

International Regulatory Update

17 – 20 December 2012

The next edition will be published on 7 January 2013

IN THIS WEEK'S NEWS

- EMIR: European Commission adopts technical standards
- AIFM Directive: European Commission adopts implementing rules; ESMA consults on guidelines on key concepts and draft regulatory technical standards on types of AIFMs
- ESMA consults on guidelines for CCPs' interoperability arrangements
- MiFID: ESMA publishes supervisory briefings on suitability and appropriateness rules
- MiFID review: EU Council Presidency publishes progress report
- UCITS V: Cyprus EU Council Presidency publishes compromise text
- ESMA issues written statement to US House of Representatives on Dodd-Frank derivatives reform and extraterritoriality
- Basel Committee consults on revisions to securitisation framework
- FSA consults on PRA's approach to enforcement
- Financial Services Bill receives Royal Assent
- Regulatory reform: FSA consults on implementing markets powers, decision-making procedures and penalties policies
- Bank of England sets out approach to supervision of financial market infrastructures
- LIBOR: BBA sets out timescale for phased discontinuation of certain currencies and maturities in line with Wheatley recommendations
- Client assets regime: FSA issues final rules making changes following EMIR
- BaFin publishes MaComp II
- Swiss Federal Council announces measures to prevent acceptance of untaxed assets by financial institutions
- SAFE issues amended measures on foreign exchange administration of domestic securities investment by qualified foreign institutional investors
- Australian Treasury consults on implementation of OTC derivatives commitments

Clifford Chance's International Regulatory Update is a weekly digest of significant regulatory developments, drawing on our daily content from our Alerter: Finance Industry service.

If you would like to continue to receive International Regulatory Update or would like to request a subscription for a colleague, please [click here](#).

To request a subscription to our Alerter: Finance Industry service, please email [Online Services](#).

If you would like to know more about the subjects covered in this publication or our services, please contact:

International Regulatory Group Contacts

[Chris Bates](#) +44 (0)20 7006 1041

[Nick O'Neill](#) +1 212 878 3119

[Marc Benzler](#) +49 69 7199 3304

[Thomas Pax](#) +1 202 912 5168

[Steven Gatti](#) +1 202 912 5095

[Mark Shipman](#) +852 2826 8992

[Donna Wacker](#) +852 2826 3478

International Regulatory Update Editor

[Julia Milosh](#) +44 (0)20 7006 4171

To email one of the above, please use firstname.lastname@cliffordchance.com

Clifford Chance LLP, 10 Upper Bank Street,
London, E14 5JJ, UK
www.cliffordchance.com

- ASIC publishes amendments to clearing and settlement facilities guidance
- CFTC issues no-action relief from reporting for swap dealers
- CFTC issues no-action relief for prime brokerage transactions
- Federal Reserve Board proposes rules regarding oversight of foreign banks
- Recent Clifford Chance briefings: EMIR – illustrative implementation timeline; and more. [Follow this link to the briefings section.](#)

EMIR: European Commission adopts technical standards

The European Commission has adopted nine regulatory and implementing technical standards to complement the obligations defined under the regulation on OTC derivative transactions, central counterparties and trade repositories (EMIR), which entered into force on 16 August 2012.

The technical standards were developed by the European Supervisory Authorities (ESAs) and have been endorsed by the Commission without modification. One technical standard submitted by the ESMA on colleges for central counterparties was not endorsed because of concerns as to the legality of some of the provisions. The Commission will ask ESMA to redraft the standard and it will be adopted at a later stage. The Commission has, however, stressed that this will not affect the timing of the clearing obligation, or the timing of authorisation of CCPs under EMIR.

The regulatory technical standards will be published in the Official Journal immediately following the receipt of 'non-objection' from the European Parliament and Council. The European Parliament and Council have one month to exercise their right of scrutiny, with this period extendable by an additional one month at their initiative. The regulatory technical standards will then enter into force on the twentieth day following that of their publication in the Official Journal.

