CORONAVIRUS: INTERNATIONAL REGULATORY UPDATE 23 – 27 MARCH 2020

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International

The G20 Leaders have held an extraordinary videoconference on COVID-19 and issued a statement emphasising the need for a global response. Amongst other things, the leaders have called on their Finance Ministers and Central Bank Governors to coordinate on a regular basis to develop a G20 action plan in response to COVID-19 and work closely with international organisations to deliver the appropriate international financial assistance. They expressed their support for the extraordinary measures taken by central banks to support the flow of credit to households and businesses, promote financial stability, and enhance liquidity in global markets and welcomed the extension of swap lines that central banks have undertaken. They also support regulatory and supervisory measures taken to ensure that the financial system continues to support the economy and welcome the Financial Stability Board's announced coordination of such measures.

The Basel Committee on Banking Supervision has also held a conference call to discuss the impact of the worldwide spread of COVID-19 on the global banking system. It is coordinating with the Financial Stability Board and other standard setting bodies on cross-cutting financial system issues. In the immediate term, the Committee has suspended consultation on all policy initiatives and postponed all outstanding jurisdictional assessments planned in 2020 under its Regulatory Consistency Assessment Programme, as well as announcing the following changes to the implementation timeline of the outstanding Basel III standards:

- the implementation date of the Basel III standards finalised in December 2017 has been deferred by one year to 1 January 2023. The accompanying transitional arrangements for the output floor have also been extended by one year to 1 January 2028;
- the implementation date of the revised market risk framework finalised in January 2019 has been deferred by one year to 1 January 2023; and
- the implementation date of the revised Pillar 3 disclosure requirements finalised in December 2018 has been deferred by one year to 1 January 2023.

These measures are intended to provide additional operational capacity for banks and supervisors to respond to the immediate financial stability priorities resulting from the impact of COVID-19 on the global banking system.

The International Organization of Securities Commissions (IOSCO) has issued a statement highlighting that its members are cooperating closely on their responses to the disruption in capital markets resulting from the macroeconomic impact of COVID-19 on the global economy.

European Union

The EU Commission has approved:

- three French State aid schemes to support the French economy in the context of the outbreak;
- two German State aid schemes to support the German economy;
- four Portuguese guarantee schemes for small and medium-sized enterprises (SMEs) and midcaps affected by the outbreak;

- a DKK 1 billion (approx. EUR 130 million) Danish guarantee scheme for SMEs;
- Luxembourg's EUR 300 million scheme to support companies affected by the coronavirus outbreak;
- Latvian loan guarantee and subsidised loan schemes for companies affected by coronavirus outbreak;
- a German State aid scheme to support the German economy;
- two Spanish guarantee schemes for companies and self-employed workers;
- two separate UK State aid schemes to support small and medium-sized enterprises (SMEs);
- an Italian State guarantee supporting a debt moratorium from banks to small and medium-sized enterprises (SMEs) affected by the coronavirus outbreak; and
- a DKK 10 billion (approximately EUR 1.3 billion) Danish scheme that partially compensates the self-employed for the losses of turnover suffered due to the coronavirus outbreak.

The schemes were approved under the State aid temporary framework to support the economy in the context of the COVID-19 outbreak adopted by the Commission on 19 March 2020.

The EU Commission has also issued guidance to Member States concerning foreign direct investment and free movement of capital from third countries, and the protection of Europe's strategic assets, which is intended to ensure an EU-wide approach to foreign investment screening in a time of public health crisis and related economic vulnerability. The aim is to preserve EU companies and critical assets.

Under existing EU rules, Member States are empowered to screen foreign direct investments (FDI) from non-EU countries on grounds of security or public order. National FDI screening mechanisms are currently in place in 14 Member States. The Commission has called on these Member States to make full use of tools available to them under EU and national law to prevent capital flows from non-EU countries that could undermine Europe's security or public order. It has called on the remaining Member States to set up screening mechanisms and in the meantime to consider all options, in compliance with EU law and international obligations, to address potential cases where the acquisition or control by a foreign investor of a particular business, infrastructure or technology would create a risk to security or public order in the EU.

The European Central Bank (ECB) has announced further measures intended to ensure that its directly supervised banks can continue to fulfil their role to fund households and corporations, introducing supervisory flexibility regarding the treatment of non-performing loans (NPLs), in particular to allow banks to fully benefit from guarantees and moratoriums put in place by public authorities. The ECB is also encouraging banks to avoid excessive procyclical effects when applying the IFRS 9 international accounting standard. It has published a set of FAQs providing further details on the supervisory measures it has taken.

The ECB's Decision (EU) 2020/440 of 24 March 2020 on a temporary pandemic emergency purchase programme (PEPP) with an overall envelope of EUR 750 billion has been published in the Official Journal. In order to be eligible for purchase under the PEPP, marketable debt securities shall have a minimum remaining maturity of 70 days and a maximum remaining maturity of 30 years at the time of their purchase by the relevant Eurosystem central bank.

The European Securities and Markets Authority (ESMA) has announced that it is extending the response date for all ongoing consultations with a closing date on, or after, 16 March by four weeks. This announcement concerns the consultations on:

- the guidelines on internal controls for CRAs;
- the MiFIR report on SI;
- the guidelines on securitisation repository data completeness and consistency thresholds;
- the MiFID2/MiFIR review report on the transparency regime for equity;
- the draft regulatory technical standards under the Benchmarks Regulation;
- the draft technical standards on the provision of investment services and activities in the EU by third-country firms under MiFID2 and MiFIR; and
- the MiFIR review report on transparency for non-equity TOD.

ESMA has also issued:

- a public statement on the implications of the pandemic on the deadlines for publishing financial reports which apply to listed issuers under the Transparency Directive. The statement acknowledges the difficulties encountered by issuers in preparing financial reports and the challenges faced by auditors in carrying out timely audits of accounts due to the COVID-19 pandemic, which may impair the ability of issuers to publish within the legislative deadlines. On that basis, the statement recommends national competent authorities (NCAs) apply forbearance powers towards issuers who need to delay publication of financial reports beyond the statutory deadline. At the same time, the statement underlines that issuers should keep their investors informed of the expected publication delay and that requirements under the Market Abuse Regulation still apply;
- a revised version of its 19 March public statement on coordinated supervisory actions on the application of the Securities Financing Transactions Regulation (SFTR). The revised statement clarifies that SFTs concluded between 13 April 2020 and 13 July 2020 and SFTs subject to backloading under SFTR also fall within those issues in respect of which competent authorities are not expected to prioritise in their supervisory actions towards counterparties, entities responsible for reporting and investment firms in respect of their reporting obligations under SFTR or MiFIR and to generally apply their risk-based approach in the exercise of supervisory powers in their day-to-day enforcement of applicable legislation in this area in a proportionate manner; and
- a public statement on the accounting implications of the economic support and relief measures adopted by EU Member States in response to the COVID-19 outbreak, which include moratoria on repayment of loans and

have an impact on the calculation of expected credit losses in accordance with IFRS 9. In view of the upcoming periodic information to be published by European issuers, the statement provides guidance to issuers and auditors on the application of IFRS 9 Financial Instruments, specifically as regards the calculation of expected credit losses and related disclosure requirements.

