CORONAVIRUS: INTERNATIONAL REGULATORY UPDATE 16 – 20 MARCH 2020

- **International**
- **European Union**
- **Belgium**
- **Czech Republic**
- **France**
- **Germany**
- **Greece**
- **Italy**
- **Luxembourg**
- **The Netherlands**
- **Poland**
- **Spain**
- **Switzerland**
- **Turkey**
- **United Kingdom**
- **Australia**
- **Hong Kong**
- **Japan**
- **Korea**
- **The Philippines**
- **United States**
- **Recent Clifford Chance briefings on the coronavirus crisis: UK government aid for business, France's state guarantee for bank loans, US SEC staff guidance, and more. Follow this link to the briefings section.**

Clifford Chance's Coronavirus: International Regulatory Update is a weekly digest of significant Coronavirus-related regulatory developments, drawing on our daily content from our Alerter: Finance Industry service. To request a subscription to our Alerter: Finance Industry service, please email Online Services.

To request a subscription to our Alerter: Finance Industry service, please email Online Services.

If you would like to know more about the subjects covered in this publication or our services, please contact:

International Regulatory Group Contacts

Caroline Dawson +44 207006 4355

Owen Lysak +44 207006 2904

Gareth Old +1 212 878 8539

Marc Benzler +49 69 7199 3304

Steven Gatti +1 202 912 5095

Paul Landless +65 6410 2235

Mark Shipman + 852 2826 8992

Donna Wacker +852 2826 3478

International Regulatory Update Editor

Joachim Richter +44 (0)20 7006 2503

To email one of the above, please use firstname.lastname @cliffordchance.com

Clifford Chance LLP,
10 Upper Bank Street,
London. E14 5JJ. UK

International

The G7 leaders have issued a statement on COVID-19, emphasising the need for a strongly coordinated international approach, including to address the economic impact of the outbreak. The leaders called on their central banks to continue to coordinate to provide the necessary monetary measures in order to support economic and financial stability. They also called on their finance ministers to coordinate on a weekly basis on the implementation of those measures and to develop further timely and effective actions.

The Financial Stability Board (FSB) has issued a statement encouraging authorities and financial institutions to make use of the flexibility within existing international standards to provide continued access to funding for market participants and for businesses and households facing temporary difficulties from COVID-19, and to ensure that capital and liquidity resources in the financial system are available where they are needed.

The Bank of Canada, the Bank of England, the Bank of Japan, the European Central Bank, the US Federal Reserve, and the Swiss National Bank have announced a coordinated action to enhance the provision of liquidity via the standing US dollar liquidity swap line arrangements. In particular, they have agreed to lower the pricing on the standing US dollar liquidity swap arrangement by 25 basis points, so that the new rate will be the US dollar overnight index swap (OIS) rate plus 25 basis points. Foreign central banks with regular US dollar liquidity operations also agreed to begin offering US dollars weekly in each jurisdiction with an 84-day maturity, in addition to the one week maturity operations currently offered, in an attempt to increase the swap lines' effectiveness in providing term liquidity. These central banks have since further agreed to increase the frequency of 7-day maturity operations from weekly to daily. These daily operations commenced on 23 March 2020, and will continue at least until the end of April. The central banks will also continue to hold weekly 84-day maturity operations.

The Federal Reserve has also announced the establishment of further temporary US dollar liquidity arrangements with the Reserve Bank of Australia, the Banco Central do Brasil, the Danmarks Nationalbank, the Bank of Korea, the Banco de Mexico, the Norges Bank, the Reserve Bank of New Zealand, the Monetary Authority of Singapore, and the Sveriges Riksbank to help lessen strains in global US dollar funding markets, thereby mitigating the effects of these strains on the supply of credit to households and businesses.

European Union

On 13 March 2020, the EU Commission issued a statement setting out a coordinated European response to counter the economic impact of the virus, in particular allowing for flexibility in the EU state aid framework in order to ensure that possible national support measures to tackle the outbreak can be put in place in a timely manner. The Commission has since adopted a temporary framework to enable Member States to use the full flexibility foreseen under State aid rules to support the economy in the context of the COVID-19 outbreak.

The temporary framework enables Member States to:

- set up schemes to grant up to EUR 800,000 to a company to address its urgent liquidity needs;

- provide State guarantees to ensure banks keep providing loans to the customers who need them;
- grant loans with favourable interest rates to companies to help businesses cover immediate working capital and investment needs;
- to use banks as a channel for support to businesses by making clear that such aid is considered as direct aid to the banks' customers, not to the banks themselves; and
- provide short-term export credit insurance by providing additional flexibility on how to demonstrate that certain countries are not-marketable risks.

The temporary framework imposes conditions on these flexibilities to minimise the impact on competition. The framework will be in place until the end of December 2020. With a view to ensuring legal certainty, the Commission will assess before that date if it needs to be extended.

Meanwhile, the Eurogroup has held a discussion, together with non-euro area members, on the need for a coordinated policy response to help contain the COVID-19 outbreak and mitigate its negative socio-economic effects. It has put together a first set of national and European measures to be taken while setting a framework for further actions to respond to developments and to support economic recovery.

