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Top 10 issues

Capital & liquidity

Liquidity monitoring metrics

On 23 May, the **European Banking Authority (EBA)** published **a consultation paper on Draft Implementing Technical Standards on Additional Liquidity Monitoring Metrics**. The consultation paper contains EBA's proposal in relation to supervisory reporting of additional monitoring metrics for liquidity. In defining its proposal, EBA followed the approach developed by the Basel Committee on Banking Supervision (BCBS). As such, the following five metrics are proposed:

- Maturity ladder, both contractual and behavioural;
- Concentration of funding by counterparty;
- Prices for various sources of funding;
- Roll-over of funding.

Comments on the consultation paper can be submitted until 14 August.

Additional liquidity outflows

On 23 May, the **European Banking Authority (EBA)** published **a consultation paper on Draft Regulatory Technical Standards (RTS) on additional collateral outflows**. The draft RTS proposes the following three methods to determine additional collateral outflows stemming from the impact of an adverse market scenario on an institution's derivatives positions, financing transactions and other contracts, if material:

- Standard method;
- Simplified method;
- Internal model-based method.

Additionally, the consultation paper seeks feedback on the historical look-back approach. Comments on the consultation paper can be submitted until 14 August.

Capital measures for foreign currency lending

On 23 May, the **European Banking Authority (EBA)** published ➲**a consultation paper on draft Guidelines on capital measures for foreign currency lending**. The proposed guidelines provide guidance to national competent authorities on how to deal with the specific risk of FX lending to unhedged borrowers as part of the Supervisory Review and Evaluation Process (SREP).The first part of the Guidelines defines the subject matter and the scope and sets out the process to be followed. In particular, a materiality threshold is introduced and in case it is exceeded, competent authorities should review the risk as part of the SREP. Competent authorities can still apply these guidelines where the risk is under the threshold but is deemed to be material. The second part of the document provides guidance on the supervisory review of FX lending governance arrangements and of capital adequacy as well as on how to calculate capital add-on as a result of the SREP. Comments on the consultation paper can be submitted until 23 August.

Own Funds

On 23 May, the **European Banking Authority (EBA)** also launched a ➲**consultation on Draft Regulatory Technical Standards (RTS) on own funds (Part III) related to criteria to define broad market indices, the calculation of minority interest and the deduction of indirect and synthetic holdings**. The consultation paper constitutes Part three of the Own Funds consultation and puts forward draft RTS related to application of deductions of investments in financial sector entities as well as own capital instruments, criteria for broad market indices and the calculation of minority interests to be included in regulatory capital.

Securitisation retention rules

On 22 May, the **European Banking Authority (EBA)** published ➲**a consultation paper on draft Regulatory Technical Standards (RTS) to specify the securitisation retention rules and related requirements and draft Implementing Technical Standards (ITS) to clarify the measures to be taken in the case of non-compliance with such obligations**. The key objectives of the draft RTS are i) an alignment of interest (risk) and information between securitisation sponsors, originators and original lenders and the investors buying securitisation transactions and ii) to facilitate the implementation of the 5% retention requirements and disclosure requirements of the sponsor, originator or original lender and the due diligence requirements of investors in securitisations. The objective of the draft ITS is to specify the measures to be taken in the case of a material breach of the securitisation retention rules and related requirements. In particular, the ITS provide the assessment criteria for breaches of the Capital Requirements Regulation (CRR) and RTS requirements, as well as the implementation conditions and the calculation of additional risk weights to be applied by competent authorities. Comments on the consultation paper can be submitted until 22 August.

The definition of “market”

On 22 May, the **European Banking Authority (EBA)** also published ➲**a consultation paper on draft Regulatory Technical Standards (RTS) on the definition of market**. The consultation paper contains two proposed definitions for the term market for the purpose of calculating the ‘general’ component of market risk for equities under the standardized rules. The definitions are based on the two following criteria: nationality and currency. The nationality criterion is based on the assumption that the ‘general’ risk stems from country-specific drivers. The currency criterion would, on the other hand, recognize that the introduction of a single currency in an already substantially integrated EU Single Market has blurred these country-specific drivers within the Euro-zone. Comments on the consultation paper can be submitted until 31 August.

Non-delta risk of options

On 22 May, the **European Banking Authority (EBA)** published ➲**a consultation paper on draft Regulatory Technical Standards (RTS) on non-delta risk of options in the standardised market risk approach**. The proposed RTS follow broadly the Basel II Framework which provides for the following alternative methods:

- A simplified-approach which can be applied exclusively by institutions that only buy options;
- The delta-plus method which can be applied by banks that also sell options;
- The scenario approach which is more sophisticated and is addressed to bank with a considerable trading activity in options.

The simplified approach and the scenario approach as provided for in the Basel framework have been adapted to the European specificities and the requirements of the CRR. Furthermore, since EBA believes that certain non-standard options are not suitable for the simplified approach and the delta-plus method, a new conservative treatment for such instruments is introduced. Finally, the draft RTS set out two alternative options for combination of different methods within a single institution two alternative options are considered. Comments on the consultation paper can be submitted until 31 August

Institution-specific prudential requirements

On 20 May, the **European Banking Authority (EBA)** published ➲**a consultation paper on Draft Implementing Technical Standards (ITS) on joint decisions on institution-specific prudential requirements under Article 108 of the proposed Capital Requirements Directive**. The proposed ITS specify the process to be followed by the consolidating supervisor and the relevant competent authorities in the context of reaching joint decisions in the area of capital and liquidity supervision. They partly build on ➲**CEBS' Guidelines for the joint assessment and joint decisions regarding the capital adequacy of cross-border groups**. Comments on the consultation paper can be submitted until 16 August.

Large exposures

On 17 May, the **European Banking Authority (EBA)** published a ➲**consultation paper on draft Regulatory Technical Standards (RTS) on the determination of the overall exposure to a client or a group of connected clients in respect of transactions with the underlying assets**. The draft RTS sets out the conditions and methodologies that must be used to determine the overall exposure to a client or group of connected clients resulting from a transaction with underlying assets and the risks inherent in the structure of the transaction itself. EBA's starting point in setting out the calculation methodology is to require institutions to take all the reasonable steps to look-through to the underlying assets and to identify the obligors of all credit risk exposures underlying the transaction. In case an institution is not able to identify the obligors of underlying exposures, it is requested to add all these exposures to the same hypothetical "unknown client' and the large exposures limit applies to the "unknown client" in the same way it applies to any other single client. An important development compared to the ➲**CEBS Guidelines on the implementation of the revised large exposures regime** is the proposal for a more prudent treatment for securitisation positions whereby all tranches in a securitisation would be treated equally as if they were a first loss tranche and therefore fully exposed to the underlying assets. Comments on the consultation paper can be submitted until 16 August.