The European Banking Authority (EBA) has issued a statement regarding the prudential framework and accounting implications of COVID-19, as well as a statement on consumer and payment issues which reminds financial institutions of their consumer protection obligations, temporarily lifts some reporting obligations for payment service providers (PSPs), and calls on PSPs to raise their contactless payment thresholds to the legal limit.

The European Insurance and Occupational Pensions Authority (EIOPA) has published a set of recommendations addressed to national competent authorities on supervisory flexibility regarding the deadline of supervisory reporting and public disclosure in light of the pandemic. EIOPA has issued these recommendations so that undertakings can concentrate their efforts on monitoring and assessing the impact of the coronavirus situation as well as ensuring business continuity.

Austria

The Austrian Finanzmarktaufsicht (FMA) has banned any legal or natural person from entering into or increasing a short sale or a transaction other than a short sale which creates or relates to a financial instrument and the effect or one of the effects of which is to confer a financial advantage on a natural or legal person in the event of a decrease in the price or value of shares admitted to trading on the Regulated Market of the Vienna Stock Exchange for which the FMA is the relevant competent authority under the Short Selling Regulation. The measure will be in place until 18 April 2020. ESMA has issued a positive opinion on the ban.

Belgium

The Belgian government, the National Bank of Belgium and the financial sector have announced new measures involving:

- a moratorium on debt payments for 'viable' non-financial companies and self-employed individuals, and for mortgage loans, until 30 September 2020 at no cost; and
- a EUR 50 billion guarantee scheme for new loans and credit facilities granted to 'viable' non-financial companies and self-employed individuals, for a maximum duration of 12 months.

The guarantee scheme also involves a loss sharing mechanism whereby:

- the first 3% of losses will be borne by the financial sector;
- losses between 3% and 5% will be equally shared between the financial sector and the state; and
- losses in excess of 5% will be shared between the financial sector and the state, so that the financial sector bears 20% of those losses, and the state bears 80% of those losses.

Czech Republic

A COVID-19 related draft amendment to the Act on the Czech National Bank (CNB) has been approved by the Czech Government and submitted to the Czech parliament. The amendment extends the powers of the CNB in connection with management of monetary policy. At the moment, the CNB may purchase/sell government bonds from/to banks regardless of their maturity, but with regard to other securities the Act on the CNB restricts the CNB to money market operations. If the amendment is passed by the parliament, the CNB will be allowed, in order to manage monetary policy, to purchase/sell any investment instruments, other securities, precious metals, FX, receivables and other assets on the open market from/to any institution participating in the financial markets (including, among others, insurance companies, pension funds and other institutional investors).

Meanwhile, the Board of the CNB has decided to lower interest rates further. The CNB has also lowered the countercyclical capital buffer for the second time, now to 1% with effect from 1 April 2020. The CNB has indicated that it remains ready to release the buffer fully were the banking sector's unexpected losses to rise. Given the uncertainty regarding future economic developments, the CNB has also stated that it expects not only credit institutions but also insurance companies and pension management companies to refrain from making any dividend payouts or taking any other steps that might jeopardise individual institutions' resilience in the current situation.

France

Emergency Law No. 2020-290 created a new state of health emergency for a period of two months from 24 March 2020 (which can be extended by law). The Emergency Law also authorises the French Government to adopt measures, by way of ordinances, to address certain consequences of the COVID-19 epidemic, notably the economic, financial and social consequences, and consequences related to administrative and judicial proceedings. On 26 March 2020, twenty-five ordinances adopted pursuant to the Emergency Law were published in the Journal Officiel. These exceptional measures are intended to apply only during the COVID-19 crisis period. Amongst other things, these ordinances relate to:

- rules applicable to criminal, civil and administrative proceedings, the extension of certain time limits that expired during the health emergency period and the adaptation of proceedings during this same period. Financial obligations defined in article L. 211-36 of the French monetary and financial code (i.e. obligations that may be subject to close out netting mechanisms) are not covered by the Ordinance No. 2020-306 of 25 March 2020 relating to the extension of certain time limits which provides, among other things, that termination clauses whose purpose is to sanction failure to fulfil an obligation within a specified period shall be deemed not to have taken effect if that period expired between 12 March 2020 and the end of the month following the end of the state of emergency;
- the creation of a solidarity fund for businesses particularly affected by the economic, financial and social consequences of the outbreak;
- rules relating to the drawing up, adoption, audit, review, approval and publication of accounts and other documents and information to be filed or published by legal persons, and notably the extension of time limits

applicable to legal persons for the presentation or approval of their annual accounts; and

- rules relating to meetings and deliberations of general meetings and governing bodies of legal persons.

Germany

The German Ministry of Justice and Consumer Protection has published a draft law according to which the German Federal Government intends to implement certain emergency measures to mitigate the negative effects of the COVID-19 pandemic in the areas of civil law, corporate law, insolvency law and the law of criminal procedures. In summary, the draft law provides for the following measures:

- suspension of the insolvency filing requirement until 30 September 2020 if insolvency was caused by the COVID-19 pandemic;
- a moratorium until 30 June 2020 in respect of payment and performance obligations for (i) consumers under consumer contracts and (ii) micro-enterprises under certain agreements governed by German law who cannot fulfil their contractual obligations because of the COVID-19 pandemic provided in each case that the underlying agreement constitutes a material continuing obligation (Dauerschuldverhältnis);
- deferral of payments, exclusion of termination rights and adjustments by mutual agreement of consumer loan agreements (and subject to issue of an ordinance, loan agreements with micro enterprises in particular, but also other corporates) for three months;
- virtual participation in shareholder meetings;
- a restriction on termination of property lease agreements until 30 June 2020 if a lessee is in default with rental payments where the default has been caused by the COVID-19 pandemic; and
- an additional reason for suspending the interruption periods under criminal law, allowing the courts to interrupt a criminal trial for a maximum of three months and ten days if the trial cannot be held due to infection control measures to prevent the spread of the COVID-19 pandemic.

