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conglomerates

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Deepening Europe's Economic and Monetary Union: EU Commission takes stock of progress

The EU Commission has published a communication taking stock of the progress made to deepen Europe's Economic and Monetary Union since the Five Presidents' Report of June 2015 and calling on Member States to take further concrete steps.

Ahead of the Euro Summit on 21 June 2019, the Commission is inviting EU leaders to:

- reach an agreement on the main features of the Budgetary Instrument for Convergence and Competitiveness with a view to supporting a swift adoption by the EU Parliament and the Council and agree on its size in the context of the Multiannual Financial Framework;
- finalise the changes to the Treaty establishing the European Stability Mechanism with a view to a swift ratification by the euro-area Member States, including an operational and effective common backstop, the provision of liquidity in resolution and active and effective precautionary instruments, to preserve a clear delineation of responsibilities between actors and the possibility to adjust the EU Single Rulebook for banks according to the Community method, and to integrate the European Stability Mechanism into EU law over time;
- make a renewed effort to complete the Banking Union starting with political negotiations on the European Deposit Insurance Scheme (EDIS); and
- accelerate progress on the Capital Markets Union and step up work to strengthen the international role of the euro.

The Commission has also published its fourth progress report on the reduction of non-performing loans (NPLs) and further risk reduction in the Banking Union, as well as a document setting out the results of its consultations on strengthening the international role of the euro.

Brexit: EU Commission publishes fifth no-deal preparedness communication

The EU Commission has published a fifth no-deal Brexit Preparedness Communication ahead of the EU Council (Article 50) meeting on 20-21 June 2019.

Amongst other things, the communication discusses the following subjects:

- EU preparations and contingency measures;
- the Commission's conclusion that these remain fit for purpose, as well as its intention to consider whether technical adjustments are needed; and
- the need for ongoing preparations in certain areas, including financial services.

The Commission has also published two annexes to the communication, which detail:

- legislative preparedness and contingency acts; and
- Commission stakeholder notices.

Credit rating agencies: EU Commission consults on draft third country equivalence decisions

The EU Commission has published for consultation nine draft implementing decisions on the equivalence of the legal and supervisory frameworks for credit rating agencies (CRAs) of Brazil, Mexico, Canada, Argentina, United States, Singapore, Australia, Japan and Hong Kong in accordance with the CRA Regulation (EC) 1060/2009.

The draft implementing decisions set out the Commission's conclusion that the legal and supervisory frameworks in Hong Kong, Japan, Mexico and the United States shall be considered as equivalent to the requirements of the CRA Regulation, whereas those in Argentina, Australia, Brazil, Canada and Singapore cannot be considered as equivalent.

On that basis, the draft implementing decisions are intended to allow CRAs from Hong Kong, Japan, Mexico and the United States to apply for certification with the European Securities and Market Authority (ESMA).

Comments are due by 9 July 2019. The adoption of the decisions is subject to review by the Securities Committee.

CRR and Solvency II: Joint Committee of ESAs re-consults on ITS on mapping of credit assessments of ECAIs

The Joint Committee of the European Supervisory Authorities (ESAs), which comprises the European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA) and ESMA, has published a second consultation on draft implementing technical standards (ITS) amending Implementing Regulation (EU) 2016/1800 on the allocation of credit assessments of external credit assessment institutions (ECAIs) to an objective scale of credit quality steps in accordance with Solvency II.

The ESAs published the first consultation in October 2018, however a second consultation is proposed for two reasons:

- the way offered to respondents to share their views on the subject was not fully functional; and
- references to CRR and elements in the mapping table require an update to reflect the latest assessments performed.

Comments on the consultation are due by 10 July 2019.

Capital Markets Union: EU Council adopts PEPPs Regulation and Directive on cross-border distribution of collective investment funds

The EU Council has adopted the Regulation on pan-European Personal Pension Products (PEPPs), which forms part of the Capital Markets Union (CMU) framework. The Regulation creates a new type of EU-wide voluntary personal pension product and is intended to provide greater choice and more competitive products to investors.

