CORONAVIRUS: INTERNATIONAL REGULATORY UPDATE 01 – 05 JUNE 2020

- **European Union**
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European Union

The EU Commission has approved, under EU State aid rules, an approximately EUR 1.6 billion (PLN 7.5 billion) Polish scheme that partially compensates large enterprises and certain small and medium-sized enterprises (SMEs) for the losses suffered due to the outbreak and provides them with direct liquidity through loans. The scheme is part of a wider Polish support programme known as the Financial Shield for Large Enterprises.

The European Banking Authority (EBA) has issued guidelines on reporting and disclosure of exposures subject to measures applied in response to the COVID-19 crisis. The guidelines follow the implementation of various measures such as legislative moratoria on loan repayments and public guarantees in Member States, with the aim of supporting the operational and liquidity challenges faced by borrowers. The guidelines have been developed to address data gaps associated with these measures to ensure an appropriate understanding of institutions' risk profile and the asset quality on their balance sheets both for supervisors and the wider public.

United Kingdom

The Financial Conduct Authority (FCA) has provided an update on progress on its court action on business interruption (BI) insurance policies, including identifying the representative sample of policy wordings to be examined in the test case, insurers that use those wordings, and which of those insurers it has invited, and have agreed, to participate in the proceedings. The FCA has emphasised that the initial list of insurers and the policy wordings they use is not exhaustive, and it has also launched a short consultation on draft guidance asking all insurers to check their policy wordings against those it intends to test to see if theirs will be impacted by the outcome of the case. The FCA expects to publish a list of all the relevant insurers and policies that may have impacted wordings in early July. The consultation on draft guidance also sets out the FCA's expectations of all firms handling BI claims and any

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related complaints between now and the court decision. The FCA has also published proposed assumed facts (for example, the types of business and how they responded to the pandemic), a proposed issues matrix and proposed questions for determination by the court.

In addition, the FCA has:

- issued guidance setting out its expectations for insurers and insurance intermediaries to consider the value of their products in light of the exceptional circumstances arising from the pandemic. The guidance is intended to highlight what the FCA believes firms should be doing now to identify any material issues from coronavirus that affect the value of their products and their ability to deliver good customer outcomes. In particular, the guidance reminds firms of their obligations under the FCA Principles for Business (PRIN), the systems and controls sourcebook (SYSC), the product intervention and governance sourcebook (PROD) and the insurance conduct of business rules (ICOBS), in particular ICOBS 2.5.-1R. The guidance is effective as of 3 June 2020 and firms should complete their review of product lines and decide on resulting actions by no later than 3 December 2020;
- announced that it will be contacting around 13,000 firms to complete a short survey to obtain a more accurate view of firms' financial resilience as a result of coronavirus. The survey will be sent to firms between 4 and 8 June 2020; and
- published updated guidance on mortgages and coronavirus, confirming the support firms should give to mortgage customers who are either coming to the end of a payment holiday or who are yet to request one. For customers still experiencing temporary payment difficulties due to COVID-19, firms will offer support, with options including a full or part payment holiday for a further three months. Customers yet to apply for a payment holiday have until 31 October 2020 to do so. The updated guidance will come into force on 4 June 2020. The FCA intends to keep it under review and update it as necessary. Unless renewed or updated, the guidance will expire on 31 October 2020. Bank of England Deputy Governor for Prudential Regulation and Chief Executive Officer of the Prudential Regulation Authority (PRA) Sam Woods has also written a letter to the chief executive officers of UK deposit takers on the treatment of COVID-19 related payment deferrals under IFRS 9 and the Capital Requirements Regulation (CRR).

The PRA has issued a statement on the use of electronic signatures in relation to the submission of forms and other regulatory documents to the PRA. The statement confirms that firms may use electronic signatures for such purposes, although the PRA may in specific instances request a 'wet signature' where it is appropriate to do so. The PRA has indicated that it will review this approach in the light of evolving working practices, while recognising that many forms are already processed on an automated basis.

BoE Deputy Governor for Financial Stability Sir Jon Cunliffe has written to regulated UK financial market infrastructures and specified providers concerning the distribution of profits. When UK FMIs' boards are considering any distributions to shareholders or making decisions on variable remuneration, the BoE expects them to pay close attention to the additional risks and potential financial and operational demands arising from COVID-19 and to discuss any distribution to shareholders with the BoE in advance.

