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Being better informed
FS regulatory, accounting and audit bulletin

PwC FS Regulatory Centre of Excellence

May 2012

Spotlight on EMIR

Regulators continue shadow banking debate

FRC revises corporate governance standards

FSB publishes Principles for Mortgage Underwriting

Our newest Hot Topic on Solvency II

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Executive Summary

Welcome to the May 2012 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.

Laura Cox
Lead Partner
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Over the next few months we will experience the first wave of the G20 mandated restructuring of the international OTC derivatives markets in the US, EU and other key countries, making market infrastructure a key theme for Being Better Informed this month.

This month we discuss EMIR in our feature article, which creates clearing, reporting and risk management practices for firms as well as establishes the CCP and TR plumbing which is required to facilitate the new requirements. With implementation looming, firms are getting to grips with the detail on EMIR's operational and commercial implications for their businesses.

In April IOSCO consulted on its *Principles for financial market infrastructures*, which seeks to increase and harmonise the existing international standards for payments systems, settlement systems and clearing houses.

We also report this month on news related to other ongoing infrastructure initiatives, in areas such as settlement, payment services, and e-money.

Shadow banking activities remain squarely in the frame. The FSB published a report *Strengthening the Oversight and Regulation of Shadow Banking*, which provides an update on its five shadow banking work streams and announces its plans to undertake a new monitoring exercise. The FSB also published a *consultation* on its policy proposals in relation to Securities Lending and Repos.

In addition to these releases IOSCO published a Shadow Banking *consultation* on money market funds, which reviews their role, weaknesses and IOSCO's tighter regulatory standards.

And on Friday 27th April the EC's DG MARKT sponsored a conference *Toward Better Regulation of Shadow Banking*, to coincide with the EC's consultation period for its *Shadow Banking Green Paper*. We report on a speech given at the conference by Paul Tucker, Bank of England Deputy Governor for Financial Stability, who set the scene.

Developments in the banking sector have the potential to push more activities into the shadow banking arena. For example, the IMF's April *Global Financial Stability Report* calls for further bank deleveraging.

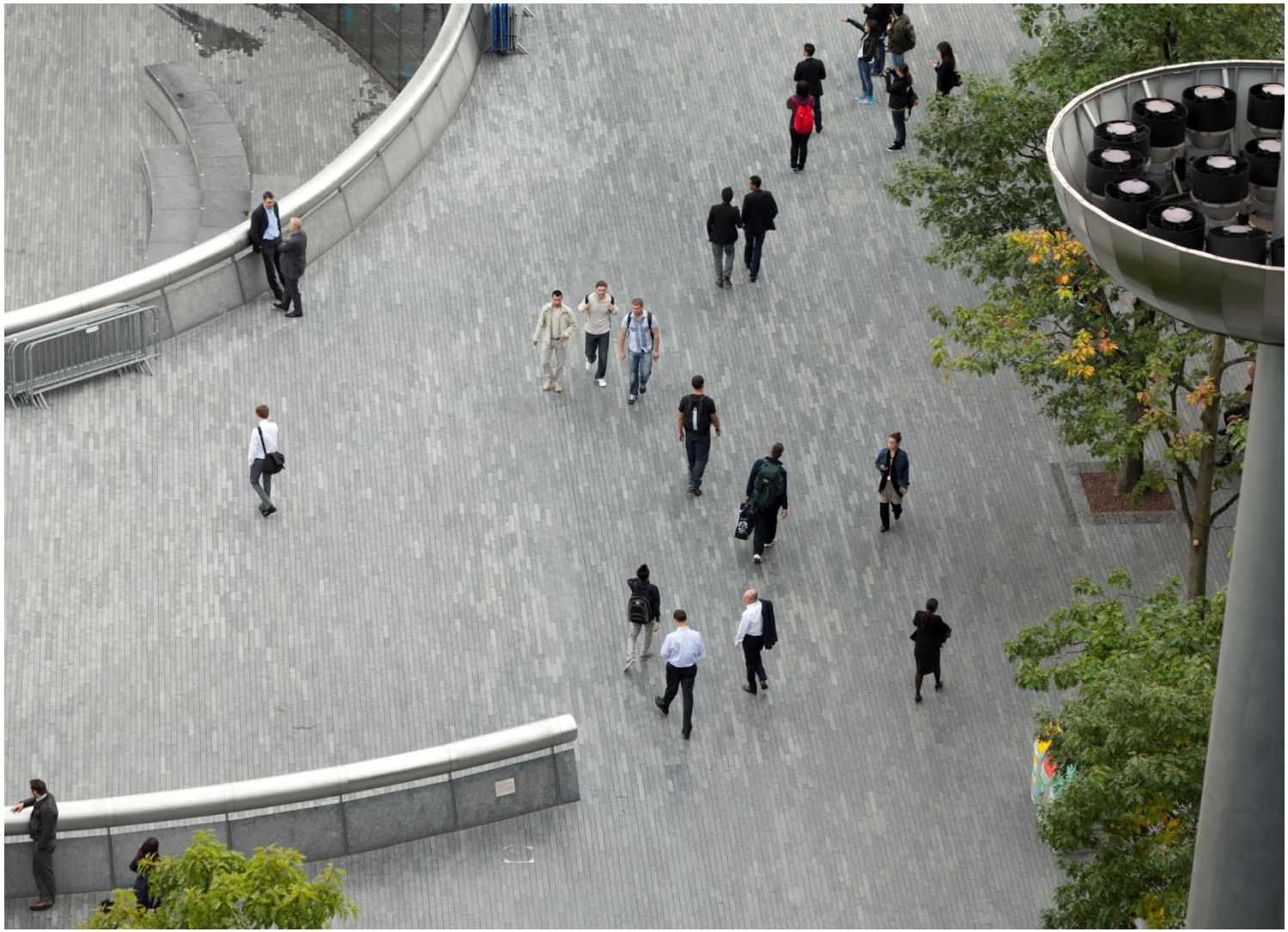
In the retail lending sector, FSB published its *Principles for Sound Residential Mortgage Underwriting Practices* in April. Many of the principles seem like common sense business practices - let's hope that they are embedded quickly, and not put aside when the next credit bubble starts to gain steam.

As the CRD IV implementation date draws closer on the horizon, final legislative work is falling into place. The Council and EP are working to agree final text of CRD IV and the EBA released its first RTS. CRD IV is due to come into force on 1 January 2013 and the EU will need to quickly produce a tall order of 76 regulatory technical standards, 32 implementing technical standards and 20 guidelines.

In the asset management sector, ESMA began its AIFMD discussions with non-EU supervisors, on behalf of EU national regulators, in advance of the July 2013 AIFMD implementation deadline. Getting these agreements in place is time-critical for many fund managers' marketing strategies, so it's good to see progress on this front.

EU trialogue negotiations continued on Solvency II in April. We published a *Hot Topic* discussing the most relevant aspects of the ECON position approved in March 2012 and compare this position to the Council position.

Looking ahead, we expect several important releases in May, those relating to IMD, PRIPS, UCITS V and RRPs. Just time to draw a breath before the next tranche arrives!



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Contents

EMIR reporting and clearing regime nears completion

The EU is near completing rules which will restructure post-trade operations for over the counter (OTC) derivatives in less than a year, through a regulation focusing on OTC derivative transactions, central counterparties (CCPs) and trade repositories (TRs), known as the European Market Infrastructure Regulation (EMIR).

The European Union (EU), along with the other G20 countries, committed to reform the OTC derivatives market by 2012, and this commitment is driving the EU's tight timetable for implementation.

EMIR sets out the following requirements in relation to OTC derivative trading:

1. clearing obligation for eligible OTC derivative trades
2. reporting obligation for all derivative trades
3. measures to reduce counterparty credit risk and operational risk for OTC derivative trades which are bilaterally traded
4. rules for the authorisation and operation of CCPs
5. rules on the interoperability between CCPS
6. rules for the registration and operation of TRs.

EMIR rules will apply to all derivative instruments, as such term is defined within the Markets in Financial Instruments Directive (MiFID). EMIR will capture derivatives trading and clearing activities conducted by CCPs and their clearing members, financial counterparties, certain non-financial counterparties and TRs.

Significant detail about EMIR requirements will be set out in regulatory technical standards (RTS) prepared by the European Securities Authorities (ESAs). We expect to see first drafts of the RTS published for consultation in June 2012.

The new rules are designed to improve market stability by replacing individual market participant's counterparty risk management processes with standardised CCP requirements. Most importantly, EMIR will interpose the CCP between counterparties – thus reducing potential credit default contagion between firms and markets.

Requirements for clearing eligible contracts

EMIR tasks ESMA with identifying which OTC derivative contracts will be subject to EMIR clearing requirements. This will be done through both 'bottom-up' and 'topdown' approaches. National supervisors will authorise CCPs to clear certain types of derivatives and will then inform ESMA of these authorisations. ESMA will assess whether mandatory clearing should apply to that class of derivative across the EU.

Separately, ESMA can decide to mandate central clearing for certain classes of derivatives across the EU, and invite CCPs to tender for the right to clear those types of derivatives. Until ESMA builds its capabilities in this area, we expect that clearing eligibility will be driven primarily from the 'bottom-up' process. EMIR discloses a preliminary criteria for clearing eligibility, but ESMA will elaborate further on these criteria in RTS.

EMIR includes four exemptions from the mandatory clearing requirement:

- Contracts below a 'clearing threshold' – ESMA will determine thresholds below which derivative

contracts entered into by non-financial firms will not be subject to the clearing requirement.

- Financial institutions involved in managing public debt – This includes central banks, public bodies responsible for or intervening in the management of public debt and the Bank for International.
- Intra-group transactions – Groups of financial firms, groups of non-financial firms, and firms combining financial and non-financial firms may be eligible for an exemption. This exemption requires full consolidation of the group and centralised risk management processes and supervisory pre-approval.
- Pension funds –EMIR provides an exemption from clearing requirements for pension scheme operators for three years. However pension scheme operators will still be subject to reporting requirements and collateralisation requirements.

Firms will need to prepare a clearing plan for all OTC derivative contracts they trade which are likely to be deemed clearing eligible. Firms will need to assess the costs and operational and commercial considerations of becoming a CCP clearing member or becoming a client of another CCP member firm. Firms will need to consider how the collateral requirements of their CCP or clearing firm differ from their current OTC collateral requirements.

Legislators and commentators have fiercely debated the types of collateral required for CCP initial margin and variation margin. The narrowing of the eligibility of collateral to meet margin requirements may give rise to an active collateral trading market.

Risk management requirements for uncleared contracts

In relation to derivative trades which are not subject to mandatory clearing, EMIR requires counterparties to hold additional capital to manage risks which are not covered by an appropriate exchange of collateral. The joint discussion paper issued on 6 March 2012 by the ESAs suggests that firms subject to the Capital Requirements Directive (CRD) (i.e. banks and investment firms) or insurance companies subject to Solvency II are deemed to be sufficiently capitalised to cover the risks associated with OTC derivatives trading. No additional capital requirements may be imposed on these firms.

However, the ESAs indicated that firms subject to the UCITS directive or the Alternative Investment Fund Managers Directive (AIFMD) are not adequately capitalised to cover the risks of uncleared trades through posting appropriate collateral. We await draft RTS to see more of the ESA's views on this critical requirement.

In addition to capital and collateral requirements, ESMA will define in RTS enhanced risk management procedures which will apply to uncleared trades:

- trade confirmation requirements
- reconciliation requirements
- daily mark-to-market or mark-to-model valuation
- collateral segregation requirements
- reporting requirements.

While the market has focussed on the impacts of the new clearing requirements, a large portion of OTC derivative trades may remain outside the clearing requirement. Firms should focus on the significant obligations that the new capital, collateral and risk management requirements present.

Reporting obligations

Firms and CCPs are required to report all OTC derivative contact transactions to a TR (or ESMA in the absence of designated TR arrangements) no later than one working day following the conclusion, modification or termination of the contract. This requirement will apply to all existing on-exchange derivatives trading, as well as to all cleared and uncleared OTC dealing.

Firms must keep records of trades for five years from the date of the termination of the contract. ESMA will develop data and format requirements through RTS.

Implementation expected 2012-13

On 29 March 2012 the European Parliament (Parliament) approved the EMIR text, paving the way for its

passage by the European Council of Finance Ministers (Council) this spring. After the Council adopts it at an upcoming meeting, the legal framework will be largely in place and EMIR will come into force 20 days after publication in the EU's Official Journal.

However, EU regulators are still working on many of the RTS which underpin EMIR, so questions remain around when the new regime will actually 'go live'. We expect the reporting requirements to become effective by early 2013 and for clearing requirements to be phased in from spring 2013.

Impacts for firms

Long-term, the new regime will substantially reduce counterparty risks for firms dealing in OTC derivatives, improve trade processing efficiency, and reduce the risk of contagion for both market participants and markets themselves. It will also lead to more standardisation of OTC derivative contracts and tighter spreads on transactions.

However, firms also need to anticipate some effects of EMIR which may be challenging:

- The OTC derivatives market will evolve into a two-tier market for centrally cleared and bilaterally cleared trades.
- Firms will face increased costs from clearing fees and additional reporting requirements.
- Firms are also likely to face higher capital charges and will need to post margin in cash or other designated eligible securities, in relation to contracts which are not continually cleared.
- The narrowing of eligible collateral requirements may result in a shortage of such assets, giving rise to a growth in collateral trading and related services.
- The demand for clearing services over the next twelve months may exceed supply and operational capability of CCPs to on board clients, with the result that central clearing may not be immediately available to all those entities captured by the scope of EMIR.

EMIR's passage and implementation dates will arrive quickly during the next year. Firms which have not already developed reporting and clearing strategies, budgets, IT and resourcing plans must do so as a matter of urgency.

We advise firms to monitor the final stages of the legislative process and be prepared to accommodate any late legislative changes.

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Cross Sector Announcements

In this section:

Regulation

AIFMD

ESMA begins AIFMD discussions with non-EU supervisors

ESMA *announced* on 26 April 2012 that it will begin discussions soon with non-EU supervisors about supervisory co-operation issues. AIFMD requires EU and non-EU supervisors of entities subject to AIFMD to enter into co-operation agreements.

Steven Maijoor, ESMA Chairman, previously announced on 15 March 2012 that ESMA would lead on discussions with non-EU supervisors. The co-operation agreements will be based on IOSCO's Principles Regarding Cross-Border Supervisory Co-Operation and are needed to allow AIFMD to be implemented in an efficient and timely fashion.

Although ESMA will lead negotiations, each individual EU Member State regulator will need to enter into a co-operation agreements with each non-EU supervisors.

Capital and liquidity

BCBS updates Basel III implementation

On 3 April 2012 BCBS published its second *Progress report on Basel III implementation*, dated as of the end of March 2012. The report includes information on the implementation of Basel II, Basel 2.5 and Basel III.

The report notes that Argentina, Hong Kong, Indonesia, Mexico (who will host the next G20 meeting), Russia, South Africa, South Korea and the United States (U.S.) have still not published draft regulations to transpose Basel III. The U.S. have still not fully implemented Basel 2/2.5; Argentina has only started to prepare for Basel II). Europe and China have published draft regulation on Basel III, with Japan and Saudi Arabia leading the pack in terms of legislative progress with final rules already agreed.