The implementing technical standards are not subject to the right of scrutiny of the Parliament and Council. They will be published in the Official Journal immediately following their adoption and will enter into force on the twentieth day following that of their publication. However, the provisions under the implementing technical standards will only take effect once the associated regulatory technical standards enter into force, since the provisions defined in the

implementing acts complement provisions defined in the related regulatory technical standards and are not stand-alone obligations.

[RTS on capital requirements for central counterparties](#)
[RTS on requirements for central counterparties](#)
[RTS on indirect clearing arrangements, clearing obligation, public register, access to a trading venue, non-financial counterparties, risk mitigation techniques for OTC derivatives contracts not cleared by a CCP](#)
[RTS specifying details of application for registration as a trade repository](#)
[RTS specifying data to be published and made available by trade repositories and operational standards for aggregating, comparing and accessing the data](#)
[ITS on requirements for central counterparties](#)
[ITS on minimum details of data to be reported to trade repositories](#)
[ITS specifying details of application for registration as a trade repository](#)
[FAQs](#)

AIFM Directive: European Commission adopts implementing rules; ESMA consults on guidelines on key concepts and draft regulatory technical standards on types of AIFMs

The European Commission has adopted a Delegated Regulation supplementing the AIFM Directive with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision. The Delegated Regulation is subject to a three-month scrutiny period by the European Parliament and the Council and will enter into force, provided that neither co-legislator objects, at the end of this period and the day following its publication in the Official Journal.

In addition, ESMA has launched a consultation on guidelines on key concepts of the AIFM Directive. ESMA's draft guidelines are intended to clarify the rules applicable to hedge funds, private equity and real estate funds. In particular, they seek to clarify what entities fall under the remit of the AIFM Directive, thereby creating a level playing field by providing for consistent application of the provisions throughout the EU. In order to achieve this, the guidelines set out the criteria for what is considered to be: (1) a collective investment undertaking; (2) capital raising; (3) defined investment policy; and (4) the number of necessary investors.

ESMA has also issued a consultation on draft regulatory technical standards on types of AIFMs, which are intended

to ensure the uniform application of the AIFM Directive across the EU. These standards distinguish between managers of AIFs whose investors have the right to redeem their shares at least annually (open-ended AIFs), and those whose investors have less frequent redemption rights.

Both papers follow an earlier discussion paper published by ESMA in February 2012. ESMA has indicated that for some of the issues covered in the February paper, which are not addressed in the two consultation papers, it will take into account the European Commission's Level 2 implementing measures before deciding on the appropriate next steps.

The closing date for responses to both these consultations is 1 February 2013. The guidelines and technical standards will be finalised in the first half of 2013.

[Delegated Regulation](#)

[Impact assessment – full text](#)

[Impact assessment – summary](#)

[ESMA Consultation paper on Guidelines on key concepts of the AIFMD](#)

[ESMA Consultation paper on Draft regulatory technical standards on types of AIFMs](#)

ESMA consults on guidelines for CCPs' interoperability arrangements

ESMA has published a [consultation paper](#) on guidelines regarding the assessment of interoperability arrangements for central counterparty (CCP) clearing. The guidelines, which relate to the regulation on OTC derivative transactions, central counterparties and trade repositories (EMIR), clarify the obligations for national regulators on how to assess existing or new interoperability arrangements between CCPs. They are intended to provide a level playing field for CCPs in the EU by improving the rigour and uniformity of standards applied in the assessments of CCPs' interoperability arrangements.

The closing date for responses is 31 January 2013. ESMA expects to publish final guidelines by the end of Q1 2013.

MiFID: ESMA publishes supervisory briefings on suitability and appropriateness rules

ESMA has published two supervisory briefings regarding MiFID, which cover: (1) suitability; and (2) appropriateness and execution-only.

The supervisory briefings have been designed for supervisors as an accessible introduction to the MiFID suitability and appropriateness rules and as a starting point

when deciding on areas of supervisory focus. They summarise the key elements of the rules and explain the associated objectives and outcomes. They also include indicative questions that supervisors could ask themselves, or a firm, when assessing firms' approaches to the application of the MiFID rules.