The EU Council has agreed its position on two legislative proposals intended to free up funds to tackle the economic effects of the pandemic. The Coronavirus Response Investment Initiative will make EUR 37 billion of cohesion funds available to Member States to address the consequences of the crisis. About EUR 8 billion of investment liquidity will be released from unspent pre-financing in 2019 for programmes under the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund. The measure will also provide access to EUR 29 billion of structural funding across the EU for 2020. Expenditure on crisis response will be available as of 1 February 2020. The Council also endorsed a proposal to extend the scope of the EU Solidarity Fund to cover public health emergencies. The EU Parliament still needs to agree its position on these new measures.

The European Central Bank (ECB) has decided to launch a new temporary asset purchase programme of private and public sector securities to counter the risks to the monetary policy transmission mechanism and the outlook for the euro area. The new Pandemic Emergency Purchase Programme (PEPP) will have an overall envelope of EUR 750 billion. Purchases will be conducted until the end of 2020 and will include all the asset categories eligible under the existing asset purchase programme (APP). The ECB has also decided to expand the range of eligible assets under the corporate sector purchase programme (CSPP) to non-financial commercial paper, making all commercial papers of sufficient credit quality eligible for purchase under the CSPP, and to ease the collateral standards by adjusting the main risk parameters of the collateral framework. In particular, it will expand the scope of additional credit claims (ACC) to include claims related to the financing of the corporate sector.

The European Securities and Markets Authority (ESMA) has issued a decision temporarily requiring the holders of net short positions in shares traded on an EU regulated market to notify the relevant national competent authority (NCA) if the position reaches or exceeds 0.1% of the issued share capital. ESMA considers that the current circumstances constitute a serious threat to market confidence in the EU, and that the proposed measure is appropriate and proportionate to address the current threat level to EU financial markets. The measure began to apply immediately, requiring net short position holders to notify NCAs of their relevant positions as at the close of the trading session on 16 March 2020.

ESMA has also issued a series of public statements on actions to mitigate the impact of COVID-19 on the EU financial markets regarding:

- the need to ensure coordinated supervisory actions on the application of the Securities Financing Transactions Regulation (SFTR) and, in particular, on the requirements regarding the reporting start date as well as the registration of trade repositories (TRs). ESMA expects competent authorities not to prioritise their supervisory actions towards entities subject to SFT reporting obligations as of 13 April 2020 and until 13 July 2020. ESMA also expects TRs to be registered sufficiently ahead of the next phase of the reporting regime, i.e. 13 July 2020, for credit institutions, investment firms, CCPs and CSDs and relevant third-country entities to start reporting as of this date. ESMA will continue to monitor the implementation by relevant market participants as well as the impact of the relevant measures taken with regard to COVID-19 to ensure alignment of SFT reporting requirements and supervisory practices in the EU;
- the new tick size regime for systematic internalisers. ESMA expects competent authorities not to prioritise their supervisory actions in relation to the new tick-size regime from 26 March, the application date, until 26 June 2020, and to generally apply their risk-based supervisory powers in their day-to-day enforcement of applicable legislation in this area in a proportionate manner; and
- the application by firms of the MiFID2 requirements on the recording of telephone conversations, in which ESMA acknowledges that, considering the exceptional circumstances created by the COVID-19 outbreak, some scenarios may emerge where, notwithstanding steps taken by the firm, the recording of relevant conversations required by MiFID2 may not be practicable. If firms, under these exceptional scenarios, are unable to record voice communications, ESMA expects them to consider what alternative steps they could take to mitigate the risks related to the lack of recording.

The European Banking Authority (EBA) has decided to postpone the EU-wide stress test exercise to 2021 to allow banks to focus on and ensure continuity of their core operations, including support for their customers. For 2020, the EBA will carry out an additional EU-wide transparency exercise in order to provide updated information on banks' exposures and asset quality to market participants.

The European Insurance and Occupational Pensions Authority (EIOPA) has issued a statement on actions to mitigate the impact of COVID-19 on the EU insurance sector, calling on insurance companies to be ready to implement the necessary measures to ensure business continuity and to preserve their capital position in balance with the protection of the insured, following prudent dividend and other distribution policies, including variable remuneration.

The Federation of European Securities Exchanges (FESE) has issued a press release stating that European exchanges will and should continue to remain open at all times to ensure safety, integrity and fairness in a secure and transparent manner. FESE argues that closing the markets would not change the underlying cause of the market volatility, remove transparency of investor sentiment and reduce investors' access to their money, all of which would compound current market anxiety and result in a negative decline in investor outcomes.

Belgium

The Belgian Financial Services and Markets Authority (FSMA) has announced the prohibition of short selling including any transaction which creates, or relates to, a financial instrument and the effect or one of the effects of that transaction is to confer a financial advantage on the natural or legal person in the event of a decrease in the price or value of another financial instrument, taking effect on 18 March 2020 and lasting until 17 April 2020.