BCBS and EBA assess Basel III costs

On 4 April 2012 the EBA published the first *Report on the results of the Basel III monitoring exercise*. This is follow-up to the comprehensive European quantitative impact study it published in December 2010 to study the impact of the proposals. This report summarises the results of the latest BCBS *monitoring exercise* using consolidated data of European banks as of 30 June 2011. A total of 158 European banks submitted data for this exercise. For the full exercise 212 global were captured in the BCBS's sample.

Assuming full implementation of the Basel III framework, the EBA estimates that 48 of the largest EU banks will need approximately €485 billion to meet capital targets. Research suggests that the Core Equity Tier (CET) 1 capital ratios of these large banks would have declined from an average CET1 ratio of 10.2% to an average CET1 ratio of 6.5%. This change can be explained, in almost equal parts, to changes in the definition of capital and to changes related to the calculation of risk-weighted assets.

However, the results need to be taken with a degree of scepticism, as they represent only a snap shot in time and fail to capture a host of unintended consequences of the new regime. Banks' capital resources (particularly European banks) have been significantly depleted since 30 June 2012, due to sluggish growth in domestic markets and diminishing confidence about the state of some EU economies.

Regarding the global picture, the BCBS indicate the average CET1 capital ratio of 103 of the world's largest banks will have fallen by nearly one-third from 10.2% to 7.1% when Basel III deductions and risk-weighted assets are taken into account.

Council and EP progress CRD IV passage

In an attempt to meet the January 2013 launch date of the CRD IV regime, in line with recommendations of the BCBS, the two EU legislators – the Council (through the ECON Committee) and the EP – are working in parallel to agree their respective amendments they to the EC's CRD IV proposals.

On 2 April 2012 the Council published its compromise on the *Directive* (CRD IV) and the *Regulation* (CRR). The text was prepared following discussions in March 2012 Council working party meetings.

The EP's ECON Committee is scheduled to vote on the Parliamentary amendments on 16 April 2012.

EBA issues first RTS on CRD IV

The EBA issued its first *consultation on CRD IV* (the CRD IV Consultation) on 4 April 2012. The CRD IV Consultation groups several regulatory technical standards (RTS) on 'Own Funds' issues. The EBA has built on the guidelines developed by its predecessor, the Central European Banking Supervisor (CEBS), in drafting some aspects of the RTS (e.g. hybrids and core capital).

The draft RTS address a number of areas, including:

- Foreseeable charges or dividends
  A firm is required to deduct all 'reasonable' foreseeable charges and dividends from profits before it can count as eligible Common Equity Tier 1 (CET 1).
- Other deductions from CET 1 capital and from Own Funds
  The EBA presents how deductions will work against CET 1 and Own Funds for capital instruments of financial institutions and insurance/reinsurance undertakings, losses of the current financial year, deferred tax assets, defined benefits pension fund assets and foreseeable tax charges.
- Indirect funding of capital instruments
  The EBA states restrictions on the applicable forms and nature of indirect funding of capital instruments to count towards CET 1.
- Limitations on redemption of own funds instruments
  The competent authority will have power to issue further redemptions on CET 1 instruments in addition to those included in the contractual or legal provisions governing the firm.
- General requirements
  This covers provisions related to indirect holdings arising from index holdings, supervisory consent for reducing Own Funds, and various associated disclosure requirements to holders/supervisors.
- Grandfathering of own funds
  The EBA outlines that reclassifying an own funds instrument grandfathered into the new regime will not affect a firm's capital calculation.

The consultation closes on **4 June 2012** and the EBA will hold a public hearing later in June 2012. The EBA will release a second consultation on the draft Own Funds RTS in the second half of 2012.

FSA's Lawton speaks about impact of regulation on market liquidity

David Lawton, Acting Director of FSA's Markets Division, gave a *speech* on 26 April, 2012, in which he discussed the trade-offs facing policymakers between regulation and liquidity. He also suggested certain regulatory proposals, mainly those in MIFIR, that may have an adverse impact market on market liquidity.

He addressed the following proposals:

- the creation of new trading venues, Organised Trading Facilities, and their rules which ban operators from trading on own account
- rules which subject traders who use algorithmic trading to continuous market-making obligations
- rules which require OTC derivatives which are sufficiently standardised and liquid to be centrally cleared and traded on organised markets
- restrictions on firms located outside the EU from providing investments services in the EU
- restrictions on firms under the European Short Selling Regulation No 236/2012.

The EC published for consultation draft amendments to MiFID and the new MiFIR legislation in October 2011. Compromise texts are expected to be released by the EC in May.

Consumer protection

Industry pledges to help PPI claimants

The BBA announced on 24 April 2012 that major banks, credit card providers, consumer groups, regulators and the FOS have agreed certain *measures designed to help consumers make payment protection insurance (PPI) claims*. The PPI Summit sought to find ways to restore consumer trust in the PPI claims process and to address abusive practices carried on by some claims management companies (CMCs) firms.

The agreement was reached between the parties at a PPI Summit hosted by Moneysavingexpert.com and Which?. The parties agreed to:

- standardise the PPI complaints procedures across financial services to make the process clearer and simpler for consumers
- improve communication with customers to explain why a CMC is not necessary to make a claim
- write to the Justice Secretary to call for tougher regulation of CMCs.

The actions agreed at the PPI Summit may pressure the MoJ, which is the CMC regulator, to improve CMC conduct standards.

Corporate governance

G30 recommend further corporate governance reforms

On 12 April 2012, the Group of Thirty (G30) published a report, *Toward Effective Governance of Financial Institutions*. The report calls for far-reaching reforms in corporate governance at major financial firms in the interest of securing greater financial stability. The report is informed by a review of governance arrangements at 36 of the world's largest financial institutions and interviews with leaders of regulators and supervisors.

The report concludes that even though many financial firms have undertaken substantial corporate governance reforms since the crisis, we can't presume that all leading financial institutions have done so.

The report states that a functional governance system requires the following elements:

- a board of directors that carries out its role in a vital manner (challenging management, setting risk culture, engaging and testing strategic proposals)
- a set of management protocols for governing operations in huge and complex organizations that assures clear management accountability
- constructive and rigorous supervisory arrangement
- shareholders who have an appropriate voice and who exercise their rights and obligations.

At the heart of the G30's recommendations is a call to management and boards to strengthen the fabric of the checks and balances in their organizations. The G30 strongly encourages splitting the roles of CEO and Chairman. The G30 also notes that long-term shareholders can and should contribute meaningfully to effective governance, although it is not reasonable to expect shareholders to steer firms away from another crisis.

FRC revises Corporate Governance Code and Guidance on Audit Committees

The FRC published its consultation *Revisions to the UK Corporate Governance Code and Guidance on Audit Committees* on 20 April 2012. This consultation seeks to implement the policies set out in '*Effective Company Stewardship: Next Steps*', which the FRC published in September 2011.

The consultation proposes the following amendments:

- Boards will be required to set out in the annual report the reasons why they consider the report to be fair, balanced and understandable. Audit committees' remits will be extended expressly to advise the board on this issue.
- Audit committees will be required to provide more informative reporting - in particular the FRC encourages committees to disclose their process for appointing the external auditor.
- FTSE 350 companies will be expected to put the audit contract out to tender at least every ten years. On this last point, the FRC is seeking views on any transitional arrangements relating to tendering that may be required.

The FRC also discussed the characteristics of an informative explanation and addressed several issues identified during the implementation of the UK Corporate Governance Code last year. Finally, the FRC proposed that annual reports adopt the *new structure for narrative reporting*, proposed by the Government.

The FRC recognises that the Code may overlap with requirements set out in EU proposals. However, the FRC

believes that action to improve national practices may alleviate the pressure for more prescriptive EU rules.

The consultation closes on **13 July 2012**. The FRC anticipates that final revisions will apply to financial reporting for financial years beginning on or after 1 October 2012.

FRC consults on revisions to the UK Stewardship Code

The FRC published a consultation *Revisions to the UK Stewardship Code* (the Stewardship Code) 20 April 2012.

The FRC is seeking to reinforce certain provisions, rather than introduce fundamental changes. The proposed revisions will:

- provide greater clarity on the definition of "stewardship" or the respective roles and responsibilities of asset owners and managers
- address some issues identified in the initial consultations when the FRC first published the Code in 2010 – such as the question of whether institutional investors should recall lent stock for voting purposes
- take into account lessons learned during the initial implementation of the Code, many of which were highlighted in the *FRC's 'Developments in Corporate Governance' report*, published in December 2011
- update the Code to reflect developments in market practice.

The consultation closes on **13 July 2012**. The FRC anticipates that final revisions will apply to financial reporting for financial years beginning on or after 1 October 2012.

Dodd Frank Act

US regulators extend Volcker Rule implementation

On 19 April 2012, the Federal Reserve Board ("Board") issued a formal *Policy Statement* on the implementation period for the Volcker Rule, confirming that banks will have until 21 July 2014 to conform to comply with the Volcker Rule.

The Board stated that during the two year period, banking entities should engage in "good-faith planning efforts" to conform their activities under the Rule. This may include complying with reporting or recordkeeping requirements, if such elements are included in the final rules implementing the Volcker Rule and the agencies determine such actions are required during the conformance period. For further information, please see our *FS Regulatory Brief* on this topic.

CFTC and SEC agree swap definitions

The CFTC and SEC adopted joint rules which define the terms 'swap dealer', 'security-based swap dealer', 'major swap participant', 'major security based swap participant' and 'eligible contract participant' on 18 April, 2012, pursuant to Title VII of the Dodd-Frank Act.

While this provides some clarity about the scope of firms subject to the new Dodd Frank regime for OTC derivatives trading, the joint rules do not include final definitions for the terms "swap" and "security-based swap", which will be dealt with in separate joint rulemaking.

The rules come into effect 60 days after publication in the Federal Register, however more details are available in the *SEC fact sheet* and *CFTC fact sheet*.

Financial crime

EC publishes a report on MLD III

On 11 April 2012, the EC published a *Report on the application of Third Money Laundering Directive 2005/60/EC* (MLD III), with the view of amending the MLD III.

The report sets out the various issues raised by EC's review of the MLD III launched in 2010, the revisions of the Financial Action Task Force's Recommendations (FATF Recommendations) on 16 February 2012, The MLD III's clauses require the EC to report to the EP and the Council.

The report finds that the existing framework appears to work relatively well; it did not identify any fundamental shortcomings which would require far-reaching changes to the MLD III. The EC will be required to revise the MLD III will to update it in line with the revised FATF Recommendations. Important issue include the level of harmonisation of the future EU framework continuing to improve the effectiveness of the rules. This is an area of work that the FATF is currently developing.

The EC invites comments to the issues raised and the likely impact, including impacts on fundamental rights as guaranteed by the Charter of Fundamental Rights of the EU30, of any possible changes to the MLD III by 13 June 2012. Comments will inform the legislative proposals to revise the MLD III. The responses received will be available on EC's website unless confidentiality is specifically requested, and the EC will publish a summary of the results of the consultation.

The consultation will then be followed by the preparation of an impact assessment and the adoption of a legislative proposal in autumn 2012. The EC is also planning a public hearing on 23 November 2012.

ESAs report on the implementation of MLD III

On 11 April 2012 the Joint Committee of the ESAs published two reports on the implementation of the *Third Money Laundering Directive 2005/60/EC* (3MLD): one *Report on the Beneficial Owners Customer Due Diligence requirements*; one other *Report on Simplified Due Diligence requirements where the customers are credit and financial institutions*.

The first report analyses Member States' current legal, regulatory and supervisory implementation of the anti-money laundering/counter terrorist financing (AML/CTF) frameworks related to the application by different credit and financial institutions of Customer Due Diligence measures on their customers' beneficial owners.

The report sought to identify differences in the implementation of the 3MLD and to determine whether such differences create a gap in the EU AML/CTF regime that could be exploited by criminals for money laundering and terrorist financing purposes.

The second report provides an overview of Member States' legal and regulatory provisions and supervisory expectations in relation to the application of Simplified Due Diligence requirements of the 3MLD. The report focuses exclusively on one particular situation of low risk where Simplified Due Diligence is applicable, namely where the customer is a credit or financial institution situated in a EU/EEA state or in a country that imposes equivalent AML/CFT requirements.

Both reports come to the conclusion that there are significant differences in the implementation across the Member States, and that some of these differences could create undesirable effects on the common European AML regime. The reports find that some of these differences are not due to the 3MLD's minimum harmonisation approach, but instead appear to stem from different national interpretations of the 3MLD's requirements. Both reports also call on the European Union to consider addressing these problems.

ESMA reports on Member States' use of MAD sanctions

ESMA published a *report* on 26 April 2012 on the use of administrative and criminal sanctions used by EU national regulators to enforce MAD. MAD aims to combat cross-border market abuse by establishing a common approach amongst member states with the aim of supporting clean, fair and orderly markets.

The report compares the use of sanctioning powers across twenty-nine member states of the European Economic Area for the period 2008 to 2010, as part of ESMA's work on achieving consistent regulatory practices across the EU. The report defines a 'sanction' as a 'broad notion covering the whole spectrum of actions applied after a violation is committed'.

According to the report, the key areas of differences in member states' legal systems are:

- whether a member state and its national regulator have civil and / or criminal proceedings at their disposal and how these interact with each other
- whether the sanctions can be applied to natural and / or legal persons in each member state
- the powers and procedures available to the national regulator, in particular around settlement, the type of administrative and criminal sanctions imposed and publication of regulatory decisions.

EMSA believes that applying sanctions in a coherent manner across the EU will contribute to a credible EU supervisory system, and is essential to maintaining

the integrity and efficient functioning of the financial markets. The report's findings will inform the development of the new market abuse regime.

JMSLG finalises revisions to e-money AML guidance

On 16 March 2012, the JMSLG published its *Revised AML Guidance on Electric Money* on 18 April 2012, amending its December 2007 Guidance on electronic money.

The JMLSG's existing guidance has been revised principally to reflect the provisions of the Electronic Money Regulations 2011. The new guidance clarifies customer due diligence and related measures that are required by law in relation to electronic money, following the JMLSG's February 2012 *consultation paper*.

This guidance may be used by all electronic money issuers (defined in Regulation 2(1) of the Electronic Money Regulations 2011). The new rules may also be relevant for EEA authorised electronic money issuers who operate in the UK.

SOCA's 2012/13 annual plan

The Serious Organised Crime Agency (SOCA) published its seventh *Annual Plan*, which sets out how it will exercise its functions in 2012/13.

The document highlights SOCA's aim of continuing to enhance its operational impact while playing an integral part in the creation of the National Crime Agency (NCA), which will replace SOCA and is expected to be fully operational in 2013.

As SOCA's strategic priorities were revised by the Home Secretary last month, the SOCA Board concluded that activity in 2012/13 should be primarily driven by:

- dislocation of criminal markets in accordance with its functions,
- systematic risk-based management of individuals identified as being involved in organised crimes impacting the UK, and
- better and more effective delivery of law enforcement activity.

The plan also sets out SOCA's governance, functions and structure, and the criteria on which its performance will be assessed.

FSA comments on boiler room fraud activities

The FSA issued a *press release* on 17 April 2012 commenting on the boiler room activities that it observed in 2011. 'Boiler rooms' refer to fraudsters that usually contact people by telephone and persuade them to buy non-tradable, overpriced or non-existent shares. They are usually unauthorised, overseas-based companies with bogus UK addresses.

