

International Regulatory Update

28 September - 2 October 2015

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- MAS launches policy consultation on margin requirements for non-centrally cleared OTC derivatives
- Moneylenders (Amendment) Rules 2015 published
- CFTC Chair discusses state of derivatives marketplace
- Recent Clifford Chance briefings: Proposed EU Securitisation Regulation; CFTC requirements for swap market intermediaries; and more. [Follow this link to the briefings section.](#)

Capital Markets Union: EU Commission launches action plan and related initiatives

The EU Commission has published its [action plan for the creation of a Capital Markets Union](#) (CMU). The action plan is built around four key principles:

- creating more opportunities for investors;
- connecting financing to the real economy;
- fostering a stronger and more resilient financial system; and
- deepening financial integration and increasing competition.

The Commission has also published what it considers are the most urgent steps in the plan:

- [a new regulatory framework for simple, transparent and standardised securitisation](#) and a [proposal to amend the Capital Requirements Regulation](#) (CRR) to make the capital treatment of securitisations for banks and investment firms more risk-sensitive and able to reflect the specific features of simple, transparent and standardised securitisations;
- [amendments to the Solvency II Delegated Regulation](#) relating to qualifying infrastructure investments;
- a [consultation seeking views on a pan-European framework for covered bonds](#) and the use of covered bond structures on the back of SME loans;
- a [consultation](#) to gauge whether targeted changes to the European Social Entrepreneurship Funds (EuSEF) Regulation and the European Venture Capital Funds (EuVECA) Regulation could make these funds more attractive to private investors; and
- a [call for evidence](#) to gauge the cumulative impact and interaction of current financial rules.

The Commission also intends to announce proposed changes to the Prospectus Directive before the end of 2015, with a view to making it easier and less expensive for SME companies to raise capital.

The consultations on covered bonds and venture capital funds and the call for evidence all close on 6 January 2015.

MiFID2: ESMA publishes final draft technical standards

The European Securities and Markets Authority (ESMA) has submitted [final draft technical standards under MiFID2](#) to the EU Commission for endorsement. The final report sets out ESMA's proposals for 28 draft technical standards on topics consulted on in ESMA's May 2014 discussion paper and consultation papers published in December 2014 and February 2015.

The final report discusses ESMA's proposals for regulatory technical standards (RTS) and implementing technical standards (ITS), final drafts of which are included in an [Annex](#). The technical standards relate to:

- transparency;
- data publication and access;
- requirements applying on and to trading venues;
- commodity derivatives;
- market data reporting;
- post-trading; and
- investor protection, in particular disclosure requirements for the best execution regime.

Among the standards are rules that introduce a liquidity assessment for non-equity instruments, a trading obligation for shares and certain derivatives, limits to dark trading and reporting requirements for commodity derivatives. Among other things, the standards also set out tests to determine whether non-financial firms should be subject to MiFID2, position limits for commodity derivatives, rules governing high-frequency trading and access to central counterparties (CCPs), trading venues and benchmarks.

The EU Commission has three months to decide whether to endorse the technical standards. Once endorsed the EU Parliament and EU Council will have an objection period before adoption.

Alongside the final draft technical standards, ESMA has also published three briefing papers that help navigate the technical standards. The briefing papers summarise topics relating to investment firms, trading venues and non-financial institutions.

MAR: ESMA publishes final draft technical standards

ESMA [has submitted final draft technical standards under the Market Abuse Regulation](#) (MAR) to the EU Commission for endorsement. The final report sets out ESMA's approach to its final draft RTS and ITS, including proposed

changes since its consultation papers in November 2013 and July 2014, and an annex setting out the draft technical standards within nine topic areas:

- notifications of financial instruments;
- conditions for buyback programmes and stabilisation measures;
- market soundings;
- the establishment, maintenance and termination of accepted market practices;
- reporting suspicious orders and transactions;
- public disclosure of inside information;
- insider lists;
- notification of managers' transactions; and
- arrangements for the objective presentation of investment recommendations, investment strategy and disclosure of particular interests or conflict of interest.