Czech Republic

The Czech National Bank (CNB) has revised its May 2019 decision to increase the countercyclical capital buffer rate for exposures located in the Czech Republic to 2% with effect from 1 July 2020. This decision means that banks will continue to maintain the currently applicable rate of this buffer at 1.75%. The CNB does not at present consider it necessary to cut the countercyclical capital buffer rate below the current level of 1.75%. At the same time, however, the CNB is ready to release the buffer immediately and fully were the banking sector's unexpected losses to rise, in order to support banks' ability to provide credit to non-financial corporations and households without interruption. Due to high uncertainty regarding further economic developments, the CNB expects in the current situation that banks will, with immediate effect and until both acute and longer-term consequences of the new coronavirus epidemic fade away, refrain from any dividend payouts or any other steps that might jeopardise individual banks' resilience.

France

In France, an emergency bill to deal with the pandemic has been presented to the Council of Ministers. The draft bill provides for a state guarantee for new loans granted by credit institutions and financing companies. The purpose of the guarantee is to meet the financing needs of French companies following the emergency health measures taken by the authorities. The guarantee will be of a total maximum amount of EUR 300 billion (in principal, interests and incidental costs). It will apply only to loans to non-financial companies registered with a trade and company registry in France granted between 16 March 2020 and 31 December 2020 and subject to a set of conditions to be laid down by order of the Minister of the Economy and Finance. The lending institution shall be a credit institution, which includes EU credit institutions passported into France, as well as French branches of third country banks licensed by the French Autorité de control prudentiel et de resolution (ACPR), or a financing company (société de financement) licensed by the ACPR. Article 4 of the draft bill provides for certain terms of the state guarantee, to be supplemented by the terms and conditions, including that:

- the guarantee shall be remunerated;
- it cannot cover the full principal amount of the loans benefiting from such guarantee;
- it is acquired only after a specified cooling-off period; and

- it cannot benefit insolvent businesses.

On 17 March, the French Autorité des Marchés Financiers (AMF) imposed a ban on the short-selling of 92 stocks until the end of the day's trading. It has since decided to ban the creation or increase of net short positions in shares admitted to trading on a trading venue in France and under the jurisdiction of the AMF. The Chairman of the AMF decided this ban pursuant to Article 20 of the SSR, for an initial period of 20 days and the AMF Board has already decided to extend this period for a further 10 days (from 00:00 hours on 18 March 2020 until midnight on 16 April 2020). The AMF has also published a document providing answers to practical questions regarding the measure.

The AMF has also issued a press release underlining certain disclosure rules that apply to listed companies in the context of the coronavirus pandemic. The AMF notes that the outbreak has already reduced production levels, consumption, transportation and travel, and that financial markets are therefore paying close attention to listed companies and their transparency over their exposure to the effects of the pandemic. The AMF requires that, in accordance with the Market Abuse Regulation, any knowledge of the epidemic's significant impact on the activity, performance or outlook is disclosed without delay and that such impact is re-assessed periodically. The AMF clarifies the mode of communication and notably recommends that issuers communicate newly sensitive information (e.g. geographical areas of activity, production, outsourcing, supply, employees concerned) when presenting their annual results.

Germany

The German Federal Ministry of Justice and Consumer Protection (BMJV) has announced plans to suspend the obligation to file for insolvency in order to protect companies that encounter financial difficulties due to the coronavirus crisis. This measure is intended to accompany the financial aid package that has already been adopted by the German Government.

German insolvency law essentially requires the legal representatives of a company to file for insolvency within three weeks after the occurrence of an insolvency event (illiquidity or over-indebtedness). However, for organisational and administrative reasons, the BMJV does not regard this three week period as sufficient to ensure that funds from the financial aid package can always be made available in time to affected companies.

To avoid companies having to file for insolvency solely because applications for public financial aid cannot be processed or restructuring negotiations cannot be finalised within the three week period under the current extraordinary circumstances, the obligation to file for insolvency is to be suspended for a period until 30 September 2020 by way of statutory law. The suspension is to apply where the insolvency event is caused by the impact of the coronavirus and there is a justified expectation that the business can be successfully reorganised. In addition, the BMJV is to be authorised to further extend the suspension by way of administrative decree for a period up to 31 March 2021.

Meanwhile, the German Federal Financial Supervisory Authority (BaFin) has:

- granted relief from the requirement for auditors to conduct onsite inspections when reviewing and auditing firms' compliance with regulatory laws;

- published a new FAQ on the effects of annuity suspensions of up to two months (60 days) due to the coronavirus crisis on the credit portfolio and solvency of banks and whether this leads to an increase in capital requirements; and
- issued a statement noting that it cannot grant supervised institutions a dispensation from compliance with the rules of conduct under Section 11 of the German Securities Trading Act (WpHG) and other information obligations towards clients. However, if violations of such obligations should arise, such as the electronic recording of telephone conversations in accordance with Section 83 (3) WpHG or the timely provision of a declaration of suitability and ex-ante cost disclosures, BaFin will exercise its discretion until further notice. This applies until the respective institution takes suitable alternative measures to close the documentation/information gap resulting from the violation and informs the client in a comprehensible manner.

