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INTERNATIONAL REGULATORY UPDATE 07 – 11 OCTOBER 2019

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MiFIR/EMIR Refit: ESMA consults on aligning trading and clearing obligations for counterparties

The European Securities and Markets Authority (ESMA) has published a consultation paper on amending the derivatives trading obligation (DTO) for counterparties under MiFIR to align it with the clearing obligation (CO) recently modified under EMIR Refit.

Among other things, the paper seeks views on the necessity and appropriateness of addressing the misalignment between the scope of counterparties subject to the CO and the DTO, including the possibility of amending MiFIR to introduce a standalone suspension of the DTO.

The consultation closes on 22 November 2019. ESMA intends to submit a final report to the EU Commission in early 2020, which shall be submitted with any appropriate proposals to the EU Parliament and Council by 18 December 2020.

MiFIR: ESMA publishes annual report on waivers and deferrals

ESMA has published its annual report on the application of waivers and deferrals under MiFIR.

The report, based on waiver applications received through 2017/18 and for which ESMA issued an opinion before 31 December 2018, and distinguishing between on-venue and OTC transactions, analyses the application of:

- equity waivers;
- proposed arrangements for trade-deferred publication on equity and equity-like instruments;
- non-equity waivers; and
- proposed arrangements for trade-deferred publication on non-equity.

ESMA intends to publish its next annual report in 2020.

Brexit: ESMA publishes statements on updated no-deal preparations

ESMA has published four public statements on preparations for a possible no-deal Brexit on 31 October 2019.

The statement on general preparations notes that the reference date for Brexit in all previously published measures and actions, a full list of which is annexed to the statement, should be read as 31 October 2019.

The statement on the use of UK data in ESMA databases and performance of MiFID2 calculations updates the communication issued on 5 February 2019 to inform stakeholders of ESMA's approach to all ESMA IT applications and databases in the case of a no-deal Brexit on 31 October 2019.

The statement on the impact of no-deal Brexit on MiFID2/MiFIR and the Benchmark Regulation (BMR) updates the communication issued on 7 March 2019, covering:

- the C(6) carve-out;
- ESMA opinions on third-country trading venues for the purposes of post-trade transparency;
- post-trade transparency for OTC transactions;
- the ITS on main indices and recognised exchanges under CRR; and
- the ESMA register of administrators and third-country benchmarks under the BMR.

The statement on operational plans related to ESMA databases and IT systems updates the communication issued on 19 March 2019 to provide information and instructions to market participants on operations just after 31 October 2019.

MAR: ESMA publishes RTS on supervisory cooperation

ESMA has published its final report setting out draft regulatory technical standards (RTS) on cooperation arrangements with third country authorities to be used by national competent authorities (NCAs) under the Market Abuse Regulation (MAR).

The draft RTS contain:

- a template document for cooperation arrangements concerning the exchange of information and the enforcement of obligations under MAR in third countries; and
- a template document for administrative arrangements for the transfer of personal data between a NCA and third country authority.

The RTS have been submitted to the EU Commission for endorsement.

CSDR: ESMA publishes final guidelines on standardised procedures and messaging protocols under Article 6(2)

ESMA has published its final report on guidelines under Article 6(2) of the Central Securities Depositaries Regulation (CSDR) on standardised procedures and messaging protocols.

ESMA's guidelines set out how investment firms should comply with Article 6(2) of the CSDR, which requires investment firms to take measures to limit the number of settlement fails, which shall at least consist of arrangements with their professional clients ensuring prompt communication of an allocation of securities to the transaction, confirmation of that allocation and confirmation of the acceptance or rejection of the terms in good time before the intended settlement date.

ESMA highlights that investments firms should agree with their professional clients on the communication procedures and messaging protocols to be used between them in order for the necessary settlement information to be made available to the investment firm in a timely manner.

ESMA will translate the final guidelines into the official EU languages. The guidelines will apply from the date of entry into force of the Delegated Regulation on settlement discipline.