The EU Commission has three months to decide whether to endorse the technical standards. Once endorsed the EU Parliament and EU Council will have an objection period before adoption.

CSDR: ESMA publishes final draft technical standards

ESMA [has submitted final draft technical standards under the Central Securities Depositories Regulation](#) (CSDR) to the EU Commission for endorsement. The final report sets out ESMA's approach to its final draft RTS and ITS, providing feedback on its consultation launched in December 2014 and setting out changes from the proposals consulted on, alongside the final draft technical standards in an [Annex](#) to the report.

The draft technical standards relate to central securities depositories (CSD) requirements and internalised settlement. Technical standards relating to the operation of the buy-in process, which ESMA consulted on in June 2015, have been delayed in order to analyse responses to the consultation and continue discussions with the EU Commission about the legal feasibility of the options.

The EU Commission has three months to decide whether to endorse the final draft technical standards. Once endorsed the EU Parliament and EU Council will have an objection period before adoption.

EMIR: ESMA adds Index CDS to central clearing obligation

ESMA [has finalised and submitted to the EU Commission a draft regulatory technical standard](#) for the central clearing of credit default swaps (CDS) under the European Market

Infrastructure Regulation (EMIR). The draft RTS defines the types of CDS contracts which will have to be centrally cleared, the types of counterparties covered by the obligation and the dates by which central clearing of CDS will become mandatory.

The new rule on Index CDS mirrors the overall approach of the first RTS on interest rate derivatives developed by ESMA and adopted by the EU Commission on 6 August 2015, in particular with regard to the categorisation of counterparties, the scope for frontloading and the treatment of intragroup transactions.

The draft RTS adds two iTraxx Index CDS to the clearing obligation:

- Untranched iTraxx Index CDS (Main, EUR, 5Y); and
- Untranched iTraxx Index CDS (Crossover, EUR, 5Y).

The EU Commission has three months to endorse the draft RTS, followed by a non-objection period by the EU Parliament and Council.

Transparency Directive: ESMA publishes final RTS on European Electronic Access Point and consults on European Single Electronic Format

ESMA [has issued its final RTS](#) on the European Electronic Access Point (EEAP), as required under the amended Transparency Directive 2013/50/EU. The EEAP aims to provide an easy search and access tool for finding regulated information, such as annual reports etc, on issuers admitted to trading on regulated markets in the EU. The web based EEAP will provide a single point of access at EU level to the regulated information stored by officially appointed mechanisms (OAM) in each Member State, whereas currently users must search each OAM individually.

The EEAP will be developed over the next couple of years and made generally available after 1 January 2018.

ESMA has also published a [consultation paper on draft RTS](#) on the European Single Electronic Format (ESEF). The amended Transparency Directive requires issuers listed on regulated markets to prepare their annual financial reports (AFRs) in an ESEF from 1 January 2020. The consultation provides an assessment of current electronic reporting and discusses progression with regards to the establishment of an ESEF by taking into account technical developments in financial markets and telecommunication technologies. Opinions on the preliminary Cost and Benefit Analysis (CBA) and the proposals that the AFR should be published in PDF format with, in addition, IFRS

consolidated financial statements reported as structured electronic data in XBRL or iXBRL are of particular interest to ESMA.

Comments on the consultation are due by 24 December 2015.

Rating agencies: ESMA publishes report and advice on regulation of credit rating agencies

ESMA has published two sets of technical advice and a report on the regulation of credit rating agencies (CRAs) in the EU.

ESMA's [technical advice on competition, choice and conflicts of interest in the CRA industry](#) notes that the dynamics of the CRA industry are more complex than initially foreseen and that high fees charged and regular fee increases by some CRAs suggest there may be little effective competition in some specific EU markets.