[Supervisory briefing on suitability](#)

[Supervisory briefing on appropriateness and execution-only](#)

MiFID review: EU Council Presidency publishes progress report

The Cyprus EU Council Presidency has published a [progress report](#) on the proposals for a directive on markets in financial instruments repealing Directive 2004/39/EC (MiFID 2) and a regulation on markets in financial instruments and amending the regulation on OTC derivatives, central counterparties and trade repositories (MiFIR).

UCITS V: EU Council Presidency publishes compromise text

The Cyprus EU Council Presidency has published a [compromise text](#) for the proposal for a directive amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities as regards depositary functions, remuneration policies and sanctions (UCITS V).

ESMA issues written statement to US House of Representatives on Dodd-Frank derivatives reform and extraterritoriality

ESMA Chair, Steven Maijor, has published a [written statement](#) to the Agriculture Committee of the US House of Representatives on the Dodd-Frank derivatives reform and the challenges facing US and international markets, focusing on a number of issues in relation to the application of the Dodd-Frank Act to non-US persons. In particular, the written statement addresses the registration of foreign entities, such as swap dealers (when they fall above the relevant threshold), which is required under US rules but not under EU rules.

ESMA considers that it is of fundamental importance to avoid the application of two or more sets of rules to the same entities or transactions, if those entities and transactions are subject to appropriate requirements in their home jurisdiction. It has therefore urged US regulators to rely to the maximum extent on equivalent requirements enshrined in EU law, instead of imposing US requirements

when non-US entities are dealing with US persons. ESMA believes that, when a duplicative application of rules cannot be avoided, it is essential to identify and mitigate any possible conflict that might arise from that situation.

ESMA has welcomed the use of mechanisms like 'substituted compliance' as a workable solution, which would allow US-registered foreign swap dealers to apply their home jurisdiction rules to the extent that they produce the same result as the corresponding US rules. However, ESMA remains concerned about the fact that in its current version, this would not be applicable to transactions in which one of the counterparties is a person established or domiciled in the US.

Pending an agreement to allow the maximum possible use of mutual recognition and substituted compliance as ways to minimise conflicts and overlaps between different sets of laws, ESMA is of the view that registration and other requirements should be suspended for foreign entities. In this vein, ESMA has expressed strong concerns about maintaining the deadline for the registration of foreign swap dealers by the end of 2012, despite a possible temporary waiver from some related obligations.

Basel Committee consults on revisions to securitisation framework

The Basel Committee on Banking Supervision has published a [consultation paper](#) setting out proposed revisions to its securitisation framework for regulatory capital requirements. The Committee's objectives are to make capital requirements more prudent and risk-sensitive, to mitigate mechanistic reliance on external credit ratings, and to reduce current cliff effects in capital requirements.

The Committee is considering two possible hierarchies that would be significantly different from hierarchies currently employed in the securitisation framework. These two hierarchies differ in aspects such as the specific approach to be applied for certain types of exposures, the order and scope of application of approaches, as well as the flexibility that is given to either jurisdictions or to banks to opt for one approach or the other.

The Committee is also proposing enhancements to the current ratings-based approaches and the supervisory formula approach included in the Basel II securitisation framework. The proposal contains a revised ratings-based approach and a modified supervisory formula approach, both of which are intended to create a more risk-sensitive and prudent calibration. To accomplish these objectives, underlying assumptions of the current framework have

been revised to reflect lessons learned during the crisis. The enhanced approaches also incorporate additional risk drivers, such as maturity.

Finally, the proposed revisions to the securitisation framework include the introduction of new approaches, such as a simplified supervisory formula approach and different applications of the concentration ratio based approach that was included in the Basel 2.5 enhancements.

In the coming months, the Committee will conduct a quantitative impact study (QIS) on the proposals. Responses to the public consultation, together with the QIS results, will be considered as the Committee moves forward to revise the securitisation framework.

Comments are due by 15 March 2013.

FSA consults on PRA's approach to enforcement

The FSA has published a [consultation paper \(CP12/39\)](#) on the Prudential Regulation Authority's (PRA's) approach to enforcement.