Alongside the PEPPs Regulation, the Council has also adopted a package of measures intended to remove barriers to the cross-border distribution of investment funds. The package includes a Directive amending the Undertakings for Collective Investment in Transferable Securities (UCITS) Directive and the Alternative Investment Fund Managers Directive (AIFMD) with regard to cross-border distribution of collective investment funds and a Regulation on facilitating cross-border distribution of collective investment funds.

The new measures for PEPPs and cross-border distribution of funds are expected to be signed on 20 June 2019, and will be published in the Official Journal shortly after that.

MiFID2 transparency regime: ESMA reports on frequent batch auctions

ESMA has published a final report on frequent batch auctions (FBAs). The report follows a November 2018 call for evidence by which ESMA sought to better understand FBA systems and to assess whether and to which extent such systems can be used to circumvent MiFID2 transparency requirements.

The report presents ESMA's assessment of four main characteristics of FBA trading systems:

- limited pre-trade transparency;
- short auction duration;
- price determination within the best bid and offer price; and
- self-matching features.

ESMA will work on further guidance along the lines recommended in the report, covering the areas of price determination and pre-trade transparency. ESMA will also look at the broader effects of the MiFID2 transparency regime.

EMIR REFIT: ESMA requests clarification from EU Commission on hedging exemption in calculation of clearing thresholds for non-financial groups

ESMA has written to the EU Commission requesting clarification on the treatment of financial counterparties (FCs) under the Regulation amending the European Market Infrastructure Regulation as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (EMIR REFIT).

Under the REFIT regime, the calculation of the month-end average positions of FCs in non-financial groups is used to determine whether these FCs are subject to the clearing obligations when they are above the clearing thresholds.

ESMA's query relates to the hedging exemption for non-financial counterparties (NFCs). For the purposes of calculating its positions against the clearing thresholds an FC will need to take into account all OTC contracts entered into by that FC or entered into by other entities within the group that FC belongs to (whether those other entities are FCs or NFCs). In contrast, when calculating its positions against the clearing thresholds a NFC will only need to take into account all OTC derivative contracts entered into by that NFC or other NFCs within the group to which that NFC belongs which are not objectively measurable as reducing risks directly relating to the commercial or treasury financing activity (i.e. hedging) of the NFC or of that group (without taking into account positions entered into by an FC within the same group).

ESMA understands that an objective of EMIR REFIT is to recalibrate the requirements and make them proportionate to the systemic risk of counterparties. EMIR takes into account that, with regard to NFCs or NFC groups more broadly, NFCs use OTC derivative contracts in hedge transactions. ESMA believes it would make sense that if an NFC can apply the hedging exemption for its positions, then the FCs in their group could also apply the same hedging exemption when taking into account the position of the NFCs at group level.

ESMA understands that this would be in line with the policy intentions of EMIR REFIT but cannot find a solid legal ground to interpret the Regulation in this way. ESMA is also concerned that it could act as a disincentive for NFC groups to enter into hedging transactions in order for their FC entities to remain below clearing thresholds or impact how NFC groups organise their derivatives activity.

ESMA requests clarification for market participants from the EU Commission on the correct interpretation of the applicable provisions for FCs with NFCs in their group.

PRA consults on resolution assessments and reporting amendments

The Prudential Regulation Authority (PRA) has published a consultation paper (CP12/19) setting out proposed changes to the prescribed responsibility for recovery plans and resolution packs under the Senior Managers and Certification Regime (SM&CR). Along with the SM&CR, the proposals will amend the supervisory statement, 'Strengthening individual accountability in

banking' (SS28/15) and the form 'Senior Managers Regime: Statement of Responsibilities' (SoR form).

In an earlier consultation, 'Resolution assessment and public disclosure by firms' (CP31/18), the PRA set out new requirements for UK banks and building societies with GBP 50 billion or more in retail deposits to assess their preparations for resolution, report on this assessment to the PRA and publish a summary of their report. CP12/19 consults on changes to the SM&CR to incorporate these new obligations. The changes are dependent on the PRA introducing new rules as a result of CP31/18.

Comments are due by 7 August 2019.