Asset quality reviews and the next EU-wide stress test

In a ➲**press release** of 16 May, the **European Banking Authority (EBA)** announced that it has recommended that supervisors carry out asset quality reviews on major EU banks. While banks' capital positions were significantly strengthened under the EBA's recapitalisation exercise, the objective of the asset quality exercises will be to review banks' classifications and valuations of their assets so to help dispel concerns over the deterioration of asset quality due to macro-economic conditions in Europe. Since appropriately reviewed balance sheets are a key input to an effective stress test, the EBA has also adjusted the timeline of the next EU-wide stress test so to conduct the exercise in 2014 once the asset quality reviews are completed. However, to ensure transparency and comparability over the years, EBA will provide, in the second half of 2013, appropriate disclosure on the actual exposures of the EU banking sector. In the press release EBA also indicated that it will publish recommendations on asset quality review to ensure a more uniform approach in the methodology of the reviews.

Monitoring tools for intraday liquidity management

On 11 April, the **Basel Committee on Banking Supervision (BCBS)** published ➲**a document setting out its monitoring tools for intraday liquidity management.** The monitoring tools are a set of quantitative tools to enable banking supervisors to monitor banks' intraday liquidity risk and their ability to meet payment and settlement obligations on a timely basis under both normal and stressed conditions. The tools are meant to complement the qualitative guidance in the ➲**Principles for Sound Liquidity Risk Management and Supervision**.

Standard Formula Design and Calibration for Certain Long-Term Investments

On 8 April, the **European Insurance and Occupational Pensions Authority (EIOPA)** published a ➲**discussion paper on standard formula design and calibration for certain long-term investments**. The discussion paper sets out EIOPA's preliminary findings in relation to the need for changes to the calibration and design of regulatory capital requirements for insurers' long term investments in certain asset classes under the envisaged Solvency II regime. The analysis carried out by EIOPA covered the following investments:

- Private Equity/Venture Capital;
- Socially Responsible Investments (SRI) and social business debt and equity finance;
- Infrastructure project debt and equity;
- Securitisations of SME debt.

Implementation of the Basel regulatory framework

On 4 April, the **Basel Committee on Banking Supervision (BCBS)** published an updated ➲**Progress report on implementation of the Basel regulatory framework.** The report provides a high-level overview of Basel Committee members' progress in adopting Basel II, Basel 2.5 and Basel III, as of end March 2013.

Solvency II

On 27 March, the **European Insurance and Occupational Pensions Authority (EIOPA)** published the following consultation papers in the context of drafting guidelines related to the preparation for Solvency II:

- ➲**A consultation paper on the Proposal for Guidelines on System of Governance**;
- ➲**A consultation paper on the Proposal for Guidelines on Forward Looking assessment of the undertaking's own risks** (based on the ORSA principles);
- ➲**A consultation paper on the Proposal for Guidelines on submission of information to national competent authorities**;
- ➲**A consultation paper on the Proposal for Guidelines on Pre-application for Internal Models**.

Measuring and controlling large exposures

On 26 March, the **Basel Committee on Banking Supervision (BCBS)** published ➲**a consultative document on a proposed supervisory framework for measuring and controlling large exposures.** The proposed framework aims to ensure greater consistency in the way banks and supervisors measure, aggregate and control exposures to single counterparties. Acting as a backstop to risk-based capital requirements, the framework would supplement the existing risk-based capital framework by protecting banks from substantive losses caused by the sudden default of a counterparty or group of connected counterparties. It focuses on the concentration risk associated with the default of single private sector counterparties and would also apply to exposures to a group of connected counterparties. The scope of the framework is comprehensive, covering direct exposures to counterparties across all operations and books, as well as exposures to providers of credit protection. By extending the scope of coverage to exposures to funds, securitisation structures and collective investment undertakings, the Committee seeks to address concerns related to the shadow banking system. The Committee also aims to limit contagion between global systemically important banks (G-SIBs) by proposing a tighter limit on exposures between G-SIBs.

Forbearance and non-performing exposures

On 26 March, the **European Banking Authority (EBA)** published ➲**a consultation paper on draft Implementing Technical Standards (ITS) on supervisory reporting on forbearance and non-performing exposures**. The paper contains two proposed definitions and templates to define the notions of forbearance and non-performing exposures on the one hand, and to capture the related data on the other. The definition of forbearance builds on existing accounting and regulatory provisions and encompasses transactions that are generally regarded as forbearance in most of the accounting and regulatory frameworks considered by the EBA in the preliminary mappings it conducted. As for the definition of non-performing exposures, it builds on the definitions of impairment and default according to IFRS and the CRR, while being broader than these notions to serve as a more harmonized asset quality indicator across Europe.

Asset encumbrance reporting

On the same day, the **European Banking Authority (EBA)** also launched a ➲**consultation on draft implementing technical standards (ITS) on reporting for asset encumbrance.** The draft ITS consist of three parts. The first part consists of the legal text to be incorporated into the full reporting framework, which already consists of COREP, FINREP, Large Exposures, Liquidity and Leverage Ratio reporting. The legal text introduces a definition of asset encumbrance in addition to outlining the frequency of reporting and proportionality criteria in the reporting. The second part consists of reporting templates and instructions for the templates. Finally, the third part consists of a Data Point Model and validation rules.

Cost of credit protection

On 22 March, the **Basel Committee on Banking Supervision (BCBS)** published ➲**a consultative document on recognising the cost of credit protection purchased.** The documents sets out proposed changes to the credit risk mitigation section of the Basel framework to ensure that the costs, and not just the benefits, of purchased credit protection are appropriately recognized in regulatory capital. It does this by requiring that banks, under certain circumstances, calculate the present value of premia paid for credit protection, which should be considered as an exposure amount of the protection-purchasing bank and be assigned a 1,250% risk weight.

Impact of Basel III

On 19 March, the **Basel Committee on Banking Supervision (BCBS)** published a report presenting the ➲**results of the Basel Committee's Basel III monitoring exercise as of 30 June 2012**. The report is based on rigorous reporting processes set up by the Committee to periodically review the implications of the Basel III standards for financial markets. A total of 210 banks participated in the exercise, comprising 101 Group 1 banks and 109 Group 2 banks. The exercise found that the average Common Equity Tier 1 capital ratio (CET1) of Group 1 banks was 8.5%, as compared with the Basel III minimum requirement of 4.5%. In order for all Group 1 banks to reach the 4.5% minimum, an increase of €3.7 billion in CET1 would be required. The overall shortfall increases to €208.2 billion to achieve a CET1 target level of 7.0% (i.e. including the capital conservation buffer). For Group 2 banks, the average CET1 ratio stood at 9.0%. In order for all Group 2 banks in the sample to meet the new 4.5% CET1 ratio, the additional capital needed is estimated to be €4.8 billion. They would have required an additional €16.0 billion to reach a CET1 target of 7.0%.

Data Point Models for capital and liquidity reporting

On 18 March, the **European Banking Authority (EBA)** launched consultations on:

- ➲**A draft Data Point Model (DPM) for supervisory reporting in relation to the Leverage Ratio**. The DPM covers all data items included in the ➲**draft Implementing Technical Standards (ITS) on Supervisory reporting requirements for leverage ratio**.
- ➲**A draft Data Point Model (DPM) for supervisory reporting in relation to Liquidity Coverage and Stable Funding**. The DPM covers all data items included in the ➲**draft Implementing Technical Standards (ITS) on supervisory reporting requirements for liquidity coverage and stable funding**.