The FSA's statistics show an increase in reports of share fraud activities from 2010 to 2011, but a decrease in the number of people who lost money. FSA states that the average investor loses approximately £20,000 in such schemes and that the potential loss that the FSA estimates that it prevented last year is approximately a million pounds.

Boiler rooms sometimes 'clone' genuine authorised firms and individuals to appear more credible. To avoid becoming a victim, FSA advises consumers to apply common sense when approached by any firm. The press release outlines basic steps that consumers should take in checking a firm's validity.

The FSA has also published videos to explain *share fraud and* similar schemes, including *land banking*, *'get-rich-quick' schemes* and general information on *scams*.

Market infrastructure

IOSCO publish Principles for FMIs

FMIs should prepare recovery and resolution plans which will reduce systemic disruptions in the financial system in the event of their distress or failure. These plans should contain a substantive summary of the key recovery or orderly wind-down strategies, the identification of the FMI's critical operations and services, and a description of the measures needed to implement the key strategies.

These and a host of other requirements form part of a seminal blueprint on FMIs, *Principles for financial market infrastructures* (FMI Principles), which IOSCO published on 16 April 2012. The publication follows IOSCO consultation with other global regulators and industrial participants.

IOWCO outlined 24 high-level principles which frame how FMIs should operate in the post crisis era. The FMI Principles create an international FMI standards for corporate governance requirements, risk management practices, settlement procedures, default management, transparency and supervision.

On the same day IOSCO published two reports supporting the FMI Principles:

- *Assessment methodology for the principles for FMIs and the responsibilities of authorities* - includes a series of templates, with various check lists, identifying principles that supervisors can use to test compliance with the FMI Principles. IOSCO expects FMIs to conduct formal periodic full or partial self-assessments of compliance with the FMI Principles.
- *Disclosure framework for financial market infrastructures* - intended to help FMIs provide consistent and comprehensive disclosure under FMI Principle 23.

Developing global standards may make it easier for authorities to implement reforms by reducing the opportunity for regulatory arbitrage between financial centres. IOSCO will monitor compliance and benchmark the performance of countries against their peers.

EC takes action on e-money laggards

On 26 April 2012 the EC made an *announcement* that it is requiring Belgium, Spain, France, Cyprus, Poland and Portugal to notify it, within two months, of the measures they are taking to implement the Second Electronic Money Directive (2EMD). The 2EMD implementation deadline was 30 April 2011. The UK implemented it on 30 April 2011

ECB publish TS2 2011 review

The ECB published a webpage, *T2S in 2011*, on 3 April 2011 which outlines the activities and progress of the TARGET2-Securities (T2S) project during 2011. T2S is the securities settlement information technology platform which will be used by central banks using the Eurosystem (that is, the ECB and the national central banks of the euro area).

The webpage addresses a number of issues, including:

- Legislation
  In April 2011 Level2/Level3 Agreement was signed by the Governing Council of the ECB and the 4CB (i.e. the Deutsche Bundesbank, the Banque de France, the Banco de España and the Banca d'Italia). The agreement defines the legal relationship between the Eurosystem and the 4CB, with the latter, as T2S providers, developing T2S and responsible assuming responsibility for operating it on behalf of the Eurosystem.
- Technical documentation
  n 28 February the Business Functionality for the T2S Graphical User Interface (GUI) was published. Consultations were also launched last year on User Detailed Functional Specifications and Business Process Description.
- Connectivity
  The Governing Council of the ECB agreed in April that T2S actors will be able to connect to T2S via two mechanisms – either via a value-added network connection or via a dedicated link.
- Pricing
  The T2S price list was finalised in 2011 according to the market's feedback and advice. The T2S price list itemises all settlement, information and account management services that will be charged for in T2S.

The ECB has delayed the T2S implementation by nine months to the end of June 2015, due to delays in delivering the T2S software for the Eurosystem Acceptance Testing environment.

ESMA publishes responses to EMIR joint discussion paper

ESMA published *stakeholders feedback* on 4 April 2012 to the ESAs' *Joint Discussion Paper on regulatory technical standards for risk mitigation techniques for uncleared OTC derivatives* (March 2012). There are 67 responses from a mix of associations, exchanges, firms and individuals.

ISDA, as the global trade association for OTC derivatives, provided strong industry views in its response. ISDA

supported ESA's proposals for daily exchanges of collateral and, subject to some conditions, that firms should mark collateral to market on a daily basis. ISDA further agreed with the ESA's proposal to disapply the collateral requirements for non-financial counterparties below the clearing threshold.

However, ISDA offered several counter proposals to those set out the discussion paper, including:

- firms should not be subject to a strict initial margin (IM) requirements but be allowed to use IM as one tool, along with capital, supervisory dispute reporting procedures, credit default swaps, to manage counterparty credit risk
- firms should be free to set variation margin, and the requirement to pay daily variation margin should be subject to thresholds
- assets which may be used as eligible collateral for uncleared trades should be substantially expanded, to avoid further stressing the global demand for high quality collateral
- EMIR legislation should be amended to state that clearing requirements will not be effective until the RTS are complete and provide adequate time for firms to prepare (up to nine months for small firms)
- special purpose vehicles (SPVs) should be exempt from all bilateral collateralisation requirements, including posting of variation margin, if SPV derivative trading activity falls within the hedging exemption.

ISDA's strongest recommendation to the ESAs was that they should move away from a 'one size fits all' initial margin requirement for uncleared trades. ESMA views this requirement as detrimental to the industry and placing further burdens on global liquidity.

ESMA and other ESAs will likely publish a consultation paper containing the first draft of all of the EMIR RTS in June 2012.

ECB recommends ways to improve payment services security

On 20 April 2012, the ECB published its *Recommendations for the Security of Internet Payments* (Recommendations). The recommendations will help inform supervisors of payment service providers (PSPs) about retail payment services and instruments security in the EEA.

The Recommendations are based on stakeholder consultation and a fact-finding exercise conducted by a special forum in 2011 (the PSP Forum). The ECB created the PSP Forum to identify major weaknesses and vulnerability in the current system and to spearhead initiatives to address these issues.

The Recommendations are based on four guiding principles:

- PSPs should perform specific assessments of the risks associated with providing internet payment services taking into account evolving threats associated with internet security
- the internet payment service provided by PSPs should be initiated by strong customer authentication to robustly verify the identity of customers
- PSPs should implement effective processes for authorising transactions, as well as monitoring transactions to identify any abnormal customer payment patterns
- PSPs should engage in customers' awareness and education programmes on security issues related to the use of internet payments.

The Recommendation are drafted as high level proposals because prescriptive proposals would not accommodate continuous technological innovation. However, the PSP Forum is aware that new threats can arise at any time and intends to review the Recommendations periodically.

BoE publishes 2011 Payment Systems Oversight report

On 11 April 2012 the BoE published its *2011 Payment Systems Oversight Report* (the Oversight Report). This annual report reviews how BoE has exercised its responsibilities under Part

5 of the Banking Act 2009 since March 2011.

Chapter 1 of the Oversight Report summarises how the Bank has implemented the statutory framework for payment systems oversight under Part 5 of the Banking Act 2009 since March 2011, and its priorities for further work. The Bank oversees inter-bank payment systems that are 'recognised' by order by HMT, such as:

- BACS
- CHAPS
- CLS
- Faster Payments Service
- arrangements within CREST
- arrangements within ICE Clear Europe Ltd and LCH.Clearnet Ltd central counterparties (CCPs).

Chapter 2 summarises the main developments in recognised payment systems, as well as developments in SWIFT. Since March 2011, the main UK payment systems have demonstrated high levels of operational availability and have delivered reductions in risk. However, there is more work to be done some areas: reducing tiering in the wholesale payment systems, mitigating credit and liquidity risks in CCPs' payment arrangements, improving default arrangements, strengthening governance, and improving contingency arrangements.

The BoE expects to conduct oversight in 2012 similar to how it was conducted last year. Nonetheless, a number of domestic and international developments are likely to affect payment systems oversight. These include requirements under the Financial Services Bill 2010-2012; requirements for CCPs under the European Market Infrastructure Regulation (EMIR); and efforts by international regulators to create international standards for systemically important payment systems, securities settlement system, CCPs, trade repositories and central securities depositaries.

FSA consults on approach to Payment Services Regulations

On 11 April 2012, the FSA published a *draft consultation of its new Approach Document* (Approach Document) to the *Payment Services Regulations 2009* (SI 2009/209) (PSRs). The consultation is dated May 2012 and highlights amendments to FSA's most recently published draft approach document.

The Approach Document seeks to help firms navigate the PSR and related FSA rules and guidance and to understand FSA's general approach. This document is of interest to firms that are, or are seeking to become, authorised or registered as payment institutions, and also to credit institutions and e-money issuers who must also comply with parts of the PSR.

Since FSA published the first version of the Approach Document in April 2009 FSA has updated it from time to time to clarify its interpretation of the PSRs provisions and to answer questions from firms. This update clarifies FSA's approach to the authorisation and registration requirements, financial crime controls, passporting processes and some conduct of business requirements.

The consultation to the most recent amendments closes on **30 April 2012**.

MiFID

EP publishes draft opinion on MiFID II

The EP Committee on Industry, Research and Energy (ITRE) published its brief *draft opinion* (dated 2 April 2012) which calls for more deliberations on how the MIFID II draft legislative proposals will impact non-financial firms.

The ITRE sent its opinion to the EP's Committee on Economic and Monetary Affairs (ECON) which is negotiating with the Council on amendments to the final text of the MiFID II directive and regulation.

The draft opinion states that most trading activities undertaken by non-financial firms (eg hedging of production-related risks) pose no systemic risk and are an essential element of the companies' business. The opinion notes that, for example, the market on wholesale energy products is already subject to Regulation 2011/1227/EC (REMIT) on market integrity. The opinion then suggests that the trading obligation in Article 24 should not be applied to wholesale energy products which are already regulated under REMIT.

Stakeholders note that the consequences for non-financial firms of being brought into the MIFID regime are significant, placing new operational requirements and their related costs on firms and will bring them into the scope of several other financial services regulations (such as the EU 'over-the-counter' derivate clearing regime and the market abuse regime).

The EP should specify the revised MiFID II exemptions which may be available to non-financial firms in level 1 text, not in delegated acts. Further, many stakeholders believe that products that can be physically settled should not be defined as a financial instrument under MiFID II. Physically settled forwards help non-financial firms to manage their business risks and are fundamentally different from financial instruments that do not involve settlement of the underlying physical commodity. This approach is consistent with the regulation of commodity derivatives under the Dodd-Frank Act, which excludes physically-settled derivatives from certain regulatory obligations.

Operating rules and standards

ESMA advises on possible delegated acts for the Short-Selling Regulation

On 20 April 2012, ESMA published its *final advice on possible delegated acts concerning the EU Regulation No 236/2012 of 14 March 2012 on short selling and certain aspects of credit default swaps*. This advice is required to complete the legislation which will bring the Short Selling and CDS Regulation 236/2012 (the Short Selling and CDS Regulation).

This report contains ESMA's technical advice to the EC on possible delegated acts under the Short Selling and CDS Regulation. The advice follows a consultation paper (ESMA/2012/30) on draft technical standards published on 24 January 2012, and an open hearing held on 29 February 2012.

The report also contains a draft RTS on the method for calculating the fall in value of a financial instrument. This RTS is dependent upon the final provisions agreed in the Short Selling and CDS Regulation delegated acts which will define what is considered a "significant" fall in value for instruments other than shares.

- Section I - defines when a natural or legal person is considered to own a financial instrument for the purposes of a short sale.
- Section II - advises on the net position in shares or sovereign debt. ESMA recommends the method of calculating a net short position. The advice addresses the situations when different entities in a group have long and short positions, and net position calculations for fund management holdings in relation to separate funds.
- Section III - sets out the advice on when a credit default swap (CDS) transaction is considered to be hedging against a default risk (or the risk of a decline of the value of a sovereign debt) and the method of calculation of an uncovered position in a CDS.
- Section IV - defines the initial and incremental notification thresholds for reporting net short positions in sovereign debt.
- Section V - specifies the parameters and methods for calculating the threshold of liquidity on sovereign debt for the purpose of suspending restrictions on short sales of sovereign debt.
- Section VI - sets out what constitutes a significant fall in value for various financial instruments and specifies the method of calculation of such falls.
- Section VII - specifies the criteria and factors to be taken into account by competent authorities and ESMA in determining when adverse events or developments arise.

The Short Selling and CDS Regulation will come into force on **1 November 2012**. The EC must adopt the information in the technical advice as delegated acts as soon as possible give firms the certainty they require to complete preparations for the November implementation date.

ESMA updates Transparency Directive Q&A

ESMA published an updated *Questions and answers: Transparency Directive*

(Q&A) on 2 April 2012 which amends an existing question and adds a new question. The Q&A was last updated by CESR ESMA's predecessor in October 2009.

ESMA clarifies the criteria for determining a home Member State for third country issuers when they are considering delisting and admission to trading in another member state. ESMA acknowledge the Transparency Directive is no longer the governing rule and therefore third country share issuers may now change home Member States.

The new question addressed the domicile of an agent for the exercise of financial rights. ESMA states that an agent does not have to be domiciled in the Home Member State, but the agent must have facilities in the home Member State. The answer also states that issuers who are financial institutions may still appoint themselves as an agent.

Pensions

HMRC advises on eligibility of funds for ISAs following implementation of RDR

HMRC published *ISA Bulletin Number 42* (dated 29 March 2012) on 17 March 2012.

The Bulletin contains general ISA developments but of particular interest to fund managers and ISA plan managers is the article on the eligibility of funds for stocks and shares ISAs post RDR implementation. A fund eligible to be included in a stocks and shares ISA has to pass the '5% test', meaning that the fund must not be subject to an agreement, guarantee or investment strategy to limit investor losses to a 5% cap over 5 years. The 5% test is applied to funds after the initial charges are taken.

HMRC notes that some fund charges may decrease after RDR is implemented. Post RDR advisers will be remunerated through investor charging rather than commission paid from the investment. Therefore funds that currently pass the 5% test may not pass the test on 1 January 2013.

ISA plan managers should review the funds in their stocks and shares ISAs to ensure they will not fall foul of the 5% test if charges in the fund decrease upon RDR implementation. Any fund that 'fails' the 5% test and limits investor losses to below 5% over 5 years, such as a money market fund, can only be held through a cash ISA.

EIOPA reports on variable annuities selling and disclosure practices

EIOPA published its final *Report on good practices for disclosure and selling of variable annuities* (VAs), which is dated 4 April 2012. The report was developed by an expert group established in May 2011, and its draft version was submitted to public consultation in October 2011. It forms part of EIOPA's own initiative work on consumer protection and financial innovation and aims to promote common supervisory approaches and practices.

The publication identifies which type of information customers should receive when buying a variable annuity. It also refers to good practices regarding advice given to customers in this context.

Regarding good disclosure practices, the report states that customers should be informed:

- how the product works under different market conditions
- what they are charged
- which options they can exercise during the life of the contract
- general information on the product provider
- the law governing the contract
- details on relevant regulators.

The report provides an indicative list of questions that companies may use to ensure that customers understand the product.

Regarding good selling practices, the report concludes that selling should always be based on advice given by suitably qualified salespeople. The publication suggests an indicative list of questions that should be addressed to ensure that a product meets a customer's needs, to avoid the risk of mis-selling.