The PRA will be required by the Financial Services and Markets Act 2000 (FSMA) to publish certain statements of policy or procedure relating to its disciplinary and other enforcement powers and its decision-making procedures. CP12/39, which has been produced jointly by the FSA and the Bank of England, sets out those policies and procedures for public consultation.

Comments on CP12/39 are due by 28 February 2013.

Financial Services Bill receives Royal Assent

The Financial Services Bill has received Royal Assent and the Bill, which has now become an Act of Parliament, will be known as the Financial Services Act. The Act, which comes into force from 1 April 2013, abolishes the FSA and creates a new regulatory architecture consisting of the Financial Policy Committee, the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA).

Ahead of the launch of the new bodies, the government will bring forward secondary legislation that will, amongst other things, set out how regulated activities will be divided between the new authorities, bring LIBOR into regulation, and establish the new 'threshold conditions' that firms must satisfy to become and remain authorised as a financial services firm.

[HM Treasury press release](#)

Regulatory reform: FSA consults on implementing markets powers, decision-making procedures and penalties policies

The FSA has published a [consultation paper \(CP12/37\)](#) on the new rulebooks and policies for its successor organisations. CP12/37 is part of a series of papers setting out proposed changes to the regulatory requirements needed to create the new rulebooks and policies for the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA). These changes are intended to be in place for when the new regulators acquire their legal powers in 2013.

CP12/37 covers only changes to certain parts of the FCA's new Handbook, not the PRA's. A separate consultation will be published setting out the proposed PRA enforcement policies and procedures.

Comments are due by 1 February 2013.

Bank of England sets out approach to supervision of financial market infrastructures

The Bank of England has published a document setting out its [proposed approach](#) to the supervision of central counterparties and securities settlement systems.

Responsibility for the supervision of central counterparties and securities settlement systems will transfer to the Bank of England from the FSA following the enactment of the Financial Services Bill. The transfer of responsibility is expected to take effect on 1 April 2013. It will sit alongside the Bank's existing responsibilities for oversight of recognised payment systems.

The Bank will undertake its supervision of FMIs with a view to protecting and enhancing the stability of the financial system as a whole. Its supervisory approach will be based on the Principles for Financial Market Infrastructures published by the Committee on Payment and Settlement Systems and OSCO in April 2012, and will aim to ensure that FMIs' rules and policies are designed in ways that reduce risk to the FMI and have regard to the financial system as a whole.

[Draft Memorandum of Understanding between the FCA and the Bank of England, including the PRA](#)

LIBOR: BBA sets out timescale for phased discontinuation of certain currencies and maturities in line with Wheatley recommendations

The British Bankers' Association (BBA) has published a [feedback statement](#) summarising the findings of its

November 2012 consultation on the proposed timescale for a phased discontinuation of certain LIBOR currencies and maturities in line with the sixth recommendation of the Wheatley Review. The BBA proposed a phased removal of those currencies and maturities whose underlying trade data is considered insufficient from the current LIBOR compilation process by the end of March 2013.

A general concern raised by respondents was that the proposed timescales for the changes were too fast. Certain respondents also raised concerns that the scope of the proposals will discontinue rates which are currently relied on for various purposes. Accordingly, the BBA has revised the timetable and scope of the proposed changes, to allow for a greater period of market adjustment. In particular, the BBA has indicated that:

- for those tenors being removed from all currencies in the LIBOR framework, this change will now be implemented at the end of May 2013 (rather than January 2013) in order to allow time for users to adapt, and protocols to be developed, to deal with the changes;
- publication of Australian and Canadian Dollar fixings will now be discontinued at the end of May 2013, rather than the end of February and March respectively as originally proposed; and
- for those currencies which remain in the LIBOR framework after May 2013, the two-month tenor will be retained.

All other changes will be implemented as proposed in the BBA's November consultation paper.

Client assets regime: FSA issues final rules making changes following EMIR

The FSA has published a [policy statement \(PS12/23\)](#) summarising the feedback received in relation to Part I of its September 2012 [consultation paper \(CP12/22\)](#) on changes to the client money and custody assets regime for firms that undertake investment business and setting out the FSA's final rules making changes required by the regulation on OTC derivatives and market infrastructures (EMIR). PS12/23 outlines the segregation and porting measures in Articles 39 and 48 of EMIR and consequential changes to the client assets sourcebook (CASS).

