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Working Group issues statement on next steps for LIBOR transition and development of term SONIA reference rate

The Working Group on Sterling Risk-Free Reference Rates has issued a statement on the next steps for LIBOR transition and development of a term rate based on SONIA.

This follows a consultation on forward-looking term SONIA reference rates (TSRR) published in July 2018, and the publication of a summary of responses to that consultation in November 2018.

The Working Group notes that for many current users of term LIBOR, overnight SONIA may be a more appropriate reference rate than a term alternative and encourages such LIBOR users to progress their transition from LIBOR to the greatest extent possible, independently of any further progress on the development of a TSRR.

Additionally, feedback from the consultation endorses the Working Group's objective of encouraging production of a robust TSRR as soon as practicable.

The Working Group has invited benchmark administrators to consider the summary of responses to the consultation and to share any views on the development of such benchmarks by 15 February 2019, ahead of further discussion on the topic at the Working Group's March meeting.

Brexit: Norwegian Ministry of Finance adopts regulation on contract continuity and confirms temporary equivalence for CCPs

The Norwegian Ministry of Finance has announced the adoption of a temporary regulation on contract continuity. The regulation will allow firms established outside the EEA to continue to conduct investment activities based on home state authorisation and supervision, according to the EEA Agreement, to professional clients and qualified counterparties in Norway after 29 March 2019. The Norwegian Financial supervisory authority has specified that it may set conditions for the activities.

The regulation entered into force on 1 January 2019.

Separately, the Norwegian Ministry of Finance has also confirmed corresponding and simultaneous effects in Norway of the two delegated regulations adopted by the EU Commission on 19 December on the temporary equivalence of central counterparties (CCPs) to prepare for Brexit in the case of no transition period. The Ministry of Finance intends to take the necessary steps to ensure that UK CCPs will be able to continue to provide services in Norway.

Brexit: SIs under the EU (Withdrawal) Act for 20 December 2018 – 4 January 2019

HM Government published new draft statutory instruments (SIs) under the EU (Withdrawal) Act 2018 between 20 December 2018 and 4 January 2019.

For guidance purposes, HM Treasury (HMT) has published:

- the draft Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, which will amend primary and secondary legislation related to the framework for financial services regulation in relation to, among other things, regulated and prohibited activities, Part 7 transfers, control over authorised persons, designated professional bodies, qualifying EU provisions and ring-fenced bodies;
- the draft Financial Conglomerates and Other Financial Groups (Amendment) (EU Exit) Regulations 2019, which seek to ensure that the Financial Conglomerates Directive (FICOD) as implemented through the Financial Conglomerates and Other Financial Groups Regulations 2004 (FICOR) and provisions in the FCA's Handbook and PRA's Rulebook will remain operative in the UK post-exit; and
- the draft Financial Services Contracts (Transitional and Saving Provision) (EU Exit) (No. 2) Regulations 2019, which will amend the

Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (SI 2018/1201) to make further transitional provisions for EEA authorised electronic money institutions, EEA authorised payment institutions, and EEA registered account information service providers that cease to be part of the temporary authorisation regime where they have not gained permanent authorisation.

The draft instruments are still in development and the guidance is intended to provide Parliament and stakeholders with further details on HMT's approach to onshoring financial services legislation.

The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (SI 2018/1403) have been made.

For information on all draft SIs under the EU (Withdrawal) Act published last week, visit www.gov.uk and www.legislation.gov.uk.

Blockchain: Decree regarding shared electronic registration device published

A decree regarding a 'shared electronic registration device' (also known as blockchain) has been published in the Official Journal. The decree sets out the conditions for using such a 'shared electronic registration device' for the purposes of transmitting eligible financial securities (referred to in Ordinance No. 2017-1674 dated 8 December 2017) and the 'minibons'. The constraints which are set in the decree for such a transmission are the same for all instruments. The decree also specifies the conditions for pledging eligible financial securities. To reflect these provisions, the decree provides for certain amendments to the French Commercial Code and to the French Monetary and Financial Code. The decree entered into force on the day following its publication.