Brexit: SI under the EU (Withdrawal) Act for 10 – 14 June 2019

The Financial Services (Miscellaneous) (Amendment) (EU Exit) (No. 2) Regulations 2019 (SI 2019/1010) were made under the EU (Withdrawal) Act 2018 last week.

SI 2019/1010 makes a number of minor amendments to secondary legislation and retained EU law, including:

- to the EEA Passport Rights (Amendment etc. and Transitional Provisions) (EU Exit) Regulations 2018 (SI 2018/1149) and the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (SI 2018/1201), to introduce new obligations relating to the contractual run-off regime requiring EEA firms, including payment services and e-money firms, to inform UK customers of their 'exempt' status and any changes to consumer protection;
- to SI 2018/1149, to correct a drafting error to make clear that EEA fund managers are not in scope of the run-off mechanism;
- to SI 2018/1201, to insert a further cancellation criterion to the temporary permissions regime, aimed at making explicit the FCA's power to cancel temporary deemed authorisation or registration of an EEA payments firm or account information service provider if the firm does not have insurance cover;
- to the Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/264), to introduce a new transitional provision to enable the PRA and the FCA to delay, for up to two years, new supervision requirements applying to EEA financial conglomerates in the UK after exit;
- to the Long-term Investment Funds (Amendment) (EU Exit) Regulations 2019 (SI 2019/336), to correct references to European funds; and
- to Commission Delegated Regulation (EU) 2015/61 supplementing Regulation (EU) No 575/2013 (CRR), to remove national regulators' discretion to vary the liquidity coverage standard applied within groups under certain conditions.

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

FCA consults on assessment of adequate financial resources

The Financial Conduct Authority (FCA) has launched a consultation on a proposed framework for assessing firms' adequate financial resources, particularly in the context of threshold conditions and principles for business. The draft framework sets out the FCA's definition and assessment of 'adequate financial resources', the purpose behind the assessment and its expectations of firms when carrying out their own assessment of resources.

Amongst other things the FCA proposes that firms:

- carry out proportionate and forward-looking assessments of risk at least once a year;
- are aware of the potential impact of risks on their ability to generate acceptable returns and ensure they have access to adequate capital to support their business in the case of losses;
- establish sound risk management frameworks to enable them to detect, identify and rectify issues themselves;
- identify sources of potential harm and estimate their impact, including depletion of financial resources; and
- consider the scenarios likely to result in a firm experiencing financial stress and plan how to maintain resources while exiting the market.

Comments are due by 13 September 2019.

MAS and UK regulators announce cyber security collaboration

The Monetary Authority of Singapore (MAS), the Bank of England and the Financial Conduct Authority have announced their intention to work together to strengthen cyber security in their financial sectors.

The regulators intend to:

- identify effective ways to share information;
- explore the potential for staff exchanges; and
- work towards a Memorandum of Understanding to signify the enhanced collaboration.

AMF publishes instruction on application procedure for obtaining AMF visa for ICOs

The Autorité des marchés financiers (AMF) has published an instruction relating to the information document to be submitted to the AMF to obtain a visa in the context of initial coin offerings (ICOs). The instruction is based on articles 711-1 to 715-2 of the AMF General Regulation, which set out specific requirements for ICOs. Amongst other things, the instruction sets out the AMF's expectations as regards the content of the information document (a template of which is provided in an annex), the procedure applicable to the instruction of a visa application, and the modalities of publication of the information document.

The instruction applies to any token issuer mentioned in article L. 552-1 of the Financial and Monetary Code that applies for an AMF visa under the

conditions set out in articles L. 552-4 to L. 552-7 of the Financial and Monetary Code. The instruction is not applicable if the tokens qualify as financial instruments, or if token issuers fall within the scope of crowdfunding or miscellaneous assets intermediaries regulation.

Japanese FSA and German Federal Financial Supervisory Authority exchange letters for cooperation on supervision of financial institutions

The Japanese Financial Services Agency (FSA) and the Federal Financial Supervisory Authority of Germany (BaFin) have exchanged letters of cooperation on the supervision of financial institutions. The exchange of letters is intended to enhance cooperation in the supervision of financial institutions through the sharing of information between the FSA and BaFin.