ESMA's [second piece of advice](#) concerns reducing sole and mechanistic reliance on credit ratings. ESMA states in its advice that references to credit ratings remain in national and EU legislation, as well as within the collateral frameworks of some central banks. ESMA recommends that future action should focus on mitigating mechanistic reliance on credit ratings rather than removing them from legislation entirely.

ESMA has also published [a report analysing the possibility, cost, and benefit of establishing one or more mappings for the European Rating Platform](#) (ERP). The objective of a mapping is to assist the user in comparing ratings assigned by different CRAs to the same entity or instrument. ESMA concludes that it should focus on improving the information, data and tools available to users of the ERP so that they can carry out their own assessments.

CRR: EBA recommends retention of maturity ladder in ITS on additional liquidity monitoring metrics

The European Banking Authority (EBA) [has issued an opinion](#) to the EU Commission in response to Commission proposals to remove the maturity ladder from the final draft ITS on additional liquidity monitoring metrics under the Capital Requirements Regulation (CRR). The EBA submitted its final draft ITS to the Commission in December 2013, with a minor revision published in July 2014; the Commission notified the EBA of its intention to make amendments to the ITS in August 2015.

The opinion sets out the EBA's reasons for dissenting from the Commission's proposals to remove the contractual

maturity ladder from the final draft ITS, which the EBA intended would help establish the extent to which an institution relies on maturity transformation under its current contracts and assess the availability of liquid assets to meet the liquidity gaps under different scenarios. The EBA also comments on the Commission's proposals to postpone the application date and make further minor drafting amendments, which the EBA generally supports.

EPC consults on draft scheme management internal rules

The European Payments Council (EPC) [has launched a consultation](#) on a draft revised version of the scheme management internal rules (SMIRs). The SMIRs contain descriptions of the internal organisation, structure, rules, and processes that make up scheme management of the Single Euro Payment Area (SEPA) credit transfer and direct debit schemes.

In the revised rules, the EPC proposes amendments to the maintenance and evolution process of the EPC SEPA schemes that aim to further increase the transparency of the evolution of the scheme rulebooks and to enhance the involvement of end-users and technical players in the change management process of the scheme rulebooks.

The consultation closes on 31 December 2015.

FSB publishes outcomes of September 2015 Plenary meeting

The Financial Stability Board (FSB) [has issued a press release](#) following its Plenary meeting in London on 25 September 2015. The meeting reported on the progress of current projects undertaken by the FSB, including:

- ending too-big-to-fail – the FSB endorsed the first version of the higher loss absorbency (HLA) requirement for global systemically important insurers (G-SIIs) developed by the International Association of Insurance Supervisors (IAIS) and approved phase 3 of its initiative to collect data on global systemically important banks (G-SIBs);
- transforming shadow banking into resilient market-based finance – the Plenary agreed an approach for applying the FSB framework for numerical haircut floors to non-bank-to-non-bank securities financing transactions and reviewed the results of its fifth annual shadow banking monitoring exercise, the results of which will be published by November 2015;
- derivatives – members reviewed progress in implementing over-the-counter (OTC) derivative

market reforms and discussed the findings of a thematic peer review of OTC derivatives trade reporting. A final report of the review will be published in October 2015;

- misconduct workplan – the FSB reviewed progress on its coordinated workplan to reduce misconduct risk and discussed potential next steps to advance the workplan in 2016; and
- market liquidity and asset management – the FSB has been working to identify risks associated with market liquidity and asset management activities in the current market conditions, as well as potential structural sources of vulnerability associated with asset management activities. In light of possible risk scenarios, the FSB encourages the appropriate use of stress testing by funds to assess their ability individually and collectively to meet redemptions under difficult market liquidity conditions. The FSB also reviewed initial findings from the longer-term work on asset management structural vulnerabilities and will, as necessary, develop policy recommendations in the first half of 2016.

The FSB also discussed current financial vulnerabilities, including the implications of rising debt in advanced economies and the potential for a cyber-security threat to exacerbate underlying vulnerabilities in the financial system.