Bank Separation Act: BaFin releases draft of updated interpretative guidance for consultation

The German Federal Financial Supervisory Authority (BaFin) has published an updated version of the interpretative guidance on Article 2 of the German Act on Ring-Fencing and Recovery and Resolution Planning for Credit Institutions and Financial Groups (Bank Separation Act) (Gesetz zur Abschirmung von Risiken und zur Planung der Sanierung und Abwicklung von Kreditinstituten und Finanzgruppen - Abschirmungsgesetz) for consultation.

BaFin will accept comments on the draft until 28 February 2019. The draft is intended to replace the current version of the interpretative guidance, which was published on 14 December 2016.

Since then numerous additional questions have arisen in the context of the implementation of the Bank Separation Act and use of the interpretative guidance. To ensure that all institutions have the same level of knowledge, BaFin wishes to make the questions and answers publicly available in abstract form. In addition, the updated interpretative guidance has been set up in modular form to make it more user-friendly and to facilitate potential later amendments.

CSSF issues communication on EMIR reporting in the context of Brexit

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued a communication regarding the reporting obligations under the European Market Infrastructure Regulation (EMIR) in the context of the UK's withdrawal from the EU.

The communication refers to the European Securities and Markets Authority's (ESMA's) public statement of 9 November 2018 on the contingency plans of trade repositories (TRs) in the context of Brexit and is addressed to all market participants falling within the scope of EMIR for which the CSSF is the supervisory authority in Luxembourg (financial counterparties subject to CSSF supervision and non-financial counterparties) (Market Participants).

The CSSF reminds Market Participants of the importance of (i) ensuring daily reporting of derivative contracts to a registered EU-established TR or a recognised third-country TR and (ii) closely monitoring the public disclosure made by TRs in the context of the withdrawal process. The CSSF further reiterates that (i) as of the withdrawal date, TRs established in the UK will be third-country TRs and that (ii) all counterparties must ensure that the EMIR reporting requirements continue to be fulfilled after the withdrawal date.

The CSSF therefore invites Market Participants to contact their TR in order to verify whether continuity of service will be ensured after the withdrawal date and to prepare for the potential outcome that the counterparties may need to request their existing UK TR to port their data to an EU27 TR.

The CSSF therefore encourages counterparties established in Luxembourg to ensure that they and their reporting entities, wherever they are located, fully adhere to the most recent reporting requirements:

- to better enable any potential transfer of data due to the UK's withdrawal; and
- to ensure their continuous compliance with the EMIR reporting obligation.

CSSF issues circular on transparency requirements for covered bond banks

The CSSF has issued Circular CSSF 18/706 on transparency requirements for all covered bond issuing banks (CBBs) in Luxembourg.

The Circular is based on Article 12-6(2) of the law of 22 June 2018 on the introduction of renewable energy covered bonds, under which the CSSF is required to provide details of the type of information to be provided and to define the procedure to be applied for the publication of the information on the composition of the cover pool.

Therefore, the Circular provides a list of information to be published by CBBs with respect to:

- the disclosure of cover pool and covered bond information per category (i.e. public sector covered bonds, mortgage backed covered bonds, moveable property covered bonds, mutual covered bonds and renewable energy covered bonds); and
- the cover pool asset specific information per covered pool of each covered bond category.

CBBs shall publish this information on their websites within the following periods:

- regarding the first three quarters of each business year, within one month as of the end of the respective quarter; and
- regarding the fourth quarter of each business year, within two months after the end of the quarter.

The Circular will enter into force six months after its publication on the CSSF website.