Under the letters, the FSA and BaFin will, amongst other things:

- notify each other of any material supervisory concern and supervisory action;
- notify each other of plans to visit financial institutions in each other's jurisdiction;
- cooperate closely when suspected activities or financial transactions are identified;
- inform their counterparts on request of the arrangements for crisis management;
- cooperate closely when suspected activities or financial transactions are identified; and
- preserve the confidentiality of information exchanged, etc.

Australian government launches second stage consultation on draft open banking designation instrument

The Australian government has launched a public consultation on the second stage of the draft Consumer Data Right (Authorised Deposit-Taking Institutions) Designation 2019 for the application of the consumer data right (CDR) to the banking sector (open banking). The first stage of consultation on the draft open banking Designation Instrument was held in September 2018.

The second stage of consultation has been launched in response to the concerns raised in the first stage of consultation regarding the scope of information about the use of a product by carving out information that meets the test of having been materially enhanced. This carve out intends to provide guidance for future rule and standard making.

The concept of materially enhanced information refers to data which is the result of the application of insight, analysis or transformation of data to significantly enhance its usability and value in comparison to its source material. The Australian Treasury notes that the data sets which are currently in the draft rules and standards do not meet the test of having been materially enhanced.

Under the proposals, information whose value has been largely generated by the actions of the data holder will be carved out by the 'materially enhanced' test. Data holders may not be required to disclose materially enhanced data

under the CDR, but nonetheless may be authorised to disclose it through the CDR if they so wish.

Further, the Designation Instrument includes an example list of banking data sets that are not materially enhanced, while the explanatory statement includes an example list of data sets that are materially enhanced. Under the proposals, the Australian Treasury is specifically seeking examples to add to each of these lists, as well as requesting interested parties to:

- submit their views if they believe additional data sets should be included in these lists; and
- specify in their submission what they would like to see included in these lists.

Comments on the consultation are due by 12 July 2019.

APRA responds to first phase of consultation on revisions to authorised deposit-taking institutions capital framework

The Australian Prudential Regulation Authority (APRA) has published its responses to the feedback it received on its first round of consultation, released in February 2018, on proposed revisions to the capital framework for authorised deposit-taking institutions (ADIs) in order to give effect to the increased capital requirements for 'unquestionably strong' and incorporate the amendments from the finalised Basel III reforms.

The response paper progresses the key elements of the proposals relating to residential mortgages, credit risk and operational risk requirements under the standardised approaches, as well as a simplified capital framework for small, less complex ADIs. APRA has indicated that other measures proposed in the February 2018 consultation paper, as well as measures proposed in the August 2018 complementary consultation paper on improving the transparency, comparability and flexibility of the ADI capital framework, will be consulted on in a subsequent response paper due to be released in the second half of 2019.

After taking into account both industry feedback and the findings of a quantitative impact study, APRA is proposing to revise some of its initial proposals, including:

- for residential mortgages, some narrowing in the capital difference that applies to lower risk owner-occupied, principal-and-interest mortgages and all other mortgages;
- more granular risk weight buckets and the recognition of additional types of collateral for small and medium-sized enterprise lending, as recommended by the Productivity Commission in its report on competition in the financial system; and
- lower risk weights for credit cards and personal loans secured by vehicles.

APRA has also clarified that the latest proposals do not, at this stage, make any change to the Level 1 risk weight for ADIs' equity investments in subsidiary ADIs and any change to the current approach will be consulted on as part of APRA's review of Prudential Standard APS 111 Capital Adequacy: Measurement of Capital later 2019.

In addition, based on the initial feedback from industry, APRA has released drafts of three updated prudential standards, namely 'APS 112 Capital Adequacy: Standardised Approach to Credit Risk', 'the residential mortgages extract of APS 113 Capital Adequacy: Internal Ratings-based Approach to Credit Risk' and 'APS 115 Capital Adequacy: Standardised Measurement Approach to Operational Risk', which are intended to progress APRA's primary objectives of implementing Basel III and increasing capital requirements to meet the unquestionably strong benchmarks.

Comments on the revised proposals, as well as the draft prudential standards are due on 6 September 2019.