FSB publishes progress report on FX benchmark reforms

The FSB has published [a progress report on implementation of its September 2014 recommendations for reforms to foreign exchange \(FX\) benchmarks](#). The report draws on assessments of market participants' progress which were undertaken by the main foreign exchange committees as well as by central banks in other large FX centres.

The report concludes that there has been good overall progress in implementing many of the recommendations, but that in some cases progress has been mixed. In particular, the report re-emphasises that the FSB recommendations are intended to apply to all FX benchmarks, not just the WM/Reuters (WMR) 4pm London fix. According to the report, a more complete implementation of the recommendations, particularly regarding other FX benchmarks, would increase the likelihood of maintaining and extending the improvement already seen.

Basel Committee reports on regulatory consistency of risk-weighted assets for counterparty credit risk

The Basel Committee on Banking Supervision has published [a report on the regulatory consistency of risk-weighted assets](#) (RWAs) for counterparty credit risk. The study is part of the Committee's wider Regulatory Consistency Assessment Programme (RCAP), which is intended to ensure consistent implementation of the Basel III framework.

The report presents the findings from a hypothetical test portfolio exercise to examine variability in banks' modelling of derivatives, and specifically in exposure modelling. The report focuses on the internal models method and the advanced credit valuation adjustments (CVA) risk capital charge for over-the-counter (OTC) derivative trades. The exercise completes the Committee's review of trading-related internal models and follows two earlier exercises that focused on market risk RWAs that were published in January 2013 and December 2013. Similar to the previous exercises, the quantitative results set out in the report were supported by participating banks' responses to qualitative questionnaires on modelling practices. The report also takes account of on-site visits to banks to discuss the observed variability and to help identify the key drivers.

The report presents the key findings and lists a number of observed good practices. It also highlights areas where banks and supervisors may seek to harmonise practices to reduce variability in outcomes. Based on the results of the study, the Basel Committee is considering whether it is necessary to narrow down certain modelling choices for banks and/or harmonise supervisory practices to enhance consistency in outcomes.

FPC publishes statement on financial stability and market liquidity

The Bank of England's Financial Policy Committee (FPC) has published a [statement](#) following its policy meeting on 23 September 2015. The statement updates the FPC's assessment of financial stability since publication of the Financial Stability Report (FSR) in July 2015. The FPC notes that the outlook remains challenging and has decided to maintain the countercyclical capital buffer (CCB) rate for UK exposures at 0%. The FPC intends to review the rate in Q4 2015 following the publication of the 2015 stress test results.

Among other things, the FPC discussed market liquidity, in particular recent episodes of very high financial market volatility. The FPC has asked the Bank and Financial

Conduct Authority (FCA) to carry out further analysis of common causes of recent episodes, whether factors that have stabilised markets in the past can be relied upon and investigate possible issues relating to market contagion. Moreover, the FPC has asked the Bank to assess changes in dealers' ability to act as intermediaries in markets and how these may have affected market liquidity.

The FPC also considered analysis undertaken by the Bank and the FCA on risks associated with a range of market participants, beginning with open-ended funds offering short-notice redemption. The FPC discussed the findings and has asked the Bank and FCA to carry out further work on the potential impact of correlated investment behaviour by investment funds and measures those funds may deploy under stress. The FPC will report on its conclusions from the analysis in the December 2015 FSR.

Other topics discussed by the FPC included the rapid growth of buy-to-let mortgage lending, which the Committee intends to monitor closely, and the continuing improvement in the resilience of the banking sector.

PRA amends reporting rules

The Prudential Regulation Authority (PRA) has published a policy statement ([PS23/15](#)) on two amendments to its reporting rules. The changes relate to:

- the deletion of the administrative fee for late regulatory reporting; and
- the removal of the liquidity reporting requirement for currency analysis (FSA054), which implements the approach set out in PS11/15.