CSSF issues circular regarding definition of public authorities in context of exclusions from deposit guarantee

The CSSF, acting in its function as Depositor and Investor Protection Council (Conseil de Protection des Déposants et des Investisseurs) (CPDI), has issued Circular CSSF-CPDI 18/14 dated 18 December 2018 regarding the definition of public authorities in the context of exclusions from deposit guarantee.

The Circular is addressed to all members of the Luxembourg deposit protection scheme, the Fonds de garantie des dépôts Luxembourg (FGDL) and is intended to clarify the exclusion of public authorities from the deposit guarantee pursuant to Article 172(1), point 10, of the amended law of 18 December 2015 on the failure of credit institutions and certain investment firms (Resolution Law).

The Circular specifies that, in view of the legal principle that exceptions are to be construed strictly, a narrow definition of the term 'public authority' should be adopted. Accordingly, only the 'central government' (code: 11000) or the 'other general government' (code: 12000), as defined in Chapter 5.3.1 of the document 'Definitions and concepts for the statistical reporting of credit institutions' of the Central Bank of Luxembourg, are to be considered as public authorities in the context of the aforementioned provision.

The Circular entered into force with immediate effect.

CSSF issues circular regarding survey of amount of covered deposits as of 31 December 2018

The CSSF, acting in its function as CPDI, has issued Circular CSSF-CPDI 18/15 dated 18 December 2018 regarding a survey of the amount of covered deposits as of 31 December 2018.

The Circular is addressed to all members of the Luxembourg deposit protection scheme, the Fonds de garantie des dépôts Luxembourg (FGDL) (in particular to all credit institutions incorporated under Luxembourg law, to the POST Luxembourg, and to Luxembourg branches of non-EU/EEA credit institutions).

The collected data is intended to enable the CPDI to establish the 2019 target level of the FGDL and to determine the contributions to the buffer of additional financial means referred to in Article 180 of the amended law of 18 December 2015 on the failure of credit institutions and certain investment firms.

The average amount of covered deposits calculated quarterly will be transmitted to the Single Resolution Board by 31 January 2019 and will be used to determine the Single Resolution Fund's annual target level.

FGDL members are requested to provide the data:

- at the level of their legal entity, including amounts from branches located within other EU Member States, as well as
- for each and any branch located within other EU Member States separately

by using the template attached to the Circular. This report should be compiled with utmost care and submitted to the CSSF by 18 January 2019 at the very latest. The filename of the completed document should comply with the file naming convention for special enquiries, as defined by Circular CSSF 08/344.

A member of the authorised management, i.e. the member in charge of the FGDL membership, must review and approve the file prior to its transmission to the CSSF.

CSSF issues circular on covered bond banks' minimum requirements regarding management and control of cover pool register of cover assets and of limit of covered bonds in circulation

The CSSF has issued Circular CSSF 18/707 dated 19 December 2018 on covered bond banks' minimum requirements regarding management and control of the cover pool register of cover assets and of the limit of covered bonds in circulation.

The Circular is addressed to all covered bond banks subject to CSSF supervision and to their special auditor (réviseur spécial).

The Circular is intended to clarify the legal requirements with regard to the management and the control of the cover pool, including its liquidity, pursuant to Articles 12-5 and 12-7 of the law of 5 April 1993 on the financial sector (as recently amended by the law of 22 June 2018) (FSL). The CSSF intends to specify, in particular, the missions and obligations of the special auditor. These specifications are provided in an annex to the Circular. This annex is only available in German (which is the vehicular language of covered bond banks active in this field in Luxembourg).

Further, the Circular emphasises that the special auditor, as well as the relevant covered bond bank, must immediately inform the CSSF of any violation of one of the prudential limitations laid down by the law of 22 June 2018 amending the FSL with respect to the introduction of renewable energy covered bonds.

The Circular repeals and replaces Circular CSSF 03/95 of 26 February 2003.

The Circular entered into force with immediate effect.