SFC issues circular to intermediaries on prime services and related equity derivatives activities

The Securities and Futures Commission (SFC) has issued a circular to intermediaries on prime services and related equity derivatives activities. The circular is intended to set out the standards of conduct and internal controls the SFC expects of prime brokers, i.e., financial institutions providing 'prime services' and conducting related equity derivatives activities in Hong Kong.

In particular, the circular highlights the regulatory obligations of prime brokers in light of the remote booking and operating models and roles of Hong Kong entities when they provide prime services. More details about the expected standards for the key processes have been provided in the annex to the circular.

In addition, the SFC has issued a report on the thematic review of prime services and related equity derivatives activities in Hong Kong. The report provides an overview of the prime services industry landscape in Hong Kong and shares observations and good industry practices noted from the SFC's thematic review, announced in October 2017, of the internal controls and risk management processes of selected prime brokers.

SFC issues circular on implementation of regulatory requirements for online and offline sale of complex products

The SFC has issued a circular to inform intermediaries that it has updated its series of frequently asked questions (FAQs) on the guidelines relating to online distribution and advisory platforms and paragraph 5.5 of the Code of Conduct for Persons Licensed by or Registered with the SFC. In particular, new questions 35 to 38 have been added to provide further guidance on the implementation of the regulatory requirements for online and offline sale of complex products.

The four newly added FAQs are intended to:

- clarify that paragraph 5.5 of the Code of Conduct is applicable only when a client purchases a complex product on an unsolicited basis, i.e. no solicitation or recommendation has been made by an intermediary;
- clarify that the provision of a loan to facilitate a client to purchase a non-complex product will not convert the product into a complex product given that the loan does not alter the terms, features and risks of the product itself;

- provide guidance on the implementation of the regulatory requirements in the case where an execution broker executes orders placed by an investment adviser or asset manager on behalf of a client; and
- clarify SFC's expectation on the disclosure of product information for solicited or recommended repeat purchases generally and for compliance with paragraph 5.5 of the Code of Conduct for repeat purchases of the same complex product or complex products of the same product category.

In addition, the SFC has added the Netherlands as one of the specified jurisdictions for non-exchange-traded unauthorised funds and 'security tokens' as a type of complex product to the non-exhaustive list of examples of investment products that are considered to be complex products.

FSC to extend guidelines for comprehensive supervision on financial conglomerates

The Financial Services Commission (FSC) has announced that it has decided to extend the best practice guidelines for comprehensive supervision of financial conglomerates for another year with some revisions. The comprehensive supervisory scheme is intended to capture and manage group-wide risks of financial conglomerates that conventional sectoral supervision cannot fully address. It also seeks to help prevent any possible contagion of group-wide risks into financial affiliates.

Since the FSC announced its plan to introduce a comprehensive framework for financial conglomerates in February 2018, best practice guidelines were established and implemented with seven financial conglomerates starting from July 2018. As the guidelines are due to expire on 1 July 2019, the FSC has decided to extend the deadline to 1 July 2020. The FSC has also made some amendments to the guidelines to reflect feedback received from financial conglomerates and make it better coordinated with other relevant laws.

Given that the one-year pilot test under the guidelines is to be extended for another year, the list of financial conglomerates subject to comprehensive supervisory schemes will remain the same as last year.

The FSC has indicated that, based on the guidelines, it will provide detailed standards for designation of subjects of comprehensive supervision, capital adequacy and risk management assessment. At the same time, the FSC will also continue its efforts to support new legislation on comprehensive supervision of financial conglomerates. In this regard, two bills have been proposed and are under discussion at the National Assembly.

MAS consults on proposed payment services notices on prevention of money laundering and countering financing of terrorism

The Monetary Authority of Singapore (MAS) has launched a public consultation on two new notices (PS Notices) to payment service providers on anti-money laundering and countering the financing of terrorism (AML/CFT). The first notice would apply to specified payment services, and the second notice would apply to digital payment token (DPT) services.

The PS Notices bring together and update the AML/CFT requirements applicable to activities currently regulated under the Money-Changing and Remittance Businesses Act and the Payment Systems (Oversight) Act and

introduce AML/CFT requirements for providers of the newly regulated payment services under the Payment Services Act (PS Act).