Brexit: EBA publishes communication on no-deal preparations

The European Banking Authority (EBA) has published a communication on the progress of financial institutions' Brexit preparations. The EBA notes that, while significant progress has been made in the implementation of contingency plans for the UK leaving the EU without a deal on 1 November 2019, financial institutions must remain vigilant and continue their preparations. It flags its previous communications on Brexit contingency planning, published in October 2017 and June 2018, in which it set out the risks posed to financial institutions if they were not prepared and detailing principles regarding authorisations, internal models, internal governance, outsourcing, risk transfers, 'empty shell' companies and resolution and deposit guarantee schemes. The EBA advises financial institutions to apply those principles in their Brexit planning and ensure that assets, staff and data are in place to support relevant authorisations and that customers are kept adequately informed.

Capital Markets Union: HLEG publishes final report

The Next Capital Markets Union (CMU) High-Level Expert Group (HLEG) has published its final report on the EU's market-based financing capacity five years after the launch of the CMU.

The overall feeling of the Next CMU Group is that the financial sector has not fully regained citizens' trust since the financial crisis and that the CMU project should be better articulated and more widely spread.

The Next CMU group has identified four priorities that should guide any new EU initiative and/or be a test decisions should be measured against at political level:

- generate more long-term savings and investment opportunities;
- massively develop equity markets;
- increase financial flow fluidity between EU financial market places; and
- develop debt, credit and FX financing tools in a manner that increases the international funding currency role of the Euro.

The Next CMU group recommends that the EU formulates concrete key performance indicators measuring the EU's capital markets efficiency over several years and heatmaps to track the implementation and real functioning of specific capital markets features at EU level in order to evaluate whether the EU achieves its agreed key objectives in the priority areas.

EU Commission consults on topics related to Basel III implementation

As part of the implementation of the final set of Basel III reforms the EU Commission is gathering feedback on specific topics in the areas of credit risk, operational risk, market risk, credit valuation adjustment (CVA) risk, securities financing transactions (SFTs) as well as in relation to the output floor.

Beyond these implementation topics, the Commission is also seeking feedback on three other topics:

- a possible centralisation of Pillar 3 disclosures at the level of the EBA who could relieve institutions from their respective duties by providing the required information to the market on the basis of the supervisory data collected in the context of the forthcoming European Centralised Infrastructure for Supervisory Data (EUCLID);
- whether further measures could be taken to incorporate environmental, social and governance (ESG) risks into prudential regulation without pre-empting ongoing work to this effect; and
- possible changes to the existing regime for the assessment of the suitability of members of the management body of financial institutions, as it has become apparent that practices for assessing members of the management body and other individuals who can play a critical role in decision making vary significantly across Member States.

Comments to the consultation close 3 January 2020.

EU Commission consults on functioning of Benchmarks Regulation

The EU Commission has launched a consultation as part of its review of the EU Benchmarks Regulation (BMR).

The EU Commission is requesting feedback on the functioning and effectiveness of the EU benchmarks regime, two years after its entry into application. The consultation focuses primarily on a number of topics the BMR itself puts forward for review, such as the regime for critical benchmarks and the effectiveness of the mechanism for authorisation and registration of EU benchmark administrators. Other broader topics are also explored, such as the categorisation of benchmarks and the rules for third country benchmarks.

Following the feedback received, the EU Commission intends to prepare a report for the EU Parliament and Council.

FSB and IMF published fourth progress report on Data Gaps Initiative

The Financial Stability Board (FSB) and International Monetary Fund (IMF) have published the fourth progress report on the implementation of the second phase of the G20 Data Gaps Initiative (DGI-2).

Data gaps limit the assessment of financial stability risks and economic developments by policymakers and market participants. The report provides on overview of the progress since September 2018 and the remaining challenges in implementing the DGI-2 recommendations before the 2021 deadline.