Greece

The Hellenic Capital Market Commission (HCMC) has decided to prohibit short sales and transactions other than short sales which create, or increase the net short positions in shares admitted to trading on the regulated market of the Athens Stock Exchange, for which the competent authority is the HCMC, irrespective of the venue where the transaction is executed. It has also published a set of FAQs on the ban. The measure will last until 24 April 2020.

Italy

The Italian Commissione Nazionale per le Società e la Borsa (Consob) has introduced a prohibition of net short positions which applies to all shares traded on the Italian regulated market. The ban will apply for three months. Consob has clarified that investors holding a net short position in a restricted share through expiring derivatives are allowed to roll it forward, on condition that by doing so their position is not increased.

In addition, Consob has decided to introduce a temporary regime of enhanced transparency for shares held by investors in the Italian companies with the largest capitalisation and widespread shareholding listed on the Stock Exchange Market.

Luxembourg

A new bill introducing an aid scheme for small and medium-sized enterprises (SMEs) in temporary financial difficulties has been lodged with the Luxembourg Parliament.

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued a communiqué regarding the coronavirus pandemic. The CSSF notes that supervised entities have started implementing their business continuity plans, taking into account the CSSF guidelines. In this context, the CSSF is asking supervised entities to be vigilant as regards cybersecurity and fraud risks. The CSSF emphasises that it is refocusing its interventions so as to maintain those which are key for financial stability and the protection of investors and consumers. The CSSF intends to continue to support the financial sector, notably by way of issuing press releases and Q&As which will be updated where necessary. The CSSF further notes that it is coordinating its activity with the ECB, ESMA and the EBA. Finally, the communiqué sets out the measures taken by the CSSF internally (remote working, restrictions regarding meeting and conference attendance, setting up of a daily internal coordination committee etc.).

The CSSF has also issued a new set of FAQs regarding the COVID-19 pandemic. Amongst other things, these clarify that the CSSF's recommendation to favour working from home in the framework of a business continuity plan not only applies to financial institutions, but to all entities under its supervision, including support professionals of the financial sector, subject to satisfactory IT security conditions. Prior CSSF authorisation to implement these measures is not required.

The Luxembourg insurance sector supervisory authority (CAA) has informed the public that its offices will be closed to the public until further notice. The CAA will remain operational with reduced staff, but due to the measures taken postal mail received by the CAA can be opened only with delay. The CAA has therefore asked that a scanned copy of any document sent via postal mail to the CAA is addressed electronically to caa@caa.lu or directly to the CAA person in charge of the matter (in case of an ongoing matter).

The Netherlands

The Dutch Central Bank (DNB) has decided to lower the systemic buffer from its current 3% of global risk-weighted exposures to 2.5% for ING, 2% for Rabobank and 1.5% for ABN Amro and to postpone the introduction of a floor for mortgage loan risk weighting.

Poland

The Polish government is preparing a support package for businesses and the economy in light of the pandemic. The package will have five pillars: employee safety, enterprise financing, healthcare, financial system reinforcement and a public investments programme. As regards the pillar on enterprise financing, the support package is to cover, amongst other things, credit guarantees, the financing of leasing for transport firms, and microloans of up to PLN 5,000. In the case of the pillar concerning the financial system, the package is to ensure the security of the operation of the financial system, including deposits, payments and withdrawals.

The Monetary Policy Council, a body of the National Bank of Poland (NBP), has decided to decrease the NBP reference rate by 0.5 percentage points to 1.00%. The Council has set the following NBP interest rates:

- lombard rate 1.50%;
- deposit rate 0.50%;
- promissory note rediscount rate 1.05%; and
- promissory note discount rate 1.10%.

The mandatory reserve rate has been lowered from 3.5% to 0.5%, and the interest on funds held in the form of a mandatory reserve has increased from 0.5% to the NBP reference rate.

In addition, the NBP has announced that it will be entering into repo transactions to ensure liquidity in the banking sector. The NBP will also apply quantitative easing – it will be buying treasury bonds on the secondary market on a large scale as part of the structural operations of the open market. This is intended further to contribute to maintaining the liquidity of the secondary market in treasury bonds. The NBP is to offer promissory note credit facilities to banks, which is intended to facilitate the refinancing of new facilities banks are granting to economic entities.

The Minister of Finance has issued an ordinance abolishing the requirement to apply a 3% systemic risk buffer.

The Polish financial supervision authority (KNF) has announced that a package of measures is being developed to further strengthen the resilience of the banking sector and the capacity to finance the economy in connection with the pandemic. The package includes action with regard to reserves and classification of credit exposures, action with regard to capital buffers, action with regard to liquidity norms, action concerning ongoing supervision, and action to implement legislative changes.

The Polish Bank Association has published a bulletin in which it sets out the actions banks will take in connection with the pandemic.