AML/CFT measures will apply to all three classes of licensees under the PS Act (i.e., Money-Changing licence, Standard Payment Institution licence, and Major Payment Institution licence). However, the PS Notices will relate only to account issuance services (Activity A), domestic money transfer services (Activity B), cross-border money transfer services (Activity C), money-changing services (Activity G) and digital payment token (DPT) services (Activity F). The MAS does not intend to regulate merchant acquisition (Activity D) and e-money issuance (Activity E) for ML/TF risks at this point.

Amongst other things, the MAS is seeking comments on:

- the proposal to additionally impose AML/CFT requirements on PS providers for such other business activity that is subject to AML/CFT requirements by another regulatory authority in Singapore, but where providers have been exempted from the application of such requirements under the regulatory authority;
- the proposed requirements in relation to transfer of DPT and custodian wallet services;
- the proposed requirements applicable to providers offering 'exempted products';
- if and how simplified customer due diligence should be permitted for the various payment services;
- whether third party reliance is appropriate;
- whether the proposed requirements for 'correspondent account services' would be applicable;
- the proposal to apply the prohibition on issuance of bearer negotiable instruments and restriction of cash pay-out requirements to licensees which perform Activities A, B, C, F and G;
- whether all value transfers of DPT should be considered cross-border in nature;
- whether the Financial Action Task Force's wire transfer requirements are applicable to DPT transactions;
- the proposal not to set a threshold for the application of customer due diligence (CDD) (i.e., whether to require CDD to be conducted from the first dollar for DPT transactions, even in the case of occasional transactions); and
- whether any other customer-specific information that is relevant in the context of DPT transactions could be made applicable to potentially supplement or substitute existing identifiers for CDD purposes.

Comments on the consultation are due by 5 July 2019.

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MAS updates SFA Notice 02-N01 on listing, de-listing or trading of relevant products on an organised market of an approved exchange or a recognised market operator incorporated in Singapore

The MAS has updated SFA Notice 02-N01 on listing, de-listing or trading of relevant products on an organised market of an approved exchange or a recognised market operator incorporated in Singapore.

The following key revisions have been made to the Notice:

- the definition of 'detailed announcement' has been updated to specify that in relation to changes to the specifications of a relevant product under paragraph 3.20 of the Notice, a 'detailed announcement' is one made by an exchange that contains a detailed description of the changes and the intended date that the changes will take effect; and
- the dates by which a relevant product exchange must certify to the MAS, in respect of every relevant product listed or permitted for trading on the organised market which the relevant exchange operates, that nothing has come to the attention of the relevant product exchange that would change its assessment of its compliance with the relevant requirements of the Notice, have been updated.

The revisions to the Notice are effective as of 3 June 2019.

MAS responds to feedback on proposed guidelines on individual accountability and conduct of senior managers in financial institutions

The MAS has published its responses to the feedback it received on its April 2018 public consultation on proposed guidelines on individual accountability and conduct to strengthen individual accountability of senior managers and raise standards of conduct in financial institutions (FIs). The MAS has also issued a further consultation paper on the proposed guidelines.

Based on the feedback received, the MAS:

- will expand the application of the Guidelines on Individual Accountability and Conduct (IAC Guidelines) to a wider scope of financial institutions regulated by the MAS, given that the underlying principles of clarity in individual responsibilities and proper conduct are applicable across the financial sector. In view of this, the MAS has launched the further consultation, which is an extension of the 26 April 2018 consultation paper, to seek additional feedback on the revised scope of FIs to which the IAC Guidelines will be applied. Additional details on the further consultation are set out below;
- will refine the definition of 'senior managers' to clarify that 'responsibility for the day-to-day management of the FI' provides a consistent basis for identifying senior managers, regardless of their title or physical location;
- has clarified that the list of core management functions (CMFs), in respect of which senior managers should be identified, provides general guidance and is not intended to be exhaustive nor prescribe a particular governance structure for all FIs;