The FSA has indicated that feedback on Parts II and III of CP12/22 will be published at a later date.

BaFin publishes MaComp II

The German Federal Financial Supervisory Authority (BaFin) has published a circular on organisational requirements applicable to multilateral trading facilities under section 31f and 31g of the German Securities Trading Act (MaComp II). MaComp II sets out BaFin's administrative practice in respect of the particular rules of conduct applicable to investment firms which operate multilateral trading facilities.

Amongst other things, MaComp II covers:

- rules on the admission of trading participants and financial instruments to multilateral trading facilities;
- rules on trading, calculation of prices and settlement;
- monitoring of trading activities and co-operation with supervisory authorities, in particular with respect to disclosure of inside information and market manipulation;
- pre- and post trade transparency; and
- the collection of records of trading activities.

[MaComp II \(German\)](#)

Swiss Federal Council announces measures to prevent acceptance of untaxed assets by financial institutions

The Federal Council has [announced](#) that it wants banks and other financial intermediaries to stop accepting untaxed assets. The Federal Council has instructed the Federal Department of Finance (FDF) to submit a corresponding draft bill for consultation at the start of 2013. The content of the consultation draft and its schedule should be in line with the implementation of the revised Financial Action Task Force (FATF) recommendations. At the same time, the Federal Council took note of the FDF's appointment of a group of experts which is to draw up the basis for the longer-term orientation of the financial market strategy.

With the planned implementation of the revised FATF, serious tax offences will be qualified as predicate offences for money laundering. In the event that they suspect money laundering, financial intermediaries should also report these cases to the Money Laundering Reporting Office Switzerland.

The Federal Council has also decided to regulate at the same time the principles of enhanced due diligence requirements to prevent the acceptance of untaxed assets. The extent of the examination will depend on the risk posed by the contracting party, in a similar manner as the due diligence requirements for combating money laundering

and terrorist financing. Financial intermediaries will be obliged to issue self-regulation provisions in compliance with specific legal parameters which are to be recognised and monitored by the supervisory authority.

Within the scope of the due diligence requirements to prevent the acceptance of untaxed assets, it is envisaged that the financial intermediary will be able to request a self-declaration from clients on the fulfilment of their tax obligations. The self-declaration will serve as an indicator of the tax compliance of the client. However, there is no self-declaration obligation.

SAFE issues amended measures on foreign exchange administration of domestic securities investment by qualified foreign institutional investors

The State Administration of Foreign Exchange (SAFE) has issued the [SAFE Bulletin No.2 of 2012](#) to amend the 'Measures on the Foreign Exchange Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors', which became effective as of the issuance date. The '(Trial) Operation Guidelines for the Administration of Qualified Foreign Institutional Investors' Domestic Accounts' are also included in the amended SAFE measures as an appendix.

Australian Treasury consults on implementation of OTC derivatives commitments

The Australian Treasury has published a [proposals paper](#) entitled 'Implementation of Australia's G20 Over-the-Counter Derivatives Commitments'. The paper seeks stakeholder views on proposed approaches for implementing the Australian government's G20 commitments in such areas as central clearing, trade execution and trade reporting in relation to OTC derivatives. The paper proposes that no decision be taken at this time on any mandatory clearing obligation until the relevant Australian regulators have conducted further review or otherwise provided further advice. However, should substantial industry progress towards central clearing not be evident in the near future for AUD denominated interest rate swaps, the relevant Australian regulators may revisit this recommendation.

The paper further proposes that no decision be taken at this time on any mandatory trade execution requirements until subsequent reviews are undertaken by the relevant Australian regulators. Future recommendations for trade execution will be developed separately from recommendations in relation to central clearing.