Polish Financial Supervision Authority publishes standpoint on acceptance and offering of incentives in connection with provision of services of acceptance and

transfer of orders of which participation units of investment funds are the subject

The Polish Financial Supervion Authority (PFSA) has published a standpoint which contains the list of rules and guidelines concerning the acceptance and offering of incentives in trading in investment fund units and is an addendum to the new regulations introduced in connection with the implementation of MiFID2. The PFSA notes that an incentive means a pecuniary or non-pecuniary performance with the aim of improving the quality of a relevant service provided for a client. The PFSA also mentions kick-backs, i.e. part of the fixed fee for management transferred to distributors by fund managers. As pointed out, the client should be directly charged the fee for the acceptance and transfer of an order. Incentives in the form of kick-backs may be accepted when they lead to the distributor improving the quality of services provided to the client.

Polish Financial Supervision Authority publishes standpoint on monitoring amounts of transactions entered into using coupons, procurement cards and fuel cards

From 20 December 2018, firms offering coupons, procurement cards and fuel cards are obliged to monitor the transactions entered into using such instruments. The PFSA has published a bulletin highlighting that it must be notified when the threshold of EUR 1 million in transactions is exceeded within 14 days of the end of the month in which the threshold is exceeded.

The PFSA stresses that notification is required upon the threshold's being exceeded, and not 12 months after that time. For the purposes of the first notification, the entrepreneur should take into account transactions entered into after the date it adjusted its activity to the provisions of the Act on Payment Services in this regard. The PFSA also notes that the EUR 1 million threshold applies to the aggregate value of all transactions, not to only one type of payment product.

Polish Financial Supervision Authority publishes bulletin on interpretation of Article 83a section 1 of Act on Investment Funds and Management of Alternative Investment Funds

The PFSA has published a standpoint in which it notes that Article 83a section 1 of the Act on Investment Funds and Management of Alternative Investment Funds shows that in an open-ended investment fund and a specialised open-ended investment fund at least one category of participation units to be transferred directly by the fund and at least one category of participation units to be transferred through distributors must be created.

The bulletin states that in the case of a fund with separate subfunds, in each of the subfunds in the parasol fund one category of participation units to be transferred directly by the fund and one category of participation units to be transferred through distributors must be created. It is insufficient to create a category of participation units to be transferred directly by the fund or participation units to be transferred through distributors in only one or selected subfunds separated in the fund with separate subfunds.

CNMV issues circular on periodic information of collective investment schemes, accounting standards, annual accounts and inside information of venture capital vehicles, collective investment scheme and venture capital vehicle management companies and branches of European management companies established in Spain

The Spanish Securities Market Commission (CNMV) has published Circular 5/2018, of 26 November, modifying Circular 4/2008, of 11 September, on the contents of the annual, six-monthly and quarterly reports of collective investment institutions and of the position statement, Circular 7/2008, of 26 November, on accounting standards, annual accounts and inside information statements of investment firms, collective investment scheme and venture capital vehicle management companies, Circular 11/2008, of 30 December, on accounting standards, annual accounts and statements of confidential information of venture capital vehicles and Circular 1/2010, of 28 July, on inside information of entities that provide investment services.

Circular 5/2018 is intended to make a number of improvements to these circulars, which are deemed necessary for the CNMV's supervisory practice. In particular, the following amendments are introduced:

- in Circular 7/2008, there is a new breakdown of the fees regarding financial advice services provided to managed entities or investors and the possibility of specifying the vehicles in which management is delegated;
- in Circular 11/2008, information regarding the investor type in the venture capital vehicles is included;
- in both Circular 7/2008 and Circular 11/2008, the mandatory filing of the annual report of collective investment scheme and venture capital vehicle management companies and venture capital vehicles in a standard electronic form is introduced;
- the investment funds form included in Annex 1 of Circular 4/2008 is modified in order to include information on the remuneration policies and on the securities financing transactions pursuant to the Securities Financing Transactions Regulation (SFTR); and
- in order to ease the supervisory and inspection tasks of the CNMV with regard to branches of European management companies established in Spain, Circular 1/2010 is amended in order to allow the CNMV to collect information on the activities carried out by these branches.