- will refine the definition of 'Head of Compliance' for greater clarity with regard to its scope of responsibilities, and has clarified certain CMFs including its intent not to include the Head of Legal as a CMF;
- has clarified that the term employees in 'material risk functions' (MRFs) will be referred to as 'material risk personnel' (MRPs) hereafter, in order to clarify that it is the individual (rather than functional units) that forms the basis for identifying personnel in MRFs. FIs should consider a range of indicators in identifying MRPs, including quantitative and qualitative indicators. These indicators provide general guidance and are not exhaustive. It is ultimately for the Board and senior management to establish criteria for identifying MRPs that are suitable to the FI's circumstances;
- has clarified that FIs should have a formalised whistleblowing programme, including the whistleblowing channel(s) available to employees, procedures to ensure anonymity and adequate protection of employees who raise concerns over the FI's policies, practices or activities via these channel(s), and procedures for handling whistleblower complaints; and
- will implement the IAC Guidelines with a transitional period of 1 year, i.e. 1 year after the IAC Guidelines are published. The effective date will be announced after the conclusion of the further consultation.

The proposals in the further consultation include, amongst other things:

- extending the IAC Guidelines to all FIs regulated by the MAS, subject to certain limited exceptions only; and
- all FIs being expected to work towards the five outcomes set out in the MAS' April 2018 public consultation. However, the MAS would not ordinarily expect smaller FIs (such as those with a headcount of less than 20) to adopt the specific guidance described under the five outcomes.

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MAS revises Notice 637 on risk based capital adequacy requirements for banks incorporated in Singapore

The MAS has revised MAS Notice 637 on risk based capital adequacy requirements for banks incorporated in Singapore.

The Notice has been revised to reflect the following amendments set out in MAS Notice 637 (Amendment) 2019 issued on 10 June 2019 which:

- allow the recognition of on-balance sheet netting agreements for loans and deposits for credit risk mitigation purposes;
- introduce proportionality for disclosure requirements;
- revise certain disclosure templates; and
- implement other technical revisions.

The revised Notice is effective from 30 June 2019.

CFTC staff issues no-action relief from uncleared swap margin rule for certain amendments to legacy swaps

The Commodity Futures Trading Commission's (CFTC's) Division of Swap Dealer and Intermediary Oversight (DSIO) has announced that it will provide no-action relief to permit certain amendments to legacy swaps without them losing their status as legacy swaps.

The relief would allow swap dealers to continue to treat as legacy swaps:

- legacy swaps that are amended in an immaterial manner;
- a swap resulting from the exercise of a swaption that is itself a legacy swap;
- the remaining portion of a swap following a partial termination of such legacy swap;
- the remaining portion of a swap following a partial novation of such legacy swap; and
- new swaps resulting from a multilateral compression exercise consisting solely of legacy swaps.

RECENT CLIFFORD CHANCE BRIEFINGS

The new European Parliament – A look ahead

More than 200 million EU citizens cast their votes between 23 and 26 May 2019 to choose the next cohort of MEPs. The new European Parliament is characterised by increased fragmentation and therefore a greater role for smaller parties.

This briefing paper provides an overview of the election results, explains what to expect in the years to come and considers how the new alignment of political groups will affect the EU's balance of power. The briefing also includes national perspectives from Bulgaria, France, Germany and the UK. In addition, we look at some of the key incoming and outgoing MEPs and present a timeline of upcoming institutional changes.

https://www.cliffordchance.com/briefings/2019/06/the_new_europeanparliamentalookahead.html

IBOR fallbacks for derivatives – ISDA's supplemental consultation on term and spread adjustments for floating rates and its consultation on pre-cessation issues

ISDA has released two further consultations on benchmark fallbacks. One consultation covers spread and term adjustments for US dollar LIBOR, Canada's CDOR and Hong Kong's HIBOR. The second consultation seeks input on how derivatives contracts should address a situation where certain key IBORs are no longer representative of an underlying market. Together they represent a significant further step in ISDA's on-going work on developing fallbacks for interest rate derivatives.

This briefing paper discussing the consultations.

https://www.cliffordchance.com/briefings/2019/06/ibor_fallbacks_forderivativesisda.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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