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Briefing note

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Commercial and Moveable Assets Registrars Association published

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Shadow banking: EU Council adopts Securities Financing Transactions Regulation

The EU Council has adopted the Securities Financing Transactions Regulation (SFTR), which is intended to counter the risk of trading activities developing outside the regulated banking system or without proper oversight. The Regulation contains a number of transparency measures, including:

- requirements to report securities financing transactions (SFTs) to trade repositories;
- measures for investment funds to disclose information on the use of SFTs and total return swaps to investors in regular reports and in pre-contractual documentation; and
- certain minimum transparency conditions relating to the reuse of collateral.

Adoption of the SFTR follows an agreement reached with the EU Parliament in June 2015 and the Parliament's adoption of the Regulation on 29 October 2015. The SFTR will enter into force on the twentieth day following its publication in the Official Journal.

PSD 2: EU Council adopts Directive

The EU Council has adopted the recast Payment Services Directive (PSD 2). PSD 2 will repeal Directive 2007/64/EC and includes rules on:

- emerging payment services, including internet and mobile payments;
- payment security; and
- harmonisation of the supervisory framework by national competent authorities (NCAs).

Adoption of PSD 2 follows an agreement reached with the EU Parliament in May 2015 and the Parliament's adoption at first reading on 8 October. The Directive will enter into force on the twentieth day following its publication in the Official Journal and Member States will have two years to transpose it into national laws and regulations.

Securitisation: EU Council Presidency publishes first compromise text for CRR amending regulation

The EU Council Presidency has published the first compromise text of the proposed regulation amending the Capital Requirements Regulation (CRR) as regards the capital treatment of securitisations.

EU Commission adopts five equivalence decisions for regulatory regimes of non-EU CCPs

The EU Commission has adopted equivalence decisions for the regulatory regimes of central counterparties (CCPs) in Canada, Mexico, Republic of Korea, South Africa and Switzerland and published draft Implementing Acts on the equivalence of the regulatory framework of each jurisdiction for central counterparties made under the European Market Infrastructure Regulation (EMIR). The equivalence decisions are the second set adopted by the EU Commission, following decisions on Australia, Hong Kong, Japan and Singapore in October 2014.

The EU Commission begins equivalence assessment if a non-EU CCP applies to obtain recognition from the European Securities and Markets Authority (ESMA). Equivalence assessments are intended to ensure that the relevant rules operating in the third country satisfy the same objectives as in the EU. Following publication of the draft Implementing Acts in the Official Journal, CCPs in each specified jurisdiction will be able to obtain recognition in the EU and be used by market participants to clear standardised OTC derivatives as required by EU legislation, while remaining subject solely to the regulation and supervision of their home jurisdiction.

EMIR: ESMA decides not to extend grace period for use of non-collateralised bank guarantees in energy derivatives cleared by CCPs

The European Securities and Markets Authority (ESMA) has announced that it will not further extend the existing grace period of three years for non-financial firms' use of non-collateralised bank guarantees to cover transactions in energy derivatives cleared by European CCPs. From 15 March 2016 CCPs authorised under EMIR will need to fully collateralise commercial bank guarantees used to cover transactions in derivatives relating to electricity or natural gas.

ESMA believes that an extension would not be appropriate for the following reasons:

- allowing fully uncollateralised commercial bank guarantees could mean an undue source of risk for CCPs;
- the existing three year grace period seems sufficient for the wholesale energy market to prepare for the incoming collateral obligations;
- some European CCPs have already implemented the EMIR requirements;
- EMIR requires that a CCP only accepts highly liquid collateral with minimal credit and market risk; and
- a new postponement would maintain a discrepancy with international standards such as the CPMI-IOSCO Principles for Financial Market Infrastructures.

ESMA expects stakeholders to be ready to implement the collateral obligation regarding commercial bank guarantees by March 2016.

MiFID: ESMA launches register of pan-EU data on suspensions and removals from trading

ESMA has launched a new database of information on suspensions and removals from trading including restoration details that national supervisory authorities have to notify under the Markets in Financial Instruments Directive (MiFID). The system covers financial instruments admitted to trading in European regulated markets and displays a list of the current suspensions in these markets, but not suspensions linked to them. The system also allows searching for an instrument (suspended in the past or currently suspended) to consult the details on its suspensions.