A Ministerial determination is to be made in the first quarter of 2013 that will require all five derivative classes (interest rate, foreign exchange, credit, equity and commodity) to be reported to a licensed trade repository where one is available. It is expected that the trade reporting regime will be in place by mid-2013. The trade reporting obligation will be phased in over two years with the obligation commencing by the end of 2013 for major financial institutions in the first phase, domestically-focused financial institutions in the second phase and end users in the third phase.

In addition to seeking feedback on the Ministerial determination, the Treasury paper seeks feedback on the costs and benefits of complying with the trade reporting obligations, the timetable for implementation, the phased in approach and implementation of domestic requirements for the trade reporting and trade repository licensing regime.

Submissions are due by 15 February 2013.

ASIC publishes amendments to clearing and settlement facilities guidance

The Australian Securities and Investments Commission (ASIC) has published [amended regulatory guidance](#) for clearing and settlement facilities to harmonise with updated international standards and recent policy changes. The amended regulatory guidance is intended to provide clarity for overseas clearing and settlement facilities operating in Australia and domestic clearing and settlement facilities seeking to move or outsource some operations overseas. It clarifies the circumstances under which a systemically important overseas clearing and settlement facility with a strong domestic connection may need to hold a domestic licence.

The guidance also explains where conditions may be imposed on cross-border clearing and settlement facilities to ensure appropriate influence for Australian regulators – such as requiring an overseas clearing and settlement facility to establish a domestic operational presence and requiring a domestic clearing and settlement facility to set controls around how it deals with outsourcing of critical functions.

CFTC issues no-action relief from reporting for swap dealers

The CFTC's Division of Market Oversight has issued a [no-action letter](#) that provides swap dealers and major swap participants with time-limited relief from reporting valuation data for cleared swaps, with respect to part 45 of the CFTC

regulations. In the letter, the Division recommends that the CFTC not take action against any swap dealer or major swap participant who fails to comply with the reporting requirements of regulation 45.4(b)(2)(ii).

The no-action relief expires on 30 June 2013.

CFTC issues no-action relief for prime brokerage transactions

The CFTC's Division of Market Oversight has issued a [no-action letter](#) that affords swap dealers time-limited relief from reporting for prime brokerage transactions and reporting unique swap identifiers in related trades by prime brokers, with respect to parts 43 and 45 of the CFTC regulations.

To make use of the relief, reporting parties will be required to follow specific criteria set out in the no-action letter and satisfy conditions attached to the relief. The relief expires no later than 30 June 2013.

Federal Reserve Board proposes rules regarding oversight of foreign banks

The Federal Reserve Board (FRB) has [proposed](#) several rules to enhance the oversight of foreign banking organizations with a US presence. The proposal, pursuant to provisions of the Dodd-Frank Act, is intended to address the risks associated with the increased complexity of US operations of foreign banks.

Amongst other things, the proposed rules would require that:

- foreign banks create US intermediate holding companies to supervise and regulate the operations of US subsidiaries;
- US intermediate holding companies of foreign banks adhere to the same risk-based and leverage capital standards applicable to US bank holding companies; and
- US operations of foreign banks follow new liquidity risk-management standards.

The proposed rules are open to public comment until 31 March 2013.

The proposal applies to foreign banks with a US banking presence and total global consolidated assets of USD 50 billion or more. The FRB has proposed a phase-in period from 1 July 2014 to 1 July 2015 to allow foreign banks time to adjust to the new rules.

RECENT CLIFFORD CHANCE BRIEFINGS

EMIR – Illustrative implementation timeline

On 19 December 2012, the European Commission adopted key technical standards under the EU regulation on OTC derivatives, central counterparties and trade repositories (EMIR), starting the countdown towards implementation of the EU derivatives reforms. These come will come into force after the expiry of an objection period for the European Parliament and the Council and publication in the Official Journal. As a result, some of the EMIR obligations could begin to apply in mid-February 2013 (conceivably, as early as 11 February 2013), but in some cases obligations are deferred or subject to compliance schedules.