The German Parliament (Bundestag and Bundesrat) has adopted a draft law on the creation of an Economic Stabilisation Fund (Wirtschaftsstabilisierungsfonds) enabling government stabilisation measures for affected German companies. The fund complements other support measures, such as the expanded KfW programmes and will be established in a similar manner as the Financial Market Stabilisation Fund (SoFFin), created during the global financial crisis in 2008. It is intended to stabilise non-financial undertakings by overcoming liquidity bottlenecks and by establishing the framework conditions to strengthen their capital base primarily by the granting of state guarantees and recapitalisation measures. The draft law will come into effect upon publication in the Federal Gazette.

Meanwhile, the German Federal Financial Supervisory Authority (BaFin) has announced that it is adapting its supervisory practice and measures in the coronavirus crisis to make use of the high degree of supervisory flexibility afforded by the existing regulatory framework. The measures taken by BaFin and the Deutsche Bundesbank are preventative in nature and are designed to provide relevant institutions the flexibility they need in this situation and to focus on maintaining their operations and lending to the real economy. The measures also support the government programmes as initiated by development banks to mitigate the consequences of the crisis.

The press release also refers to the FAQs on various coronavirus issues that BaFin has published on its homepage and which it updates regularly. Amongst other things, BaFin has used these to indicate that it shares the views expressed recently by the Institute of Public Auditors in Germany (Institut der Wirtschaftsprüfer, IDW) that the current situation does not lead to an undifferentiated, automatic transfer of financial instruments from Stage 1 to Stage 2 or even Stage 3 under IFRS 9. The IDW is of the opinion that an automatic transfer could lead to the actual economic risks being significantly overstated and, as a result of the government stabilisation measures, an undifferentiated, automatic transfer is not appropriate even for reporting dates after 31 March 2020. BaFin shares this view. It is to be expected that banks will incorporate current and future findings into the regulatory process.

Italy

The Bank of Italy has decided to grant extensions to certain reporting obligations in order to enable the banking and financial system to concentrate all its efforts on dealing with the COVID-19 crisis. It has also stated that, by taking advantage of the flexibility already allowed under the regulations and in line with the decision of the ECB for significant banks, less significant banks and non-bank intermediaries are allowed to operate temporarily below the level of the Pillar 2 Guidance (P2G), the capital conservation buffer (CCB) and the liquidity coverage ratio (LCR). The Bank of Italy is also in the process of rescheduling on-site inspections and evaluating whether to allow some flexibility regarding the deadlines for supervisory and central credit register reporting, in coordination with the European supervisory authorities.

Luxembourg

The Luxembourg Grand Ducal Regulation on measures regarding the holding of meetings in companies and other legal entities entered into force on 20 March 2020. The Regulation is intended to address the consequences of the COVID-19 pandemic on the good governance of companies and other legal person by providing, with immediate effect, a mechanism to enable companies and other legal persons to hold their meetings without having to be physically present.

A new bill (no. 7540) on the extension of certain deadlines foreseen in sector-specific laws of the financial sector during the state of emergency has been lodged with the Luxembourg parliament. The bill aims to take into account the exceptional situation caused by COVID-19 and to anticipate the difficulties that financial and insurance sector entities may encounter in fulfilling their obligations in terms of preparation and publication of periodic reports.

The Luxembourg financial sector supervisory authority (CSSF) has:

- issued a communiqué urging all supervised entities immediately to review their current organisational setup to ensure that remote access from home is privileged over other forms of working, including working from backup centres. The CSSF specifies that the deployment of staff to the usual workplace or backup site should be limited to vital functions that are essential to maintain the critical mission of supervised entities for them to remain operational, provided that these functions cannot be performed remotely;

- provided additional clarifications (in the form of an update to its FAQs on the swing pricing mechanism as published in July 2019) in relation to the application and use of the swing pricing mechanism by Luxembourg regulated UCITS, Part II UCIs and SIFs (UCIs) further to the questions received from industry participants. In particular, the CSSF has indicated that UCIs can increase the swing factor to be applied on the NAV up to the maximum level laid down in the relevant UCI's prospectus without prior notification to the CSSF. The answers to the questions as to whether and to what extent UCIs can also increase the applied swing factor beyond the maximum swing factor laid down in the relevant UCI's prospectus depend on the circumstances and are subject to certain conditions, as further explained by the CSSF in the update of its FAQs on the swing pricing mechanism. The above clarifications by the CSSF are expected to be consolidated in a next step with the existing CSSF FAQs on the swing pricing mechanism;
- issued a communiqué calling on supervised entities to carry out their CSSF regulatory reporting when it is due. However, the communiqué adds that if, for operational reasons, supervised entities experience difficulties in preparing or validating their reporting due to staff not being available, then those supervised entities should contact the CSSF through their usual channels as soon as possible and ahead of reporting deadlines. The CSSF has further indicated that it will not apply a strict enforcement policy with regard to reporting, if delays are duly justified, during the COVID-19 crisis;
- decided that, where necessary, long form reports may exceptionally be submitted up to four months after the annual general meeting (AGM) of the audited entity or fund, excluding delays for such AGMs granted by the Luxembourg government through exceptional measures (i.e. both delays should not be applied cumulatively). However, the CSSF encourages a timely submission if this can be achieved without compromising the quality of the audit work; and
- issued a communiqué highlighting that it remains operational even though its offices are closed to the public and that new customer complaints to be lodged with the CSSF as well as any communication concerning customer complaints already registered with the CSSF should now be submitted to it either by sending an email including the duly completed complaint form, dated and signed together with all the documents mentioned therein to reclamation@cssf.lu (instead of or in addition to regular mail), or by using the CSSF's online complaint form.