The most important ones are as follows:

- facilitating, to the extent permitted by current provisions of law, the deferral (suspension) of repayment of instalments of principal and interest or instalments of principal for up to three months, and automatically extending, by the same period, the total period of repayment of a facility, on condition that the period of the security for repayment of the facility is extended (banks will not charge fees or commission for accepting and considering applications to suspend repayments of instalments of principal and interest or instalments of principal);
- granting assistance to businesses which as at the end of 2019 were creditworthy, have been affected by the effects of the COVID-19 coronavirus and for which in the coming months the time limit for renewing existing financing expires, in the form of renewal of financing, on the customer's application, for up to six months; and
- willingness to launch a process to enable their customers that are businesses to access short-term credit to stabilise the financial condition of the bank's customers which have been affected by the effects of the COVID-19 pandemic.

Furthermore, banks that have leasing or factoring firms in their capital group will take action to defer repayments payable by customers, on terms similar to those applied by banks for the deferral of repayments of facilities.

Spain

In Spain, the Council of Ministers has approved a Royal Decree-Law of extraordinary urgent measures to counter the economic and social impact of COVID-19. This new legislation follows the initiatives implemented under the plan of exceptional measures agreed last week. The President has announced that the Government will free up EUR 200 billion to tackle the consequences of coronavirus, EUR 117 billion of which will be wholly public funding with the remainder being completed by freeing up private resources.

The Comisión Nacional del Mercado de Valores (CNMV) has announced a month-long ban on entering into transactions in securities and financial instruments which entail the creation or increase of a net short position in shares admitted to trading on Spanish trading venues.

Switzerland

The Swiss Financial Market Supervisory Authority FINMA has issued a statement noting that the operations of financial institutions and the financial market infrastructure in Switzerland are continuing to function well and that the institutions are also well equipped to deal with extreme stress scenarios.

The Swiss National Bank (SNB) has announced that it will be maintaining an expansionary monetary policy, raising the negative interest exemption threshold, and examining additional steps.

Turkey

The Central Bank of the Republic of Turkey has announced a series of measures intended to:

- enhance predictability by providing banks with flexibility in Turkish lira and foreign exchange liquidity management;
- offer targeted additional liquidity facilities to banks to secure uninterrupted credit flow to the corporate sector; and
- boost the cash flow of exporting firms through arrangements on rediscount credits.

It has also decided to reduce the policy rate (one-week repo auction rate) from 10.75% to 9.75%.

Borsa Istanbul has announced a number of changes in price limits in its equity and derivatives markets. In particular, in the equities market:

- the price margin (for determining price limits) of the shares traded in BIST Stars and BIST Main Market has been reduced to 10%;
- the price change triggering the circuit breaker in BIST Stars and BIST Main Market has been reduced to 5%;
- the circuit breaker call period will be 30 minutes in BIST Stars and BIST Main Markets;
- the circuit breaker uncross period time will remain as 2 minutes in BIST Stars and BIST Main Markets;
- the price margin (for determining price limits) in exchange traded funds, real estate certificates, real estate investment funds and venture capital investment funds has been reduced from 20% to 10%; and
- the price margin in rights coupons will remain as 50%.

In the derivatives market, the daily price limits of single stock and equity index (BIST30, BIST Bank, BIST Industrial, BIST Liquid Bank and BIST Liquid 10 Ex Banks) futures contracts has been decreased to 10%.

United Kingdom

The UK Government has announced that it will:

- provide support for liquidity amongst large firms, with HM Treasury and the Bank of England launching a COVID Corporate Financing Facility (CCFF) to provide additional help to firms to bridge through COVID 19-related disruption to their cash flows; and

- increase the amount businesses can borrow through the Coronavirus Business Interruption Loan Scheme from GBP 1.2 million to GBP 5 million, and ensuring businesses can access the first 6 months of that finance interest free, as the Government will cover the first 6 months of interest payments.

The Government has also published a new Coronavirus Bill setting out wide-ranging emergency powers for the next two years. Although the Bill does not include any specific powers for financial markets, the Government has indicated that the Bill will ensure that the Treasury can transact its business at all times, by making it possible for a single commissioner or a single Treasury minister to sign instruments and act on behalf of the commissioners, during a COVID-19 emergency period. Under current rules, where any instrument or act is required to be signed by the Commissioners of Her Majesty's Treasury, it must be signed by two or more of the commissioners. Second reading and all stages in the Commons are scheduled for 24 March, with the Government hoping to have the Bill completed by 30 March. The Government has also published a document providing information on how individuals and businesses can access government financial support if they are experiencing financial difficulties because of COVID-19.

The Bank of England's Monetary Policy Committee has held a special meeting and voted to cut the Bank rate to 0.1% and increase its holdings of UK government and corporate bonds by GBP 200 billion. The Bank has also published a market notice providing further details on the joint HM Treasury and Bank of England Covid Corporate Financing Facility. The CCFF will provide funding to businesses by purchasing commercial paper of up to one-year maturity, issued by firms making a material contribution to the UK economy. The scheme will operate for at least 12 months.