Both amendments came into force on 1 October 2015.

HCMC announces new temporary prohibition on short selling

The Hellenic Capital Market Commission (HCMC) [has announced](#) an emergency short selling prohibition under the Short Selling Regulation (SSR) which replaces the prohibition that expired on 30 September 2015.

The new measure temporarily prohibits transactions in any shares of five credit institutions admitted to trading on the Athens Exchange and the Multilateral Trading Facility of EN.A (Alternative Market of the Athens Exchange). It will also cover all depository receipts (ADRs, GDRs) representing those shares. The ban includes sales which are covered with subsequent intraday purchases. The measure applies to any natural or legal person, irrespective of their country of residence, but is subject to an exemption

for market making activities, provided that short selling transactions are conducted for hedging purposes.

The HCMC announcement follows an [opinion](#) issued by ESMA, as required under Article 27 of the SSR. ESMA concluded that adverse developments which constitute a serious threat to market confidence in the Greek market still persist and that the proposed measure is appropriate and proportionate to address those threats.

The restriction will apply until the end of 9 November 2015.

CRD 4: Polish President signs implementing Act

The President of the Republic of Poland has signed the [Act on Macroprudential Supervision of the Financial System and Crisis Management in the Financial System](#). The Act introduces many changes to, among other things, the Banking Law, the Act on Trading in Financial Instruments, the Act on Supervision of the Capital Market and the Act on Supervision of the Financial Market. The purpose of the Act is to implement the Capital Requirements Directive (CRD 4) into the national legal system and to adjust Polish law to the provisions of the Capital Requirements Regulation (CRR).

The Act is now waiting to be published in the Journal of Laws.

AIFMD: Polish Council of Ministers adopts implementing bill

The Polish Council of Ministers [has adopted a bill amending the Act on Investment Funds and certain other acts](#). The main purpose of the bill is to implement the Alternative Investment Fund Managers Directive (2011/61/EU) and Directive 2014/91/EU 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) into Polish law.

The bill provides for, among other things, recognising specialised open-ended investment funds and closed-ended investment funds as alternative investment funds (AIF), and, consequently, recognising a fund manager that manages such funds as an alternative investment fund manager (AIFM). Moreover, the bill provides for recognising limited partnerships and joint-stock limited partnerships, which raise capital from many investors in order to invest it in accordance with a specific investment policy with benefit for the investors, as AIFs. Consequently,

one general partner who is a legal person will be recognised as an AIFM.

Additionally, companies with capital that raise capital from many investors in order to invest it in accordance with a specific investment policy with benefit for the investors will also be recognised as AIFMs.

CBRC promulgates administrative measures for liquidity risk of commercial banks

The China Banking Regulatory Commission (CBRC) [has promulgated the revised Administrative Measures for the Liquidity Risk of Commercial Banks](#) (for Trial Implementation). Amongst other things, the following key points are worth noting:

- the Measures delete the requirement that the loan-to-deposit ratio of a commercial bank shall not be higher than 75%;
- the Measures add to the section of liquidity risk monitoring that the CBRC shall monitor changes in the loan-to-deposit ratios of commercial banks on an ongoing basis and may present risk warnings or require certain measures to be taken when necessary, and clarify the method of using the loan-to-deposit ratio as the liquidity risk monitoring index;
- the Measures also require that, in case the loan-to-deposit ratio fluctuates wildly or changes rapidly and continuously, commercial banks shall analyse the reasons and report to the CBRC;
- a commercial bank shall establish a liquidity risk management system that is compatible with its business scale, nature and complexity at the corporate and group levels; and
- the Measures emphasise that the liquidity coverage ratio of a commercial bank shall reach 100% before the end of 2018.