The CSSF has also updated its FAQs on COVID-19 to specify:

- that less significant institutions (LSIs), including Luxembourg branches of credit institutions having their head office in a third country, will be able to benefit from identical measures to alleviate the impacts of COVID-19 as those decided by the ECB for significant institutions. LSIs and third country branches that intend to make use of these measures should inform the CSSF via their usual point of contact;
- that supervised entities opting for cloud-based tools and solutions as part of the adaptation of their working environment in response to the situation are not required to obtain prior authorisation by or to notify the CSSF as requested by the amended Circular CSSF 17/654. An email providing this

information is considered sufficient at this stage. The CSSF has however reiterated that appropriate due diligence and risk assessment of such cloud outsourcing as well as proper recording in the cloud register have to be ensured; and

- the extension of deadlines by the CSSF as regards the reports/questionnaire/other documents to be submitted to the CSSF on a periodic basis (annually/quarterly/monthly/other frequency) by banks, specialised PFS, investment funds, investment fund managers, pension funds and securitisation undertakings.

Meanwhile, the Luxembourg insurance sector supervisory authority (CAA) has issued an information notice on EIOPA's recommendations on supervisory flexibility regarding the deadline of supervisory reporting and public disclosure in the context of COVID-19 pandemic. The notice informs insurance and reinsurance undertakings subject to CAA supervision that the CAA has decided to follow EIOPA's recommendations and to extend the deadlines for the submission of Solvency 2 reporting and public disclosure in accordance therewith.

The Association of the Luxembourg Fund Industry (ALFI) has set up an email address (covid-19@alfi.lu) to gather questions for authorities regarding the COVID-19 crisis and has also created a dedicated COVID-19 Information Board in the ALFI members section (read-only access for members), whereby ALFI will compile related information of relevance in an investment fund context, including a documents library and links to useful websites.

Norway

The Financial Supervisory Authority of Norway (Finanstilsynet) has asked the Norwegian Ministry of Finance to adopt regulations that require banks and insurance undertakings not to pay dividends etc. for 2019 until further notice. Finanstilsynet notes that banks may suffer extensive losses as a result of the COVID-19 crisis and that lower interest rates and declining asset values will make it more challenging for life insurers to meet future obligations. Non-life insurers may also be affected as a result of increased claims payments. In Finanstilsynet's opinion, it is now important that Norwegian banks and insurance undertakings do not make allocations that impair their financial strength and, for the time being, these institutions should therefore not pay dividends or make other profit distributions.

Poland

The Polish financial supervision authority (KNF) has prepared a supervisory impulses package to ensure the security and development of the capital market. The package contains a number of initiatives intended to make it easier for entities subject to supervision to operate in the current market environment. They are actions aimed at:

- ensuring liquidity is maintained in the market;
- facilitating the performance of regulatory duties by shifting the time limits for reporting;
- making it easier for firms to obtain capital; and
- making it possible to concentrate on customer services and key processes.

The KNF has emphasised that the list of actions set out in the package is not exhaustive and individual elements will be implemented as the situation evolves.

The KNF has also issued a communiqué on the change of dates and scope of information to be provided as part of the annual reports for 2019 and the report for Q1 2020 that are prepared for the purposes of Solvency II. With reference to EIOPA's recommendations on supervisory flexibility regarding the deadline for supervisory reporting and public disclosure for the purposes of Solvency II by insurance/reinsurance undertakings and insurance/reinsurance undertakings forming groups owing to the COVID-19 pandemic, the KNF has indicated that it is participating in legislative work to adapt the currently binding provisions of law to the reporting deadline requirements recommended by EIOPA.

Switzerland

The Federal Council has adopted an emergency ordinance on the granting of credits with joint and several federal guarantees to address the issue of liquidity assistance for SMEs. Companies are advised to apply for credit facilities at their main bank, which will be secured by the Confederation. Credit applications can be submitted from 26 March 2020. The Swiss Financial Market Supervisory Authority (FINMA) has issued a statement welcoming the measures and calling on Swiss financial institutions to adopt a prudent distribution policy. FINMA is also introducing the temporary exclusion of central bank reserves from the calculation of the leverage ratio.

Meanwhile, the Swiss National Bank (SNB) has introduced the new SNB COVID-19 refinancing facility (CRF). This measure is aimed at strengthening the supply of credit to the Swiss economy by providing the banking system with additional liquidity. There is no upper limit on the amounts available under the CRF, and drawdowns can be made at any time. The CRF operates in conjunction with the federal government's guarantees for corporate loans. The facility allows banks to obtain liquidity from the SNB, which is secured by the federally guaranteed loans. The SNB thereby enables banks to expand their lending rapidly and on a large scale and, at the same time, to access the required liquidity. The interest rate for these refinancing transactions corresponds to the SNB policy rate. Under the CRF, the SNB can also conduct additional refinancing transactions in order to supply the banking system with further liquidity if required. The SNB has also submitted a proposal to the Federal Council requesting that the countercyclical capital buffer be reduced to 0% with immediate effect.

Turkey

Presidential Decree No. 2279 on the Suspension of Execution and Bankruptcy Proceedings has been published in the Official Gazette. Accordingly, except for those in relation to alimony receivables, all execution and bankruptcy proceedings shall be suspended in Turkey and no new proceedings can be initiated until 30 April 2020. The suspension also extends to the provisional attachment (ihtiyati haciz) judgments and those will not be enforced until 30 April 2020 as well.

United Kingdom

The Bank of England has activated the Contingent Term Repo Facility (CTRF) – a temporary enhancement to its sterling liquidity insurance facilities – to help alleviate frictions observed in money markets in recent weeks, both globally and domestically, as a result of the economic shock caused by the outbreak of COVID-19. The CTRF will run alongside the Bank's regular sterling market operations – the Indexed Long-Term Repo and Discount Window Facility.

The Chancellor of the Exchequer, the Governor of the Bank of England, and the CEO of the Financial Conduct Authority (FCA) have sent a joint letter to the CEOs of UK banks on the subject of COVID-19 and bank lending, reminding banks of the schemes available and encouraging them to pass on the benefits of the schemes to businesses and customers, even if banks are not accessing the Covid Corporate Financing Facility (CCFF) or Coronavirus Business Interruption Loan Scheme (CBILS).

The FCA, Financial Reporting Council (FRC) and Prudential Regulation Authority (PRA) have issued a joint statement announcing a series of actions to ensure information continues to flow to investors and support the continued functioning of the UK's capital markets. These actions include:

- a statement by the FCA allowing listed companies an extra two months to publish their audited annual financial reports;
- guidance from the FRC for companies preparing financial statements in the current uncertain environment. This is complemented by a PRA dear CEO letter to banks regarding the approach that should be taken in assessing expected loss provisions under IFRS 9. In particular, this letter sets out guidance on consistent and robust IFRS 9 accounting and the regulatory definition of default, the treatment of borrowers who breach covenants due to COVID-19, and the regulatory capital treatment of IFRS 9; and
- guidance from the FRC for audit firms seeking to overcome challenges in obtaining audit evidence.