The Circular will enter into force on 30 June 2019.

Short selling: CNMV issues communication on ESMA guidelines on exemption for market making activities and primary market operations

The CNMV has announced that, in line with the practice followed by other EU Member States and recent European Securities and Markets Authority (ESMA) advice to the EU Commission, it will no longer apply ESMA's guidelines on exemption for market making activities and primary market operations under the Short Selling Regulation to those matters that require that market making activities are limited to financial instruments admitted to trading on a trading venue.

Consequently, entities wishing to benefit from the market making exemption under Article 17 of the Short Selling Regulation will be allowed to do so also in connection with financial instruments not admitted to trading on a trading venue provided that they notify the CNMV.

CNMV issues communication on implementation of ESMA guidelines on certain aspects of MiFID2 suitability requirements

The CNMV has notified ESMA of its intention to comply with ESMA's guidelines on certain aspects of the MiFID2 suitability requirements.

The guidelines update the previous ones on suitability requirements and are intended to adapt them to amendments introduced by MiFID2.

In particular, the changes introduced by the guidelines include:

- an obligation to assess whether equivalent financing instruments may be adjustable to the client's profile;
- a mandatory cost-benefit analysis when financing entities make a change of investments;
- that the guidelines are also applicable to structured deposits;
- that a client's preferences on environmental, social and governance factors should be considered when gathering information on the client's investment objectives; and
- that firms should take all reasonable steps to sufficiently assess their clients' understanding of the main characteristics and the risks related to the product types offered by the firm.

MiFID2: Royal Decree developing Spanish Securities Markets Law and Royal Decree-law 21/2017 on urgent measures to adapt Spanish law to EU law in securities markets matters published

Royal Decree 1464/2018 of 21 December developing the Spanish Securities Markets Law and Royal Decree-law 21/2017 of 29 December on urgent measures to adapt Spanish law to EU law in securities markets matters, and by which Royal Decree 217/2008 of 15 February on the legal regime for investment services companies and other entities providing investment services is modified, has been published.

The purpose of the Royal Decree is to complete the implementation of MiFID2 in Spain and the regulatory development of Royal Decree 21/2017 and other laws thereafter. The Royal Decree is divided into three main sections:

- the first part of the Royal Decree provides for the regime applicable to regulated markets; their authorisation, administration and the admission of financial instruments. Additionally, it also regulates the derivatives markets including the general terms of these instruments;
- the second section regulates thresholds to positions, their supervision or exceptionally higher thresholds and the communication of these; and
- the third section regulates data supply services.

The Royal Decree contains three additional provisions on different matters including the communication of sanctions to the European Banking Authority (EBA), the treatment of personal data, competencies in autonomous regions and deadlines for the application of amendments.

In addition to transitional and final provisions that amend the wording of related pieces of legislation, the fourth final provision introduces an extensive modification of Royal Decree 217/2015 of 15 February, on the legal regime of investment services companies and other entities providing investment services.

The fourth final provision develops the legal regime of investment services companies following the amendments contained in Royal Decree-law 14/2018 of 28 September in matters, among others, of authorisation, activities, organisational requirements, client protection, cross border action, the legal regime of financial advising companies and corporate governance; it also allows for certain investment services companies to carry out transactions on their own account with capital requirements of companies that do not carry out those transaction. This final disposition also allows for incentives to be received when investment services other than discretional management or independent advice are carried out, if it can be proved that the quality of the service is increased. On investor protection, it develops a regime by which manufacturers will have to establish a system of approving each instrument individually in order to identify the target market of final clients.

The Royal Decree will come into force 20 days following its publication.