EIOPA expects that insurance companies will take into consideration

these good practices and incorporate them in their practices of the VAs disclosure and selling. It will closely monitor and review this issue in the following years.

DWP consults on career average schemes and automatic enrolment

The DWP published its *Consultation to revise Regulation 36 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010*.

In preparing employers for the implementation of the Regulations in October 2012, the DWP and Pensions Regulator (PR) learned that the way that the quality requirements for Career Average Revalued Earnings pension schemes (CARE schemes) are specified in the Regulation is inconsistent with the rules of some retirement schemes. This short consultation paper sets out the DWP's proposals to address the inconsistencies.

The proposals would allow CARE pension schemes to be used as qualifying schemes for the purposes of automatic enrolment. This approval is subject to the condition that CARE schemes allow accrued rights to benefits under the scheme to be revalued at, or above, a prescribed minimum rate. The rate would be the lower of the increase in CPI, or 2.5 per cent, at any time during the jobholder's pensionable service.

CARE schemes that have a mix of guaranteed revaluation below the minimum rate and a discretionary power to revalue at a higher rate currently do not qualify. The consultation proposal revises the Regulation to allow such schemes to qualify, provided that the revaluation is funded for and included in the statement of funding principles.

Subject to consultation responses and the Parliamentary timetable, the Government is proposing to amend the regulations before October 2012. The consultation closes on **11 June 2012.**

FSA publishes pension transfer value analysis assumptions

The FSA published final rules on *Pension transfer value analysis assumptions (PS12/8)*. This policy statement updates assumptions firms should use when comparing the benefits of Defined Benefit scheme (DB scheme) and a personal or stakeholder pension.

Changes include the use of a gender equal mortality rate (in light of the ECJ Test Achats' ruling), and the FSA has aligned the rules for calculating mortality with those used by the Board for Actuarial Standards.

PS12/8 introduces a number of changes to the use of Consumer Price Index (CPI) assumptions, reflecting the Government's pensions changes during 2011.

Both regulated firms and unregulated firms that support pension providers (e.g. providers of software for pension value analysis). The changes came into effect on 1 May 2012.

Product rules

EU completes Prospectus and Transparency third country amendments

Final rules amending the prospectus and transparency directives, *Commission Delegated Regulation (EU) No 310/2012* (Delegated Regulation 310/2012) and *Commission Delegated Regulation (EU) No 311/2012* (Delegated Regulation 311/2012), were published in the EU Official Journal on 13 April 2012.

Delegated Regulation 310/2012 amends EU Regulation (No 1569/2007) to establish a mechanism for determining equivalent third country accounting standards for the Prospectus Directive and Transparency Directive. It also extends the existing period for accepting third country accounting standards until 31 December 2014 following expiration of the initial period on 31 December 2011.

Delegated Regulation 311/2012 amends certain Prospectus Regulation (809/2004/EC) requirements relating to prospectuses and advertising. The transitional period under the Prospectus Regulation for third country issuers who present their historical financial information under the national GAAPs of Canada, China, South Korea and India expired on 31 December 2011. India's GAAP is still not recognised as equivalent with the EU's IFRS so the Delegated Regulation extends the transitional period to 31 December 2014 to provide further time for India to amend its GAAP rules.

The Delegated Regulations are dated 21 December 2011 and were effective from 1 January 2012.

EC publishes draft rules on new prospectus disclosures

The EC published a draft *Delegated Regulation* on 30 March 2012 which will amend the Prospectus Regulation (809/2004/EC).

The EC is required to create the Delegated Regulation to fulfil provisions in the Amending Directive (2010/73/EU), which requires amendment of the disclosure rules under the Prospectus Directive and the Transparency Directive. ESMA provided technical advice to the EC in relation to:

- the format and content of prospectus summaries
- a proportionate disclosure regime for pre-emptive offers by companies admitted to trading on a regulated market or multilateral trading facility
- a proportionate disclosure regime applicable to small and medium-sized enterprises and issuers with reduced market capitalisation

The Delegated Regulation closely reflects the technical advice provided by ESMA. The proposed rules will limit prospectus summaries to 7% of the prospectus or 15 pages (whichever is longer) and cannot cross-refer to the prospectus. Annex XXII of the Delegated Regulation sets out certain mandatory information that must be included in a prospectus and if a section is not relevant for a prospectus summary then this must be stated in the prospectus. The Delegated Regulation also includes new Annexes to update the proportionate disclosure regime, although companies that use this regime can also apply the full disclosure regime.

The Delegated Regulation will likely come into force on 1 July 2012, subject to comment and final vote by the European Council and EP.

FSA publishes ETP factsheet

The FSA published a *Factsheet for investment advisers* about exchange traded products (ETPs) on 23 April 2012. The purpose of the factsheet is to raise investor awareness on the key features of and risks of investing in ETPs, rather than to provide formal guidance.

The factsheet provides information on:

- key features of ETPs
- different types of ETP (such as exchange traded funds and exchange traded commodities)
- investment strategies commonly used by ETPs
- the risks posed by collateral and third party involvement in ETPs
- how to trade ETPs
- the potential for conflicts of interest in relation to ETPs.

The FSA may update the factsheet later this year to reflect comments to the *UCITS ETF guidelines consultation paper* published by ESMA in January 2012.

FSA publishes traded life policies guidance

The FSA published *Finalised guidance: Traded Life Policy Investments (TLPIs)* (FG 12/12) on 25 April 2012. FG 12/12 provides FSA's guidance on the distribution of TLPIs to retail investors, a topic on which FSA first consulted in GC 11/28, published in November 2011.

The FSA received 55 responses on this controversial issue. Most respondents requested that the guidance make clear which forms of TLPI can be distributed to retail investors and that FSA allows for distribution to some types of retail investors, such as sophisticated investors.

However, the FSA asserted FG12/12 that no TLPI model is suitable for distribution to retail investors. The FSA states that it is issuing the guidance because "[T]his message has not been acted upon and inappropriate marketing has continued, creating scope for significant customer detriment."

The FSA confirmed that its guidance does not relate to the distribution of Traded Endowment Policies or to distribution to professional and institutional investors, to whom TLPIs can still be sold.

After setting out its views on these issues, FSA made only minor changes to the wording proposed in GC 11/28, to clarify meanings in some places and to

set out further its governance concerns with some TLPIs. FSA plans to present new rules to prevent the distribution of TLPIs to most retail investors in its unregulated collective investment schemes consultation paper, due out in Q4 2012.

RDR

FSA consults on centralised investment propositions

On 4 April 2012, the FSA published a *Guidance Consultation on assessing suitability replacement business and investment propositions (GC 12/6)*. This consultation follows its review assessing how centralised investment propositions (CIPs) affect consumers.

The FSA uses the term CIP to describe the situation where a firm offers a standardised approach to providing investment advice (including portfolio advice services, discretionary investment management and distributor-influenced funds) in FSA's preparation for RDR.

This report outlines FSA's findings and provides examples of its CIP concerns which, if not mitigated, could result in poor customer outcomes. It also identified suitability failings of wider relevance relating to replacement business. The FSA highlighted many of these failings in previous thematic reports and considers it is unacceptable that many firms are still not demonstrating the suitability of replacement business.

The FSA considers that all firms which provide investment advice should ensure that they have robust processes and controls when recommending replacing an existing investment. The FSA believes that firms which conduct replacement business should also consider reviewing a number of areas to ensure they are acting in their clients' best interests and treating them fairly.

Finally, FSA states that a firm which is either selling or intending to sell CIPs should consider the needs and objectives of its target clients when designing or adopting a CIP; ensure that it is not 'shoe-horning' clients into the CIP; and establish a robust risk identification and control system to mitigate risks from the specific characteristics of its CIP.

The consultation closes on **4 May 2012**. After the guidance is finalised, the FSA will look to see how firms are acting in their clients' best interests and will take action where poor practice is identified.

FSA publishes RDR Newsletter - Issue 5

FSA published this *newsletter* to help firms to prepare RDR implementation. This issue includes information about

- Research on RDR readiness
- Staying up-to-date
- Getting ready for RDR: reminders for firms
- Assessing suitability: Replacement business and centralised investment propositions
- Policy updates.

The RDR regime comes into force on **31 December 2012**.

Regulatory reform

OECD sets out principles for good regulation

The OECD published its *Recommendation of the Council on Regulatory Policy and Governance* (the Report) on 10 April 2012. The Report is designed to help its members build and strengthen their capacity for regulatory quality and reform. The Report outlines several inter-related principles which traverse all stages of the regulatory policy making and constitute what the OECD considers 'best practice'.

The report recommends that governments have an overarching policy on regulatory quality which sets standards for all national industry regulators. The policy should have clear objectives and frameworks for implementation to ensure that if regulation is used the benefits of regulation outweigh the costs.

Regulatory Impact Assessments (RIA) should be used at the early stages of the policy making process according to the OECD. Moreover, 'periodic systematic programme reviews' of the stock of significant regulations is recommended, enabling policy makers to step-back from their regulatory regimes to examine its cost effectiveness and whether it is achieving its desired aims.

The OECD also calls for a 'whole-of-government' approach to regulatory reform, which emphasises the

importance of consultation, co-ordination, communication and co-operation to address the inter-connectedness of sectors and economies. Such an approach has provided a challenge recently in the EU, given the large number of proposals adopted over the past three years in response to the financial crisis.

The OECD guidelines suggest that the EU financial reform rules shouldn't be rushed through without adequate consultation and communication. Financial regulators must be given enough time and resource, supported by appropriate and meaningful consultation with market participants and rigorous costs benefit assessment to achieve high quality reform.

G20 leaders meet ahead of June summit

A *communiqué* from the G20 finance ministers and central bank governors predicts modest growth for 2012. G20 leaders, scheduled to meet 18-19 June 2012, believe that the global economy remains under pressure in the face of deleveraging and high volatility in European financial markets.

The communiqué reaffirms the need to implement common global standards in financial regulatory reform and for countries to follow agreed reform and implementation timetables. The ministers and governors welcomed the progress in extending the G-SIFI framework to important domestic banks and highlighted the importance of regulating shadow banking. They supported the work of the FSB to reorganise its legal, institutional and operational framework and endorsed efforts of the IASB and FASB to achieve convergence to a globally accepted set of high quality accounting standards, urging them to meet their target of issuing standards on key convergence projects by mid-2013.

The communiqué also recognised efforts to create a basic set of financial inclusion indicators. These indicators will assist in measuring progress on improving access to financial services.

TSC to review FPC's macro-prudential toolkit

The Treasury Select Committee (TSC) announced in *Budget 2012: Thirtieth Report of Session 2010–12* on 18 April 2012 that it will conduct an inquiry into the FPC's proposed macroprudential toolkit. The FPC's macroprudential toolkit sets out its powers to direct the PRA and FCA to manage financial stability.

TSC's announcement follows the BoE's advice to the Chancellor of the Exchequer that the FPC's toolkit should consist of:

- a countercyclical capital buffer
- sectoral capital requirements
- a leverage ratio.

The TSC's inquiry will consider whether the toolkit will be effective in improving financial conditions during downturns and limiting market upswings in credit cycles. The TSC suggests that the FPC liaise with the Office for Budget Responsibility (OBR) when developing these tools so that the OBR can consider how use of these tools will impact its forecasts. The TSC has not indicated when its inquiry will commence.

FSA Chairman on financial regulation: do we need more Europe or less?

Lord Turner gave a *speech on financial risk and regulation* at the Central Bank of Ireland on 27 April 2012.

The speech focused on issues specific to the Eurozone in the wider context of the global financial crisis. It argues for a balanced approach to European integration. Turner believes that integration will require careful institutional redesigns to achieve overall macro-economic coordination and financial stability.

Citing contrasting examples from policies in the US, Ireland and Spain to illustrate his arguments throughout, Lord Turner explains that whilst the original aim of the single currency was to eliminate 'current account imbalances' between Eurozone countries, the crisis has shown factors that contradict this theory:

- Credit supply and demand were not driven by long-term business viability but by unsustainable real estate boom.
- The significant correlation between local companies, households, banks

and the state may increase the consequences of a regional bust in a barrier-less single market, when credit and resources are misallocated.

A consequence of this interconnection is the toxic inter-relationship between banks and sovereign credit risk. Turner noted that European banks hold as liquid assets large undiversified portfolios of local sovereign debt. Therefore, the creditworthiness of both the bank and the sovereign can be undermined by the concerns about the sovereign or the prospect of a potential bank bail-out.

Lord Turner proposes three measures to achieve a sounder system:

- greater fiscal integration and the creation of a jointly-issued Eurobond as a true 'risk-free' asset
- the development of a pan-eurozone approach to bank resolution (at no cost to the taxpayer), deposit insurance and bank supervision
- holding macro-prudential levers (e.g. counter-cyclical capital requirements, loan-to-value ratios) at national level, subject to appropriate central coordination.

Turner reiterated the importance of macro-stability and noted that this important aim should continue to inform bank reform efforts at European and global level.

FSA Conduct Director speaks on new supervisory approach

Clive Adamson, Director of Supervision in the FSA's Conduct Business Unit, spoke on *Conduct supervision and the move towards FCA*, at a conference on 18 April, 2012.

He noted that FSA's new conduct approach is characterised by five main elements:

- being more forward looking in its assessment of potential problems
- intervening earlier when it identifies problems
- addressing the underlying causes of problems, not just symptoms
- seeking redress for consumers
- taking more meaningful action during and after enforcement to ensure credible deterrence.

Adamson then discussed that the FSA is re-evaluating its approach to wholesale supervision. The foundations of its new wholesale approach will be based on the principle that markets should be orderly and fair and that retail consumers should not suffer from wholesale activities. The FCA will move away from reliance on transparency at the point of sale and a caveat emptor, which did not adequately protect consumers, and will use product intervention where it finds consumer detriment.

The new supervisory approach has several implications for firms. Adamson advises firms to:

- adjust to the level of intensity of conduct supervision, which will be closer to the level of prudential supervision
- adjust to managing relationships with two supervisory teams
- ensure that business models are based on foundation of fair treatment of customers and prudential robustness
- adopt a more strategic approach to the conduct agenda – going beyond the traditional control structures.

He stated that the new approach represents real changes for firms and their compliance teams. However, the FSA will continue to be open and transparent about as the new regulatory architecture takes shape.

RRPs

Barnier comments on EU crisis management framework

Michel Barnier, EU Commissioner responsible for internal market and services, provided details on the forthcoming EU crisis management and resolution framework in a ***statement*** on 2 April 2012. The framework is designed to mitigate public bail-out s in the event of regulated financial services firm failures. The new framework will seek to give authorities a common and effective set of powers to deal with banking crises, including:

- preparatory and preventative measures, including requirements for firms to prepare recovery and resolution plans

- powers to take early remedial action, such as replacing management, implementing a recovery plan or requiring a firm to divest itself of activities or business lines that pose an excessive risk to its financial soundness
- resolution tools, such as powers to effect the takeover of a failing bank or firm by a sound institution, or to transfer all or part of its business to a temporary bridge bank.

Barnier believes that a properly functioning resolution regime, with robust bail-in tools, could bring a number of benefits to public finances, the financial system, the entities in difficulty and the creditors themselves. The resolution regime is an essential complement of both the CRD IV prudential regime, and the macro-prudential toolbox being developed by the ESRB.