Among other things, the report notes that:

- participating economies made continued progress in closing the identified data gaps and promoting the regular flow of timely and reliable statistics for policy use;
- while substantial achievements have been made in promoting data sharing, appropriate resource allocation and effective institutional cooperation at the national level are needed to address observed challenges;
- to facilitate the full implementation of the DGI-2 recommendations ahead of the 2021 deadline, the IMF and FSB in cooperation with the Inter-Agency Group on Economic and Financial Studies (IAG) will conduct twice-yearly progress reviews, with the first to be conducted by mid-January 2020; and
- IAG member agencies will also provide guidance and support on the relevant recommendations as appropriate.

The report will be submitted to the G20 Finance Ministers and Central Bank Governors ahead of their meetings in Washington D.C..

FSB publishes UPI governance arrangements

The FSB has published a report setting out the governance arrangements and recommended implementation plan for the harmonised unique product identifier (UPI) along with proposed next steps for the establishment of an international governance body.

The UPI will help authorities to aggregate data on OTC derivatives transactions, allowing authorities to use OTC derivatives trade reporting data to assess systemic risk and detect market abuse, delivering a key objective of the G20 reforms to OTC derivatives markets. The FSB recommends that jurisdictions undertake necessary actions to implement the UPI technical guidance in order to take effect no later than Q3 2022.

The FSB has taken the decision, in coordination with the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO), to identify the Legal Entity Identifier Regulatory Oversight Committee (LEI ROC) as best placed to be the single international governance body for the unique transaction identifier (UTI) and UPI. The FSB will take on the functions that have been allocated to the governance body in the interim.

IOSCO publishes governance arrangements for key OTC derivatives data elements

The International Organization of Securities Commissions (IOSCO) has published a report setting out the key criteria, functions and bodies for the governance arrangements for a set of critical data elements for OTC derivative transactions reported to trade repositories (TRs).

Written jointly with the Committee on Payments and Market Infrastructures (CPMI), the report sets out the arrangements that govern the maintenance, oversight and global implementation of critical OTC derivatives data elements (CDE), other than the unique transaction identifier (UTI) and the unique product identifier (UPI).

The report sets out the CDR governance arrangements addressing the implementation, maintenance and oversight of CDE. The FSB has published

related conclusions on governance arrangements and an implementation plan for the UPI.

MiFID: FCA publishes updated supervisory statement on transparency regime post-Brexit

The Financial Conduct Authority (FCA) has published an update to its March 2019 statement on the operation of the MiFID transparency regime if the UK leaves the EU in a no-deal scenario, setting out how the FCA intends to use its temporary powers, for a period of up to four years, to operate the pre- and post-trade transparency regime.

The FCA's update only covers changes, mainly to dates, to the March statement, much of which remains relevant. The update takes account of the October 2019 update from the European Securities and Markets Authority (ESMA) to its February 2019 statement.

The statement sets out updates to the FCA's approach to:

- the operation of the FCA's version of ESMA's financial instruments transparency reference system (FCA FITRS);
- double volume cap (DVC) calculations and suspensions;
- determinations for equity instruments;
- thresholds for non-equity instruments;
- systematic internalisers (Sis) calculations; and
- tick sizes.

The FCA may update the information in this statement from time to time based on market developments and the powers and discretions it has been granted to allow it to respond to changes in the market.

HM Government responds to Treasury Committee report on FCA regulatory perimeter

The House of Common's Treasury Committee has published the UK Government's response to its report 'The work of the Financial Conduct Authority: the perimeter of regulation'.

In regard to the Committee's recommendation to expand the FCA's remit to include activities beyond the perimeter, the Government highlights the FCA's power to give guidance under section 139A of FSMA, and ongoing work by the Government and the FCA on regulatory protections, including the role of the Financial Promotions Regime, in response to the failure of London Capital & Finance.