Bank of Italy, CONSOB and IVASS amend interlocking ban

The Bank of Italy (the Italian prudential authority), Consob (the Italian securities regulator) and IVASS (the Italian insurance regulator) have published a joint communication intended to update the interpretative criteria (dated 2012) relating to the application of the 'interlocking ban' in the context of the banking and financial sectors. The ban was originally introduced by Article 36 of Law Decree no. 201/2011 (known as the 'Salva Italia' decree) and further implemented, amongst other things, by certain second-level regulations adopted by the Bank of Italy.

The update reflects guidance recently published by the AGCM (the Italian antitrust authority) on the same topic and mainly concerns the threshold of the institutions affected.

Payment Accounts Directive: Bank of Italy consults on amendments to its transparency regulation

The Bank of Italy has launched a public consultation on a set of proposed provisions intended to transpose the Payment Accounts Directive (PAD) into the Italian regulatory framework by amending the Bank of Italy Regulation on the transparency of banking and financial transactions and services, dated 29 July 2009.

The proposed amendments are intended to:

- increase the transparency and comparability of the expenses related to a payment account, thus stimulating competition among intermediaries;
- facilitate the transfer of payment services connected to an account; and

- foster financial inclusion by providing for the obligation to offer a basic account for payment service providers (PSPs).

The consultation runs until 25 February 2019.

Central Bank of Turkey amends Capital Movements Circular

The Central Bank of Turkey has amended its Capital Movements Circular in accordance with the letters of the Ministry of Treasury and Finance dated 18 December 2018 and numbered 30415 and 21 December 2018 and numbered 31659. Accordingly:

- Turkish residents may borrow revolving loans from offshore lenders provided that (i) the proceeds of such loans are used for the borrower's activities outside Turkey, (ii) the repayment of such loans is made with revenues generated from the borrower's activities outside Turkey, and (iii) there is no fund transfer from Turkey relating to the repayment of such loans;
- financial leasing transactions (i) under investment incentive certificates or (ii) for the financing of certain machinery and equipment under the Council of Minister's Decree No. 2007/13033 are exempt from the FX borrowing restrictions; and
- flexibilities granted by financial institutions to a debtor in financial distress do not constitute a renewal of the loan for the purposes of the FX borrowing restrictions.

NDRC supports bonds issuance by premium enterprises

The National Development and Reform Commission (NDRC) has issued the 'Circular on Supporting the Direct Financing of Premium Enterprises and Further Enhancing the Capability of Enterprise Bonds to Serve the Real Economy', which is intended to support bond issuance by certain eligible enterprises and to simplify the corresponding approval process for such enterprises.

The following key aspects are worth noting:

- qualification requirements – the Circular sets out several requirements for an enterprise to be eligible under the Circular, including, but not limited to, (i) the enterprise possessing an AAA credit rating domestically; (ii) major business and financial indicators (i.e. total assets, operating revenues and debt to asset ratio) of the enterprise meeting relevant premium thresholds of the corresponding industry or region; and (iii) the business operations of the enterprise being in line with the country's national policies and without any record of material violation of laws and regulations over the past 3 years;
- optimising administrative approval procedures – for eligible enterprises, the NDRC will adopt a 'shelf' approval quota regime for such enterprises and grant a quota to such enterprises in respect of their respective aggregated funding needs via issuances of debt securities. The valid term of such approved quota can be up to two years, within which the enterprise may have multiple issuance under different terms and conditions;
- 'negative list' management – the Circular specifies that enterprise bonds should not be used for (i) third-party financing; (ii) investment in real estate

and industries with excess capacity, (iii) risky investment such as shares and futures trading outside ordinary business operation; and (iv) making up for losses or covering expenses that are not relevant to production. This 'negative list' may be supplemented and amended from time to time in light of the respective issuer's business scope; and

- disclosure requirements – the Circular specifies that an issuer must disclose its list of investment projects and protection measures for repayment as well as the risks related to investment in its bonds. A set of information disclosure guidelines have been issued together with the Circular.