Hong Kong

HKMC Insurance Limited (HKMCI), a wholly-owned subsidiary of the Hong Kong Mortgage Corporation Limited, has announced that the enhancement measures to the 80% and 90% Guarantee Products under the SME Financing Guarantee Scheme (SFGS) as included in the second round of the Anti-epidemic Fund announced by the Hong Kong Government in April 2020 have come into effect. The measures include raising the maximum loan amount of the 80% and 90% Guarantee Products and extending the eligibility coverage to listed companies in Hong Kong, and will last for 12 months. In addition, both existing guaranteed loans and new applications are eligible for an interest subsidy for a maximum period of 12 months, the payments of which will start to be made by the end of June 2020. Under the enhancement measures, the maximum loan amount per enterprise for the 80% Guarantee Product is increased from HKD 15 million to HKD 18 million, while that for the 90% Guarantee Product is increased from HKD 6 million to HKD 8 million. All borrowing enterprises under the scheme can benefit from the enhancements. The eligibility coverage of both guarantee products is extended to listed companies in Hong Kong. In addition, for the requirement of a personal guarantee by individual shareholder(s) under the Special 100% Loan Guarantee, the applicable percentage of equity interest is reduced from over 70% to over 50%, which is in line with that for the 80% and 90% Guarantee Products.

Singapore

The Ministry of Finance (MOF), the Inland Revenue Authority of Singapore (IRAS), Enterprise Singapore (ESG), and the Monetary Authority of Singapore (MAS) have announced a package of measures to support landlords that may face cash flow constraints as a result of providing relief to tenants as proposed under the COVID-19 (Temporary Measures) (Amendment) Bill. The new measures are intended to help landlords with their existing loan commitments, ease their cashflow needs, and complement relief measures announced by the MOF, the MAS and the financial industry earlier in the year. The MAS notes that it has worked with banks and finance companies to enhance the current relief measures for landlords affected by the pandemic, following the announcement by the Ministry of Law on rental relief measures that will be tabled in Parliament under the COVID-19 Amendment Bill. Amongst other things, under the enhanced credit relief measures:

- landlords who are individuals and are current in their loan repayments as at 1 February 2020 can defer both principal and interest repayments up to 31 December 2020, if they are required under the COVID-19 Amendment Bill to provide their tenants rental waivers or payment rescheduling. Those who successfully apply for a reduction in rental waivers on the grounds of financial hardship will also be eligible for this relief measure. Further, individual landlords can opt to extend the loan tenure by up to the corresponding deferment period to ease monthly instalments when they resume regular repayments; and
- small and medium-sized enterprise landlords can already apply to defer principal payments on their commercial and industrial property loans. Moreover, landlords who need additional credit to meet their immediate

cashflow needs can apply for loans under ESG's Temporary Bridging Loan Programme or Working Capital Loan Scheme through their banks and finance companies. In addition, larger corporate landlords, including real estate investment trusts listed on the Singapore Exchange (S-REITs), have been encouraged to approach their banks or finance companies to explore funding solutions to meet their cash flow needs.

Further, in view of the new rental reliefs under the COVID-19 Amendment Bill, the MOF and the IRAS have announced that they will further extend the timelines for S-REITs to distribute their taxable income derived in financial years 2020 and 2021. For taxable income derived in the financial year ending in 2020, S-REITs will have until 31 December 2021 to distribute them, whilst they will have until 31 December 2021 or 3 months after the end of financial year 2021, whichever is later, for taxable income derived in the financial year ending in 2021.

In a separate development, the MAS has updated its original set of frequently asked questions (FAQs) on offers of units in collective investment schemes (including real estate investment trusts (REITs)) by deleting Question 2 of the FAQs relating to whether a REIT needs to submit an online notification to MAS to obtain a 'Restricted Scheme' status before making an offer of units to accredited investors and other persons under section 305 of the Securities and Futures Act. The original set of FAQs was published on 4 May 2020 and has been updated in consequence of the commencement of the Securities and Futures (Offers of Investments) (Collective Investment Schemes) (Amendment No. 3) Regulations 2020. The Amendment Regulations, which are effective from 29 May 2020, are intended to streamline the fundraising process for REITs and bring it in line with the fundraising process for companies and business trusts by removing the requirement for REITs to comply with the notification requirements when they rely on the exemption under section 305 (offer made to accredited investors and certain other persons) of the Securities and Futures Act.

United States

The Federal Reserve Board has announced an expansion in the number and type of entities eligible to use its Municipal Liquidity Facility (MLF) directly. Under the new terms, all US states will be able to have at least two cities or counties eligible directly to issue notes to the MLF regardless of population. Governors of each state will also be able to designate two issuers in their jurisdictions whose revenues are generally derived from operating government activities (such as public transit, airports, toll facilities, and utilities) to be eligible to use the facility directly. In addition to these expanded terms, the MLF continues to be directly open to US states, the District of Columbia, US cities with a population of at least 250,000 residents, US counties with a population of at least 500,000 residents, and certain multistate entities. The MLF was established under Section 13(3) of the Federal Reserve Act, with approval of the Treasury Secretary. It will offer up to USD 500 billion in lending to states and municipalities to help manage cash flow stresses caused by the pandemic. The Federal Reserve Bank of New York has issued revised FAQ and Appendix A on the MLF, discussing the increased number and types of potential issuers that are eligible directly to access the facility.

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