MiFID2: ESMA publishes note on possible delay

ESMA has published a letter, dated 2 October 2015, on the implementation timeline of MiFID2 and MiFIR. The letter, addressed to the Director General of the EU Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA), highlights that certain technically complex elements envisaged under MiFID2 will not be ready by the time MiFID2 becomes applicable in January 2017, in particular relating to:

- reference data;
- the new transaction reporting system;
- elements of the transparency regime depending on reference data; and
- position reporting for commodity derivatives.

Alongside the letter, ESMA has published a note which further discusses the areas of possible delay, especially related to the development of IT systems that need to interact, the reasons why those delays are hard to eliminate or manage and possible measures to tackle the delays in a coordinated manner. ESMA suggests four principles to apply in relation to possible delays:

- ensure legal certainty as early as possible for the entities subject to MiFID2;
- minimise the delay as from the original start date;
- avoid re-adjustments to the date (i.e. move it only once); and
- define dates that maximise the possibility of simultaneous launch for all the markets and Member States.

Credit rating agencies: ESMA consults on validation and review of methodologies

ESMA has published a discussion paper on the validation and review of credit rating agencies' (CRAs') methodologies.

The discussion paper provides background on validation practices in the credit rating industry, shares good practice observed by ESMA in its recent supervisory investigation and seeks stakeholders' views on the validation and review of CRAs' methodologies.

In particular, the discussion paper requests views on:

- how CRAs should demonstrate rating methodologies' 'discriminatory power', 'historical robustness', 'predictive power' or, where there is limited quantitative evidence, that the methodologies are 'sensible predictors of credit worthiness'; and
- how CRAs should meet the requirement in both Articles 7 and 8 of Commission Delegated Regulation (EU) No 447/2012 on rating methodologies that the

CRAs shall have 'processes in place to ensure that systemic credit rating anomalies highlighted by back-testing are identified and are appropriately addressed'.

Comments are due by 19 February 2016.

CRR: EBA consults on draft RTS on cross-border intragroup financial support under LCR Delegated Act

The European Banking Authority (EBA) has launched a consultation on draft Regulatory Technical Standards (RTS) on the specification of additional objective criteria referred to in Articles 29(2) and 34(2) of Commission Delegated Regulation (EU) No 2015/61 (the LCR Delegated Act) for the application of a preferential treatment in the calculation of the liquidity coverage requirement (LCR) for cross-border intragroup liquidity flows.

The proposed RTS set out in more detail additional criteria for preferential treatment in cross-border intragroup financial support, including:

- low liquidity risk profile;
- legally binding agreements and commitments between group entities regarding the credit or liquidity line; and
- the liquidity risk profile of the liquidity receiver.

The draft RTS have been prepared on the basis of the Capital Requirements Regulation (CRR) and are also based on the EBA's report on the LCR calibration published in December 2013. Comments on the consultation are due by 13 January 2016.

FSB sets out standards and processes for global securities financing data collection and aggregation

The Financial Stability Board (FSB) has published a report on standards and processes for global securities financing data collection and aggregation.

The finalised standards and processes define the data elements for repos, securities lending and margin lending that national/regional authorities will be asked to report as aggregates to the FSB for financial stability purposes. The standards and processes describe data architecture issues related to the data collection and transmission from the reporting entity to the national/regional authority and then from the national/regional to the global level. To ensure consistency and to derive meaningful global aggregates, six recommendations to national/regional authorities are set out. In addition, the potential uses of the aggregated data are discussed and the next steps for the completion of the initiative, including a timeline for the implementation of the standards and processes, are outlined.

The FSB intends to initiate the official global data collection and aggregation at the end of 2018.

Payment Accounts Directive: HM Treasury sets out approach to transposition and publishes draft regulations

HM Treasury (HMT) has published its response to feedback received on its consultation on the transposition of the Payment Accounts Directive (2014/92/EU – PAD), which was launched on 23 June 2015, and the Government's final approach. Under PAD, Member States have until September 2016 to make provision for common regulatory standards on:

- the comparability and transparency of fees related to payment accounts that are used for day-to-day payment transactions;
- account switching; and
- access to bank accounts with basic features.