A European crisis management regime will enable the smooth resolution of failing banks while avoiding reverberations or destabilising contagion throughout national and international markets. We expect formal proposals on the EU crisis management and resolution framework to be published by the EC during Q2 or Q3 of this year.

Shadow banking

IOSCO and FSB report on shadow banking topics

Following last month's speeches and updates on shadow banking, IOSCO and the FSB each published consultations on 27 April 2012 on shadow banking issues.

In *Money Market Fund Systemic Risk Analysis and Reform Options*, IOSCO examines the role of money market funds in funding markets. The report discusses the susceptibility of money market funds to runs (which occurred in September 2008), the current regulatory framework and the need for future policy options. The policy options include: a move to mandatory variable net asset value funds or other structural alternatives, money market valuation and pricing frameworks, liquidity management, and options to reduce the reliance on ratings.

The FSB's consultation, *Securities Lending and Repos: Market Overview and Financial Stability Issues*, presents the interim findings of the FSB's workstream on securities lending and repos. The report examines the securities lending and repos markets globally. It gives an overview of existing regulatory frameworks and lists a number of financial stability issues posed by these markets. The report also considers which aspects of the securities financing markets constitute potentially important elements of the shadow banking system.

This report divides the securities financing market into four main, inter-linked segments:

(1) a securities lending segment

(2) a leveraged investment fund financing and securities borrowing segment

(3) an inter-dealer repo segment

(4) a repo financing segment.

The report identifies the drivers of growth in these markets. The FSB's consultation closes on **25 May 2012**; IOSCO's consultation closes on **28 May 2012**.

FSB reports on shadow banking recommendations

On 16 April 2012, FSB published a report, *Strengthening the Oversight and Regulation of Shadow Banking*, which states that FSB will conduct a monitoring exercise in the next few months based on end of 2011 data. The results will be reviewed by the FSB's Standing Committee on Assessment of Vulnerabilities in September and will be reported to the Plenary as well as to the G20 later in the autumn.

The FSB currently is running five work-streams on shadow banking:

1. banks' interactions with shadow banking entities
2. money market funds
3. other shadow banking entities
4. securitisation
5. securities lending and repos.

The FSB indicated that it will prepare recommendations in relation to the first, second and fourth workstreams by July 2012, with recommendations

relating to 'other shadow banking entities' by September 2012. The FSB's recommendations from the securities lending/repo workstream are expected by the end of 2012. The FSB will review all workstreams through its Standing Committee on Regulatory and Supervisory Cooperation as well as its Task Force on Shadow Banking.

BoE's Tucker speaks on shadow banking

Paul Tucker, the BoE's Deputy Governor for Financial Stability, gave a *speech* in Brussels on 27 April, 2012, outlining some of his views on the EC's shadow banking policy proposals. Tucker stated that in his view:

- banks operating shadow banking vehicles or funds should consolidate these entities on their bank balance sheets
- banks should hold more liquid assets against exposures to non-financial companies
- rules should require money market funds to choose between Variable Net Asset Value (NAV) fund or Constant NAV fund structures; any remaining CNAV funds should be subject to some capital requirements
- non-bank financial intermediaries that are financed materially by short-term debt should be subjected to bank-type regulation and balance sheet supervision
- only banks should be able to use client money to finance their own business to a material extent
- supervisors and market participants should have access to greater information, perhaps ideally via a TR with open access to aggregate data
- financial firms and funds should not be able to lend against securities that they are not permitted to hold outright or in which they have insufficient expertise
- non-bank financial firms should be regulated in how they employ cash collateral.

Tucker noted that "it would be foolhardy to imagine that we can frame policies today that will stand the test of time". His statement reflects the fact that the financial system will evolve and that regulations need to evolve with it.

In a separate development, Lord Adair Turner, the FSA's chairman, spoke about *Securitisations, Shadow Banking and the value of Financial Innovation* on 19 April 2012. Turner suggested that developments in shadow banking in the form of securitisation were "inherently dangerous" and a contributing factor to the financial crisis.

Turner noted that while financial innovation can be beneficial (by enhancing liquidity, reducing risk etc.), it tends to produce less social benefits than innovation in other industries. Turner suggested that the greatest concerns for the financial industry were innovations relating to credit and money creation, because innovation in these areas was most likely to produce not just low social value but catastrophic losses.

SIFIs

FSB reports on extending G-SIFI framework to D-SIBs

During the G20 Summit in November 2011, the G20 Leaders endorsed the FSB's policy framework for G-SIFIs. The framework comprises a new international standard for resolution regimes, more intensive and effective supervision, and requirements for cross-border cooperation and, from 2016, additional loss absorbency requirements for G-SIFIs.

At the November 2011 meeting the FSB was asked to deliver a progress report by April 2012 on the extension of the G-SIFI framework to D-SIBs, in consultation with the Basel Committee.

The FSB published its *report on progress in extending the G-SIFIs' framework to D-SIBs* on 20 April 2012. The report addresses the methodology for assessing the systemic importance of domestic institutions in light of factors such as size, interconnectedness, substitutability/financial institution infrastructure and complexity as well as a range of country-specific factors. The FSB also identifies the policy tools that national authorities could apply to contain the systemic risks that D-SIBIs pose, while allowing national discretion to accommodate characteristics of domestic financial systems.

The FSB and the Basel Committee will conduct further work to develop a set of minimum framework principles for D-SIBs by autumn 2012, for submission to the G20 Ministers and Governors Meeting in November.

Other regulatory

ESMA announces CRA equivalence for Argentina and Mexico

ESMA has determined that the regulatory frameworks governing CRAs in Argentina and Mexico are equivalent to European rules set out under EU Regulation (EC) No 1060/2009, according to an EMSA *press release* issued on 18 April 2012. This determination will allow EU banks and other financial institutions to continue to use credit ratings issued by CRAs in these countries after 30 April 2012. Ratings issued by CRAs regulated in Australia, Canada, Hong Kong, Japan, Singapore and the United States have already been approved for use by EU institutions.

ESMA advised firms to pay attention to all information that CRAs make available regarding the endorsement status of their credit ratings. Firms should also consider whether or not their use of a CRA issued credit rating falls within the scope of "regulatory purposes" laid out by the CRD.

The OFT supervises include estate agents and consumer credit financial institutions under the MLR. Failure to register could lead to a fine and/or prosecution. In 2011, OFT imposed penalties totalling £11,500 on five businesses.

HMT publishes progress report

HMT published a *Structural Reform Plan Monthly Implementation Update* on 5 April 2012. The update is similar to the FSA's policy development updates and sets out HMT's progress against its schedule for consulting or finalising changes to its work plans.

The update shows HMT was unable to publish the outcome of its review into the Money Laundering Regulations 2007, which will follow an initial consultation that HMT released in June 2011. The delay is a result of further impact assessment work it is carrying out after a review by the Regulatory Policy Committee (RPC). The RPC is tasked with carrying out independent scrutiny of government regulatory proposals.

All HMT's other announced commitments were met up to the end of March.

OFT launches online business register

On 2 April 2012 the Office of Fair Trading (OFT) issued a *press release* on the launch of an *online register* of the businesses it supervises under the Money Laundering Regulations 2007 (MLR).

The OFT is making a searchable register available for the first time to allow the public to search and to notify the OFT when a business fails to register. It also allows registered businesses to review and update their details.

FSCS sets final annual levies for 2012/13

The FSCS has set their final compensation *annual levies for 2012/13*, the annual compensation cost paid by firms through their annual FSA fees.

While the FSCS attempts to forecast compensation costs, it is duty bound to levy firms at the time compensation is paid. Therefore, firms may receive additional interim levies during 2012/13 if the forecasts are materially different. The final compensation costs differ from the provisional levies consulted on earlier in the year, in part due to clarification on claims relating to Arch cru and MF Global.

The total levy has risen to £265m. While for most classes of firms there have been some minor changes to the proposed levies, three significant changes were announced:

- general insurance intermediation – a decrease to £36m (from £57m)
- life and pensions intermediation – an increase to £46m (from £18m)
- investment intermediation – an increase to £78m (from £33m).

Firms should note that certain risk indicators show the likelihood of an additional interim levy during 2012/13. All three classes above are indicated as being at 'higher risk' of an interim levy, as is the investment management class. For banks, the increase in interest payments for banking defaults has risen from £374.9m to over £510m per annum.

The review of the UK compensation scheme scheduled for later this year will likely hinge on several guarantee scheme directives proposed in Europe. However, European policy makers appear to be in a stalemate at present. In light of increased costs for firms, the UK review is likely to result in a significant debate during the year.

Industry makes insurance more available to older UK customers

BIBA, ABI and the Government have reached an *Agreement to improve access to insurance for older customers*, which comes into force on **6 April 2012**. The agreement requires an insurer or insurance broker who is unable to offer cover to an older motorist or traveller due to age to refer the customer to an alternative specialist provider or to a dedicated signposting service, such as BIBA's 'Find a Broker' service or website.

All ABI members must adhere to the agreement as a condition of membership and BIBA brokers will also comply with this agreement. Firms that are not ABI and BIBA members are not required to follow the agreement, but may do so on a voluntary basis.

FSA consults on changing the Training and Competence Sourcebook

The FSA published consultation paper *Changes to the Training and Competence (TC) Sourcebook* (CP 12/8) on 24 April 2012. CP 12/8 proposes to amend the TC sourcebook to:

- add three new qualifications to the 'appropriate qualification tables'
- amend the details for three existing qualifications in the 'appropriate qualification list'.

These changes are of particular interest to firms and individuals subject to the professionalism requirements under RDR. The consultation closes on **31 May 2012**.

FSA consults on compensation scheme for Arch cru investors

The FSA published a proposed *Consumer redress scheme in respect of unsuitable advice to invest in Arch cru funds (CP12/9)* on 30 April 2012.

This is the first time that the FSA's has used its powers to implement a consumer redress scheme, as permitted under FSMA 2000. Redress schemes are legally binding on all parties, including the FOS.

The proposed scheme challenges any firm that provided advice on the sale of products to a retail consumer to review and, if appropriate, compensate consumers. The FSA believes that the funds were high-risk but were mis-sold as low or medium risk products.

The key elements of the proposed scheme include:

- All firms which sold Arch cru funds must contact their customers within four weeks of publication of the final rules and indicate whether or not the customer's case falls within the scope of the scheme.
- Where redress is due, firms will be able to use an FSA online calculator to calculate each payment – taking account of how much money each customer is able to claim from the separate voluntary payment scheme.
- Firms must advise customers of how much redress is due within six months of the commencement of the scheme. Firms must ensure that customers receive payment within 28 days of acceptance.

The FSA estimates that up to £100m in compensation could be payable to 15,000 customers through the redress scheme. This amount is in addition to £54m in voluntary payments made by the three firms involved in the administration of the Arch cru funds. The consultation closes on **31 July 2012**.

FSA publishes Handbook Release 124

The FSA published *Handbook Release 124* on 16 April 2012, detailing amendments to 16 of its sourcebooks which were recently approved by the FSA Board.

The effective dates for each amendment are stated in the Handbook Release.

FSA publishes Handbook Notice 119

The FSA published *Handbook Notice 119* on 27 April 2012, setting out instruments recently made by the FSA Board. The Handbook Notice includes eight instruments (effective dates in brackets):

- Conduct of Business Sourcebook (With-Profits Business) Instrument

2012 (FSA 2012/10) - increases increasing the role of with-profits committees and improves the position of existing with-profits policyholders (effective 1 March 2012). Feedback provided within PS12/14.

- Client Assets Sourcebook (Resolution Pack) Instrument 2012 (FSA 2012/20) - requires firms to maintain and be able to retrieve documents and records to help an insolvency practitioner quickly return client assets (effective 1 April 2012). Feedback provided within PS12/6.
- Collective Investment Schemes Sourcebook (Master-Feeder) Instrument 202 (FSA 2012/25) - allows all non-UCITS retail schemes (NURS) to use a feeder funds structure (effective 27 April 2012).
- Training and Competence Sourcebook (Qualifications Amendments No 5) Instrument 2012 (FSA 2012/21) - introduces additional qualifications to the list of appropriate qualifications for advisers under RDR rules (effective 27 April 2012).
- Fees Manual (FOS Case Fees 2012/13) instrument 2012 (FOS 2012/1) - gives legislative authority for FOS's fees for the 2012/13 year (effective 1 April 2012). The FOS consulted on the fees earlier this year.
- Supervision Manual (Prudent Valuation Reporting) Instrument 2012 (FSA 2012/24) - introduces a standardised FSA return requiring firms to state potential downside and upside that could exist in the valuation process. Firms will be required to submit net and gross balance sheets and Value-at-Risk (VaR) equivalent figures (effective 30 June 2012). Pensions (Transfer Value Analysis Assumptions) instrument 2012 (FSA 2012/22) - updates the demographic assumptions used in transfer value analysis and existing technical rules. The FSA is also updating the Handbook to clarify the current assumptions wording (effective 1 May 2012).
- Integrated Regulatory Reporting (Amendment No 13) Instrument 2012 (FSA 2012/23)- clarifies the reporting requirements in the Supervision Manual following certain queries from firms (effective 27 April 2012).

The FSA included a summary of industry feedback on the relevant policy proposals in the Handbook Notice.

FSA publishes Policy Development Update

The FSA published its latest *Policy Development Update Number 146* on 27 April 2012. The policy development update is published monthly and provides:

- lists of publications issued since the last edition
- information on recent Handbook developments
- other publications (consumer publications, Guidance Consultations and Finalised Guidance)
- updated timetable for forthcoming publications.

We advise firms to review FSA's publication plans to anticipate developments relevant to their business. We also provide a consolidated list of regulatory developments in the Calendar at the end of this bulletin.

Accounting[1]

ESMA progresses consultation on reporting materiality

ESMA published the *responses* to its consultation paper "*Considerations of materiality in financial reporting*". ESMA received 46 responses from trade bodies and regulators, accountancy firms and companies, academics and one individual.

The IASB is reviewing its existing guidance (IAASB Discussion Paper – *The evolving nature of financial reporting: Disclosure and its audit implications*). We believe that guidance would be better developed at a global level; with ESMA and others contributing to the debate. This view was echoed by numerous other respondents, who also supported our view that this information should be stated as guidance or principles rather than prescriptive rules.

A common theme in the responses was that materiality is a subjective matter which requires both qualitative and quantitative considerations. Respondents were opposed to the suggestion that firms should disclose the basis on which they determine materiality, fearing this would lead to lengthy 'boilerplate' disclosure of limited value.

There was also a consistent view that materiality identified by preparers of financial statements (firms) was essentially the same as materiality identified by auditor. While it would be helpful to eliminate the difference between the wording used by the IASB (accounting) and the IAASB (auditing); this was a matter of semantics rather than substance.

There were mixed views on whether further guidance on materiality was necessary, but there was overwhelming resistance to the idea of guidance produced on a regional, rather than global basis. Respondents also seek to have materiality defined by standard setters and not industry.