The FCA has also published new guidance for mortgage providers and for lenders taking part in the Coronavirus Business Interruption Loan Scheme, as well as a statement on the impact of the coronavirus on firms' LIBOR transition plans, which emphasises that the central assumption that firms cannot rely on LIBOR being published after the end of 2021 has not changed and this should remain the target date for all firms to meet. The FCA states that many preparations for transition will be able to continue, while acknowledging that there will be an impact on the timing of some aspects of the transition programmes of many firms, particularly in segments of the UK market that have made less progress in transition and are therefore still more reliant on LIBOR, such as the loan market. The Bank of England, FCA and Working Group intend to continue to monitor and assess the impact on transition timelines and update the market as soon as possible.

The FCA and PRA have both published statements setting out steps firms should take to help identify key workers in financial services who are critical to the COVID-19 response (FCA statement here and PRA statement here).

The PRA has also published a statement outlining its approach to regulatory reporting for UK insurers in response to COVID-19 and the European Insurance and Occupational Pensions Authority's (EIOPA's) recommendations on supervisory flexibility regarding the deadline of supervisory reporting and public disclosures, published on 20 March 2020.

Australia

The Australian Prudential Regulation Authority (APRA) has suspended the majority of its planned policy and supervision initiatives in response to the impact of COVID-19. The decision is intended to allow APRA-regulated entities to dedicate time and resources to maintaining their operations and supporting customers, while also enabling APRA to intensify its focus on monitoring and responding to the impact of a rapidly changing environment on entities' financial and operational capacity. APRA has also confirmed its regulatory approach to the COVID-19 support packages being offered by banks and other lenders to their borrowers and released a letter requesting all authorised deposit-taking institutions (ADIs) and registered financial corporations (RFCs) to extend the parallel run period for the economic and financial statistics (EFS) data collection to the June 2020 quarter, in order to maintain a consistent data source for the March and June 2020 quarters.

APRA has announced the temporary suspension of its programme to replace its Direct to APRA (D2A) data collection tool with APRA Connect. The temporary suspension is intended to provide relief to entities and ensure flexibility for resourcing of work to ensure the financial resilience of entities and the provision of ongoing customer service. APRA has also announced temporary changes to its expectations regarding bank capital ratios, in order to ensure banks are well positioned to continue to provide credit to the economy in the current environment.

The Australian Securities Exchange (ASX) has announced that it is replanning the Clearing House Electronic Subregister System (CHESS) replacement implementation timetable due to the uncertainty created by the pandemic, as well as in response to user feedback on timing, requested functionality changes, and the need for the ASX to complete aspects of its own readiness.

Meanwhile, in coordination with the Council of Financial Regulators, the Australian and Securities and Investments Commission (ASIC) has announced that it will focus its regulatory efforts on challenges created by the COVID-19 pandemic. Until at least 30 September 2020, the other matters that ASIC will afford priority are where there is the risk of significant consumer harm, serious breaches of the law and risks to market integrity and time-critical matters. ASIC has indicated that it will maintain its enforcement activities and continue to investigate and take action where the public interest warrants it to do so against any person or entity that breaks the law.

Hong Kong

The Securities and Futures Commission (SFC) has published a circular to management companies and trustees and custodians of SFC-authorised funds to remind them of their regulatory obligations. The SFC notes that it has stepped up the monitoring of SFC-authorised funds in light of the current market conditions. Managers are expected to fully cooperate with the SFC on the heightened reporting requirements. Managers and trustees and custodians are also reminded to give the SFC early alerts of any material issues affecting their funds and are strongly encouraged to consult the SFC if in doubt.

The SFC has also published a circular reminding licensed and registered persons of their obligations under the Code of Conduct when distributing investment products, including the suitability obligations when they make a solicitation or recommendation and the obligation to disseminate information in a timely manner where they hold an investment product directly or indirectly on behalf of their clients. Given the potential impact of the COVID-19 outbreak on market volatility and liquidity as well as credit quality, intermediaries are reminded to act in the best interests of their clients and exercise extra care when making a solicitation or recommendation or managing investment portfolios for their clients.

Finally, the SFC has updated its set of frequently asked questions on post authorisation compliance issues of SFC-authorised unit trusts and mutual funds by adding two new questions under new Section 3 on COVID-19:

- Question 1 – the question provides guidance on whether fund managers can increase the swing factor to be applied on the net asset value of their SFC-authorised funds beyond the maximum swing factor as disclosed in the funds' offering documents, due to the extreme market volatility and uncertainty in local and international markets relating to the COVID-19 outbreak. It also provides guidance on whether fund managers will be required to obtain the SFC's prior approval for such an increase; and
- Question 2 – the question provides guidance on whether an SFC-authorised fund can apply a swing pricing mechanism under the proposed temporary measure, if it has not disclosed in the offering document that swing pricing may be used.

Japan

The Japan Financial Services Agency has announced that it will introduce measures, including relaxing the Tokyo Stock Exchange's delisting criteria, for companies that have been affected by the pandemic. Under the measures, the Tokyo Stock Exchange will extend the grace period to resolve excess debt from one year to two years for companies that fall under the debt excess as a result of COVID-19, as well as allowing listing companies to delay the release of financial results.

Korea

The Korean Government has unveiled further financial market stabilisation measures, which are intended to provide sufficient liquidity to businesses and deploy market stability tools to absorb shocks in the financial markets amid the spread of COVID-19. The measures will increase the financing support package from KRW 50 trillion to more than KRW 100 trillion. This includes financing support through policy banks in the amount of KRW 58.3 trillion and KRW 41.8 trillion funds to help restore stability in the country's bond market, stock market and short-term money markets.