PBOC promulgates new policies on MNC cross-border RMB cash pooling

The People's Bank of China (PBOC) has amended its cross-border RMB cash pooling policies for multi-national corporations (MNCs) in China, issued in 2014, and promulgated the '[Notice on Further Facilitating Cross-border RMB Cash Pooling Business by Multi-national Corporations](#)', in order to encourage the global use of RMB and to facilitate the progress of RMB internationalisation. The PBOC Notice introduces several relaxations and improvements to encourage MNC cross-border RMB cash pooling, including the following:

- the three year establishment record requirement for an MNC member company that participates in the cash pooling (participating members) is reduced to one year;
- the aggregated operating revenues of the onshore participating members should be no less than RMB 1 billion (whereas RMB 5 billion was required before) and the same of the offshore participating members should be no less than RMB 200 million (whereas RMB 1 billion was required before);
- the prohibition on domestic local government financial vehicles and real estate companies from participating in cash pooling has been removed;
- funds collected into the cross-border RMB cash pool are no longer limited to proceeds from production, business operation or industrial investment activities;
- the macro prudent policy parameter is increased from 0.1 to 0.5 to expand the quota of the funds that can be remitted from offshore to the cross-border RMB cash pool;
- the offshore parent company of the MNC can appoint either an onshore or offshore participating member as the leading enterprise of the cash pooling and the leading enterprise is allowed to appoint up to three eligible banks as settlement banks; and
- the appointed settlement bank is allowed to provide daylight and overnight overdraft services.

HKMA issues supervisory policy manual on geographic allocation of private sector credit exposures for calculating countercyclical capital buffer

The Hong Kong Monetary Authority (HKMA) has issued a new supervisory policy manual (SPM) ([CA-B-3](#)) module to provide further guidance to authorised institutions on how to determine the geographic allocation of private sector credit exposures for the purposes of calculating their 'authorised institution-specific countercyclical capital buffer (CCyB) ratio' under the Banking (Capital) Rules (BCR).

As required under the BCR and explained in an earlier SPM module on the HKMA's approach to implementation of the CCyB ([CA-B-1](#)), an authorised institution must determine its own specific CCyB rate as the weighted average of the applicable jurisdictional CCyB rates in respect of jurisdictions where the authorised institution has private sector credit exposures. The weight to be attributed to a given jurisdiction's applicable CCyB rate is calculated by reference to the ratio of the authorised institution's aggregate risk-weighted amount for its non-bank private sector credit exposures in a jurisdiction (RWA_j) to the sum of the authorised institution's RWA_j across all jurisdictions

in which the authorised institution has private sector credit exposure.

The new module sets out the HKMA's expectations on how an authorised institution should allocate its non-bank private sector credit exposures, and the corresponding risk-weighted amount (RWA), to different jurisdictions on an ultimate risk basis (as required under the BCR), in order to determine RWA_j for the authorised institution's non-bank private sector credit exposures in each jurisdiction.

HKMA and SFC launch joint consultation on mandatory clearing and reporting for OTC derivatives market

The HKMA and the Securities and Futures Commission (SFC) [have jointly launched a consultation](#) on introducing the first phase of mandatory clearing and the second phase of mandatory reporting under the new over-the-counter (OTC) derivatives regime.

The first phase of mandatory clearing aims to mandate the clearing of certain standardised interest rate swaps entered into between major dealers. The key proposals identify:

- the types of transactions that will be subject to mandatory clearing;
- the persons who will be subject to the clearing obligation and in what circumstances;
- the exemptions and reliefs that may apply; and
- the process for designating central counterparties for the purposes of the clearing obligation.

The second phase of mandatory reporting aims to expand the existing reporting regime. The key proposals include:

- requiring the reporting of transactions in all OTC derivative products – the existing reporting regime only mandates reporting transactions in certain interest rate swaps and non-deliverable forwards;
- widening the scope of transaction information to be reported, including requiring the reporting of daily valuations; and
- identifying the specific data fields to be completed under the expanded reporting regime – the specific data fields are set out in Appendix D to the consultation paper.

Public comments are due by 31 October 2015 in respect of matters other than the proposed data fields, and 30 November 2015 in respect of the proposed data fields.

