

International Regulatory Update

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PRIIPS: EU Commission requests EIOPA's advice on possible delegated acts

The EU Commission has sent the European Insurance and Occupational Pensions Authority (EIOPA) a [request for technical advice](#) on possible delegated acts concerning the upcoming Regulation on Key Information Documents for Packaged Retail and Insurance-Based Investment Products (PRIIPS). In particular, the Commission has asked EIOPA for advice on the content of the delegated acts on temporary product intervention powers for EIOPA and competent authorities.

The deadline set for EIOPA to deliver its technical advice is six months after the entry into force of the PRIIPs Regulation, which is expected in November or December 2014.

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EMIR: ESMA updates lists of authorised CCPs and non-EEA applicants

The European Securities and Markets Authority (ESMA) has published an [updated list](#) of central counterparties (CCPs) established in non-EEA countries which have applied for recognition under Article 25 of the European Markets Infrastructure Regulation (EMIR).

ESMA has also updated its [list](#) of CCPs that have been authorised to offer services and activities in the EU in accordance with EMIR. With the authorisation of CCP Austria Abwicklungsstelle für Börsengeschäfte GmbH (CCP.A), there are now 11 CCPs authorised under EMIR.

FCA sets out progress on review of financial promotions

The Financial Conduct Authority (FCA) [has released details of its progress](#) on reviewing financial promotions for consumer credit products. Having reviewed more than 1500 consumer credit promotions, the FCA has opened 227 cases into non-compliant promotions which do not meet the FCA's rules and standards. A quarter of cases relate to advertising practices for high-cost short-term credit and 80% relate to digital media promotions.

BaFin publishes revised MaComp Circular

The German Federal Financial Supervisory Authority (BaFin) has published a revised version of its [circular](#) on minimum requirements for compliance (MaComp), which, amongst other things, specifies certain requirements regarding rules of conduct, organisation and transparency for investment firms.

In particular, the MaComp has been revised to address the conditions under which an outsourcing of compliance functions or parts thereof can be conducted. In the event of the compliance functions required under the Securities Trading Act (WpHG) being outsourced, BaFin has clarified:

- how the outsourcing entity shall ensure effectiveness of the compliance function;
- how the independent status of the Compliance Officer shall be ensured; and
- how the outsourcing process shall be operated and monitored.

Luxembourg Central Bank updates regulation on statistical reporting by issuing companies

A new [regulation](#) of the Luxembourg Central Bank (BCL) 2014/17 of 21 July 2014 on the collection of statistical data from financial companies and amending the Regulation of

the BCL 2011/8 of 29 April 2011 on the collection of statistics from companies which grant loans or issue debt securities or derivative instruments to affiliates has been published in the official Luxembourg gazette. The BCL thereby updates Regulation BCL 2011/8 to bring it in line with the European Central Bank's Guideline ECB/2011/23 of 9 December 2011, which entered into force on 1 June 2014.

The new BCL regulation extends the scope of companies that are subject to statistical reporting under Regulation BCL/2011/8 to financial companies crossing a certain balance sheet threshold. While in the past, companies issuing debt or derivatives instruments or granting loans to affiliates were within the scope of the regulation, it will in future cover any company whose object includes at least one of the following elements:

- the investment in any company for any kind of investment;
- the acquisition in any way of financial instruments;
- the investment in the acquisition and management of a real estate portfolio or of intellectual property rights;
- borrowing in any form; and
- lending funds.

Regulated companies that are already subject to equivalent statistical reporting obligations are exempted from the scope of the new regulation.

The new regulation will enter into force on 1 December 2014. Companies newly subject to the regulation will benefit from a transitional period of six months to submit first monthly reports for December 2014 to May 2015 to the BCL.

Minister of Strategy and Finance announces measures to stimulate investment in service industry

The Minister of Strategy and Finance (MOSF) has [announced](#) measures to stimulate investment in the Korean service industry, a key initiative under the Three-year Plan for Economic Innovation. The measures were formulated by an industry task force designated by the government to foster the development of seven promising service industries, namely healthcare, education, tourism, finance, software, contents and distribution. The government has selected key performance goals for each industry in order to strengthen its policies and yield tangible results. The government intends to achieve these goals by 2017.

Regarding the financial services industry, the government intends to:

- create a service industry support fund to infuse an investment of three trillion won over the next three years;
- promote the listing of enterprises with strong growth potential by increasing incentives and revising regulations;
- improve the current retirement pension plan by easing regulations regarding retirement pension fund management; and
- improve financial holding company efficiency by encouraging cooperation between affiliates/subsidiaries while establishing a more responsible decision making system in order to promote quality financial services and help overseas market entrance.