The Financial Services Commission (FSC), Financial Supervisory Service (FSS) and financial sector associations and federations have signed a memorandum of agreement to deliver the COVID-19 financial support package. Under the agreement:

- banks will work to provide funding to SMEs and small merchants through super low interest loans (1.5%);
- banks will work to provide SMEs and small merchants with information about appropriate financing products;
- banks will provide active assistance to the regional credit guarantee institutions that are facing burdens of workloads in receiving and reviewing applications;
- credit guarantee institutions will closely cooperate with banks in ensuring prompt delivery of necessary funding to SMEs and small merchants;

- banks will work to ensure that the loan and guarantee extensions as well as the deferment of interest payments are seamlessly implemented beginning on 1 April 2020;
- banks will refrain from collecting debt from businesses that are facing temporary difficulties due to the COVID-19 outbreak;
- banks will contribute to the bond market stabilisation fund and actively cooperate to raise the fund when deemed necessary afterwards;
- banks will actively cooperate to promptly launch a stock market stabilisation fund; and
- the financial regulators will ease standards on sanctions for financial institutions' handling of the COVID-19 financial support and actively support banks' efforts to boost liquidity requirements.

Singapore

The Monetary Authority of Singapore (MAS), the Accounting and Corporate Regulatory Authority (ACRA) and the Singapore Exchange (SGX) have issued a joint statement calling on all issuers to comply with the Ministry of Health's (MOH's) mandatory safe distancing measures, as well as requiring issuers to implement all the relevant measures in the conduct of meetings including general meetings and scheme meetings. The MAS and the ACRA have indicated that, to provide legal certainty to issuers who implement safe distancing measures imposed by the MOH, they are working with other relevant government agencies to propose legislative amendments in relation to the conduct of meetings, with a view to introducing the amendments for the Singapore Parliament sitting in April 2020. These amendments are intended to allow issuers the flexibility to limit the number of participants in a physical meeting and for other participants to participate by virtual means, or hold meetings solely by virtual means, notwithstanding any contrary provisions in their constitutive documents. Issuers are required to put in place arrangements for participants to cast their votes remotely in writing or through electronic means. The SGX had previously announced measures to give time extensions for issuers with 31 December year-end to hold their annual general meetings by 30 June 2020. In this regard, the SGX has clarified that issuers who may need more time to put in place alternative arrangements for organising virtual meetings will be able to obtain an extension to do so.

Saudi Arabia

The Saudi Arabian Monetary Authority (SAMA) has informed licensed payment services providers (PSPs) of its decision to raise the allowed top-up of the monthly ceiling limit for e-wallets up to SAR 20,000. This is intended to help boost digital payment transactions in accordance with the prudential procedures taken to prevent the spread of COVID-19. SAMA has also decided to cut the repo rate by 75 basis points from 1.75% to 1% and the reverse repo rate by 75 basis points from 1.25% to 0.5%. The reduction in repo rates is intended to preserve monetary stability given evolving global developments. Finally, SAMA has announced the introduction of a Private Sector Financing Support Programme with a total value of about SAR 50 billion to support and enable the private sector to promote economic growth.

United Arab Emirates

In the United Arab Emirates, the Minister of Economy and Chairman of the Securities and Commodities Authority (SCA) has the limit down on stock prices. Under the decision, stocks will have a limit down cap of 5% until further notice. The markets may increase the limit to 7% for a number of stocks selected based on criteria determined by the markets and approved by the SCA.

United States

The Senate has passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which sets out a USD 2 trillion stimulus package including USD 500 billion in corporate liquidity from the Federal Reserve.

The Federal Reserve Board has announced the following measures to support the economy:

- support for critical market functioning – the Federal Open Market Committee (FOMC) will purchase Treasury securities and agency mortgage-backed securities in order to support smooth market functioning;
- supporting the flow of credit to employers, consumers, and businesses by establishing new programmes that will provide up to USD 300 billion in new financing. The Department of the Treasury, using the Exchange Stabilization Fund (ESF), will provide USD 30 billion in equity to these facilities;
- establishment of two facilities to support credit to large employers – the Primary Market Corporate Credit Facility (PMCCF) for new bond and loan issuance and the Secondary Market Corporate Credit Facility (SMCCF) to provide liquidity for outstanding corporate bonds;
- establishment of a third facility, the Term Asset-Backed Securities Loan Facility (TALF), to support the flow of credit to consumers and businesses. The TALF will enable the issuance of asset-backed securities (ABS) backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration (SBA), and certain other assets;
- facilitating the flow of credit to municipalities by expanding the Money Market Mutual Fund Liquidity Facility (MMLF); and
- facilitating the flow of credit to municipalities by expanding the Commercial Paper Funding Facility (CPFF) to include high-quality, tax-exempt commercial paper as eligible securities.

In addition, the Federal Reserve has announced a technical change intended to support the US economy and allow banks to continue lending to creditworthy households and businesses. The interim final rule will phase in gradually, as intended, the automatic restrictions associated with a firm's total loss absorbing capacity (TLAC) buffer requirements, if the levels decline. The change is intended to facilitate the use of firms' buffers to promote lending activity to households and businesses.

The Federal Reserve has also provided additional information to financial institutions on how its supervisory approach is adjusting in light of the coronavirus. In particular, it has indicated that:

- it will focus on monitoring and outreach to help financial institutions of all sizes understand the challenges and risks of the current environment;
- to minimise disruption and to focus on outreach and monitoring, it will temporarily reduce its examination activities, with the greatest reduction in activities occurring at the smallest banks;

- large banks should still submit their capital plans that they have developed as part of the Board's Comprehensive Capital Analysis and Review by 6 April 2020. The plans will be used to monitor how firms are managing their capital in the current environment; and
- to allow firms to focus on heightened risks and assist consumers, additional time will be granted for resolving non-critical existing supervisory findings.

Finally, the Federal Reserve has issued a statement recognising that small financial institutions may need additional time to submit certain regulatory reports in light of staffing priorities and disruptions caused by COVID-19. The Federal Reserve will not take action against a financial institution with USD 5 billion or less in total assets for submitting its 31 March 2020, Consolidated Financial Statements for Bank Holding Companies (FR Y-9C) or Financial Statements of US Nonbank Subsidiaries of US Bank Holding Companies (FR Y-11) after the official filing deadline, as long as the applicable report is submitted within 30 days of the official filing due date. Institutions are encouraged to contact their Reserve Bank in advance of the official filing deadline if they anticipate a delayed submission. Institutions anticipating difficulty submitting their reports within the 30 days following the official filing due date, or experiencing challenges in obtaining director attestations, should also contact their Reserve Bank.