MAS launches policy consultation on margin requirements for non-centrally cleared OTC derivatives

The Monetary Authority of Singapore (MAS) [has launched a policy](#) consultation on proposals to implement margin requirements for non-centrally cleared OTC derivatives. The MAS has proposed:

- to subject all uncleared OTC derivatives to margin requirements but exempt physically-settled foreign exchange forwards and swaps from initial margin (IM) and variation margin (VM) requirements;
- a collect-only requirement phasing in entities conducting regulated activities under the Securities and Futures Act (SFA) and (possibly) investment funds domiciled in Singapore, starting with banks, merchant banks and other licensed financial institutions, including fund managers (MAS Covered Entities);
- that the rules apply when (i) a MAS Covered Entity is a legal counterparty to the transaction, (ii) the transaction is booked in Singapore and (iii) the transaction is with a MAS Covered Entity or an overseas regulated financial firm;
- to exempt:
 - licensed financial institutions with exposures below a threshold;
 - sovereigns, central banks, public sector entities, multilateral banks and the Bank for International Settlements;
 - subject to MAS approval, intra-group transactions where the MAS Covered Entity is under group-wide regulatory supervision; and
 - transactions with counterparties from jurisdictions with unclear netting laws or that have not implemented equivalent margin requirements or an equivalent time frame, if exposures with those counterparties are below a threshold;
- a threshold for IM exchange or collection of cumulative IM exposure from the counterparty exceeding SGD 80 million with a de minimis transfer amount of SGD 800,000;
- cash, gold and debt and equity securities as eligible collateral;
- an 8% foreign-exchange mismatch haircut on cash VM;
- that IM be held with an independent third party custodian under a trust arrangement or other legally enforceable arrangements that protect the posting party in the event of the collecting party's default; and

- that non-cash IM only be re-hypothecated if certain conditions are met.

Comments on the consultation paper are due by 1 November 2015.

Moneylenders (Amendment) Rules 2015 published

The [Moneylenders \(Amendment\) Rules 2015](#) came into operation on 1 October 2015. The new controls set out in the Rules are the first of several changes the Ministry of Law is making to strengthen the moneylending regulatory framework, following the Government's acceptance of 12 recommendations made by the Advisory Committee on Moneylending in May 2015.

Under the Rules, loans from moneylenders will be subject to the following controls on borrowing costs:

- upfront administrative fees capped at not more than 10% of the loan principal;
- maximum interest rate of 4% per month;
- maximum late interest rate of 4% per month;
- late fee of not more than SGD 60 per month; and
- total borrowing cost capped at 100% of the loan principal.

The above controls will not apply to loans granted to businesses which have been registered for at least two years before the grant of the loan. They will also not apply to loans granted before 1 October 2015.

In addition, the Rules will require moneylenders to calculate interest on a reducing balance basis.

CFTC Chair discusses state of derivatives marketplace

The Chairman of the Commodity Futures Trading Commission (CFTC), Timothy Massad, has delivered a [speech](#) on the state of the US derivatives market before the OTC Derivatives Summit of North America. Massad began by discussing the importance of central clearing. He then indicated that the CFTC has been working closely with other regulators on swap margin, and that the CFTC's final rule will use the same thresholds and same implementation schedule as Japan and Europe. He stated that he expects the final CFTC swap margin rule to be issued before the end of 2015.

Massad also emphasised the importance of recent clearing house oversight overhauls, and stated that transparency and risk management have been increased. Among other things, he went on to call for a softening of bank capital requirements blamed for a decline in the number of clearing firms.