MAS consults on amendments to exemptions from restrictions on deposit-taking and solicitation and changes to net personal asset test in unsecured credit rules

The Monetary Authority of Singapore (MAS) has issued two consultation papers which follow on from its 21 July 2014 consultation paper on proposals to enhance regulatory safeguards for investors in the capital markets. The July 2014 consultation paper proposed to refine the investor classes under the SFA and Financial Advisers Act (FAA), including making changes to the definition of an accredited investor. In line with these changes, the two new consultation papers set out:

- proposed amendments to [exemptions from restrictions on deposit-taking and solicitation](#); and
- proposed changes to the [net personal asset test in unsecured credit rules](#).

Under section 4A of the Banking Act, only certain listed entities (authorised entities), such as banks, merchant banks and finance companies, may accept and solicit deposits, in the course of a deposit-taking business, in Singapore. However, deposits taken from accredited investors in specified circumstances are exempted from the deposit-taking restriction. The exemptions are set out in regulations 3A and 5(b) of the Banking Regulations. The concepts of an accredited investor and the minimum net assets used in the Banking Regulations are currently largely aligned with the Securities and Futures Act (SFA). The first consultation paper examines the relevance of the proposed changes to the concept of an accredited investor

under the SFA to the exemptions, and invites comments on the proposed amendments to the Regulations (which reflect appropriate changes in the concept of an accredited investor for the purpose of the exemptions).

The second consultation paper invites comments on the proposal to align the eligibility criteria (for net personal assets) with that proposed under the SFA, such that the net equity in primary residence contributes only up to SGD 1 million of the minimum net assets threshold, and the proposed legislative amendments to the credit card and unsecured credit rules, which include changes to the Banking (Credit Card and Charge Card) Regulations 2013, and the MAS Notices 118, 635, 827 and 1109.

Comments on both consultation papers are due by 12 September 2014.

MAS consults on proposals to enhance oversight of credit bureaus

The MAS has published a [consultation paper](#) on proposals to strengthen oversight of credit bureaus. As credit bureaus collect increasing and more detailed borrower credit information from banks, the MAS proposes to subject them to formal oversight under a new Credit Bureau Act, so as to safeguard sensitive borrower credit information and protect consumers' interests.

Under the proposed framework, credit bureaus will be licensed by the MAS and subject to ongoing regulatory requirements. The MAS will exercise supervisory oversight of licensed credit bureaus (LCBs) and have powers to issue regulations to LCB members and investigate the latter for breaches.

A key focus of these requirements will be for credit bureaus and their members to ensure data confidentiality, security and integrity. In addition, to better enable consumers to access and verify the accuracy and completeness of their credit records, members of licensed credit bureaus, such as banks, finance companies and credit card companies, will be required to provide to a consumer a copy of his credit report at no cost within a specified period of approving or rejecting a credit application by the consumer.

The details of the Credit Bureau Act are set out in the draft Credit Bureau Bill in the Annex to the consultation paper.

Comments on the consultation paper are due by 12 September 2014.

RECENT CLIFFORD CHANCE BRIEFINGS

Competitiveness Decree converted into Law

Law Decree 91 of 24 June 2014, known as the 'Decreto Competitività', introduced a set of measures to boost access to financing for Italian businesses. These new measures are now final, following the Decree's conversion into law by the Italian Parliament on 6 August 2014. The conversion law is to be published soon in the Official Gazette of the Italian Republic.

This briefing discusses the new provisions affecting key tax, regulatory and special securitisation laws.

http://www.cliffordchance.com/briefings/2014/08/competitiveness_decreeconvertedintolaw.html

Court of Appeal entrenches the principle of minimal curial intervention in a further pro-arbitration decision

In the recent decision in BLC and others v BLB and another [2014] SGCA 40 (BLC v BLB), the Singapore Court of Appeal reversed the Singapore High Court's decision to set aside part of an arbitral award on the ground of a breach of natural justice, suggesting that the principle of minimal curial intervention applies even where there has been a

serious error of law and/or fact. This ruling continues the current trend of pro-arbitration jurisprudence emanating from Singapore and provides guidance on the options available to parties who receive an unfavourable arbitral award in relation to a Singapore seated arbitration.

This briefing discusses this decision.

http://www.cliffordchance.com/briefings/2014/08/court_of_appeal_entrenchestheprincipleo.html

MAS and SGX conclude proposals to enhance securities market structure and practices

On 7 February 2014, the Monetary Authority of Singapore (MAS) and Singapore Exchange Securities Trading Limited (SGX) issued a joint consultation paper inviting interested parties to comment on their proposals to enhance fair, orderly and transparent trading in Singapore's securities market. Following comments received by interested parties, the MAS and the SGX on 1 August 2014 issued their joint response to feedback received on their proposals.

This briefing discusses their response.

http://www.cliffordchance.com/briefings/2014/08/mas_and_sgx_concludeproposalstoenhanc.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.

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