In regard to the Committee's recommendation that the FCA be granted a formal power to recommend changes to the perimeter of regulation, the Government considers that current processes for identifying and addressing consumer detriment are sufficient.

In regard to the Committee's recommendation that the FCA perhaps be granted a power to gather data from unregulated entities, the Government intends to have further discussions with the FCA on the merits.

The Government also notes that it monitors the perimeter on an ongoing basis, and that it intends to bring forward conclusions in response to the failure

of London Capital & Finance, including on the Financial Promotions Regime, as soon as possible.

PRA publishes occasional consultation paper on minor amendments to its rules and policies

The Prudential Regulation Authority (PRA) has published an occasional consultation paper (CP25/19) setting out minor amendments to its Rulebook, supervisory statements, statements of policy and templates. The proposed changes are intended to:

- remove references to LIBOR (Chapter 2);
- update references and make corrections in relation to the Senior Managers regime (Chapter 3;
- align the reporting templates for Capital+ and ring-fenced bodies with Financial Reporting (FINREP) and Common Reporting (COREP) templates (Chapter 4); and
- improve consistency of the capital treatment of retirement interest-only (RIO) mortgages (Chapter 5).

Comments on Chapter 5 are due by 18 November 2019 and comments on Chapters 2 to 4 are due by 9 December 2019.

Brexit: Czech National Bank issues notices for UK financial services providers and information for their clients

The Czech National Bank (CNB) has published notices addressed to UK financial services providers and information for their clients setting out, among other things, their rights and obligations under Act No. 74/2019 Coll. on the regulation of certain relations in connection with the UK's exit from the EU in a no-deal scenario. Six separate documents have been published in relation to

- credit institutions and their clients;
- insurance companies and their clients; and
- other financial services providers and their clients.

It follows from the notices that, among other things, the CNB expects the UK financial services providers to inform individual clients about the legal consequences of Brexit on their rights and obligations and of the actions that will be taken by UK financial services providers to settle existing claims and debts. The CNB also expects UK insurance companies to be able to give evidence of these to the CNB on request.

The CNB further states in the notices that if no deal between the EU and UK is reached by 31 December 2020 (the latest date by which the Act ceases to have affect), UK financial services providers need to cease all activities unless they take appropriate steps to comply with Czech law.

For further information about the Act please refer to the Clifford Chance briefing paper dated February 2019.

BaFin announces that it will not implement EBA guidelines on LCR disclosure

The German Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin) has announced that it will not implement the EBA guidelines on LCR disclosure for the time being.

BaFin's circular 14/2018, in which it consulted on the guidelines on LCR disclosure to complement the disclosure of liquidity risk management under Article 435 of the Capital Requirements Regulation (EBA/GL/2017/01) last year, has become obsolete as a result of CRR 2.

CRR 2 amends CRR and partially lowers the qualitative disclosure requirements stipulated in the CRR. BaFin will therefore implement the EBA guidelines only when the new disclosure requirements for the liquidity coverage ratio under CRR 2 apply, which will be the case as of 28 June 2021.

BaFin has however called on institutions to continue to comply with the existing CRR requirements and to prepare for the disclosure requirements under CRR 2.

CSSF issues regulation on setting of countercyclical buffer rate

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued a new regulation (19-08) on the setting of the countercyclical buffer rate for the fourth quarter of 2019. The regulation was published in the Luxembourg official journal (Mémorial A) on 10 October 2019.

The regulation follows the Luxembourg Systemic Risk Committee's recommendation of 10 September 2019 (CRS/2019/006) and maintains the countercyclical buffer rate for relevant exposures located in Luxembourg at 0.25% for the fourth quarter of 2019. The new rate applies as of 1 January 2020.

The regulation entered into force on 1 October 2019.

Benchmarks Regulation: GPW Benchmark 2019 publishes summary of consultation document

GPW Benchmark has published its summary of the consultation document of GPW Benchmark 2019.