[1] *This section includes accounting developments with a direct or potential impact on the financial services industry only. For a complete update on accounting developments in the UK visit* http://www.pwc.co.uk/eng/services/ifrs_services.html

IFRS

Accounting Convergence and Governance Enhancements

This *report* published in April 2012 contains:

- First, a Joint Update Note from the IASB and FASB on Accounting Convergence. The Memorandum of Understanding (MoU) between IASB and FASB proposes much of the work required to improve IFRSs and US GAAP. This note provides an update on the projects within the MoU. Most of the short-term projects have been completed, or are close to completion, and one project has been determined to be a lower priority.
- Of the longer-term projects, several have been completed. On three longer-term projects the IASB and FASB Boards have yet to finalise the technical decisions, namely leases, revenue recognition and financial instruments.
- Although the MoU projects have been given priority, the Boards have also been working together on much-needed improvements to the accounting for insurance contracts. The IASB and FASB remain committed to completing the remaining three MoU projects—financial instruments, revenue recognition and leases - as well as insurance contracts, as expeditiously as possible.
- The report also describes in more detail the status of the individual projects and the steps that the IASB and FASB Boards plan to take to complete the programme set out under the MoU. The Boards will re-deliberate the revenue project in the second quarter of 2012. The IASB will consult on revised proposals for projects on classification and measurement, impairment, leases and insurance in the second half of 2012.
- The report also includes a Note from IASB on Governance Enhancements. This part of the report considers the governance and ongoing strategy of the IFRS Foundation and the IASB.

IASB insurance contracts project

- The IASB is working alongside the FASB to develop a harmonised IFRS for insurance contracts. For an up-to-date overview of the project see the IASB's summary of the Project objectives, Current status of the project and IASB and FASB's tentative decisions and the FASB's summary of *Decisions reached as of 7 March 2012.*
- For more background information see our *Project summary as of 7 March 2012* and *webpage* on this project. A review draft or revised exposure draft is scheduled for the second half of 2012. In their joint note on accounting convergence, the IASB's Board indicated that on the basis of their current plan the final insurance contract standard could be issued in 2013. The final standard is not expected to be effective before 1 January 2015.
- On 4 April 2012, the IASB published an updated staff paper *Effect of Board Deliberations on ED Insurance contracts* which discusses how and where the proposals in the exposure draft Insurance Contracts would change as a result of the IASB and FASB's tentative decisions.

At their meeting of 19April 2012 the Boards discussed the following items:

- Reinsurance
- Policy loans and riders
- Amendments, modifications and commutations of insurance contacts
    - Education sessions: The FASB single margin and recognising changes in insurance liabilities in OCI.

See *PwC meeting notes* for details.

On 30 April 2012, the IASB published a *podcast* on developments arising from the IASB and FASB April 2012 meeting.

IFRS news

IFRS news is our monthly newsletter highlighting IASB developments. Articles in *IFRS news for April 2012* include:

- Update on key projects
- IFRS 1 amendment
- IFRS quiz
- Share-based payments.

Accounting for income tax

- This *webcast* presents our view of the IASB's income tax proposals, together with our suggestions for alternative approaches and next steps.

Illustrative set of condensed interim financial statements

This *Illustrative set of condensed interim financial statements 2012* reflects IFRS in issue at 1 March 2012 that are required to be applied by an existing preparer of IFRS financial statements with an annual period beginning on or after 1 January 2012. It also includes appendices with examples of disclosures for first-time adopters and early adopters of IFRS 9, IFRS 11 and IFRS 13, and a disclosure checklist.

The future of UK GAAP

PwC responds to ASB on the future of UK GAAP

Firms reporting under UK GAAP will all be affected by the ASB project on the future of UK GAAP.

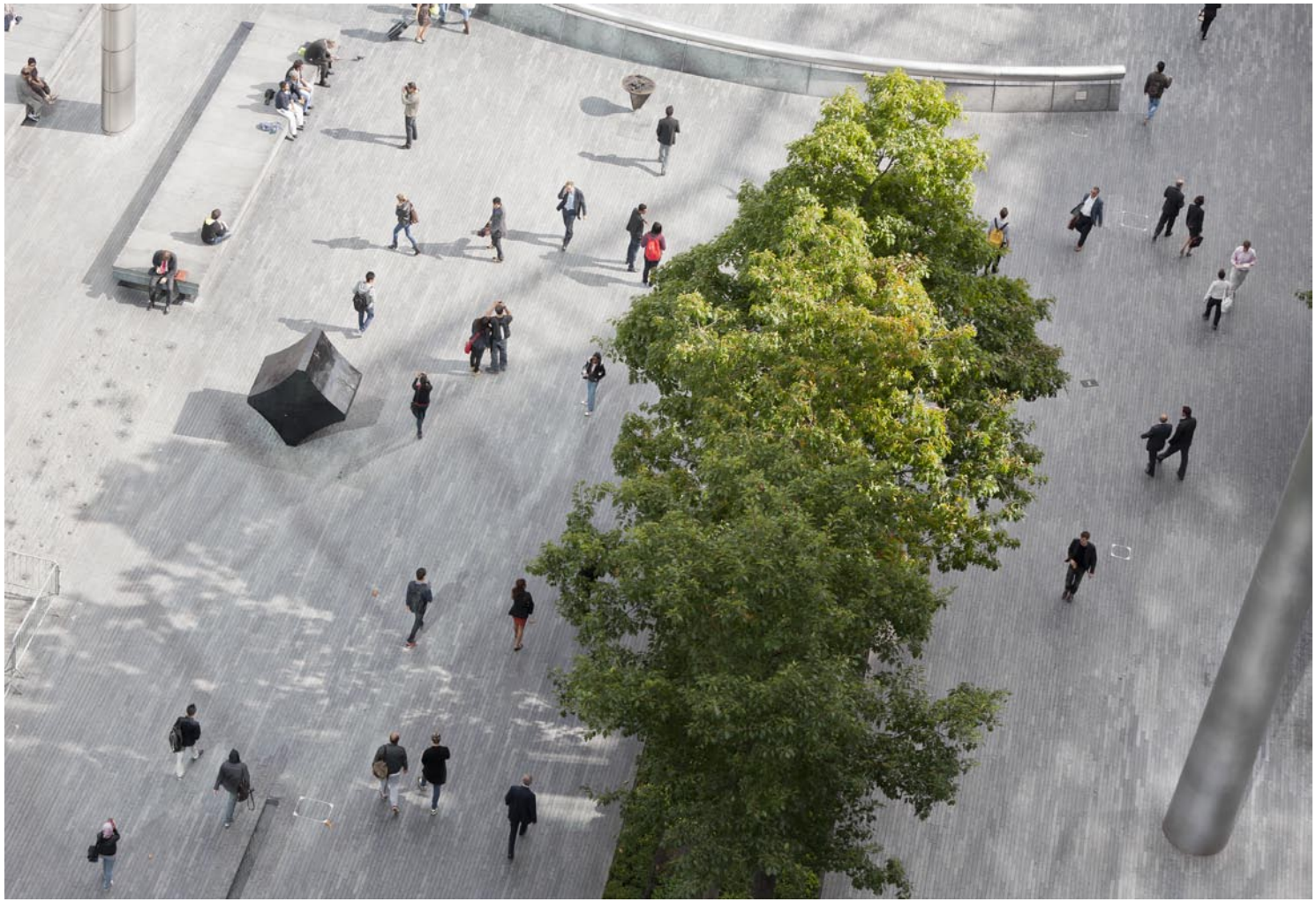
We provided a *response* to the ASB's draft financial reporting exposure drafts (FREDs), which sets out revised proposals for the future of financial reporting in the UK and Republic of Ireland. Details of the ASB proposals are on the *ASB's website*.

PwC's Straight Away publication summarises the implications for asset managers, including the requirement for 'financial institutions' to make extensive disclosures regarding financial instruments. In PwC's response, we suggest that:

- disclosures for financial instruments under the new financial reporting standards should be in line with those under IFRS 7
- subsidiaries should be allowed to make reduced financial instrument disclosures if full disclosures are made in the consolidated financial statements
- the ASB should articulate principles about which types of entities it intends to capture within the term 'financial institutions' and clarify the types of entities caught by the

definition, such as mutual fund, unit trust and custodian bank.

The consultation period ended on 30 April 2012. The new standards will apply for accounting periods starting on or after 1 January 2015. However, early adoption will be permitted for accounting periods which commence after the final standard is issued.



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Regulation

Capital and liquidity

BCBS notes stress testing progress

In 2008 the BCBS reviewed the performance of stress testing practices during the crisis and found weaknesses in several areas. BCBS then published *Principles for sound stress testing practices and supervision* (May 2009), which it based on its findings and early lessons from the crisis.

On 13 April 2012 the BCBS published a *Peer review of supervisory authorities' implementation of stress testing principles* (The Review). The Review indicates that while stress testing has become an ingrained part of the supervisory assessment process in many countries problems exist. Stress test frameworks and methodologies, by their very nature, are dynamic and require constant modification. Further, dynamic global economic and financial conditions (eg the sovereign debt crisis in 2011) have undermined the effectiveness of the current stress testing models. Although many supervisors and banks had developed operational stress testing frameworks, many have not been revised to incorporate the sophisticated changing market dynamics.

The Review found that countries are at varying stages of maturity in their implementation of the principles. Nearly half of the countries were considered to be at an early stage. Early stage countries showed some progress toward implementing the principles, but these countries may not have issued or finalised prudential requirements based on enterprise-wide stress testing since the principles were published.

Only a few countries were considered to be advanced. Advanced classification is based on evidence that a country is undertaking rigorous regular review processes that include: a combination of on-site and off-site assessments, some review and feedback on detailed stress testing models used by banks, evidence of follow-up actions and a well-embedded supervisory stress testing programme that is not limited to externally imposed scenarios.

ESRB advocates flexibility on CRD rules

Mario Draghi, Chairman of the ESRB, advises national authorities to maintain the ability to 'tighten calibrations' of commonly defined prudential requirements to mitigate specific risks and contain future crisis.

In a letter published on 02 April 2012 Draghi stated that he believes that the heterogeneous nature of financial systems across the EU requires a framework that permits 'constrained discretion' with workable safeguards and controls. He advises national macro-prudential authorities to introduce uniform measures, such as:

- changing the aggregate levels of capital or liquidity
- requiring additional disclosure
- limiting leverage
- tightening lending to various sectors.

ESRB identified three common principles underpinning this framework: flexibility, scope to act early and efficient coordination between authorities. The ESRB's proposals echoes the position of a number of EU governments and global authorities the who came out last year calling for greater national discretion to set higher standards than is currently proposed in CRD IV.

According to Draghi's letter, national and EU macro-prudential authorities should be empowered to tighten Pillar 1 calibrations temporarily, or tp mandate additional disclosures when the need arises. National regulators should also have the power to be proactive, stepping in before significant imbalances or unstable interconnections can build up. However, to ensure that such constrained discretion does not create distortions, macro-prudential authorities need to coordinate to limit possible negative externalities or unintended effects for the sustainability of the single market in financial services or for the economies of other Member States.

According to the ESRB, as the EU macro-prudential policy maker, the ESRB would be best placed amongst the EU institutions to orchestrate this coordination.

IMF calls for greater deleveraging

European banks remain under pressure from weak growth and high debt repayments, according to the IMF's latest *Global Financial Stability Report* published on 18 April 2012. The IMF suggests that European banks need to strengthen their balance sheets through a short-term reduction of assets and capital increases. These measures would allow banks to regain market confidence so they can start lending from wholesale markets at sustainable rates.

European policymakers have taken a number of important policy actions in recent months to help stabilize the financial system, according to the IMF. These actions include putting stronger fiscal and structural policies in place in Italy and Spain and agreeing Greek funding and private sector debt restructuring. The ECB made loans to banks to help them refinance over the next three years and policy makers have developed a more flexible and better funded plan to manage crises.

The IMF's report suggests that severe stress in the euro area's banking and government bond markets in late 2011 prompted banks to shrink their balance sheets. European banks have been under pressure to reduce leverage since 2008. Banks have accomplished this reduction by selling assets and raising capital, while limiting the reduction in lending to companies and households.

We believe that policies and the measures undertaken by banks must strike an appropriate balance. While banks need to strengthen their balance sheets to increase their resilience, they must avoid large scale lending reductions that may undermine economic growth and the global recovery.

FSA Director speaks on Basel III

Andrew Bailey, the FSA's Director of UK Banks & Building Societies, gave a *speech on Basel III* at the Seventh City of London Swiss Financial Roundtable on 27 April 2012, in which he focused on three principles.

The first principle is that stability is a pre-requisite to the development of competitiveness which underpins the strength of financial centres.

The second principle is that stability must not be achieved through recourse to public money, but by strengthening bank resolutions. This approach enables regulators to be less interventionist, as well as fostering competition between banks.

The third principle is that the objectives of supervision must be clear, in order to facilitate a well-functioning market economy.

This is challenging because supervision wants to be judgemental and 'embody sensible flexibility', consistent with the Basel II framework which allows firms to use judgement in their risk assessment models. However this creates uncertainty as to how judgement will be applied. Further, he noted that the transition to Basel III will be phased over several years, thus there is uncertainty about the regulators' approach to the Basel III transition.

Mr Bailey supports the ICB's recommendations that capital requirements should be measured on a Basel III basis, which means that banks will restructure their balance sheets and retain more earnings during the transition. This process, including the regulators' standards and how they will exercise their judgement, must be understood by all, so that the market can give banks credit for their capital buffers.

Supervision needs to support banks operating in a market economy and, while raising prudential requirements is a crucial lesson from the crisis, manage the challenges above to achieve this objective.

Corporate Governance

EBA releases survey results on bank remuneration

The EBA is 'genuinely concerned' about inconsistencies in the way in which risk takers are identified in banks. EBA has raised this issue as part of the wider remuneration requirements under the CRD III which came into force in January 2011.

As part of CRD III banks are required to identify the categories of staff who have a material impact on the firm's risk profile. In a *Survey on the implementation of the CEBS Guidelines on Remuneration Policies and Practices*, published on 12 April 2012, the EBA stated that banks use a wide variety of criteria for this internal exercise but that firms are not

sufficiently capturing risks. The number of 'Identified Staff' differs considerably between jurisdictions, indicating a lack of consistency in findings and there is a bias toward selecting very low numbers of staff, according to the EBA. This affects core CRD III requirements, undermines the effectiveness of EU reforms on remuneration and may lead to regulatory arbitrage and competitive disadvantages.

On a positive note, the EBA said the overall impact of CRD III remuneration requirements has had a strong impact on corporate governance on all countries. Implementation of most other aspects of CRD III remuneration requirements has been generally good; however, certain aspects still remain underdeveloped.

One concern is the relationship between variable and fixed remuneration. While the EBA found that the average ratio was 122% for executives and 139% for other employees, in some instances the ratio was as high as 429% and 940%, respectively. Therefore, variable remuneration tends to considerably exceed fixed remuneration. The EBA argues that highly weighted variable remuneration can incent staff to take too much short-term risk.

EBA consults suitability credit institutions' management

On 18 April 2012, the EBA consulted on draft *Guidelines on the assessment of the suitability of members of the management body and key function holders of a credit institution* (EBA/CP/2013/03)(the Guidelines), which the EBA is obliged under to develop under CRD. Weak governance arrangements at banks – in particular inadequate oversight by and challenge from their boards – were widely acknowledged to have been underlying causes of the financial crisis.

To ensure robust governance arrangements and appropriate oversight, the Guidelines' scope goes beyond members of the management body to cover members of the supervisory function and key function holders. Because financial and mixed financial holding companies have significant influence on their credit institutions, they are also subject to the Guidelines.

The Guidelines set out the process, criteria and minimum requirements for assessing the suitability of persons assigned to management bodies and key functions. The Guidelines state that in cases where a member of the management body is not suitable, the credit institution and, if necessary, the competent authority, shall take appropriate action.