In the consultation, HMT outlined the Government's approach to copy-out where possible and using flexibility, where possible, to preserve existing UK practice. Among other things, the consultation response confirms HMT's approach to ensure that the existing 7-day Current Account Switch Service (CASS) should be designated as an alternative switching service and will continue alongside separate PAD compliant switching services offered to payment account providers that are not already members of CASS and choose not to join. The Government has highlighted that it does not propose to impose a requirement on all payment service providers in scope to join CASS.

Alongside its response, HMT has published the draft Payment Accounts Regulations 2015, which the Government intends to make by the end of 2015 in order to give banks and consumers time to prepare before their entry into force in September 2016.

The Financial Conduct Authority (FCA) will consult on any rule changes necessitated by the regulations and the Payment Systems Regulator (PSR) will consider appropriate designation and monitoring processes.

MIF Regulation: Statutory instrument to support UK implementation made

The Payment Card Interchange Fee Regulations 2015 (SI 2015/1911), which support the implementation of the EU Regulation on interchange fees for card-based payment transactions (2015/751 – MIF Regulation) in the UK, have been laid before Parliament. In particular, the Regulations

designate the Payment Systems Regulator (PSR) as the UK competent authority for the MIF Regulation, set out its duties and powers in that respect and designate the Financial Conduct Authority (FCA) as a competent authority for certain provisions.

The Regulations also exercise two transitional options in the MIF Regulation in relation to:

- an exemption for certain types of card scheme which use third parties to issue cards or acquire payment that have a small market share from the interchange fee cap for domestic transactions until December 2018; and
- the application of a weighted average interchange fee for domestic debit card transactions of no more than 0.2% of the annual average transaction value of all domestic debit card transactions within the scheme until 9 December 2020.

The Regulations will come into force on 9 December 2015.

FCA and PRA publish review into HBOS failure

The Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) have published a joint report on the failure of the HBOS Group in 2008, which is the output of a review started by the former regulator, the Financial Services Authority (FSA).

The review examined around a quarter of a million documents and conducted interviews with 80 key individuals. The final report sets out:

- how HBOS failed, focussing on asset quality, funding and liquidity, capital, the firm's approach to financial reporting in the last year and external economic factors;
- the management, governance and culture of the HBOS Group, and the roles HBOS's Board and executive management had in the failure of the firm; and
- the FSA's supervision of HBOS.

Alongside the FCA/PRA report, the review has also published a report by Andrew Green QC providing an independent assessment of the FSA's enforcement investigations in relation to the failure of HBOS and whether those investigations were reasonable. The report includes a recommendation for the FCA and PRA to consider whether any former senior managers of HBOS should be subject to further enforcement action.

Ownership Control Regulation published in German Federal Gazette

The second regulation to amend the Ownership Control Regulation (Inhaberkontrollverordnung) has been published in the Federal Gazette.

The amendment of the Ownership Control Regulation follows the implementation of the Capital Requirements Regulation (CRR) and Directive (CRD 4) into German law, which made an amendment necessary in particular due to the new definitions (e.g. qualifying holding) implemented by the CRR and CRD 4. Further new provisions relate to the duty to provide certificates of the criminal record of the notifying person.

The regulation became effective on 21 November 2015.

Italy implements BRRD

The two legislative decrees intended to implement the Bank Recovery and Resolution Directive 2014/59/EU (BRRD) in Italy – namely, Legislative Decree no. 180 of 16 November 2015 and Legislative Decree no. 181 of 16 November 2015 – have been published in the Official Gazette (Gazzetta Ufficiale). The Decrees came into force on 16 November 2015, their date of publication.

According to the Decrees, amongst other things:

- the bail-in tool shall apply as of 1 January 2016; and
- the extension of the provisions on 'depositor preference' to deposits other than those protected by the deposit guarantee scheme and those of individuals and small and medium-sized enterprises shall apply as of 1 January 2019.

Act on 'dormant accounts' published in Polish Journal of Laws

The Act of 9 October 2015 amending the Act – Banking Law and certain other acts has been published in the Journal of Laws. It relates to the issue of inactive accounts, including, in particular, bank accounts of deceased owners, facilitating access thereto by persons authorised to obtain information about inactive accounts and the course of action with respect to funds in such accounts.

The Act will enter into force on 1 July 2016, except for the provisions amending the Act on the Census (access to information confirming a person's death) which enters into force on 1 January 2016.