The document summarises the process of consultations conducted by GPW Benchmark with regard to adjusting the method of developing the WIBID and WIBOR reference indices to the EU Benchmarks Regulation (EU) 2016/1011. The subject of the document is GPW Benchmark's response to stakeholders' comments on the assumptions concerning the adjustment of the WIBID and WIBOR reference indices presented in the Consultation Document of GPW Benchmark 2019 – Adjustment to BMR, including the proposed Data Cascade Method.

ASX improves listing rules to enhance market quality

The Australian Stock Exchange Limited (ASX) has published its responses to the feedback it received on its November 2018 consultation paper on proposed amendments to simplify, clarify and enhance the integrity and efficiency of its listing rules. The responses include a range of rule

amendments as well as new and updated guidance notes. The key initiatives include:

- more guidance and direction on the information that should be given to shareholders in notices of meetings, as well as on the voting processes that should be followed at shareholder meetings and more consistent reporting of voting outcomes;
- simpler and clearer processes and forms to announce a proposed issue of shares and to seek their quotation;
- changes to ASX's quarterly reporting regime to provide a more robust disclosure framework for start-up entities;
- better and timelier disclosure by listed investment companies and listed investment trusts of their net tangible assets backing; and
- new measures to address breaches of the listing rules.

The initiatives also include further enhancements to ASX's admission rules and processes, including:

- a simplification of ASX's escrow rules and guidance to make the escrow process less burdensome for listed entities;
- an extension of ASX's 'good fame and character' listing condition to include non-director chief executive officers and chief financial officers; and
- measures to address inappropriate behaviours by promoters and professional advisers in new and back door listings.

ASX has clarified that, to enhance the quality and consistency of market disclosures and information, from 1 July 2020, any person appointed responsible for communicating with it about listing rule matters will have to complete an approved education course and examination covering listing rule compliance. It has also indicated that it will conduct a national roadshow on its rule and guidance changes in late October and early November of 2019.

Subject to the receipt of the necessary regulatory approvals, with two minor exceptions set out in the consultation response paper, the listing rule amendments and new and updated guidance notes will come into effect on 1 December 2019.

Japan TCFD Consortium releases green investment guidance

The Japan Task Force on Climate-related Financial Disclosures (TCFD) Consortium has released guidance on utilising climate-related information to promote green investment. This is part of the continued efforts of Japan's TCFD initiatives to provide guidance to investors and other stakeholders who are concerned about how to 'financially' grasp the impact of climate risk on corporate value.

The guidance provides commentaries on perspectives needed by investors and other stakeholders when understanding the information disclosed based on the TCFD Recommendations (for details on the TCFD Recommendations, see our briefing paper on green bond financing and ESG issues in Japan). To help companies better understand the perspective of investors, the guidance also provides examples of investment practices utilising that information as well as viewpoints on assessments that recognise industry-specific situations

while considering the alignment between the TCFD Recommendations and discussions about current state of environment, society and governance (ESG) disclosure by companies.

SFC issues circular on regulatory standards for licensed corporations managing virtual asset portfolios

The Securities and Futures Commission (SFC) has issued a circular to announce that it has published a proforma set of terms and conditions for licensed corporations which manage portfolios that invest in virtual assets. The circular follows the SFC's November 2018 statement on the regulatory framework for virtual asset portfolios managers, fund distributors and trading platform operators.

The terms and conditions are intended to set out the principles and requirements (where applicable) with which corporations licensed by the SFC should comply when managing portfolios (or portions of portfolios) that invest in 'virtual assets' and meet the 'de minimis threshold'.

The SFC has indicated that, going forward, these terms and conditions will be imposed on all 'virtual asset fund managers', subject to minor variations and elaborations depending on individual virtual asset fund manager's business model and circumstances.