HKMA issues circular on misconduct risks in selling of investment funds

The Hong Kong Monetary Authority (HKMA) has issued a circular to all registered institutions to draw their attention to the misconduct risks in the selling of investment funds and to provide guidance on the expected standards for prevention and management of such misconduct risks.

The HKMA issued a circular on 8 April 2016 entitled 'Feedback from recent reviews of the selling of investment products', highlighting, among other things, the malpractice of soliciting or recommending to a customer to enter into highly frequent trading of investment funds which could hardly be justified, especially fund switching that makes little or no economic sense to the customer. The HKMA is now reminding registered institutions to ensure that their investment recommendations or solicitations for customers are reasonable in all circumstances, and to act in the best interests of their customers.

The HKMA has also advised registered institutions to review their policies, procedures, systems and controls, and make any necessary enhancement to ensure due compliance with the regulatory requirements and expected standards set out in the circular and indicated that it will continue to monitor registered institutions' selling practices and compliance with the circular as part of its on-going supervision.

MAS issues amendment regulations exempting securities and securities-based derivatives contracts and collective investment schemes from certain offers of investments requirements

The Monetary Authority of Singapore (MAS) has issued:

- the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) (Amendment) Regulations 2018; and
- the Securities and Futures (Offers of Investments) (Collective Investment Schemes) (Amendment No. 3) Regulations 2018,

which provide, amongst other amendments, exemptions for:

- certain offers of units or derivatives of units in a business trust from:
  - Subdivisions (2) and (3) of Division 1 of Part XIII (Offers of Investments) of the Securities and Futures Act (SFA);
  - Section 239C(1) of the SFA;

- certain offers of securities or securities-based derivatives contracts from Section 276(1), (3) and (4) of the SFA; and
- certain offers of units in a collective investment scheme (CIS) from:
  - Division 2 of Part XIII of the SFA;
  - Section 304A(1) of the SFA; and
  - Sections 305A(1), (2), or (3) of the SFA.

The amendment regulations came into effect on 19 December 2018.

Securities and Futures (Collective Investment Scheme) (Excluded Arrangements) Notification 2018 gazetted

The MAS has issued the Securities and Futures (Collective Investment Scheme) (Excluded Arrangements) Notification 2018.

Amongst other things, the Notification provides that the following arrangements are not collective investment schemes under section 2(1) of the Securities and Futures Act:

- a securitisation transaction; and
- an arrangement that consists only of an issuance of structured notes.

The Notification came into operation on 25 December 2018.

MAS revises notices on submission of annual accounts

The MAS has revised:

- MAS Notice 815 for Finance Companies and Auditors of Finance Companies under the Finance Companies Act;
- MAS Notice 1002 for Merchant Banks under the MAS Act; and
- MAS Notice 609 for Banks and Auditors of Banks under the Banking Act,

(together the Notices) on submission of auditors' reports and additional information with annual accounts.

Amongst other things, the Notices set out:

- the additional documents that each Finance Company, Merchant Bank or Bank (as the case may be) should provide to the relevant authority with the reports of their auditors;
- the additional information that each Finance Company, Merchant Bank or Bank should provide to the relevant authority; and
- the dates that such documents and information should be provided.

The revisions to the Notices are effective from 24 December 2018 except for paragraphs 4(c), 5 and 9(c) of MAS Notice 815 which shall take effect in respect of the Reporting Schedules which relate to a Reporting Date that falls on or after 31 December 2019.

MAS publishes revised regulations pursuant to Securities and Futures Act

The MAS has issued the Securities and Futures (Prescribed Futures Contracts) (Revocation) Regulations 2018, which revoke the Securities and

Futures (Prescribed Futures Contracts) Regulations 2005 with effect from 19 December 2018.