The Board of Governors of the Federal Reserve System, Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, National Credit Union Administration, and Office of the Comptroller of the Currency have issued a joint statement encouraging banks, savings associations and credit unions to offer responsible small-dollar loans to consumers and small businesses in response to COVID-19. The statement recognises that responsible small-dollar loans can play an important role in meeting customers' credit needs because of temporary cash-flow imbalances, unexpected expenses, or income disruptions during periods of economic stress or disaster recoveries. Such loans can be offered through a variety of structures including open-end lines of credit, closed-end instalment loans, or appropriately structured single payment loans. The agencies state that loans should be offered in a manner that provides fair treatment of consumers, complies with applicable laws and regulations, and is consistent with safe and sound practices.

The US Securities and Exchange Commission (SEC) has issued an exemptive order to provide additional conditional regulatory relief regarding its filing deadlines until 1 July 2020 for companies affected by COVID-19. The order supersedes and extends the SEC's original exemptive order dated 4 March 2020, which had only covered filings due in March and April 2020. To qualify for a 45-day deadline extension, a company subject to SEC reporting obligations unable to meet a filing deadline due to circumstances related to COVID-19 must furnish a current report on Form 8-K (Form 6-K if an FPI) by the original filing deadline. The registrant must furnish such a form for each filing that is delayed.

The SEC has also issued a temporary final rule to provide additional regulatory relief in response to the coronavirus pandemic. This temporary final rule includes relief from the notarisation requirement that applies to Form ID (used to apply for EDGAR codes) from 26 March 2020 until 1 July 2020, subject to specified conditions. Among those conditions are that:

- the filer indicates on its manually signed Form ID that it could not provide the required notarisation due to circumstances relating to COVID-19; and
- the filer submits a PDF copy of the notarised manually signed document within 90 days of obtaining an EDGAR account.

The SEC's Division of Corporation Finance has issued new disclosure guidance for companies affected by the COVID-19 coronavirus.

The Commodity Futures Trading Commission (CFTC) Division of Swap Dealer and Intermediary Oversight (DSIO) has issued two additional no-action letters providing temporary, targeted relief to a large US bank that helps finance America's oil and gas sector and to those who operate commodity-focused investment funds the CFTC regulates.

Finally, the Governor of the State of New York has issued an Executive Order providing conditional temporary relief from in-person notarization requirements, permitting use of audio-video technology, effective until 18 April 2020. Any notarial act that is required under New York State law is authorized to be performed using audio-video technology provided that the certain conditions are met.

RECENT CLIFFORD CHANCE BRIEFINGS

Electronic signatures – when can these be used? A global perspective

The precautions being put in place globally to address the spread of coronavirus (COVID 19) include recommending or requiring many people to work from home. This has raised the question of how to execute documents in these circumstances and whether it is possible to legally execute documents by electronic signature. The appropriate method of execution will depend on the applicable fact pattern. Relevant factors include the governing law of the document, the type of document that is to be signed, the form of electronic signature used and any cross-border implications to be considered.

This briefing provides a summary table of how certain jurisdictions view three different types of execution – email execution, jpeg signatures and e-signature platforms.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--electronic-signatures--when-can-these-be-used--a-gl.html

Government financial aid to business – an international guide

As well as a public-health crisis, the coronavirus (COVID-19) pandemic is creating an unprecedented shock to the global economy.

This guide provides a review of the main actions taken by governments and central banks in 21 countries around the world to provide financial support to business in order to mitigate the economic impact of the coronavirus outbreak.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--government-financial-aid-to-business---an-internati.html

Debt capital markets facilities to support UK and EEA companies

Governments, regulators and banks across the world are taking steps to support businesses affected by the COVID-19 pandemic.

This briefing paper sets out the eligibility criteria for three schemes that have been implemented, or recently expanded, by the Bank of England and the European Central Bank (ECB) to help companies in need of liquidity.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--debt-capital-markets-facilities-to-support-uk-and-e0.html

Financial distress – tip sheet for boards of directors

We live in uncertain times, where many companies face challenges brought about by the sudden and wide-ranging economic impact of COVID-19. Whilst the UK government are implementing measures to alleviate some of the financial consequences including the provision of emergency finance, government backed guarantees, and the deferment of tax, it is inevitable that many boards face unprecedented situations and challenges ahead. Your company's financial distress may be a challenging time in which critical, yet prudent decisions must be made.

This tip sheet covers best practice in these difficult circumstances.

https://www.cliffordchance.com/briefings/2020/03/financial-distress--tip-sheet-for-boards-of-directors.html

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 looks at the aid package.

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

The Czech coronavirus lock-down – the immediate impact on businesses

The Czech Republic's government has been one of the more radical movers in invoking extraordinary measures to fight the COVID-19 pandemic. Initially, a number of those measures mainly restricted private life, including instruction in schools, social gatherings, cultural and sports events, and personal travel. However, the second wave of measures in force from 16 March do have a direct impact on business activities as well.

This briefing summarises the main areas impacted.

https://www.cliffordchance.com/briefings/2020/03/the-czech-coronavirus-lock-down---the-immediate-impact-on-busine.html

France to guarantee bank loans in response to COVID-19 pandemic (update)

As COVID-19 spreads, France has announced several measures aimed at countering the economic repercussions of the epidemic.

Among these measures is a guarantee to be granted by the French state for new bank loans for a total amount of EUR 300 billion (see this previous Clifford Chance briefing). These measures are State aid cleared under the EU Commission's revised framework.

This updated briefing paper discusses these measures.

https://www.cliffordchance.com/briefings/2020/03/france-to-guarantee-bank-loans-in-response-to-covid-19-pandemic-update.html

German Economic Stabilisation Fund

To further mitigate the impact of the COVID-19 pandemic, the German parliament has adopted a law on establishing an Economic Stabilisation Fund (Wirtschaftsstabilisierungsfonds) enabling government stabilisation measures for affected German companies.

This briefing discusses the fund.

https://www.cliffordchance.com/briefings/2020/03/coronavirus-_-german-economics-stabilisation-fund.html

Germany to take emergency measures in response to COVID-19 pandemic

On 23 March 2020 the German Ministry of Justice and Consumer Protection published a draft law according to which the German Federal Government intends to implement certain emergency measures to mitigate the negative effects of the COVID-19 pandemic in the areas of civil law, corporate law, insolvency law and the law of criminal procedures.

This briefing discusses the measures relevant to the finance industry.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--germany-to-take-emergency-measures-in-response-to-c.html

Coronavirus outbreak and its effects on contract performance – a practical guide under Italian law

The outbreak of the novel coronavirus in Italy and other countries and the consequential measures introduced by national governments may trigger one or more issues in the contractual relationships between national and international parties.