Act on support for borrowers in a difficult financial situation published in Polish Journal of Laws

The Act on Support for Borrowers in a Difficult Financial Situation has been published in the Journal of Laws. The Act is intended to help borrowers who have suffered as a result of a change of exchange rates, change of interest rates or the loss of their job.

The Act enters into force on 19 February 2016, except for the provisions concerning the Council of the Borrowers' Support Fund, which enter into force on 5 December 2015.

Polish Financial Supervision Authority issues recommendation on security of payment transactions

The Polish Financial Supervision Authority (KNF) has issued a Recommendation on the Security of Payment Transactions carried out online by banks, national payment institutions, national e-money institutions and cooperative savings and loan societies.

The Recommendation sets out the expectations the KNF has of payment service providers within the scope of adequate and secure rules of offering solutions enabling payments over the internet and appropriate control mechanisms in this respect.

Polish Financial Supervision Authority sets out position on recovery plans on an individual basis

The KNF has adopted the position that banks which fulfil at least one of the following requirements: (i) banks which are listed on the stock exchange; or (ii) banks with a share of more than 5% in the market for non-financial sector deposits, will be obliged to draw up recovery plans on an individual basis, satisfying all of the criteria set out in Art. 5 and section A of the schedule to the Bank Recovery and Resolution Directive (BRRD) and accepted by the KNF.

FSMA issues final circular on form and content of marketing materials for investment products sold to retail investors

The Financial Services and Markets Authority (FSMA) has issued a circular setting out guidelines on the content and form of marketing materials used for retail clients. The circular to a large extent confirms the content of the draft circular released by the FSMA on 16 June 2015. The circular offers guidance on the interpretation of the rules set out in the Royal Decree of 25 April 2014 on mandatory information when marketing financial products to retail clients, which partially entered into force on 12 June 2015.

The guidelines apply to all forms of marketing materials for financial products, including websites, distributed or addressed to retail investors in Belgium, subject only to a limited number of exceptions. Existing marketing materials that were used prior to 12 June 2015 and approved by the FSMA prior to that date may continue to be used until 31 December 2015. After that date all marketing materials that fall within the scope of the Royal Decree must comply with the circular and the Royal Decree.

Order on creation of centralised body for prevention of money laundering and terrorism financing in Land, Commercial and Moveable Assets Registrars Association published

Order ECC/2402/2015 of 11 November 2015 on the creation of a Centralised Body for the Prevention of Money Laundering and Terrorism Financing in the Land, Commercial and Moveable Assets Registrars Association has been published in the Spanish Official Gazette, in order to develop the obligations for the Land, Commercial and Moveable Assets Registrars introduced by the Law 10/2010 of 28 April on the prevention of money laundering and the financing of terrorism which deems Land, Commercial and Moveable Assets Registrars as obligated individuals to comply with mandatory preventive duties. Law 10/2010 also establishes the possibility of creating centralised bodies in order to boost and enhance the collaboration among public registries and judicial, administrative and police authorities.

Order ECC/2402/2015 includes the creation and regulation of this centralised body, which serves a three-fold purpose:

- to facilitate the compliance by the Land, Commercial and Moveable Assets Registrars (as obligated individuals) with the anti-money laundering regulation;
- to comply with the measures imposed by the anti-money laundering regulation in a uniform manner; and
- to increase the quality of the information received by the authorities.

This Order will enter into force on 16 March 2016.

CNMV Circular updating information contained in supervisory reporting statements published

Circular 4/2015, of 28 October, of the Spanish National Securities Market Commission (Comisión Nacional del Mercado de Valores or CNMV) which amends the Circular 7/2008, of 26 November, about accounting rules, annual accounts and supervisory reporting statements of investment services companies (empresas de servicios de

inversion), collective investment institution management companies (sociedades gestoras de instituciones de inversion colectiva) and management companies of venture capital entities (sociedades gestoras de entidades de capital riesgo – or, as currently named sociedades gestoras de entidades de inversión cerradas), and the Circular 11/2008, of 30 December, about accounting rules, annual accounts and supervisory reporting statements of venture capital entities (sociedades de capital riesgo – or, as currently named entidades de inversión cerradas) has been published.