A DPM is a structured representation of the data included in the above documents, identifying all the business concepts and their relations, as well as validation rules. It contains all the relevant technical specifications necessary for developing an IT reporting format.

Extensions and changes of internal approaches for credit, market and operational risk

On 11 March, the **European Banking Authority (EBA)** published ➲**a consultation paper on draft technical standards (RTS) aimed at specifying the conditions for assessing the materiality of extensions and changes to internal approaches when calculating own funds requirements for credit, market and operational risk**. The proposed draft RTS contain three types of lists of qualitative conditions for classification of extensions and changes to the internal approaches (for each of the credit, operational and market risk areas) into one of the following categories: (1) material extensions and changes, which require a permission from the competent authorities; (2) extensions and changes of a lesser materiality, but still of a degree of materiality that requires notification to the competent authorities before their implementation; and (3) extensions and changes of an even lesser degree of materiality, which therefore need only to be notified to the competent authorities in regular intervals, after their implementation. However, as even extensions and changes which fall under one of the categories of lesser materiality, can have the potential to alter the own funds requirements or, where applicable, the risk-weighted exposure amounts, the draft RTS complements the qualitative conditions with quantitative threshold. These thresholds are based on the percentage change of own funds requirements or, where applicable, of risk-weighted exposure amounts before and after the envisaged change.

Principles of Liquidity Risk Management for CIS

On 4 March, the **International Organization of Securities Commissions (IOSCO)** published its ➲**Principles of Liquidity Risk Management for Collective Investment Schemes**. The principles set out practices that should be applied by open-ended collective investment schemes (CISs) to ensure that they have adequate liquidity to meet redemption obligations and other liabilities. They are structured according to the time frame of a CIS's life. As such, the principles start with practices that should be considered in the design (pre-launch) phase of a CIS. They then outline practices that should form part of the day-to-day liquidity risk management process.

Investor and consumer protection

Bank accounts

On 8 May, the **European Commission** published ➲**a proposal for a Directive** on the transparency and comparability of payment account fees, payment account switching and access to a basic payment account. The Commission's proposal tackles the following three areas:

1. Comparability of payment account fees: by making it easier for consumers to compare the fees charged for payment accounts by banks and other payment service providers in the EU;
2. Payment account switching: by establishing a simple and quick procedure for consumers who wish to change from their payment account to one with another bank or payment service provider;
3. Access to payment accounts: by allowing EU consumers who want to open a payment account, without being residents of the country where the payment service provider is located, to do so. Moreover, these provisions will allow all EU consumers, irrespective of their financial situation, to open a payment account that allows them to perform essential operations, such as receiving their salary, pensions and allowances or payment of utility bills etc.

Retail Structured Products

On 18 April, the **International Organization of Securities Commissions (IOSCO)** published a ➲**consultative report on Regulation of Retail Structured Products**. The report analyses market trends and developments, and related regulatory challenges encountered by IOSCO members. It also consults on a proposed regulatory toolkit that IOSCO members could use in their regulation of retail structured products. The proposed toolkit consist of the following five elements:

- A potential regulatory approach to retail structured products;
- Potential regulation of the product design and issuance;
- Potential regulation of product disclosure and marketing;
- Potential regulation of the product distribution; and
- Potential regulation of post-sales practices (that is, once the products are in the hands of investors).

Consumer protection in third-pillar retirement products

On 11 April, the **European Commission** published ➲**a consultative document on consumer protection in third-pillar retirement products.** The purpose of this document is to identify the specific problems encountered by consumers in third-pillar retirement products and whether voluntary codes coordinated at the EU level or certification schemes could improve consumer protection. It also aims at steering the debate towards identifying optimal ways of addressing some of the specificities of third-pillar retirement products. The results of the consultation will be taken into account in a broader initiative aimed at developing a genuine, consumer-friendly Single Market for personal pension schemes.

Complaints-Handlings by Insurance Intermediaries

On 27 March, the **European Insurance and Occupational Pensions Authority (EIOPA)** published the following two documents in relation to complaints-handling by insurance intermediaries:

- ➲**A proposal for guidelines on complaints-handling by insurance intermediaries:** The guidelines contain guidance on appropriate internal systems and control for complaints-handling, the provision of information and procedures for responding to complaints. They complement the Guidelines on complaints-handling by insurers published by EIOPA last year.
- ➲**A draft report on best practices by insurance intermediaries in handling complaints.** The draft report contains a list of best practices for handling complaints by insurance intermediaries covering the following areas: (1) the content of a complaints management policy (and its endorsement by management); (2) the organization of the internal complaints management function; (3) the registration of complaints; and (4) the internal follow-up of complaints.

Consumer Trends Report

On 18 March, the **European Banking Authority (EBA)** published its ➲**annual report on consumer trends.** The report provides an overview of the consumer protection analysis carried out by the EBA. The report provides an overview of key issues in the area of consumer protection and financial innovation and it highlights the new trends and the key areas for concern in 2013. For 2013, the report identifies the following six main consumer issues

1. Indebtedness and responsible credit;
2. Transparency and levels of charges;
3. Scope of mis-selling of financial products resulting from a combination of pressures on institutions and the continuing challenges for consumers in understanding the suitability of products for them;
4. Specific issues concerning certain products – notably foreign currency loans, payment protection insurance and complex products;
5. Security of new technologies used for banking services;
6. Emerging new forms of liquidity raising.

Prospectus

On 15 March, the **European Securities and Markets Authority (ESMA)** published a ➲**consultation paper on Draft Regulatory Technical Standards (RTS) on specific situations that require the publication of a supplement to the prospectus.** In the proposed RTS, ESMA sets out a list of 10 specific situations for which the significance is such that they systematically require issuers, offerors or persons asking for admission to trading to produce a supplement to the prospectus. ESMA considers that where any of the events referred to in this list arise or are noted between the time when the prospectus is approved and the final closing of the offer to the public, or as the case may be, the time when trading on a regulated market begins, whichever occurs later, the issuer, offeror or person asking for admission to trading on a regulated market should publish a supplement. For all other situations which are not included in the list, it is up to the issuer, the offeror or the person asking for admission to trading on a regulated market to assess their significance or materiality, without prejudice to the powers of the competent authority of the home Member State.

Governance and Risk Management

Remuneration

On 21 May, the **European Banking Authority (EBA)** published ➲**a consultation paper on draft Regulatory Technical Standards (RTS) on criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile**. In the consultation paper, EBA proposes an identification process based on a combination of standard qualitative and quantitative criteria and internal criteria developed by the institutions:

- Standard qualitative criteria: related to the role and decision-making power of staff members (e.g. staff is a member of a management body, is a senior manager, has the authority to commit significantly to credit risk exposures, etc.);

- Standard quantitative criteria: related to the level of variable or total gross remuneration in absolute or in relative terms;
- Internal criteria: these criteria shall be based on internal risk assessment processes and aim at reflecting the specific institution's risk profile.

Comments on the consultation paper can be submitted until 21 August.

Good Practices for ETF Risk Management

On 7 March, the **European Banking Authority (EBA)** issued ➲**an Opinion on Good Practices for the Risk Management of Exchange Traded Funds (ETFs).** The opinion contains a high level description of Good Practices with respect to the management of key risks that credit institutions encounter through their ETF business units, or when dealing with ETFs.