SFC concludes consultation on enhanced investor compensation regime

The SFC has concluded its April 2018 public consultation on proposed enhancements to the investor compensation regime and related legislative amendments. The key proposals under the consultation are intended to:

- increase the compensation limit from HKD 150,000 to HKD 500,000 per investor per default and covering northbound trading under Mainland China-Hong Kong Stock Connect;
- raise the trigger levels for suspending and reinstating the investor compensation fund levies from HKD 1.4 billion to HKD 3 billion and from HKD 1 billion to HKD 2 billion respectively; and
- empower the SFC to make interim compensation payments in exceptional circumstances where delays may raise or increase systemic concerns.

Based on the feedback received, the SFC has confirmed that:

- there was strong support for the proposals to increase the compensation limit, raise the trigger levels and adjust the investor compensation fund coverage in light of Stock Connect. It has therefore decided to proceed with these proposals accordingly; and
- as for the proposal to empower it to make interim payments in exceptional circumstances, several concerns were raised regarding the detailed arrangements. The SFC has therefore decided not to pursue this proposal for now.

Subject to the legislative process, the SFC expects to implement the changes in early 2020.

Securities and Futures (Reporting of Derivatives Contracts) (Amendment) Regulations 2019

The Singapore Government has gazetted the Securities and Futures (Reporting of Derivatives Contracts) (Amendment) Regulations 2019, which amend the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013.

Amongst other things, the amendment regulations amend the principal regulations to revise provisions relating to:

- exemptions in respect of the trade reporting obligation (including, the deletion of Regulation 10B); and
- the execution or the causing to be executed of derivatives contract to align with section 125(2) of the Securities and Futures Act.

The Securities and Futures (Reporting of Derivatives Contracts) (Amendment) Regulations 2019 took effect on 1 October 2019.

MAS publishes FAQs on Payment Services Act

The Monetary Authority of Singapore (MAS) has published a set of frequently asked questions (FAQs) on the Payment Services Act (PS Act). The FAQs are intended to provide guidance on the licensing and regulation of payment service providers, the oversight of payment systems, and connected matters.

In particular, the FAQs provide guidance on the following topics:

- the rationale and timeline for the introduction of a new payment services regulatory framework;
- the designation framework under the PS Act;
- the licensing framework and licensable activities under the PS Act;
- anti-money laundering and countering the financing of terrorism, user protection and interoperability measures;
- the applicability of requirements relating to technology risk management and cyber security to PS Act licensees; and
- the imposition of activity restrictions on PS Act licensees.

Federal Reserve Board finalizes modifications to risk profile rules

The Federal Reserve Board (FRB) has finalized rules modifying its enhanced prudential standards for domestic and foreign banks to more closely match their risk profiles. The rules generally maintain stringent requirements for the largest and most complex banks while reducing compliance requirements for firms with less risk.

Under the system established by the new rules, banks with USD 100 billion or more in total assets will be sorted into four different categories based on several factors, including asset size, cross-jurisdictional activity, reliance on short-term wholesale funding, nonbank assets, and off-balance sheet exposure. Significant levels of these factors result in risk and complexity to a bank and can in turn bring risk to the financial system and broader economy. Firms in the lowest risk category will have reduced compliance requirements, owing to their smaller risk profiles.

The regulatory capital and liquidity aspects of the rules were jointly developed in conjunction with the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency. The rules will become effective 60 days after publication in the Federal Register.

RECENT CLIFFORD CHANCE BRIEFINGS

The Law Commission's report on electronic signatures – paving the way for digitisation?

The recently published Law Commission report Electronic execution of documents confirms that the existing English law on execution of documents allows for the use of electronic signatures and no change in law is needed. The publication of the report is welcome as interest in electronic signatures has grown over recent years, particularly because, as our daily environment becomes increasingly digitised, there is an expectation that putting pen to paper should not be necessary to sign legally binding documents. It remains to be seen whether the report, which endorses the conclusions of the Law Society 2016 Practice Note on the topic, will encourage more businesses, governments and institutions to use electronic signatures on a widespread basis.