MAS issues Securities and Futures (Reporting of Derivatives Contracts) (Amendment No. 2) Regulations 2018

The MAS has issued the Securities and Futures (Reporting of Derivatives Contracts) (Amendment No. 2) Regulations 2018 to support the implementation of commodity and equity derivatives contracts reporting under the over-the-counter derivatives trade reporting regime in Singapore.

The Amendment Regulations, which amend the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 (the Principal Regulations), amongst other things, introduce a new 'Part IIA' on deferred reporting of counterparty information, which sets out provisions relating to reporting in:

- cases where a specified person is prohibited, unless certain consent is obtained, from reporting counterparty information on specified derivatives contracts entered into before 1 January 2019, under the laws or requirements of any jurisdiction;
- cases where a specified person is prohibited under the laws or requirements of any jurisdiction specified in the Fifth Schedule of the Principal Regulations from reporting counterparty information on specified derivatives contracts;
- cases where a specified person was previously prohibited under the laws or requirements of any jurisdiction specified in the Fifth Schedule of the Principal Regulations from reporting counterparty information on specified derivatives contracts; and
- cases where a specified person is prohibited, unless certain consent is obtained, from reporting counterparty information on specified derivatives contracts under the laws or requirements of any jurisdiction specified in the Fifth Schedule of the Principal Regulations.

The Amendment Regulations came into operation on 1 January 2019.

MAS issues Financial Advisers (Amendment No. 6) Regulations 2018

The MAS has issued the Financial Advisers (Amendment No. 6) Regulations 2018.

The Amendment Regulations amend the Financial Advisers Regulations, by introducing a new regulation 32CB, which provides that subject to the following conditions, a foreign company is exempt under section 23(1)(f) of the Financial Advisers Act from holding a financial adviser's licence for providing a financial advisory service in respect of any ASEAN listed capital markets products:

- the financial advisory service is provided under an arrangement between the foreign company and a company that is incorporated in Singapore or an unincorporated association formed or constituted in Singapore;

- the arrangement is approved by the MAS pursuant to an application made by the company or the unincorporated association (as the case may be); and
- the conditions subject to which the arrangement is approved by the MAS are complied with.

The Amendment Regulations are effective from 1 January 2019.

Federal banking agencies request comments on proposed update to management interlock rules

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency are requesting comment on a proposed rule that would increase the major assets prohibition thresholds for management interlocks in the agencies' rules implementing the Depository Institution Management Interlocks Act (DIMIA). Presently the DIMIA major assets prohibition prevents a management official of a depository organization with total assets exceeding USD 2.5 billion from serving at the same time as a management official of an unaffiliated depository organization with total assets exceeding USD 1.5 billion.

The agencies are inviting comment on a proposal which would raise the major assets prohibition thresholds to USD 10 billion to account for changes in the US banking market since the current thresholds were established in 1996.

In addition, the agencies invite public comment on three other proposed approaches to raising the current thresholds. These include:

- thresholds adjustment based on percentage of the number of banking organizations covered by prohibition;
- thresholds adjustment based on asset growth; and
- thresholds adjustment increased based on inflation.

Comments must be received until 60 days after publication of the proposal in the Federal Register.

Federal agencies request comment on proposed Volcker Rule amendments implementing certain sections of Economic Growth, Regulatory Relief, and Consumer Protection Act

The Federal Reserve Board, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Securities and Exchange Commission are requesting comment on a proposal that would amend the regulations implementing the Bank Holding Company Act's prohibitions and restrictions on proprietary trading and certain interests in, and relationships with, hedge funds and private equity funds in a manner consistent with the statutory amendments made pursuant to certain sections of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The proposed amendments would exclude from these restrictions certain banking entities that have total consolidated assets equal to USD 10 billion or less and total trading assets and liabilities equal to 5% or less of total consolidated assets. The proposal would also amend the restrictions applicable to the naming of a hedge fund or private equity fund to permit (under certain circumstances) an investment adviser that is a banking entity to share a name with the fund.

Comments will be accepted for 30 days after publication of the proposal in the Federal Register.

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