The consultation closes on **18 July 2012**. A public hearing will be held on 1 June 2012.

Mortgages

FSB releases Principles for Residential Mortgage Underwriting

Following the publication of its *Thematic review on residential mortgage underwriting and origination practices* in March 2011 and a *Consultation* in October 2011, the FSB published *Principles for Sound Residential Mortgage Underwriting Practices* on 18 April 2012.

Poorly underwritten residential mortgages contributed significantly to the global financial crisis. The securitisation process transferred credit risks created by weak residential mortgage underwriting between markets, and this contagion sparked the global financial crisis. Countries need to agree and implement sound underwriting practices, to help ensure that the residential mortgage market does not again undermine global (or national) financial stability.

The FSB Principles seek to safeguard borrowers and investors and to help supervisors to effectively monitor any erosion of underwriting practices, particularly at times when housing markets are booming. Because underlying risks can differ across jurisdictions, the Principles are high-level rather detailed international standards.

The Principles address the:

- effective verification of income and other financial information
- reasonable debt service coverage
- appropriate loan-to-value ratios
- effective collateral management
- prudent use of mortgage insurance.

The report also sets out an implementation framework through which countries can apply minimum

residential mortgage underwriting standards, and describes tools that national regulators can use to monitor and supervise these standards.

Regulatory reform

DG MARKT envisages further bank restructuring

The EU financial sector is likely to experience further restructuring, particularly banking, according to a staff working paper from DG MARKT. In its *European Financial Stability and Integration Report 2012* (the Report) DG MARKT envisages:

- further consolidation of the Spanish Cajas (savings banks involved in the Spanish property market), taking into account the new solvency requirements announced by the Spanish Government
- a new wave of mergers and acquisitions as firms exit State recapitalisation programmes and seek better cross-border consolidation to meet requirements under regulatory reforms
- operational restructuring and rationalisation process in the asset management and insurance industries in response to new regulations (e.g. Solvency II, UCITS IV, AIFMD, RDR)
- pressure on banks to improve their cost-effectiveness, return-on-equity and capitalisation levels due to CRD IV.

The EC intends to remove special aid measures in the financial sector in the coming year, which should contribute to a more normalised banking environment.

However uncertainties still persist. The report notes that the outlook for continued strong earnings in the banking sector remains uncertain (reducing their attractiveness to private investors/creditors). Roll-over risk remains present for banks and sovereigns (particularly US denominated debt). The risk of sovereign debt issuance (particularly in Italy) crowding-out private bank debt will also increase in the recovery. Banks (and the economy) are also still being propped up by governments through capital injections and historically low interest rates. It is unclear how long these policy measures can/will persist.

The report is not all doom and gloom. Generally, the EU financial system is in a better place now than it was last year. Risks of financial melt-down in the eurozone are less likely due the ECB's strong interventionist activity.

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Regulation

Product Rules

EFAMA publishes new European fund classification categories

EFAMA published its *European fund classifications (EFC) categories* on 23 April 2012. The six EFC categories allow easy comparison of European investment funds:

- equity
- bond
- multi-asset
- money market
- absolute return innovative strategies (ARIS) funds
- other.

EFAMA further segments each of category into nine sub-categories: country/region, sector, market capitalisation, currency exposure, credit quality, interest rate exposure, emerging market exposure, asset allocation and structural characteristics.

EFAMA also published a *spreadsheet* which classifies 3,296 cross-border investment funds, managed by 125 fund managers, under the EFC categories to demonstrate how the categories work in practice. A classification administrator will monitor funds to ensure that they remain compliant with the category requirements.

EFAMA believes that the new categories will allow retail investors to more easily compare European funds. However, UK investment funds are usually classified under the IMA classification scheme, which sets out different categories to those developed by EFAMA. Having two industry classifications systems may add unnecessary complexity for investors, so perhaps EFAMA and IMA should consider harmonising these systems.

IOSCO consults on CIS liquidity risk principles

IOSCO published it consultation *Principles of Liquidity Risk Management for Collective Investment Schemes* on 26 April 2012. The consultation report sets out 15 liquidity risk management principles which should be followed for CIS fund managers.

Fund managers should meet Principles one through seven before launching a new CIS:

- Principle 1 – create liquidity risk management process which complies with local requirements
- Principle 2 – set liquidity limits in line with the redemption obligations of the CIS
- Principle 3 –determine a suitable dealing frequency for the CIS
- Principle 4 – state specific tools or exceptional measures which could impact investor redemption rights
- Principle 5 – consider liquidity aspects in relation to distribution methods
- Principle 6 – ensure information is available to manage liquidity
- Principle 7 – ensure investors are aware of the liquidity risks for the CIS and the existence of a liquidity risk management process

Fund managers should meet Principles eight through fifteen in their day-to-day management of a CIS:

- Principle 8 – maintain and use the liquidity risk management process on an ongoing basis
- Principle 9 – support the liquidity risk management process with strong and effective governance
- Principe 10 – regularly assess the liquidity of assets held within the CIS
- Principle 11 – integrate liquidity management into investment decisions
- Principle 12 – identify emerging liquidity shortages before they occur
- Principle 13 – create a robust and holistic view of risks through using relevant data in the liquidity risk management process
- Principle 14 – stress test liquidity under different scenarios
- Principle 15 – maintain appropriate records and disclosures when

operating a liquidity risk management process.

The consultation report closes on **2 August 2012.**

IMA updates fund processing principles

The IMA updated its *IMA Fund Processing Principles* (the Principles) on 16 April 2012. The IMA developed the Principles to promote greater standardisation and automation across the UK funds industry, a move which improves funds' operational risks. The IMA is updating the Principles to reflect recommendations in the EFAMA *Report on standardisation of fund processing in Europe 2011*, on which the Principals are based.

The IMA is amending Principle 6 (settlement methods) to state that the Calastone Settlement Service is a suitable system for fund settlement processing and adding two new principles, Principle 8 (in relation to transfers) and Principle 10 (in relation to corporate actions and events).

While the principles are not binding, fund managers and administrators may wish to amend their operating processes to reflect these industry best practices.

ESMA publishes UCITS ETF consultation responses

ESMA published the responses to *Consultation paper ESMA's guidelines on ETFs and other UCITS issues* on 3 April 2012.

Key industry players, such as the Investment Management Association, European Fund and Asset Management Association and Alternative Investment Management Association, responded. Their responses largely agreed with ESMA's decision to widen the scope of the guidelines from the discussion paper proposals. For instance, ESMA has extended guidance on disclosure applicable to UCITS ETF index tracking funds to all types of UCITS index tracking funds.

However, the associations recommend, consistent with their recommendations to the initial discussion paper**,** that guidelines applicable to UCITS ETFs should apply to all types of ETFs to prevent an unlevel playing field in the European market. These industry concerns may be assuaged by IOSCO's March 2012 consultation *Principles for the Regulation of Exchange Traded Funds – Consultation Report* in which IOSCO recommends that the principles apply to all types of ETFs, not just UCITS. However, these principles still leave other types of exchange-traded products, such as exchange traded commodities, outside the scope of regulatory rules.

Respondents did not agree with all proposed guidelines, particularly in relation to the requirements for collateral diversification. It remains to be seen whether industry feedback will influence ESMA's guidelines which is plans to release this summer.

Tax

HMT consults on conversion to the PAIF tax regime

HMT published its consultation the *Authorised Investment Funds (Tax) (Amendments) Regulations 2012* on 13 April 2012. HMT is seeking to ease the conversion of authorised investment funds to the property authorised investment fund (PAIF) regime. The draft legislation was produced by the government in response to calls from the Association of Real Estate Funds (AREF) and authorised fund managers to amend the PAIF regime to make it more popular.

Capital gains tax usually applies to any disposal of units in an authorised investment fund. However, the proposed changes to the PAIF tax regime will allow investors to exchange their units in a PAIF feeder fund for units in the PAIF, and vice versa, without incurring capital gains tax. Changes to the PAIF tax regime will support the regime in the UK, where there has been lower than anticipated investment since the scheme was launched.

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Regulation

Solvency II

Solvency II is a fundamental review of the prudential regulatory requirements for the European insurance industry. It will apply to all insurance firms with gross premium income exceeding €5m or gross technical provisions in excess of €25m. The proposed implementation date of Solvency II is 1 January 2014.

Omnibus II

The Omnibus II Directive will amend Solvency II to set the implementation date; specify areas of, and timing for, further Solvency II legislation; incorporate new powers given to EIOPA; and make a number of other technical amendments.

Following ECON's approval of the draft Omnibus II legislation on 21 March 2012, trialogue discussions are taking place between the EC, ECON and the Council. These discussions aim to iron out the differences between the EC's original proposals (published in January 2011), the Council's position (reached in September 2011) and ECON's position (as reflected in the most recent published *text* dated 28 March 2012. After EU policy makers reach agreement, the EP will hold a plenary vote to finalise the Omnibus II Directive, scheduled for *10 September 2012*, and this will set Solvency II's level 1 text.

We have produced a *Hot Topic* publication which summarises the most relevant aspects of the ECON position and compares it to the position reached by the Council.

The plenary vote is the last stage required to pass Omnibus II, and its passage will enable regulators to begin the consultations required to develop the Solvency II supporting Level 2 and Level 3 legislation. To meet Solvency II's 2014 deadline, EIOPA is keen to start the public consultation process by the end of the year. However, this represents a significant delay from EIOPA's earlier plans to begin the consultations in May 2012. In an interview this month with Reuters, Gabriel Bernardino, Chairman of EIOPA, said that he thought the revised timeline was very challenging but that it could be met as long as political decisions are reached by early autumn.

On 26 April 2012, the EC announced that it plans to issue a proposal to delay the deadline for member countries to transpose Solvency II by 6 months to 30 June 2013. This proposal will also confirm that insurers must still comply with the new rules by January 2014. Whilst the implementation date is not changing, the transposition delay will impact when supervisors can commence pre-implementation approvals (e.g. of internal models). The delay may also impact requirements for pre-implementation reporting by insurers during 2013.

The FSA continues to encourage firms to prepare for the current Solvency II implementation deadlines. In April, Julian Adams (FSA Director of Insurance Supervision, Prudential Business) gave a speech discussing how the implementation of Solvency II is changing the approach to insurance regulation. He reviewed the role of supervisory judgement and proportionality under Solvency II, the FSA's experience of working with firms and how Solvency II will form the basis of the PRA's approach to insurance supervision.

PwC webcast: Building Solvency II equivalence into your strategic plans

We published a *webcast* looking at progress and issues surrounding Solvency II third country equivalence. Bermuda, Switzerland and Japan are seeking equivalence in the first wave of applications. A second tier of countries, which currently includes Australia, Singapore, Hong Kong and South Africa, are set to join a transitional tier. This transitional measure will confer third country equivalence for a specified period while national solvency rules move closer to Solvency II standards. The US has yet to join this group. Third country equivalence approval is clearly crucial to many UK insurers, given the size of the US market and its importance to their businesses.

A third country equivalence approval is a key focus for multinational insurance groups. The equivalence status for a particular country will affect whether or not a business will be required to restate its domestic capital requirements according to Solvency II rules, which may in turn affect the pricing of certain products. Third country equivalence is also an important consideration in corporate structuring decisions, with a number of groups looking to move to a branch structure to ease movement of capital around the business. Some groups are also reviewing their choice of corporate domicile. A review may lead insurers to relocate to countries where regulation is more aligned to their business strategies and which offer equivalence status. Other international considerations for insurers include: the effects of buying reinsurance from non-equivalent jurisdictions and how third country equivalence may impact acquisitions.

PwC Countdown to Solvency II

Countdown to Solvency II is a series of PwC publications exploring the latest developments in Solvency II with emphasis on key implementation issues and implications. The latest publications in this series include:

- *Pillar 2 - Challenging your own risk culture*. This report explains why Pillar 2 is the catalyst that will challenge insurers' risk culture, governance and risk management. The paper is designed as a toolkit for those involved in the organisational aspects of Solvency II compliance. It offers an overview of the regulatory requirements and the enterprise risk management framework, and then it breaks down the operational issues involved in Solvency II compliance projects. This section addresses the risk management function, organisation and governance of the overall risk management processes, and scoping of 'cross-business' projects such as data quality and ORSA). This section highlights fundamental questions and uses concrete examples to demonstrate the main operational approaches in responses.
- *Asset management and Solvency II: Turning the shake-up to your advantage*. This publication considers how asset managers and asset servicing companies can use Solvency II as an opportunity to attract more business from insurers.

Where to go for more information

Our Solvency II UK web pages are available at *www.pwc.co.uk/solvencyII*.

Other regulatory

EIOPA report on good practices for disclosure and selling of variable annuities

On 10 April 2012, EIOPA published a *Report on good practices for disclosure and selling of variable annuities*. A variable annuity is a unit linked life insurance contract with investment guarantees which allow the policyholder to benefit from the upside of the unit while being partially or totally protected if the unit loses value. Variable Annuities have experienced a growth in sales in US and Japan since the 1990s and are now also becoming increasingly widespread in Europe. This report identifies which type of

information customers should receive to be able to take informed decisions on buying a variable annuity and refers to good practices regarding advice given to customers in this context.

In particular, EIOPA have concluded that:

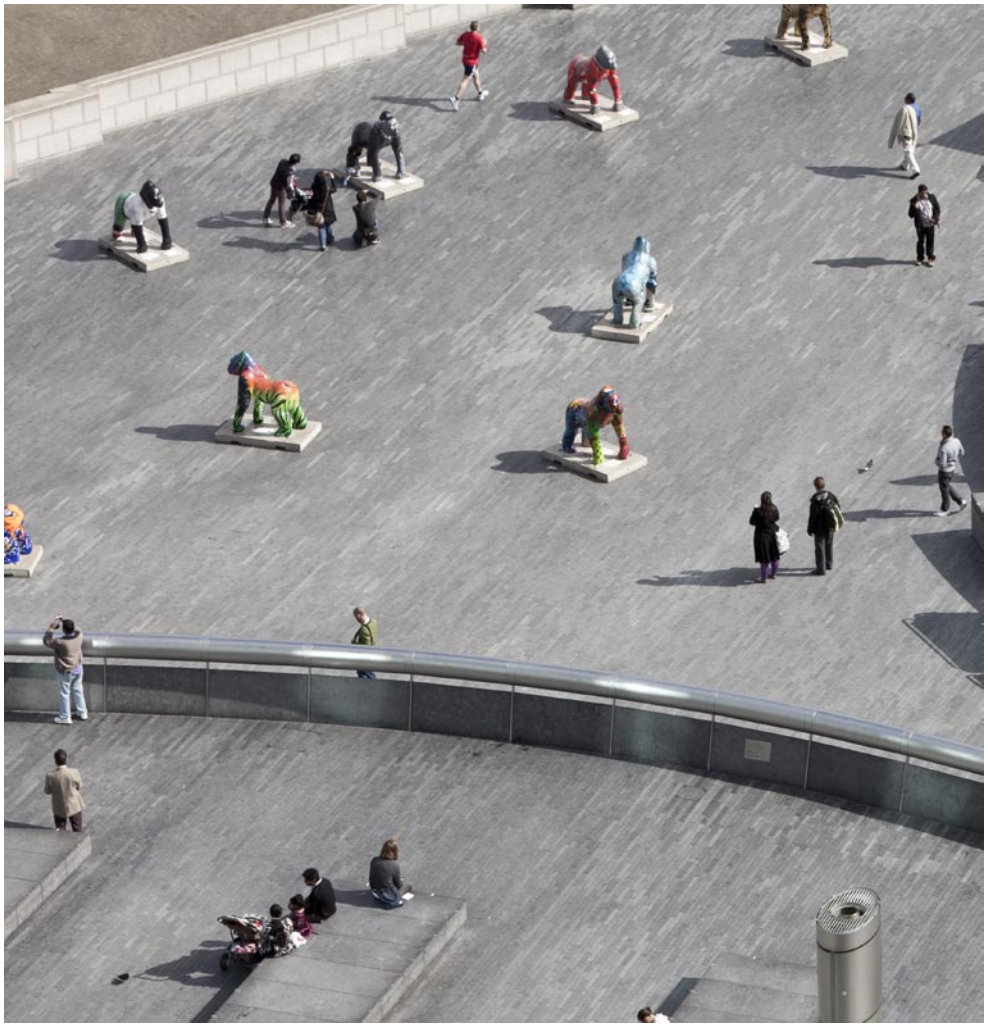
- customers need to be informed how the product works under different market conditions, what they are charged and which options they can exercise
- variable annuities should be sold exclusively based on advice by a suitably qualified salesperson
- insurers should get adequate information about the demands and needs of their potential variable annuity clients in order to prevent the risk of mis-selling

Whilst not mandatory at present, Gabriel Bernardino, Chairman of EIOPA, has said that he expects that insurance companies will "seriously take into consideration these good practices and incorporate them in their practices" and he notes that EIOPA "are going to closely monitor and review this issue in the following years".