Crisis Management

Assessment of recovery plans

On 20 May, the **European Banking Authority (EBA)** published ➲**a consultation paper on Draft Regulatory Technical Standards (RTS) on the assessment of recovery plans**. The proposed draft RTS set out the general criteria which national authorities should follow when assessing both individual and group recovery plans. Those criteria are based on three key features: completeness, quality and overall credibility. Comments on the consultation paper can be submitted until 20 August.

Range of scenarios to be used in recovery plans

On the same day, the **European Banking Authority (EBA)** also published ➲**a consultation paper on Draft Regulatory Technical Standards on specifying the range of scenarios to be used in recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms**. Given that the design of the appropriate scenarios depends on the specificities of each institution (activity, size, interconnectedness, business and funding model, etc.), the RTS attribute to institutions the responsibility of selecting relevant scenarios and to national supervisors the task of assessing the adequacy of the chosen scenarios. However, it provides a number of relevant events which need to be considered by banks when designing the most appropriate scenarios and requires that at least the following three scenarios are used: one covering a system-wide event, one covering an idiosyncratic event and one covering a combination of both types of events. Comments on the consultation paper can be submitted until 20 August.

Reform of the banking sector

On 16 May, the **European Commission** published ➲**a roadmap** for the structural of the European Banking sector, detailing the legislative options being considered in response to the recommendations of the Liikanen report. These options that vary along the following three dimensions:

- Definition of relevant activities to be separated;
- Nature and extent of separation and governance of separated entities;
- Thresholds and de minimis exemptions.

The publication of the roadmap was accompanied by the launch of ➲**a new consultation on the Structural Reform of the banking sector.** The consultation paper outlines the main building blocks of the Commission's follow-up of the report of the High-level Expert Group on reforming the structure of the EU banking sector. It is divided in three parts. The first outlines the problem that bank structural reform could address. The second assesses the necessity of EU action in terms of subsidiarity. The third presents the main options under consideration.

Crisis management and resolution

In April, the **European Commission** published a ➲**roadmap** for the development of a framework for crisis management for financial institutions other than banks. In the roadmap, the Commission indicates that ➲**the consultation carried out in end-2012** points towards to the need to develop specific tools in relation to diverse sectors in order to reflecting the fact that different non-bank entities are exposed to different types of risks, and that their failure can thus resonate differently across the financial system.

Risks and Vulnerabilities in the European Union's Financial System

On 12 April, the Joint Committee of the European Supervisory Authorities published ➲**its first Report on Risks and Vulnerabilities in the European Union's (EU) Financial System.** The European Supervisory Authorities concluded that the key risks include:

- Risks from the weak macro-economic outlook for the financial health of real-economy and sovereign borrowers, and consequently for financial institutions' asset quality and profitability;
- Risks of a prolonged period of low interest rates impacting insurers and pension funds, increasing search for yield behaviour and facilitating widespread forbearance by banks;
- Risks of further fragmentation of the single market in financial services due to evidences of national retrenchment, home bias, reduced cross-border activity and clustering of markets;
- Risks from increased reliance on collateral in financial transactions;
- Risks to confidence in financial institutions balance sheet valuations and risk disclosures; and
- Risks of loss of confidence in financial market benchmarks.

These risks are highly interlinked and require a concerted response by policy makers both at the political level and from the European System of Financial Supervision including the European Supervisory Authorities (ESAs). To tackle the above-mentioned risks, the report recommends moving ahead with the establishment of a Banking Union and further developing the EU single rulebook and supervisory handbook.

Peer review of resolution regimes

On 11 April, the **Financial Stability Board (FSB)** published a ➲**peer review report on resolution regimes.** The review found that some FSB jurisdictions have undertaken major reforms to their resolution regimes since the crisis, while several others are in the process of adopting reforms to further strengthen their regimes and align them to the Key Attributes. The implementation of the Key Attributes, however, is still at an early stage and legislative action is necessary to fully align resolution regimes in FSB jurisdictions to that standard.

Recovery plans

On 11 March, the **European Banking Authority (EBA)** published ➲**a consultation paper on Draft Regulatory Technical Standards on the content of recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms.** According to the proposed draft RTS, recovery plans developed at group and individual level will need to include at least the following 5 key parts:

1. Summary of the recovery plan;
2. Governance, including the conditions and procedures necessary to ensure a timely implementation of the recovery options;
3. Strategic analysis, including a description of the institution's core business lines and critical functions together with the different recovery options designed to respond to financial stress scenarios;
4. Communication plan, including external and internal communication arrangements;
5. And preparatory measures taken or to be taken to improve the implementation and effectiveness of the plan.

Regulatory perimeter

EU-single market for personal pension products

On 16 May, the **European Insurance and Occupational Pensions Authority (EIOPA)** published ➲**a discussion paper on a possible EU-single market for personal pension products.** The paper focuses on two possible approaches for creating a single market for PPPs – a passporting regime and the 2nd regime. With respect to passporting regime, the paper discusses the main obstacles and challenges that currently preclude PPP providers from passporting their products to other Member States – namely certain prudential obstacles, tax law obstacles, and challenges arising from social and labour law. It notes that the 2nd regime could serve as an alternative or parallel framework to passporting and thus help to develop the single market for PPPs. In order to develop a successful Single Market for PPPs, the interests of PPP holders have to be well protected. Therefore the final section of the Discussion Paper provides an overview of a possible framework for the protection of PPP holders, such as transparency, distribution and selling practices, professional requirements and product regulation. These aspects are (partly) built on PRIPs and on the on-going work on the revision of the IORP directive. Comments on the discussion paper can be submitted until 16 August.

Technological Challenges to Market Surveillance

On 22 April, the **International Organization of Securities Commissions (IOSCO)** published its ➲**final report on Technological Challenges to Effective Market Surveillance: Issues and Regulatory Tools**. The report provides an overview of current market surveillance regimes and identifies the main challenges that technological developments pose to these regimes. It also makes final recommendations to help market authorities develop the regulatory tools for addressing these challenges, particularly with respect to:

- Improving surveillance capabilities on a cross-market and cross-asset basis; and
- Making more useful to market authorities the data collected for surveillance purposes.

Divergence in national supervision of money market funds

On 15 April, the **European Securities and Markets Authority (ESMA)** published ➲**a peer review report** on the implementation of ➲**ESMA's guidelines on money market funds** (MMFs). The review compared supervisory and enforcement practices for MMFs of 30 supervisory authorities across the European Economic Area (EEA). The report found that more than two thirds of the 20 jurisdictions reviewed have implemented the ESMA guidelines on MMFs nationally as mandatory provisions, while a minority have used measures which do not have the force of law. However, the general supervisory and enforcement approaches relating to MMFs vary across Member States to a significant extent.

OTC derivatives market reforms

On 15 April, the **Financial Stability Board (FSB)** published its ➲**fifth six-monthly progress report** on the implementation of over-the-counter (OTC) derivatives market reforms. In the report, the FSB indicates that progress on the requirement to trade OTC derivatives on exchanges is lagging, with only three jurisdictions having or going to have requirements in place.