The Bank of England and Prudential Regulation Authority (PRA) have announced a number of further measures aimed at alleviating operational burdens on PRA-regulated firms and Bank-regulated financial market infrastructures (FMIs). The measures include:

- the cancellation of the Bank's 2020 annual stress test – the annual cyclical scenario (ACS) – to help lenders focus on meeting the needs of UK households and businesses via the continuing provision of credit;
- amendments to the biennial exploratory scenario (BES) timetable;
- a Bank statement on IFRS 9 and Covid-19, which reminds firms that forward-looking information used to incorporate the impact of Covid-19 on borrowers into the expected credit loss (ECL) estimate needs to be both reasonable and supportable for the purposes of IFRS9; and
- the postponement of the joint Bank/Financial Conduct Authority (FCA) survey into open-ended funds until further notice, with a subsequent impact on the FCA consultation that would have followed.

With respect to supervisory engagement with firms and FMIs, the Bank and PRA have announced the following:

- supervisory programmes for individual firms and FMIs – Bank and PRA supervisors will review their work plans so that non-critical data requests, on-site visits and deadlines can be postponed, where appropriate;

- Senior Manager Function (SMF) applications – the PRA intends to review its approach for considering and processing applications with a view to reducing the burdens involved during current events;
- operational resilience policy development – the deadline for responses to the current Bank and PRA consultations on 'Building Operational Resilience: Impact tolerances for important business services' and the PRA consultation on 'Outsourcing and third party risk management' will be extended to 1 October 2020;
- internal ratings based (IRB) models – implementation of the proposals in CP21/19 related to the definition of default, probability of default, and loss given default estimation for banks which use the IRB (credit risk modelling) framework will be delayed by one year to 1 January 2022. The move to 'hybrid' IRB models will also be delayed until the same date, 1 January 2022;
- Financial Services Regulatory Initiatives Forum (RIF) – the Bank, PRA, FCA and other authorities have agreed that the first meeting of the RIF will take place as soon as possible in April 2020 to assist co-ordination of regulatory initiatives; and
- Basel 3.1 – the PRA acknowledges that the existing Basel timetable may prove to be challenging, and is coordinating internationally to ensure that implementation will happen alongside other major jurisdictions.

Meanwhile the Financial Conduct Authority (FCA) has issued:

- a statement providing information for firms on its coronavirus response. Amongst other things, the FCA is extending the closing date for responses to its open consultation papers and calls for input until 1 October 2020 and rescheduling most other planned work. It has also emphasised that it expects firms to manage their financial resilience and actively manage their liquidity, and to report to the FCA immediately if they believe they will be in difficulty;
- a special edition of its Primary Market Bulletin providing commentary for issuers and market participants in light of the pandemic, covering topics such as ongoing disclosure under the Market Abuse Regulation, market volatility and suspension of trading, the importance of transaction notifications, delays in corporate reporting, shareholder meetings and corporate transactions and admissions;
- a statement on short selling bans and reporting, which notes that the FCA has never initiated a ban under the powers given to it by the Short Selling Regulation (SSR) and emphasises that, although it cannot rule out that this will be appropriate in particular circumstances, it sets a high bar on imposing any bans;
- a webpage setting out its expectations for general insurance firms and providing information for consumers about what they should see from their insurance provider during the coronavirus pandemic. The FCA expects firms to consider the needs of their customers and show flexibility in their treatment of them. It has emphasised that it would not expect to see customers' ability to claim impacted by circumstances over which they have little control; and

- a statement on property fund suspensions, noting that certain standing independent valuers have determined that there is currently material uncertainty over the value of commercial real estate (CRE) and that in such situations, a fair and reasonable valuation of CRE funds cannot be established. As a result, some managers of open-ended CRE funds have temporarily suspended dealing in units of these funds.

Australia

The Australian Securities & Investments Commission (ASIC) has taken steps intended to ensure equity market resiliency by issuing directions under the ASIC Market Integrity Rules to a number of large equity market participants, requiring those participants to limit the number of trades executed each day until further notice. These directions require those firms to reduce their number of executed trades by up to 25% from the levels executed on Friday 13 March. The Australian Council of Financial Regulators has also issued a statement indicating, amongst other things, that the Reserve Bank of Australia (RBA) will be conducting one-month and three-month repurchase (repo) operations until further notice. In addition, it will conduct repo operations of six-months maturity or longer at least weekly, as long as market conditions warrant.

Hong Kong

The Hong Kong Monetary Authority (HKMA) has announced that the countercyclical capital buffer for Hong Kong is being reduced from 2.0% to 1.0% with immediate effect.

The Securities and Futures Commission (SFC) and the Stock Exchange of Hong Kong Limited have released further guidance for listed issuers with 31 December financial year end on the publication of their preliminary results and annual reports in light of the COVID-19 pandemic.

Japan

The Bank of Japan (BOJ) has decided to announce measures to ensure smooth corporate financing and maintain stability in financial markets, thereby preventing firms' and households' sentiment from deteriorating. In particular, it has decided to:

- establish the 'principal terms and conditions of the special funds-supplying operations to facilitate corporate financing regarding COVID-19'; and
- amend the 'principal terms and conditions of complementary deposit facility'.