The main objective of Circular 4/2015 is to update the information contained in the supervisory reporting statements of the above referred entities to Law 22/2014, of 12 November (which implemented AIFMD in Spain). The Circular also includes the new developments of the Collective Investment Institutions Regulation. The main changes are that:

- management companies of venture capital entities shall file periodic information every six months;
- both management companies of venture capital entities and collective investment institution management companies shall disclose the number of claims received and processed; and
- the Circular will also be applicable to the new entities created by Law 22/2014.

The Circular entered into force on 18 November 2015.

CNMV Circular 5/2015 on periodical information of issuers of securities listed in regulated markets published

Circular 5/2015, of 28 October, of the CNMV which modifies Circular 1/2008, of 30 January, on periodical information of issuers of securities listed in regulated markets concerning half-yearly interim accounts, interim management statements and, if appropriate, interim quarterly financial reports, has been published in the Spanish Official Gazzette. The main purpose of the Circular is to update the templates contained in Annex II of Circular 1/2008 for credit entities to the new templates of Circular 5/2014, of 28 November, of the Bank of Spain, and to include new disclosure items (breakdowns related to the solvency, credit quality of the loan portfolio and short-term receivables, among others).

This modification also includes in Circular 1/2008 the changes that derive from the last amendments to the Spanish Securities Market Law (mainly the extension in one month of the date on which half-yearly interim accounts need to be submitted to the CNMV and the deletion of the obligation to disclose new debt issues).

The Circular entered into force on 20 November 2015.

Bank of Spain circular on remuneration and corporate governance reports of saving banks that do not issue tradable securities on official markets and obligations of banking foundations arising from holdings in credit institutions published

Circular 6/2015, of 17 November, of the Bank of Spain to saving banks and banking foundations, on certain aspects of the reports on remuneration and corporate governance of saving banks that do not issue tradable securities on official markets and on the obligations of banking foundations arising from their holdings in credit institutions has been published in the Spanish Official Gazette. The Bank of Spain Circular is intended to set out the obligations of banking foundations arising from their holdings in credit institutions, pursuant to the authorisation conferred upon it by Law 26/2013, of 27 December, on savings banks and banking foundations and by Royal Decree 877/2015, of 2 October, on the development of Law 26/2013, of 27 December, on savings banks and banking foundations.

The Circular includes a package of measures intended to:

- complete the banking foundations regulation with a description of (i) the minimum content of the management protocol and financial plan, (ii) the financial instruments in which the reserve fund must be kept invested, and the related valuation adjustments, (iii) the terms of use of the fund and (iv) the particularities applicable to any case where several banking foundations act in concert in the credit institution;
- determine that concerted action by various foundations with a stake in a single credit institution shall be understood as involving statutory or para-corporate agreements or pacts between them, whether express or tacit, or verbal or written, which, while allowing the occasional casting of opposing votes on specific aspects of the management of the investee institution, entail the assumption of common, core strategic criteria in respect of the institution's management;
- specify that the management protocol is the document defining the strategic criteria which governs the management of the holding in the credit institution; and
- establish that the financial plan will analyse the possible capital needs of the investee credit institution

under different scenarios and the funds available to meet those needs.

Finally, the Circular requires that both the management protocol and the related financial plan must be adapted to the minimum requirements set out in the Circular and submitted to the Bank of Spain for approval within three months from its entry into force.

The Circular entered into force on 21 November 2015.

KRX announces introduction of market maker system and trade stabilisation measure

The Korea Exchange (KRX) has announced that it will introduce the market maker system for low liquidity stocks and a trade stabilisation measure intended to prevent large losses caused by erroneous trades through the revision of relative regulations of KOSPI and KOSDAQ markets, which was authorised by the Financial Service Committee on 4 November 2015.

The KRX has also announced:

- the abolition of the report system for index arbitrage trades position from 23 November 2015; and
- revisions to measures to cool off the temporary overheated issue, which has overlapping functions with the volatility interruptions, implementation of which is expected by 14 December 2015.

The KRX intends to introduce the market maker system from 4 January 2015 and implement the trade stabilization measure in the stock markets in June 2016.

SFC introduces paperless individual licensing

The Securities and Futures Commission (SFC) has issued a circular to inform all intermediaries and licensed individuals that printed licences to individuals licensed under the Securities and Futures Ordinance (SFO) will no longer be issued. Under the Securities and Futures (Amendment) Ordinance 2015, which comes into force on 13 November 2015, the issuance of printed licences to licensed individuals has been abolished. Any printed licence issued to an individual by the SFC will ceases to be effective for indicating that the individual is licensed.