Changes in Market Structure

On 21 March, the **International Organization of Securities Commissions (IOSCO)** published ➲**a consultation paper on Regulatory Issues Raised by Changes in Market Structure**. The paper discusses a number of issues and sets out possible future recommendations designed to assist market authorities in relation to issues raised by market fragmentation.

Supervision of credit rating agencies

On 18 March, the **European Securities and Markets Authority (ESMA)** published its ➲**second Annual Report** on its supervision of credit rating agencies (CRAs) in the European Union. The report summarizes the supervisory work undertaken by ESMA, during 2012, in ensuring that CRAs complied with the CRA Regulation. In the report ESMA states that CRAs have not sufficiently embedded the main requirements of the CRA Regulation in their organizations, and that it believes that improvements are still necessary in the following areas:

- The consistent application and comprehensive presentation of rating methodologies;
- The empowerment and resourcing of analytical and control functions;
- The monitoring and surveillance of ratings; and
- The reliability of IT infrastructures.

Market infrastructure

EMIR

On 13 May, the **European Commission** published ➲**a memo** on the practical implementation of the EMIR framework to non-EU central counterparties. The purpose of this memo is to specify how this recognition procedure will be implemented.

On 20 March, the **European Securities and Markets Authority (ESMA)** published a set of ➲**Questions**

and Answers with respect to application of EMIR across the European Union.

On 12 March, the **European Securities and Markets Authority (ESMA)** published ➲**practical guidance** for the recognition of third country CCPs by ESMA.

Access to trade repository data

On 11 April, the **Committee on Payment and Settlement Systems (CPSS) and the International Organization of Securities Commissions (IOSCO)** published ➲**a consultative report on Authorities' access to trade repositories (TRs).** The purpose of the report is to provide guidance to TRs and authorities on the principles that should guide authorities' access to data held in TRs for typical and non-typical data requests. The report also sets out possible approaches to addressing confidentiality concerns and access constraints.

Reform of the supervision of financial institutions

Review of the European System of Financial Supervision

In April, the **European Commission** launched a ➲**consultation** on the review of the European System of Financial Supervision. The consultation is focused on the mandate, governance and effectiveness of the European Supervisory Authorities, the European Systemic Risk Board and the cooperation between them. The review will also address potential impact from the creation of the SSM.

Market integrity

Principles for Financial Benchmarks

On 16 April, the **International Organization of Securities Commissions (IOSCO)** published ➲**a consultation paper on Principles for Financial Benchmarks**. The principles cover the following topics:

- Governance: Administrators will have appropriate governance arrangements in place in order to protect the integrity of the Benchmark determination process and to address conflicts of interest.
- Quality of the Benchmark: Enhancement of the quality and integrity of Benchmark determinations through the application of design factors that result in a Benchmark that reflects a credible market for an Interest measured by the Benchmark. The principles also clarify that a variety of data may be appropriately used to construct a Benchmark, as long as the Data Sufficiency principle is met (i.e., based on an active market).
- Quality of the Methodology: Enhancement of the quality and integrity of Methodologies by setting out minimum information that should be addressed within a Methodology, which should be published so that Stakeholders may understand and make their own judgments concerning the overall credibility of a Benchmark. Procedures that control when material changes are planned should be developed, as a means of alerting Stakeholders to these changes that might affect their positions, financial instruments or contracts.
- Accountability: Establishment of complaints processes, documentation requirements and audit reviews to provide evidence of compliance by the Administrator with its quality standards, as defined by these principles and its own policies. The principles also include a requirement to make the foregoing information available to relevant Market Authorities.

Short selling

On 2 April, the **European Securities and Markets Authority (ESMA)** published **its Guidelines on Exemption for market making activities and primary market operations under the Short selling regulation**.

Production and Use of Indices Serving as Benchmarks in Financial and other Contracts

On 7 March, the **European Supervisory Authorities (ESAs)** published ➲**the letter** they sent to the European Commission on a possible framework for the regulation of the production and use of indices serving as benchmarks in financial and other contracts. In the letter the ESAs list a number of key features they believe a future regulatory framework for benchmarks should be based on:

- Regulation and supervision of benchmark activities: Benchmark activities undertaken in the EU single financial market should be subject to formal regulation and supervision. The authorization and supervision of benchmark activities should cover areas that are also the focus of the Recommendations and Principles and include particularly sound governance, systems and controls, audit requirements, and conflict of interest issues.

- Avoidance of conflicts of interest: Whether benchmarks are provided by public or private bodies, it is imperative that there is sufficient distance between the ownership and control of the benchmark administrator and those that have an interest in the outcome of the rate setting process.
- Market liquidity and contingency: According to the ESAs, there should be regulatory requirements that recognize the importance of a minimum level of transactions or liquidity as an essential part of the set-up criteria for any benchmark. There should also be a requirement to regularly review benchmarks, based on ongoing liquidity and number of transactions in the market concerned, number of contributors or submitters and overall usage of the benchmark in the financial markets.

Information Security & data privacy

No new developments.

Financial crime

National Money Laundering and Terrorist Financing Risk Assessment

On 5 March, the **Financial Action Task Force (FATF)** published ➲**guidance on National money laundering and terrorist financing risk assessment.** The guidance outlines general principles that may serve as a useful framework in assessing ML/TF risks at national level. These are also relevant when conducting risk assessments of a more focused scope, such as in assessments of a particular financial or DNFBP sector (for example, the securities sector) or of thematic issues (for example, the proceeds of corruption related ML).

Financial Services Industry

Also in this issue:

Normative documents

Official Journal of the European Union (OJ)

CRA3

On 31 May, ➲**Regulation (EU) No 462/2013 of the European Parliament and of the Council of 21 May 2013** amending Regulation (EC) No 1060/2009 on credit rating agencies was published in OJ L146. The regulation contains new rules that aim to improve quality of ratings of sovereign debt of EU Member States, make credit rating agencies more accountable for their actions and reduce conflicts of interests due to the issuer pays remuneration model and encourage the entrance of more players on to the credit rating market.

On the same day, ➲**Directive 2013/14/EU of the European Parliament and of the Council of 21 May 2013** amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Funds Managers in respect of over-reliance on credit ratings was published in OJ L145. The Directive aims to reduce overreliance on external rating by requiring financial institutions to strengthen their own credit risk assessment and not to rely solely and mechanistically on external credit ratings.

Official Journal of Belgium (BS/MD)

Membership of securities settlement systems

On 18 April, the Regulation of the National Bank of Belgium of 11 February 2013 was published in the Official Journal (in ➲**Dutch** and in ➲**French**). The Regulation requires that the National Bank of Belgium assesses whether the systemic risk associated with regulated and non-regulated participants of securities settlement systems requires that they are considered as "institutions" in the sense of the Settlement Finality Law. The Regulation also requires that operators of securities settlement systems implement specific admission criteria for non-regulated entities and notify the NBB of every change of the list of participants.

Consultative or informative documents

Basel Committee on Banking Supervision (BCBS)

Central bank collateral frameworks and practices

On 25 March, the BCBS published ➲**a report entitled Central bank collateral frameworks and practices, released**. The report examines how collateral frameworks compare across central banks and the key changes they have undergone since mid-2007. The focus is more on the longer-term evolution of central bank collateral policies, including the local factors that explain the observed diversity in practices, and less on the temporary measures adopted during the height of the global financial crisis.