The Japan Exchange Group (JPX) has released a list of measures that it has taken so far in response to the COVID-19 outbreak. One of them is a notice to listed companies about how to disclose coronavirus effects on their businesses, which states that in order to avoid price formation based on inaccurate and unclear information, the highest priority should be given to the prompt and positive disclosure of information on the impact of the virus, and highlighting that it is difficult to make reasonable estimates of business forecasts when disclosing financial results due to the impact of the new virus. In addition, JPX is allowing listed companies to push back the release of financial results to a later date, but will require them to disclose such postponements.

Korea

The Korean Financial Services Commission (FSC) has announced its decision to impose a ban on stock short-selling in the Korea Composite Stock Price Index (KOSPI), the Korean Securities Dealers Automated Quotations (KOSDAQ) and the Korea New Exchange (KONEX) markets for a period of six months, i.e. from 16 March 2020 to 15 September 2020.

The Philippines

The Philippine authorities have announced that there will be no trading at the Philippine Stock Exchange and no clearing and settlement at the Securities Clearing Corporation of the Philippines until further notice to ensure the safety of employees and traders. The Philippine clearing and settlement system PDS has suspended all PDS Fixed Income Trading, Clearing and Settlement, Payment and Transfer Operations (PDDTS and RTS), as well as depository operations.

United States

The Federal Reserve Board has announced the establishment of a Commercial Paper Funding Facility (CPFF) to support the flow of credit to households and businesses. It has also expanded its program of support for the flow of credit to the economy by taking steps to enhance the liquidity and functioning of crucial state and municipal money markets. Through the Money Market Mutual Fund Liquidity Facility (MMLF), the Federal Reserve Bank of Boston will now be able to make loans available to eligible financial institutions secured by certain high-quality assets purchased from single state and other tax-exempt municipal money market mutual funds. The US federal bank regulatory agencies have announced an interim final rule to ensure that financial institutions will be able to effectively use the liquidity facility.

The US Securities and Exchange Commission (SEC) has issued a press release providing a summary of operational initiatives, market-focused actions, guidance and targeted assistance and relief, investor protection efforts and other work of the agency in response to the effects of COVID-19.

The Commodity Futures Trading Commission (CFTC) Division of Swap Dealer and Intermediary Oversight (DSIO) has issued a number of no-action letters providing temporary, targeted relief to futures commission merchants, introducing brokers, swap dealers, retail foreign exchange dealers, floor brokers, and other market participants in response to the COVID-19 pandemic. A second wave of no-action letters provides relief to swap execution facilities (SEFs) and certain designated contract markets (DCMs). The CFTC acknowledges that the spread of coronavirus has caused compliance with certain CFTC requirements to be particularly challenging or impossible because of displacement of registrant personnel from their normal business sites due to social distancing and other measures.

The National Futures Association (NFA) has issued Notice to Members I-20-13 detailing the actions it has taken in response to the pandemic, providing similar relief from NFA requirements for members that are in compliance with the terms of the CFTC's no-action relief. Additionally, the NFA is providing Forex Dealer Members with relief from the filing deadline for Chief Compliance Officer (CCO) annual reports.

RECENT CLIFFORD CHANCE BRIEFINGS

Coronavirus – Investment grade lending – immediate financing considerations for borrowers, underwriters and lenders

The global escalation of the coronavirus (COVID-19) pandemic is likely to lead to an increased demand for working capital, even amongst investment grade corporate borrowers. Whilst the prevailing hope and expectation is that the current dislocation is temporary, interim liquidity needs may pre-empt new credit lines or utilisation of undrawn lines.

In addition the current climate may create potential disruption to routine reporting by borrowers and lead to enhanced information requests from lenders. Borrowers will want to carefully consider the impact of potential rating changes and the timing of any refinancings in terms of pricing more generally. Finally borrowers will want to carefully consider the impact of potential breaches and events of default, so as to approach their relationship lenders for any required consent or amendment well in advance of difficulty arising.

This briefing paper looks at the challenges facing borrowers.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--investment-grade-lending--immediate-financing-consi.html

Coronavirus – Leveraged Finance – Immediate financing considerations for financial sponsors, underwriters and debt investors

The coronavirus (COVID-19) pandemic has coincided with a critical time in the financial reporting cycle for many financial sponsor-owned businesses.

For those with a 31 December financial year-end, their annual audited financial statements will be due within the next few weeks, but may already be regarded as out of date as events have escalated.

This briefing paper looks at some of the key financing considerations for financial sponsors and their investee companies, management teams, underwriting lenders and debt investors.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--leveraged-finance---immediate-financing-considerati.html

Coronavirus – Infrastructure finance – Immediate financing considerations for infrastructure investors and funders

The global escalation of the coronavirus (COVID-19) pandemic has come at a critical time in the financial reporting cycle for many infrastructure investor-owned businesses.

This briefing paper considers some of the key financing issues, looking at liquidity, yield and capital management tools, such as debt buy-backs, as well as touching on issues for businesses further down the stress/distress curve.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--infrastructure-finance---immediate-financing-consid.html

Coronavirus – Impact on European residential mortgage securitisation markets

The coronavirus (COVID-19) pandemic has had immediate wide-ranging effects on the capital markets. Debt and equity capital markets have been impacted by falling prices, high volatility and a lack of certainty.