RECENT CLIFFORD CHANCE BRIEFINGS

The Proposed Securitisation Regulation

The pace of regulatory change in Europe since the onset of the 2007/08 financial crisis has been blistering and shows little sign of slowing. The securitisation industry has been forced to adjust to these changes at a very demanding pace. The changes in regulation over that time have touched a broad range of areas, including derivatives, bank capital, insurance capital, liquidity coverage, regulatory due diligence and risk retention rules. Although many of these initiatives are sensible in principle, the fragmented way in which they were introduced has often presented unnecessary challenges to industry. The Securitisation Regulation proposed by the EU Commission aims to change all that by introducing a single securitisation regulatory regime. It also introduces the idea of 'simple, transparent and standardised' (STS) securitisation which would receive more favourable regulatory treatment, at least compared to other securitisation transactions.

This briefing paper discusses the main contents of the proposed regulation and the way in which it might affect our markets.

http://www.cliffordchance.com/briefings/2015/09/the_proposed_securitisationregulation.html

A Guide to European Restructuring and Insolvency Procedures

Clifford Chance has prepared an updated version of its Guide to European restructuring and insolvency procedures. The Guide is designed to provide you with an overview of the relevant law in the diverse legal systems that operate across Europe. Its purpose is to provide you with a resource which is designed to assist in ensuring that transactions (whether being originated or restructured or enforced) are structured in a way that maximises returns whilst minimising risks and exposures.

http://www.cliffordchance.com/briefings/2015/09/a_guide_to_europeanrestructuringandinsolvenc.html

Anti-Corruption Legislation September 2015

Clifford Chance has prepared an updated version of a long-standing publication which examines the approach to bribery and corruption in a number of jurisdictions. For ease of reference we follow a specific format for each country, focusing on key aspects of anti-corruption law and conclude with a summary of penalties in the region.

In this new edition we have included a chapter on The Netherlands and updated content for a number of jurisdictions to reflect recent changes in the legislation.

http://www.cliffordchance.com/briefings/2015/09/anti-corruption_legislation-september2015.html

New Polish Act on Insurance and Reinsurance activity

On 11 September 2015 the Polish Sejm adopted the Act on Insurance and Reinsurance activity that sets out the framework for conduct of personal and property insurance business as well as reinsurance activity. The Act will replace the former Act on Insurance Activity of 22 May 2003. On 1 October 2015 the Act was approved by the Polish Senate. It must still be signed by the Polish President.

The main purpose of the Act is to implement Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II) into the Polish legal system. By doing so, it will introduce the same capital requirements and standards governing risk management applicable to insurance and reinsurance companies across the European Union.

Moreover, by reacting to the continuing discussion regarding the bancassurance market and attempting to regulate it, the Act introduces a number of pro-consumer provisions.

This briefing paper discusses the key new regulations in this area.

http://www.cliffordchance.com/briefings/2015/10/new_polish_act_oninsuranceandreinsuranc.html

CFTC requires more swap market intermediaries to become NFA members

The US Commodity Futures Trading Commission (CFTC) has adopted a rule that will require each person registered with the CFTC as:

- an introducing broker;
- a commodity pool operator; or
- a commodity trading advisor (subject to a limited exception)

to become and remain a member of at least one registered futures association. This new membership requirement has the effect of subjecting these CFTC-registered entities to the rules and oversight of the National Futures Association. All persons subject to this new rule must comply by no later than 31 December 2015.

This briefing paper discusses the new membership requirement.

http://www.cliffordchance.com/briefings/2015/09/cftc_requires_moreswapmarketintermediariest.html

NYSE Requires Notice of Material News Releases Starting at 7 a.m.

From 28 September 2015, certain amendments to the NYSE Listed Company will require listed companies to give the NYSE notice ten minutes before releasing 'material news' during the hours of 7 a.m. through 4 p.m. on trading days. These amendments also advise companies releasing news at the end of the trading day to wait until the official publishing of their closing price or 15 minutes after the close of trading. Finally, these amendments clarify that material news should be released either in a Form 8-K filed with the SEC or in a press release issued to all major news wire services.

This briefing paper discusses the amendments.

http://www.cliffordchance.com/briefings/2015/09/nyse_requires_noticeofmaterialnewsrelease.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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