Union dealing with financial and fiscal and competition issues)
CRD	‘Capital Requirements Directive’: collectively refers to Directive 2006/48/EC and Directive 2006/49/EC	ECON	Economic and Monetary Affairs Committee of the European Parliament
CRD II	Amending Directive 2009/111/EC	EEA	European Economic Area
CRD III	Amending Directive 2010/76/EU	EIOPA	European Insurance and Occupations Pension Authority
CRD IV	Proposal for a Directive COM(2011) 453 final amending CRD	EMIR	Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (EC) No 648/2012
CRR	Capital Requirements Regulations 2006 (S.I. 2006/3221)	EP	European Parliament
CTF	Counter Terrorist Financing	ESA	European Supervisory Authority (i.e. generic term for EBA, EIOPA and ESMA)
DFBIS	Department for Business, Innovation and Skills		

ESCB	European System of Central Banks	FSA	Financial Services Authority
ESMA	European Securities and Markets Authority	FSB	Financial Stability Board
ESRB	European Systemic Risk Board	FS Act 2012	Financial Services Act 2012
EURIBOR	Euro Interbank Offered Rate	FS Reform Bill 2012	Financial Services (Bank Reform) Bill 2012
Eurosystem	System of central banks in the euro area, including the ECB	FSCS	Financial Services Compensation Scheme
FASB	Financial Accounting Standards Board (US)	FSI	Financial Stability Institute (of the BIS)
FATCA	Foreign Account Tax Compliance Act (US)	FSMA	Financial Services and Markets Act 2000
FATF	Financial Action Task Force	FSOC	Financial Stability Oversight Council
FC	Financial counterparty under EMIR	FTT	Financial Transaction Tax
FCA	Financial Conduct Authority	G30	Group of 30
FDIC	Federal Deposit Insurance Corporation (US)	GAAP	Generally Accepted Accounting Principles
FiCOD	Financial Conglomerates Directive 2002/87/EC	G-SIBs	Globally Systemically Important Banks
FiCOD1	Amending Directive 2011/89/EU of 16 November 2011	G-SIFIs	Globally Systemically Important Financial Institutions
FiCOD2	Proposal to overhaul the financial conglomerates regime (expected 2013)	G-SIIs	Globally Systemically Important Insurers
FMI	Financial Market Infrastructure	HMRC	Her Majesty's Revenue & Customs
FOS	Financial Ombudsman Service	HMT	Her Majesty's Treasury
FPC	Financial Policy Committee	IAIS	International Association of Insurance Supervisors
FRC	Financial Reporting Council	IASB	International Accounting Standards Board

ICAS	Individual Capital Adequacy Standards	LIBOR	London Interbank Offered Rate
ICB	Independent Commission on Banking	LTGA	Long-Term Guarantee Assessment
ICOBS	Insurance: Conduct of Business Sourcebook	MAD	Market Abuse Directive 2003/6/EC
IFRS	International Financial Reporting Standards	MAD II	Proposed Directive on Criminal Sanctions for Insider Dealing and Market Manipulation (COM(2011)654 final)
IIF	Institute for International Finance	MAR	Proposed Regulation on Market Abuse (EC) (recast) (COM(2011) 651 final)
IMA	Investment Management Association	Member States	countries which are members of the European Union
IMAP	Internal Model Approval Process	MiFID	Markets in Financial Instruments Directive 2004/39/EC
IMD	Insurance Mediation Directive 2002/92/EC	MiFID II	Proposed Markets in Financial Instruments Directive (recast) (COM(2011) 656 final)
IMD2	Proposal for a Directive on insurance mediation (recast) COM(2012) 360/2	MiFIR	Proposed Markets in Financial Instruments Regulation (EC) (COM(2011) 652 final)
IMF	International Monetary Fund	MMR	Mortgage Market Review
IORP	Institutions for Occupational Retirement Provision Directive 2003/43/EC	MoJ	Ministry of Justice
IOSCO	International Organisations of Securities Commissions	NAV	Net Asset Value
ISDA	International Swaps and Derivatives Association	NFC	Non-financial counterparty under EMIR
ITS	Implementing Technical Standards	NFC+	Non-financial counterparty over the EMIR clearing threshold
JCESA	Joint Committee of the European Supervisory Authorities	NFC-	Non-financial counterparty below the EMIR clearing threshold
JMLSG	Joint Money Laundering Steering Committee	OCC	Office of the Comptroller of the Currency (US)
JURI	Legal Affairs Committee of the European Parliament		
LEI	Legal Entity Identifier		



OECD	Organisation for Economic Cooperation and Development	RDR	Retail Distribution Review
Official Journal	Official Journal of the European Union	RRPs	Recovery and Resolution Plans
OFT	Office of Fair Trading	RTS	Regulatory Technical Standards
Omnibus I	Directive 2010/78/EU amending 11 existing Directives to reflect Lisbon Treaty and new supervisory architecture	SCR	Solvency Capital Requirement (under Solvency II)
Omnibus II	Second Directive amending existing legislation to reflect Lisbon Treaty and new supervisory infrastructure (COM(2011) 0008 final) – amends the Prospectus Directive (Directive 2003/71/EC) and Solvency II (Directive 2009/138/EC)	SEC	Securities and Exchange Commission (US)
ORSA	Own Risk Solvency Assessment	SFD	Settlement Finality Directive 98/26/EC
OTC	Over-The-Counter	SFO	Serious Fraud Office
PCBS	Parliamentary Commission on Banking Standards	SIPP	Self-invested personal pension scheme
PERG	Perimeter Guidance Manual	SOCA	Serious Organised Crime Agency
PPI	Payment Protection Insurance	Solvency II	Directive 2009/138/EC
PRA	Prudential Regulation Authority	SSAP	Statements of Standard Accounting Practice
Presidency	Member State which takes the leadership for negotiations in the Council: rotates on 6 monthly basis	SSR	Short Selling Regulation EU 236/2012
PRIPs	Packed Retail Investment Products	SUP	FSA Supervision source
PRIPs Regulation	Proposal for a Regulation on key information documents for investment products COM(2012) 352/3	T2S	TARGET2-Securities
RAO	Financial Services and Markets Act 2000 (Regulated Activities Order) 2001	TR	Trade Repository
		TSC	Treasury Select Committee
		UCITS	Undertakings for Collective Investments in Transferable Securities
		UCITS IV	UCITS Directive 2009/65/EC

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