This briefing paper examines the report and its recommendations, highlighting other factors that must be considered when using electronic signatures and looking in more detail at electronic signing (or e-signing) platforms.

https://www.cliffordchance.com/briefings/2019/10/the_law_commissionsreportonelectroni.html

Syndicated loans – can you sign electronically?

The Law Commission has confirmed, in its report Electronic execution of documents, published on 4 September 2019, that electronic signatures can, for the most part, be used to sign documents. In the interests of reducing uncertainty and to increase confidence in the use of electronic signatures, the Law Commission has produced a statement of the law in England and Wales.

This will be of interest to participants in the syndicated loan market, where the digitisation of the documentation is considered to be key to making syndication and trading of loans more efficient.

This briefing paper examines whether electronic signatures really can be used as a viable alternative to handwritten ones when executing syndicated loan agreements, security and intercreditor documents and transfer documents in the loan market.

https://www.cliffordchance.com/briefings/2019/10/syndicated-loans--can-you-sign-electronically-.html

Regulation of insurance intermediaries and authorised insurers by the Hong Kong Insurance Authority – Increased focus on responsible officers and senior management

On 23 September 2019, the Insurance Authority (IA) succeeded the three self-regulatory organisations in the regulation of insurance intermediaries. Insurance intermediaries will now be subject to more stringent standards and

requirements regulating their day-to-day operations and conduct. Review and implementation of improved internal controls and policies, and risk management systems, are clearly a priority. There is some alignment now with the regulation of the banking and securities industries to which reference can be made. Responsible officers and senior management must take notice and gain a clear understanding of the requirements under the Insurance Ordinance (Cap 41) and the expectations of the IA.

This briefing paper discusses the new requirements under the Insurance Authority.

https://www.cliffordchance.com/briefings/2019/10/regulation-of-insurance-intermediaries-and-authorised-insurers-b.html

New regulatory regime for trustees and custodians of Hong Kong public funds

Trustees and custodians of public funds (i.e. funds authorised by the Securities and Futures Commission (SFC) for retail distribution) in Hong Kong are currently not required to be licensed by the SFC and are not subject to any direct on-going regulatory supervision. As part of Hong Kong's asset management strategy to enhance the safe custody regime for public funds, the SFC proposes to regulate intermediaries acting as a trustee or custodian of public funds by introducing a Type 13 regulated activity.

This briefing paper discusses the proposed regime for fund trustees and custodians.

https://www.cliffordchance.com/briefings/2019/10/new-regulatory-regime-for-trustees-and-custodians-of-hong-kong-p.html

Volcker Rule 2.0 – some helpful upgrades and bug fixes – update your Volcker policies and procedures now

On 8 October 2019, the Federal Reserve Board approved the interagency final rule adopting amendments to the regulations implementing Section 13 of the Bank Holding Company Act of 1956, commonly known as the 'Volcker Rule', that provide some much needed regulatory relief from requirements that have proven to be exceedingly complex, burdensome, and challenging to implement for both the regulators and the banking industry. All other US Federal agencies tasked with promulgating regulations implementing the Volcker Rule, i.e., the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, have already approved the final rule, and it will become effective on 1 January 2020.

Banking entities subject to the Volcker Rule are not required to comply with the final rule until 1 January 2021, however, banking entities may elect to comply, in whole or in part, with the final rule prior to the Mandatory Compliance Date, subject to completion of certain technological changes that the agencies need to implement in order to accept metrics compliant with the final rule. As the final rule relaxes the regulatory burden of the existing regulations implementing the Volcker Rule, which were promulgated in 2013, banking entities would be well advised to take steps towards complying with the final rule as of its effective date, including by revising existing Volcker Rule compliance policies and procedures.

This briefing paper discusses the final rule.

https://www.cliffordchance.com/briefings/volcker-rule-2-0--some-helpful-upgrades-and-bug-fixes---update-y0.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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