This paper sets out an illustrative timeline showing when the main EMIR obligations may start to apply to market participants.

http://www.cliffordchance.com/publicationviews/publications/2012/12/emir_illustrativeimplementationtimeline.html

Germany – Control of foreign investments

The German Foreign Trade Act and the respective implementation regulation enable the German federal government to prohibit or restrict certain foreign investments in Germany. This form of acquisition control was introduced in 2009 as a measure to control acquisitions by foreign investors in individual and exceptional circumstances. It is not intended to restrict foreign investment in Germany generally.

This briefing discusses the control of foreign investments in Germany.

http://www.cliffordchance.com/publicationviews/publications/2012/12/germany_control_offoreigninvestments.html

SFC releases consultation conclusions on enhancing the regulatory regime of IPO sponsors

On 12 December 2012, the Hong Kong Securities and Futures Commission published its consultation conclusions on enhancing the regulatory regime of sponsors.

This briefing discusses certain selected changes and proposals which may have a more profound effect.

http://www.cliffordchance.com/publicationviews/publications/2012/12/sfc_releases_consultationconclusionso.html

Amendments to the Russian Civil Code – lower chamber of the Russian Parliament adopts first set of amendments in the final reading

On 18 December 2012, the State Duma (the lower chamber of the Russian Parliament) adopted in the final, third, reading the first set of amendments to the Civil Code of the Russian Federation. The adopted amendments represent only a small part of the amendments initially envisaged by the presidential Bill and affect only a few of the Civil Code provisions. The amendments mainly concern some basic principles of civil law, the limits to the exercise of civil rights, principles of state registration of rights to certain types of property (including the principle of compensation for losses incurred as a result of wrongful acts of state authorities responsible for registration of property rights) and the status of individuals and private (peasant) farms.

The second set of amendments (to chapter 4 of the Civil Code which regulates the status of legal entities) is scheduled to have its second hearing in the State Duma at the beginning of 2013. The timetable for the rest of the amendments to the Civil Code to pass through the Russian Parliament is still unknown.

This briefing discusses the amendments.

http://www.cliffordchance.com/publicationviews/publications/2012/12/amendments_to_therussiancivilcodeenglish.html

CFTC extends deadlines for business conduct and swap documentation

On 18 December 2012, the CFTC issued interim final rules which extend the compliance deadlines for certain business conduct and documentation requirements for swap dealers and major swap participants until 1 May 2013 and 1 July 2013.

This briefing discusses the implications.

http://www.cliffordchance.com/publicationviews/publications/2012/12/cftc_extends_deadlinesforbusinessconductan.htm

Federal Reserve proposes enhanced prudential standards and intermediate holding companies for non-US banks

On 14 December 2012, the Federal Reserve Board published its proposed enhanced prudential standards for the US operations of non-US banks. The highly anticipated proposal would implement the 'rebalanced approach' to the regulation of non-US banks that Fed Governor Daniel Tarullo announced last month, respond to expected

challenges in connection with the resolution of large cross border banks, and represent a marked shift in focus – away from coordinated supervision of internationally active banks at the consolidated level, and toward reduction of the risks that the cross-border activities of multinational banking organizations are thought to pose to the financial stability of host countries, particularly the United States.

This briefing discusses the proposal.

http://www.cliffordchance.com/publicationviews/publications/2012/12/federal_reserve_proposesenhancedprudential.htm

US Commodity Futures Trading Commission's Division of Market Oversight issues no-action relief granting time-limited, exemptive relief to reporting swap dealers

On 7 December 2012, the CFTC's Division of Market Oversight issued a time-limited, no-action letter relating to

certain Dodd-Frank reporting requirements. Under CFTC regulations, swap dealers must soon begin reporting the details of their trades to 'swap data repositories'. These reporting requirements raise certain privacy and confidentiality concerns where parties to the trades are located in a number of jurisdictions outside of the United States. In response to these concerns, the CFTC issued a no-action letter under which swap dealers may report trades on a redacted basis with counterparty identity anonymized. The relief, however, is only temporary and subject to significant limitations.

This briefing discusses the no-action letter.

http://www.cliffordchance.com/publicationviews/publications/2012/12/us_commodity_futurestradingcommission.html

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ

© Clifford Chance LLP 2012

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh* ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

*Clifford Chance has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.