Follow EIOPA on *Twitter* for further information.

FSA smaller wholesale insurance intermediaries' newsletter - Issue 8

This issue of the FSA's *newsletter* for smaller wholesale insurance intermediaries addresses the EU gender directive, the recently released Retail Conduct Risk Outlook, observations in relation to completing the Retail Mediation Activities Return (RMAR), information on unfair contract terms and progress towards forming the FCA.



Monthly calendar

Open consultations

Closing date for responses	Paper	Institution
14/05/2012	*Consultation on the future of European company law*	EC
18/05/2012	*Principles for the Valuation of Collective Investment Schemes: Consultation Report*	IOSCO
21/05/2012	*Suitability Requirements with respect to the Distribution of Complex Financial Products: Consultation Report*	IOSCO
21/05/2012	*Principles for Ongoing Disclosure for Asset-Backed Securities: Consultation Report*	IOSCO
25/05/2012	*Securities Lending and Repos: Market Overview and Financial Stability Issues. Interim Report of the FSB Workstream on Securities Lending and Repos*	FSB
28/05/2012	*Money Market Fund Systemic Risk Analysis and Reform Options*	IOSCO
31/05/2012	*Changes to the Training and Competence (TC) Sourcebook (CP 12/8)*	FSA
11/06/2012	*Automatic enrolment: career average schemes as qualifying schemes*	DWP
12/06/2012	*Commission services working document: Consultation on bank accounts*	EC
15/06/2012	*Assessment methodology for the principles for FMIs and the responsibilities of authorities*	IOSCO

Closing date for responses	Paper	Institution
15/06/2012	*Disclosure framework for financial market infrastructures*	IOSCO
20/06/2012	*Recommendations for the security of internet payments*	ECB
25/06/2012	*Discussion Paper: An Overview of the Proxy Advisory Industry. Considerations on Possible Policy Options*	ESMA
27/06/2012	*Principles for the Regulation of Exchange Traded Funds: Consultation Report*	IOSCO
13/07/2012	*Revisions to the UK Corporate Governance Code and guidance on audit committees*	FRC
31/07/2012	*Arch cru funds –redress for mis-selling (CP 12/9)*	FSA
02/08/2012	*Principles of Liquidity Risk Management for Collective Investment Schemes*	IOSCO

Forthcoming publications in 2012

Date	Topic	Type	Institution
Accounting			
Q2 2012	Insurance Contracts Standard – re-exposure / review draft	Consultation paper	IASB
Banking structure			
Q3 2012	Report from the high-level expert group examining the structural aspects of the EU banking sector	Discussion paper	EC
Capital and liquidity			
Q2 2012	EBA Capital Requirements Directive Common Reporting Application	Consultation paper	FSA
Q1-Q4 2012	Capital Requirements Directive IV	76 regulatory technical standards, 32 implementing technical standards and 20 guidelines	EBA
Client money			
Q2 2012	Client Assets sourcebook	Policy statement	FSA
Consumer protection			
Q2 2012	Deposit Protection: raising consumer awareness	Policy statement	FSA
Q2 2012	European Consumer Agenda	Report	EC
Q3 2012	Directive on misleading and comparative advertising (2006/114/EC)	Communication	
Q3 2012	Mortgage Market Review: Proposed package of reforms	Policy statement	FSA
Q3 2012	Packaged bank accounts: New ICOBS rules for the sale of non-investment insurance contracts	Policy statement	FSA
Q4 2012	Bank accounts	Legislative proposals	EC

Date	Topic	Type	Institution
Financial crime, security and market abuse			
Q3 2012	European terrorist finance tracking system	Legislative proposals	EC
Q3 2012	Financial message data transfer from the EU to the USA for the purposes of the Terrorist Finance Tracking Program	Report	EC
Q4 2012	Market Abuse Review	Technical advice	ESMA
Q4 2012	An EU framework for collective redress	Legislative proposals	EC
TBC 2012	Securities Law Directive	Legislative proposals	EC
TBC 2012	Third Anti-Money Laundering Directive	Legislative proposals	EC
TBC 2012	Financial Conglomerates Directive (revision)	Legislative proposals	EC
Insurance			
Q2 2012	Revision of the Insurance Mediation Directive (2002/92/EC) (IMD)	Legislative proposals	EC
Q3 2012	Institutions for Occupational Retirement Provision	Legislative proposals	EC
Market infrastructure			
Q1-Q4 2012	OTC Derivatives, CCP Requirements, Trade Repositories and CCP Interoperability (EMIR)	Technical advice/ standards/ guidelines	ESMA
Q2 2012	Delegated Regulation amending the Prospectus Regulation (Regulation 809/2004)	Consultation	EC
Q4 2012	Limitation period and further procedures for fining credit rating agencies	Regulation	EC
Q4 2012	Credit Rating Agencies III Regulation	Technical advice	ESMA
Q4 2012	Revision of the Transparency Directive	Discussion papers	ESMA

Date	Topic	Type	Institution
TBC 2012	Investor Guarantee schemes- revision	Legislative proposals	EC
TBC 2012	Closed-out netting	Legislative proposals	EC
Product and investments			
Q2 2012	Packaged Retail Investment Products	Legislative proposals	EC
Q2 2012	Undertakings For The Collective Investment Of Transferable Securities V	Legislative proposals	ESMA
Q4 2012	Implementation of Alternative Investment Fund Managers Directive	Consultation	FSA
Q4 2012	Non-mainstream investments	Consultation	FSA
Q4 2012	Alternative Investment Fund Managers Directive	Technical standards	ESMA
Q4 2012	Markets in Financial Instruments Directive II	Technical advice/ guidelines	ESMA
Q4 2012	Markets in Financial Instruments Directive I-financial consumer protection	Guidelines	ESMA
Q4 2012	Markets in Financial Instruments Directive I- supervisory convergence	Guidelines	ESMA
Q4 2012	Packaged Retail Investment Products	Technical standards	ESMA
Q4 2012	Prospectus Directive	Technical advice	ESMA
Q4 2012	Social Investment Funds	Technical advice	ESMA
Q4 2012	Venture Capital	Technical advice	ESMA
Q4 2012	Undertakings For The Collective Investment Of Transferable Securities V	Technical advice	ESMA
Recovery and resolution			
Q2 2012	Recovery and Resolution Plans	Policy statement	FSA

Date	Topic	Type	Institution
Q2 2012	EU framework for Recovery and Resolution Plans	Legislative proposals	EC
Q3 2012	EU framework for Recovery and Resolution Plans	Technical advice	EBA
Q4 2012	Rescue and restructuring of financial institutions in Europe	Guidelines	EC
RDR			
Q2 2012	Accredited Bodies	Feedback statement	FSA
Solvency II			
Q2 2012	Draft Level 2 delegated acts	Level 2 text	EC
Q2 2012	Transposition of Solvency II- Part 1	Feedback statement	FSA
Q2 2012	Solvency II and linked long-term insurance business	Policy statement	FSA
Q4 2012	Solvency Level 3 measures finalised	Level 3 text	EC
Supervision, governance and reporting			
Q2 2012	Remuneration- EBA Data Collection	Consultation paper	FSA
Q3 2012	Corporate reporting	Guidelines/ recommendations	ESMA
Q4 2012	EU corporate governance and company law	Action plan	EC
Q4 2012	Storage of regulated information at ESMA	Discussion paper	ESMA
Q4 2012	Supervisory convergence	Discussion paper	ESMA
Q4 2012	Revision of Enforcement Standards	Consultation paper	ESMA
Q4 2012	Corporate Governance (proxy advisors, empty voting)	Discussion paper(s)	ESMA
Q4 2012	Remuneration and supervisory co-operation arrangements	Guidelines/ recommendations	ESMA

Main sources: ESMA 2012 work programme; EIOPA 2012 work programme; EBA 2012 work programme; EC 2012 work programme; FSA policy development update (Issue 142)

Education – Conferences and events (May)

Date	Topic	Institution
14/05/2012	Data Protection Workshop	BBA
23/05/2012	AML/CTF Health-check Workshop	BBA
24/05/2012	Risk Event Classification Masterclass	BBA
24/05/2012	Advanced Liquidity Risk Management	BBA
25/05/2012	Solvency II Seminar One: Standard Formula and Undertaking-Specific Parameters	ABI
25/05/2012	ABI Solvency II Seminar Two: Internal Models	ABI
28/05/2012	Essentials of Banking Risk Workshop	BBA
29/05/2012	FATCA Update Seminar	BBA
30/05/2012	Money Laundering Induction Workshop	BBA

PwC insights

Banking

EMIR will affect your trading strategies

EMIR will restructure over the counter derivatives post-trade operations. Find out how it will affect your pricing models, client strategies and future operating strategies. Read more *here.*

FINREP: Financial reporting to UK and EU banking regulators is changing

The new financial reporting rules will increase the level of reporting from of financial information from banking institutions to the FSA. How will you interpret the requirements? Do you understand the data Impacts? Have you got robust reporting and governance processes? Read more *here.*

COREP: Supervisory reporting in the UK is changing

The new, standardised European reporting requirements for capital and risk requires extensive additional data items, more granular data and new reporting formats. Will you be ready by Q1 2013. Read more *here*.

Asset Management

Asset management and Solvency II: Turning the shake up to your advantage

Insurers will want to rethink their investment strategies because of Solvency II. This will have a big impact on asset managers, a huge proportion of whose business comes from insurers. Find out how asset managers and asset servicers can use Solvency II as an opportunity to attract more business from insurers. Read more *here.*

The Volcker Rule Proposal and asset management firms

The Volcker Rule intends to restrict banking entities from sponsoring, investing in, or having certain financial relationships with hedge funds, private equity funds and similar funds. Find out how this affects you. Read more *here*.

Insurance

Counting down to Solvency II: Pillar 2 - Challenging your own risk culture

Pillar 2 requires companies to place risk management at the heart of their business models. Are you ready for the new framework for risk management? Read more *here*.

Building Solvency II equivalence into your strategic plans

Equivalence is a key focus for multinational insurance groups. This PwC video examines transitional and US equivalence issues under Solvency II and its implications for how businesses are structured, where they are domiciled and how decisions over reinsurance and acquisitions are made. Read more *here*.

Glossary

ABI	Association of British Insurers
AIFMD	Alternative Investment Fund Managers Directive
AIMA	Alternative Investment Management Association
AMICE	Association of Mutual Insurers and Insurance Cooperatives
ASB	UK Accounting Standards Board
Basel Committee	Basel Committee of Banking Supervisors
BBA	British Bankers' Association
BIBA	British Insurance Brokers Association
BoE	Bank of England
CCPs	central counterparties
CEA	European Insurance and Reinsurance Federation
CEBS	Committee of European Banking Supervisors
CEIOPS	Committee of European Insurance and Occupational Pensions Supervisors
CFPB	Consumer Financial Protection Bureau
CFTC	Commodities Futures Trading Commission
CIS	collective investment schemes
Council	European Council of Ministers
CPI	Consumer Price Index
CRAs	credit rating agencies
CRD	Capital Requirements Directive 2006/48/EC
DG MARKT	Internal Market and Services Directorate General
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
D-SIBs	domestic systematically important banks
EBA	European Banking Authority
EC	European Commission
ECJ	European Court of Justice
ECON	European Parliament Committee on Economic and Monetary Affairs
EEA	European Economic Area
EFAMA	European Fund and Investment Management Association
EIOPA	European Insurance and Occupations Pension Authority
EP	European Parliament
EMIR	European Market Infrastructure Regulation COM(2010) 484 final
ESA	European Supervisory Authority
ESMA	European Securities and Markets Authority
ESRB	European Systematic Risk Board
FASB	US Financial Accounting Standards Board
FATF	Financial Action Task Force

FCA	Financial Conduct Authority
FDIC	Federal Deposit Insurance Corporation
FOS	Financial Ombudsman Service
FPC	Financial Policy Committee
FRC	Financial Reporting Council
FSA	Financial Services Authority
FSB	Financial Stability Board
FSCP	Financial Services Consumer Panel
FSCS	Financial Services Compensation Scheme
FMI	financial market infrastructures
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
G30	Group of 30
GAAP	Generally Accepted Accounting Principles
G-SIFIs	global systemically important financial institutions
HMRC	Her Majesty's Revenue & Customs
HMT	Her Majesty's Treasury
IASB	International Accounting Standards Board
ICB	Independent Commission on Banking
IFRS	International Financial Reporting Standards
IMA	Investment Management Association
IMD	Insurance Mediation Directive (2002/92/EC)
IORP	Institutions for Occupational Retirement Provision Directive 2003/43/EC
IOSCO	International Organisations of Securities Commissions
ISDA	International Swaps and Derivatives Association
JMLSG	Joint Money Laundering Steering Committee
MAD	Market Abuse Directive 2003/6/EC
Member States	countries which are members of the European Union
MIFID	Markets in Financial Instruments Directive 2004/39/EC
MiFIR	Markets in Financial Instruments Regulation COM(2011) 652 final
MLD	Money Laundering Directive 2005/60/EC
MoJ	Ministry of Justice
Omnibus II	EC proposed Directive 2011/0006 (COD) amending Solvency II
OTC	over-the-counter
PRA	Prudential Regulation Authority
PRIPS	Packed Retail Investment Products
RAO	Financial Services and Markets Act 2000 (Regulated Activities Order) 2001
RDR	Retail Distribution Review
RTS	regulatory technical standards
SCR	Solvency Capital Requirement
SEC	Securities and Exchange Commission
SOCA	Serious Organised Crime Agency
Solvency II	Taking up Pursuit of Business of Insurance and Reinsurance

	Directive 2009/138/EC
TR	trade repository
TSC	Treasury Select Committee
UCITS	Undertakings for Collective Investments in Transferable Securities
US	United States of America

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