Reference rate practices

On 18 March, the BCBS published ➲**a report entitled "Towards better reference rate practices: a central bank perspective**". The report reviews issues in relation to the use and production of reference interest rates from the perspective of central banks. These issues reflect the possible risks for monetary policy transmission and financial stability that may arise from deficiencies in the design of reference interest rates, market abuse, or from market participants using reference interest rates which embody economic exposures other than the ones they actually want or need.

Committee on the Global Financial System (CGFS)

Asset encumbrance, financial reform and the demand for collateral assets

On 27 May, the CGFS published **a paper on asset encumbrance, financial reform and the demand for collateral assets.** The demand for high-quality assets that can be used as collateral will increase due to a number of key regulatory reforms. This comes on top of greater demand for collateral assets through increased reliance by banks on collateralized funding, particularly in Europe. While this can lead to temporary shortages in some countries, concerns about an absolute shortage of high-quality collateral assets appear unjustified, given that the supply of collateral assets has risen significantly since end-2007. In addition, endogenous private sector responses, such as collateral transformation activities, will help to address supply-demand imbalances if and when they emerge. The paper identifies implications for markets and policy that result from these developments that warrant monitoring and further analysis. They include:

- Endogenous market responses, while mitigating collateral scarcity, are likely to come at the cost of increased interconnectedness and greater financial system pro-cyclicality.
- Greater reliance by banks on collateralized funding can adversely affect the residual claims of unsecured creditors during bank resolution, increase risks to deposit insurance schemes and reduce the effectiveness of policies aimed at bail-in.

European Commission

Stability and Integration Report

On 25 April, the European Commission published the ➲**European Financial Stability and Integration**

Report (EFSIR). Overall, the report shows that despite improvements, the financial crisis continued to exert a significant impact in holding back economic growth in 2012. More specifically, this year's report:

- Shows that European proposals for the establishment of a banking union stem from the need to deepen economic and financial integration in Europe;
- Covers the main policy initiatives that have been or are being implemented, adopted, presented, or developed in 2012;
- Takes stock of the important debate initiated by governments, international organizations, and, ultimately, the general public to analyse the business models of the financial institutions; in particular, the desirability of adopting structural reforms in the banking sector;
- Describes and takes stock of progress in regulating the over-the-counter (OTC) derivatives markets;
- Underscores the pivotal role the financial sector has in supporting the real economy and in providing jobs and growth for society, by examining the difficulties small and medium-sized enterprises (SMEs) experience in their access to funding.

European Securities and Markets Authority (ESMA)

CRA regulatory equivalence on Argentina, Brazil, Mexico, Hong Kong and Singapore

On 31 May, ESMA published its ➲**advice** to the European Commission in respect of the equivalence between the EU regulatory regime for credit rating agencies and the respective legal and supervisory frameworks of Argentina, Brazil, Mexico, Hong Kong and Singapore. ESMA is of the opinion that the legal and supervisory framework for credit rating agencies of the aforementioned countries are equivalent to the EU regulatory regime for credit rating agencies.

Financial Stability Board

Reducing Reliance on Credit Rating Agency (CRA) Ratings

In a ➲**press release** of 8 April, the FSB announced that it is undertaking a peer review of the implementation of ➲**its Principles for Reducing Reliance on CRA Ratings**. The peer review will focus on certain Principles that relate to regulatory and supervisory practices or the official sector more broadly. The information required for the review will be collected by means of ➲**a questionnaire**.

International Organization of Securities Commissions (IOSCO)

Market infrastructure

In a ➲**press release** of 17 April, IOSCO and the Committee on Payment and Settlement Systems (CPSS) announced that they have started the process of monitoring implementation of the ➲**Principles for financial market infrastructures** (PFMIs)**.** The implementation monitoring will cover the implementation of the principles contained in the PFMIs as well as responsibilities A to E. Reviews will be carried out in stages, assessing first whether a jurisdiction has completed the process of adopting the legislation and other policies that will enable it to implement the principles and responsibilities and subsequently whether these changes are complete and consistent with the principles and responsibilities. Assessments will also examine consistency in the outcomes of implementation of the principles by FMIs and implementation of the responsibilities by authorities. The results of the assessments will be published on both the CPSS and IOSCO websites.

Price Reporting Agencies

On 15 March, IOSCO published ➲**a frequently asked questions** on its ➲**Principles for Price Reporting Agencies.**

LEI Regulatory Oversight Committee (ROC)

Legal Entity Identifier

On 8 March, the ROC published ➲**a first of a series of notes from the LEI Regulatory Oversight Committee** on the implementation of the Global Legal Entity Identifier (LEI) Initiative.

National Bank of Belgium (NBB)

Electronic Money Institutions

On 5 May, the NBB launched a public consultation (in ➲Dutch and in ➲French) on:

- The draft regulation on the own funds of electronic money institutions and on the investment of the cash received in the context of the issuance of electronic money;
- The draft circular on periodical and statistical reporting by electronic money institutions;
- The draft communication on the prudential statute of electronic money institutions.

Credit institutions and investment firms

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Financial Services and Markets Authority (FSMA)

Continuing education of compliance officers

On 29 April, the FSMA published Communication FSMA_2013_09 on the continuing education of recognized compliance officers (➲French - ➲Dutch). The Communication provides an overview of the rules in relation to the continuing education of recognized compliance officers (such as the frequency of the continuing education, the content of the training, the recognized trainingcenters,…).

Compliance function

On 24 April, the FSMA published Circular FSMA_2013_08 on the compliance (in ➲Dutch and in ➲French). The Circular sets out the requirements that must be adhered with respect to the status of the compliance function within financial institutions, the organization thereof, and its specific tasks. It applies to portfolio management and investment advice companies and UCI management companies and entered into force on the day of its publication.

MiFID cartography

On 8 April the FSMA published Communication FSMA_2013_07 on the MiFID Cartography (in ➲Dutch and in ➲French). The Communication provides guidance to regulated entities on how they should fill out and submit the MiFID Cartography.

Consultative or informative documents

Basel Committee on Banking Supervision (BCBS)

Assessment of Basel III capital regulations in Singapore

On 20 March, the BCBS published its ➲**report assessing the regulations that implement the Basel capital framework in Singapore.** The assessment found that Singapore's overall capital regime is in line with the requirements of the Basel framework

European Banking Authority (EBA)

Passport Notifications

On 21 May, EBA launched a ➲**consultation** on draft Implementing Technical Standards (ITS) on Passport Notifications aimed at specifying the standard forms, templates and procedures underlying the submission of passport notifications. Comments on the proposed ITS can be submitted until 21 August.

On the same day, EBA also published ➲**a consultation paper on Draft Regulatory Technical Standards (RTS) on Passport Notifications aimed at specifying the information to be notified to the competent authorities**. Comments on the proposed RTS can be submitted until 21 August.