This briefing discusses these issues.

https://www.cliffordchance.com/briefings/2020/03/coronavirus-outbreak-and-its-effects-on-contract-performance--a-.html

Impact on loans in Italy and the securitisation and covered bond markets

Through the so called 'Decreto Cura Italia' (the 'Covid Decree') the Italian Government has recently enacted a set of measures to address the impact of the coronavirus outbreak on the Italian economy. These measures became effective on publication of the Covid Decree in the Italian Official Gazette on 17 March 2020 and need to be enshrined into law by the Parliament within 60 days. The measures included in the Covid Decree aim at providing temporary aid to families, companies and entrepreneurs dealing with the isolation and disruption caused by the spreading of the pandemic. Core measures to mitigate the consequences of the turmoil include payment holidays under loan agreements.

This briefing discusses the Covid Decree.

https://www.cliffordchance.com/briefings/2020/03/coronavirus-_-impact-on-loans-in-italy-and-the-securitisation-an.html

State aid measures to help Dutch companies in need

The European Commission has released some details of a new State aid framework that will allow EU governments to put in place support measures to help businesses affected by the coronavirus outbreak. In the Netherlands, the Government has announced a multi-billion euros package of such measures, parts of which will need to be approved by the Commission under its new framework before it can be implemented by the Government.

This briefing discusses the Dutch measures.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--state-aid-measures-to-help-dutch-companies-in-need.html

Impact of the coronavirus on debt financing transactions on the Polish market

The COVID-19 epidemic may pose a challenge for existing relationships between parties to transactions for financing in the form of facilities and bonds.

In Poland, as at 16 March 2020 there were no known cases of notice to terminate or modify facility agreements or present bonds for immediate redemption because of the threat of the epidemic. However, in the current situation there are reasonable concerns about maintaining the liquidity and creditworthiness of borrowers/issuers in certain sectors, which is a result of the general situation and the legal measures the government is taking in connection with the threat. Consequently, both banks and state institutions have made announcements of support for borrowers affected by the consequences of the epidemic.

This briefing looks at selected issues concerning debt financing granted to entrepreneurs in Poland in the form of facilities and bonds and the legal risks the parties to the transactions (debtors and creditors) should take into account when analysing the current situation.

https://www.cliffordchance.com/briefings/2020/03/impact-of-the-coronavirus-on-debt-financing-transaction-on-the-p.html

Polish banks offer assistance

On 16 March 2020 the Polish Bank Association (ZBP) published a bulletin on the measures agreed on by Polish banks to assist borrowers affected by the COVID-19 epidemic, which are to be promptly taken.

The measures can be divided into four groups. The first group concerns granting customers payment holidays comprising a grace period for the repayment of facilities, leasing instalments and amounts payable under factoring agreements. The second group concerns the renewal of existing financing. The third group of measures is to make short-term liquidity facilities available. The fourth group relates to increasing the possibility of concluding cashless transactions.

This briefing setting out the issues believed to be key concerning the first and second groups of assistance measures announced by the ZBP.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--polish-banks-offer-assistance.html

Support measures to help Spanish companies in need

The recent outbreak of COVID-19 is a major economic shock to the global economy. Against this background, the European Commission has released a new State aid temporary framework that allows EU governments to put in place support measures to help businesses affected by the coronavirus outbreak. In Spain, the Government has adopted a multi-billion euro package of such measures, parts of which have already been approved by the Commission under State aid rules.

This briefing discusses the Spanish support measures.

https://www.cliffordchance.com/briefings/2020/03/coronavirus--support-measures-to-help-spanish-companies-in-need.html

How the State of Emergency affects legal proceedings – suspension and interruption of deadlines

Spanish Royal Decree 463/2020, of 14 March (amended by Royal Decree 465/2020, of 17 March), declaring a state of emergency to manage the health crisis caused by the COVID-19 virus, included the adoption of certain measures in relation to deadlines in judicial, administrative and civil proceedings. Further measures have been added by Royal Decree-Law 8/2020, of 17 March, relating to other deadlines applicable to the legal regime governing legal entities.

This briefing provides a description and analysis of the measures adopted.

https://www.cliffordchance.com/briefings/2020/03/how-the-state-of-emergency-affects-legal-proceedings--suspension0.html

Extraordinary tax measures to address the economic and social impact of COVID-19

To address the impact of the COVID-19 virus and the exceptional situation in Spain, several tax measures have been announced, mainly in the form of a Royal Decree-Law which entered into force on 18 March.

This briefing looks at the tax measures.

https://www.cliffordchance.com/briefings/2020/03/extraordinary-tax-measures-to-address-the-economic-and-social-im.html

Issues confronting public REITs in the US

We have been fielding calls from our public REIT clients on a number of topics stemming from the COVID-19 outbreak.

This briefing summarises a short list of key topics and high-level thoughts on them.

https://www.cliffordchance.com/briefings/2020/03/coronavirus-issues-confronting-public-reits-in-the-us.html

Operational and regulatory risk-off strategies for SEC-registered investment advisers

As the impact from the spread of the novel coronavirus continues to affect the global economy and disrupt business operations, investment advisers should be focusing on the short- and long-term operational and regulatory risks to their firms. While the US Securities and Exchange Commission has acknowledged the challenges that advisers confront under the present circumstances, the agency has also reminded advisers to continuously evaluate their obligations under the Federal securities laws, including their fiduciary duty to clients. Advisers must also ensure that business continuity and operational resilience planning can guarantee the adviser's ability to meet client obligations and expectations.

This briefing discusses key operational and regulatory risks to advisers presented by the ongoing COVID-19 emergency and offering suggestions on how advisers should address these risks.

https://www.cliffordchance.com/briefings/2020/03/coronavirus-operational-and-regulatory-risk-off-strategies-for-s0.html

US Federal Reserve establishes new term asset-backed securities loan facility

On 23 March 2020, the Board of Governors of the Federal Reserve System launched six new programmes in response to the distressed economic conditions caused by the COVID-19 pandemic, including a new term asset-backed securities loan facility (TALF) to facilitate the issuance of asset-backed securities (ABS). Under the TALF, the Federal Reserve Bank of New York (FRBNY) will establish and fund a special purpose vehicle (SPV) to buy eligible ABS issued on or after 23 March 2020.

This briefing discusses the TALF.

https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2020/03/Coronavirus-US-Federal-Reserve-Establishes-New-Term-Asset-Backed-Securities-Loan-Facility.pdf