COVID-19 presents a particular set of risks to investors in residential mortgage-backed transactions and – in the light of recent central bank measures – some unique and compelling opportunities as a source of alternative funding.

This briefing paper looks at the various risks and opportunities.

https://www.cliffordchance.com/briefings/2020/03/coronavirus-impact-on-european-residential-mortgage-securitisati.html

Coronavirus – currency risk hedging and the impacts on liquidity in the Czech Republic

Current fluctuations on currency markets can adversely affect the liquidity of companies that have entered into derivative transactions with banks and other financial institutions in order to hedge themselves against the risk of foreign exchange movements.

These derivative transactions are usually governed by any of the master agreements prepared by professional associations, such as ISDA or the Czech Banking Association. As a standard practice in entering into master agreements, financial institutions insist that the master agreements also contain a provision requiring the client (i.e., the company wishing to be hedged against risks) to provide the particular financial institution with collateral if the financial institution's exposure against the client under the derivative transactions entered into with the client exceeds an agreed threshold. The financial institution's exposure against the client then depends, very simply put, on the loss or profit generated by the financial institution should the transaction be terminated on the calculation date of the exposure. Market conditions on the calculation date can differ quite substantially from those prevailing on the date when the derivative transaction was entered into.

This briefing paper discusses the issues involved in these types of transactions.

https://www.cliffordchance.com/briefings/2020/03/coronavirus-_-currency-risk-hedging-and-the-impacts-on-liquidity.html

France to guarantee bank loans further to the Coronavirus crisis

As coronavirus (COVID-19) spreads, France has announced several measures aimed at countering the economic repercussions of the epidemic. One of these measures is a guarantee to be granted by the French state for new bank loans for a total amount of EUR 300 billion.

This briefing paper discusses the guarantee.

https://www.cliffordchance.com/briefings/2020/03/france-to-guarantee-bank-loans-further-to-the-coronavirus-crisis.html

The impact of coronavirus – economic measures by the Dutch government for companies facing financial difficulties

On 12 March 2020 the Dutch government, alongside other governments throughout the EU, announced a number of economic measures to enhance the prospects of Dutch companies surviving the financial consequences of the coronavirus. In our briefing of 16 March we explained these measures further. On 17 March 2020 an unprecedented additional set of measures was announced.

This briefing paper provides an update on these measures relevant for midsized and large Dutch companies. Unless indicated otherwise, these measures are in addition to the measures announced on 12 March 2020.

https://www.cliffordchance.com/briefings/2020/03/update-briefing---the-impact-of-coronavirus--economic-measures-b.html

Coronavirus – moratorium on mortgage payments

Spanish Royal Decree-Law 8/2020, of 17 March, on urgent extraordinary measures to address the economic and social impact of COVID-19 was published in the Official State Gazette on 18 March 2020. The measures include the application of a moratorium on the payment of mortgage loans for those debtors considered 'economically vulnerable'.

This briefing paper discusses the moratorium.

https://www.cliffordchance.com/briefings/2020/03/moratorium-on-mortgage-payments.html

Coronavirus – new barriers to foreign direct investment in Spain

Spanish Royal Decree-Law 8/2020, of 17 March, on urgent extraordinary measures to address the economic and social impact of COVID-19 (RDL) has suspended, effective as of 18 March 2020, the regime on the deregulation of foreign direct investment in Spain, indefinitely, until the Spanish Government decides otherwise. It has added a new Article 7 bis for this purpose and has established new rules on sanctions in Articles 8 and 12 of Act 19/2003, of 4 July, on the legal regime governing the movement of capital and financial transactions with foreign countries. The RDL is based in this regard on Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the European Union, and reproduces some of its provisions practically word for word.

This briefing paper discusses the new barriers to foreign direct investment in Spain.

https://www.cliffordchance.com/briefings/2020/03/new-barriers-to-foreign-direct-investment-in-spain.html

Coronavirus – UK Government announces aid for business

The UK Government has announced a GBP 350 billion package of measures to support businesses affected by the coronavirus outbreak. The package includes subsidised loans, support for the retail, hospitality and leisure businesses and grants for small businesses.

Before it is implemented, the aid package will need to be cleared by the European Commission. Clearance is expected to be swift, but could result in changes.

This briefing paper discusses the UK Government's aid package.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--uk-government-announces-aid-for-business.html

Coronavirus – SEC staff guidance and conditional regulatory relief for affected US public companies

On 13 March 2020, the staff of the US Securities and Exchange Commission (SEC) provided guidance to US public companies affected by the coronavirus pandemic regarding changing the time, date or location of annual shareholder meetings. In addition, on 4 March 2020, the SEC issued an order providing conditional regulatory relief to extend certain filing deadlines for companies unable to make timely filings due to COVID-19 during March and April 2020.

This briefing paper provides an overview of the regulatory relief provided by the staff guidance and exemptive order.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--sec-staff-guidance-and-conditional-regulatory-relie.html

CLIFFORD

CHANCE