Basel III monitoring exercise

On 19 March, EBA published ➲**its third report of the third the Basel III monitoring exercise on the European banking system.** The report presents the aggregate results, as of 30 June 2012, on capital, risk weighted assets (RWAs) and leverage ratio assuming full implementation of the Basel III framework and a static balance sheet. The monitoring exercise shows that the common equity Tier 1 capital ratio (CET1) of the largest European banks (Group 1 banks) would be on average 7.8% compared to a ratio of 11.1% under the current rules. Therefore, Group 1 banks would face a CET1 capital shortfall of €3.7 bn to achieve a minimum requirement of 4.5% and of €112.4 bn at a target level of 7.0%. Compared to the previous exercise based on data as of 31 December 2011, these results show a decrease in the capital shortfall of €86.2 bn (43.4%). This decrease is predominantly driven by an increase in CET1 capital rather than by a reduction in RWAs. This change partly reflects European banks' significant progress in boosting their capital positions and in strengthening the overall resilience of the EU banking system as a result of the EBA recapitalisation exercise.

Investment products and asset management

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Official Journal of the European Union (OJ)

Venture Capital Funds

On 25 April, ➲**Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013** on European venture capital funds was published in OJ L115. The regulation sets out a new "European Venture Capital Fund" label and includes new measures to allow venture capitalists to market their funds across the EU and grow while using a single set of rules. Every fund using the label will have to prove that a high percentage of investments (70% of the capital received from investors) are spent in supporting young and innovative companies.

European Social Entrepreneurship Funds

On the same day, ➲**Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013** on European social entrepreneurship funds was also published in OJ L115.The regulation sets out a new "European Social Entrepreneurship Fund" label (incl. a EU passport), so investors can easily identify funds that focus on investing in European social businesses. Every fund using the label will have to prove that a high percentage of investments (70% of the capital received from investors) are spent in supporting social businesses. Uniform rules on disclosure ensure that investors get clear and effective information on these investments.

AIFMD

On 16 May, the following regulations implementing the AIFMD were published in OJ L132:

- ➲Commission Implementing Regulation (EU) No 447/2013 of 15 May 2013 establishing the procedure for AIFMs which choose to opt in under Directive 2011/61/EU of the European Parliament and of the Council;
- ➲Commission Implementing Regulation (EU) No 448/2013 of 15 May 2013 establishing a procedure for determining the Member State of reference of a non-EU AIFM pursuant to Directive 2011/61/EU of the European Parliament and of the Council.

The implementing Regulations establish new rules on member state of reference and AIFM opt in procedure.

On 22 March, ➲**Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012** supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision was published in OJ L83. The publication of the Delegated Regulation is a precondition for the application of the AIFMD in EU countries and was adopted to supplement certain elements of the AIFMD. It contains:

- Conditions and procedure for the determination and authorisation of AIFMs, including the capital requirements applicable to AIFMs;
- Operating conditions for AIFMs, including rules on remuneration, conflicts of interest, risk management, liquidity management, investment in securitisation positions, organisational requirements, rules on valuation;
- Conditions for delegation;
- Rules on depositaries, including the depositary's tasks and liability;
- Reporting requirements and leverage calculation;
- Rules for cooperation arrangements.

Consultative or informative documents

European Commission

AIFMD

On 25 March, the European Commission launched dedicated website with ➲**questions and answers on AIFMD**. The website currently contains questions and answers with respect to:

- Scope of the AIFMD;
- Interaction between MiFID and AIFMD;
- Capital requirement for investment fund managers (AIFMs),
- Reporting;
- Grandfathered funds;
- Transitional provision.

Treatment of central banks and debt management offices

On 22 March, the European Commission published ➲**a report on the international treatment of central banks and public entities managing public debt with regard to OTC derivatives transactions**. The report provides a comparative analysis of the treatment of central banks and debt management offices within the legal framework of a significant number of third countries. It is the first step towards exempting certain third countries' central banks and public debt management offices from the scope of Regulation 648/2012 on OTC derivatives, central counterparties and trade repositories (EMIR). It will be updated regularly as the reform process advances in the third-countries considered where the legislation is not yet final, as well as in other G20 jurisdictions not yet included in the report.

European Securities and Markets Authority (ESMA)

AIFMD

On 24 May, the ESMA published ➲**a consultation paper on the guidelines on AIFMD reporting obligations under Articles 3 and 24 of the AIFMD.** The draft guidelines provide clarification on the information that AIFMs should report to NCAs, the timing of such reporting together with the procedures to be followed when AIFMs move from one reporting obligation to another.

On the same day, the ESMA also published its ➲**Guidelines on key concepts of the AIFMD**. The guidelines aim to clarify the scope of the AIMFD by providing guidance with on the meaning of the concepts that that comprise the definition of “AIF”.

Prospectus

On 23 May, ESMA published ➲**an updated version of its Questions and Answer on the Prospectus Directive.** The updated version contains new question and answers with respect to:

- The definition of Profit Estimate;
- The estimate expenses charged by a financial intermediary in a retail cascade;
- The age of the last year financial statements; and
- The age the audited annual financial information can be used on prospectus and the period that should (at least) be covered by interim financial statements (when they are required to be disclosed).

On 16 April ESMA published an ➲**amended version of the Report published on 25 September 2012**. The previously published Report was amended following the discovery of factual errors in the statistical information in Section III.2.

On 20 March, ESMA published ➲**an opinion on the framework for the assessment of third country prospectuses**. The opinion explains the framework for third country share prospectuses and sets out the role of the EU Member States’ competent authorities in scrutinizing prospectuses under these arrangements.

On the same day, ESMA also published ➲**an updated version of the CESR Recommendations for the consistent implementation of the Prospectus Directive**. The update revised the recommendations on the information that must be provided by mineral companies in a prospectus.

Fees for Trade Repositories

On 4 April, ESMA published ➲**its technical advice to the European Commission on Fees for Trade Repositories**.

Types of alternative investment fund managers

On 2 April, ESMA published its ➲**draft regulatory technical standards (RTS) to determine types of alternative investment fund managers** (AIFMs). The draft RTS distinguish AIFMs managing alternative investment funds (AIF) of the open-ended type and AIFMs managing AIFs of the closed-ended type, in order to apply the rules on liquidity management, the valuation procedures and the transitional provisions of the AIFMD. ESMA was required to develop these RTS by Article 4(4) of the AIFMD and they are aimed at ensuring uniform conditions of application of the AIFMD across the European Union.

ETFs and other UCITS issues

On 15 March, ESMA published ➲**a Q&A on ETFs and other UCITS issues**. The Q&A contains questions in relation to:

- Information to be inserted in the prospectus;
- The requirement to use the label “UCITS ETF”;
- The redemption price in case of when the a UCITS ETF is open for direct redemption for secondary market investors;
- Efficient portfolio management techniques;
- Financial derivative instruments;
- Collateral management;
- Financial indices;

- Transitional provisions of the ➲**ESMA Guidelines on ETFs and other UCITS issues**.

Colleges for central counterparties

On 15 March, ESMA published ➲**revised draft Regulatory Technical Standards on colleges for central counterparties supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012.** The RTS were revised to comply with the European Commission's view that ESMA's previously proposed RTS exceeded the mandate given by the legislator to specify the details of the practical arrangements of the agreement for the establishment and functioning of CCP colleges.