The SFC will continue to issue printed licences and certificates of registration, respectively, for licensed corporations and registered institutions, which will also continue to be subject to requirements to exhibit the documentation in a prominent place at their places of business.

Licensing information about licensed persons and registered institutions will be published on the SFC's online public register of licensed persons and registered institutions. The circular encourages individuals to return printed licences to the SFC as soon as practicable.

New regulatory regime for stored value facilities and retail payment systems becomes operational in Hong Kong

The Hong Kong Monetary Authority (HKMA) has announced the commencement of the regulatory regime for stored value facilities and retail payment systems under the Payment Systems and Stored Value Facilities Ordinance.

Under the Ordinance, the HKMA is empowered to implement a mandatory licensing system for multi-purpose stored value facilities and perform relevant supervision and enforcement functions. Existing issuers of stored value facilities or new market operators have one-year to apply for a licence from the HKMA, following which (i.e. from 13 November 2016 onwards) issuers will no longer be able to issue or operate any stored value facilities without a licence, unless exempt. Licensed banks will be deemed to be licensed to issue and operate stored value facilities. The licensing system is intended to enable the HKMA to exercise supervisory or enforcement actions to ensure the fitness and propriety of issuers, appropriate protection of the float stored in the facilities by users, as well as the reliable operation of such facilities.

The Ordinance also empowers HKMA to designate retail payment systems to ensure their safe and robust operation under prudential regulation.

The HKMA has announced that it will issue guidance materials on applying for relevant licences and on compliance with the requirements set out in the Ordinance, which will include examples of the relevant exemptions.

Financial Institutions (Resolution) Bill gazetted

The Financial Institutions (Resolution) Bill has been gazetted. The Bill is intended to establish an effective resolution regime for financial institutions in Hong Kong. The Bill follows the publication by the Hong Kong Government and the financial regulators in October 2015 of their consultation response to the second stage of public consultation on proposals to establish a cross-sector resolution regime for financial institutions, including financial market infrastructures, in Hong Kong.

The Financial Institutions (Resolution) Ordinance will come into operation on a day to be appointed by the Secretary for

Financial Services and the Treasury by notice published in the Gazette.

RECENT CLIFFORD CHANCE BRIEFINGS

The FCA's new competition enforcement powers

The Financial Conduct Authority (FCA) has a statutory objective of promoting effective competition in the interests of consumers in the financial services sector. On 1 April 2015, its ability to take enforcement action in relation to breaches of competition law was substantially increased when it obtained concurrent competition powers under both the Competition Act 1998 (CA98) and the Enterprise Act 2002 (EA02). These powers add to the FCA's existing ability to use its regulatory powers under the Financial and Services Markets Act 2000 (FSMA).

This briefing discusses the FCA's new powers.

http://www.cliffordchance.com/briefings/2015/11/the_fca_s_new_competitionenforcementpowers.html

Landmark UK Supreme Court Decision on Penalties – No Change in Hong Kong (yet)

The UK Supreme Court has confirmed that the centuries-old doctrine of penalties still has a place in the modern commercial world of contracts, in spite of calls for its abolition, but revised the test as to when a sum stated in a contract might be considered a 'penalty'. Until the Courts in Hong Kong choose to revisit the topic, however, the existing principles will continue to apply.

This briefing discusses the key lessons for commercial parties under English law arising out of the UK Supreme Court's decision and the position in Hong Kong.

http://www.cliffordchance.com/briefings/2015/11/landmark_uk_supremecourtdecisiononpenaltie.html

Spoofing – the first criminal conviction comes in the US – perspectives from the US and UK

US authorities have secured their first criminal conviction for the spoofing offense added to the US Commodity Exchange Act by the Dodd Frank Act. Following the conviction commentators have expressed concern that, as authorities on both sides of the Atlantic seek to increase the number of spoofing cases they pursue, they may find it difficult to distinguish between traders who are spoofing and those pursuing legitimate trading strategies.

Against that background, this briefing recaps the scope of the US anti-spoofing offense and compares the position in the US to the position in the UK where, unlike in the US, civil liability for spoofing can be incurred without a showing of intent.

http://www.cliffordchance.com/briefings/2015/11/spoofing_the_firstcriminalconvictioncomesi.html