International Organization of Securities Commissions (IOSCO)

Principles for CIS Valuation

On 3 May, the **IOSCO** published ➲**its Principles for the Valuation of Collective Investment Schemes.** The principles outlined are intended to be a basis against which both the industry and regulators can assess the quality of regulation and industry practices concerning CIS valuation. Generally, these principles reflect a level of common approach and are a practical guide for regulators and industry practitioners. Implementation of the principles may vary from jurisdiction to jurisdiction, depending on local conditions and circumstances.

Insurance, reinsurance and pensions

Also in this issue:

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No developments

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European Commission

Occupational Pension Funds

In a ➲**press release** of 23 May, the European Commission indicated that it intends to come forward with a proposal for a Directive to improve the governance and transparency of occupational pension funds in the autumn of 2013. At this stage, and as long as more comprehensive data is needed and Solvency 2 is not in force, the proposal for a Directive will not cover the issue of the solvency of pension funds. In light of the differing situations in Member States regarding retirement products and pension funds, it is necessary to continue technical work on the issue of Solvency.

Insurance of Natural and Man-made Disasters

On 16 April, the European Commission published ➲**a Green Paper on the Green Paper on the Insurance of Natural and Man-made Disasters.** The Paper poses a number of questions concerning the adequacy and availability of appropriate disaster insurance and accompanies the Communication entitled "An EU strategy on adaptation to climate change". The objective is to raise awareness and to assess whether or not action at EU level could be appropriate or warranted to improve the market for disaster insurance in the European Union. More generally, this process will also expand the knowledge base, help to promote insurance as a tool of disaster management and thus contribute to a shift towards a general culture of disaster risk prevention and mitigation, and bring in further data and information.

Long-term financing

On 25 March, the European Commission published ➲**a Green Paper on long-term financing.** The purpose of the Green Paper is to start a broad debate on how to foster the supply of long-term financing and how to improve and diversify the system of financial intermediation for long-term investment in Europe.

European Insurance and Occupational Pension Authority (EIOPA)

Survey of EU practice on default investment options

On 8 April, EIOPA published ➲**the result of its survey of EU practice on default investment options**. During the survey a mapping exercise of existing practices and approaches in member states in respect of investment options, default investment funds and life styling was carried out in order to get acquainted with similarities/differences in existing approaches among member states as well as map the current situation and identify possible gaps between approaches chosen.

Risk dashboard

On 14 March, EIOPA published its quarterly ➲**Risk Dashboard March 2013 for systemic risk**. On the basis of observed market conditions, data gathered from undertakings, and expert judgment, EIOPA assesses the main systemic risks and vulnerabilities faced by the European insurance industry over the coming quarters to be:

- Macro risks: Recessionary pressure in a number of economies in the EU exemplifies the macro-economic risks which are still at an elevated level. Although several important steps have been taken recently both at the European and national level, uncertainty remains with regard to any remaining implementation risks. In addition, the combination of austerity measures, rising unemployment and a prolonged period of subdued growth could have negative effects on insurance demand. Uncertainties in the macro outlook are not limited to the EU, but a global concern, e.g. the failing agreement in the US on the federal budget could affect the business of EU insurers' subsidiaries.
- Credit and market risk: The trend of decreasing credit spreads has continued. In addition to the effects of increased investor confidence, this development is also driven by accommodative monetary policy, the difficult global financial investment environment and investors' risk appetite striving for an appropriate balance of yield versus risk. Market risks are still dominated by the low-yield environment with 10-year swap rates in Western Europe though rates have slightly increased over the last weeks. Guaranteed interest rates in life insurance are currently, on average, some 50 basis points lower than four years ago.
- Profitability and Solvency: Although profitability has improved with particularly strong ROE this quarter, this has been offset with a slight deterioration in solvency ratios in both life and non-life business following the slight improvement last quarter.

Long-lasting low interest rates

On 4 March, the **European Insurance and Occupational Pensions Authority (EIOPA)** published ➲**an Opinion on Supervisory Response to a Prolonged Low Interest Rate Environment.** In the opinion, the Authority sets out a number of recommended supervisory responses to tackle the potential solvency risks arising from a prolonged period of low interest rates.

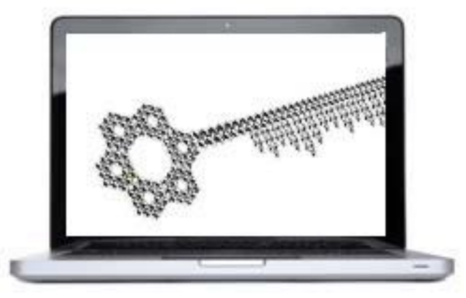
International Association of Insurance Supervisors (IAIS)

Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame)

On 4 April, the IAIS published an ➲**updated version of its FAQ on ComFrame.**

Self-Assessment and Peer Review (SAPR) on Regulation and Supervision supporting Inclusive Insurance Markets

On 3 April, the IAIS launched the ➲**Self-Assessment and Peer Review (SAPR)** on Regulation and Supervision supporting Inclusive Insurance Markets. This SAPR assesses the supportiveness of supervisors to the cause of enhancing inclusive insurance markets and is based on questionnaire.



Tax

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Official Journal of Belgium (BS/MD)

Dividend withholding tax exemption

On 8 May, the Royal Decree of 30 April 2013 amending article 106, §7, section 1 of the RD/ITC was published in the Official Journal (in ➲**Dutch** and in ➲**French**). The Royal Decree extends the scope of the withholding tax exemption for dividends paid by Belgian institutional investment companies to non-resident investor. Until recently, only dividends distributed by Belgian public and real estate investment companies to non-resident investors enjoyed a domestic withholding tax exemption. This created an unequal treatment when compared to institutional investment companies, for which only share buy-backs qualified for withholding tax exemption.

Consultative or informative documents

European Commission

Platform for Tax Good Governance

In ➲**a press release** of 23 April, the European Commission announced the setting up the new platform for tax Good Governance as part of its concerted drive against tax evasion and avoidance. The Platform will monitor Member States' progress in tackling aggressive tax planning and clamping down on tax havens, in line with➲ **the Recommendations presented by the Commission last year**. The aim is to ensure that real and effective action is taken by Member States to address these problems, within a coordinated EU framework. The Platform will be comprised of a wide cross-section of interested parties - national tax authorities, European Parliament, businesses, academics, NGOs and other stakeholders. This will also facilitate dialogue and exchange of expertise, which can feed into a more coordinated and effective EU approach against tax evasion and avoidance.

European Court of Justice (ECJ)

VAT exemption of management services to special investment funds

In the case GfBk vs. Finanzamt Bayreuth (C-275/11) (in ➲**Dutch** and in ➲**French**), the ECJ was asked to make a preliminary ruling on application of the VAT exemption for management services rendered to a special investment fund based on article 135(1)(g) of Directive 2006/112/EC. GfBk is the investment advisor of a German fund manager which manages the special investment fund (Investment management company or IMC). IMC acts in accordance with the investment advice provided by GfBk, provided that these recommendations do not infringe any statutory investment restriction applicable to special investment funds. GfBk claims that its advisory services to the IMC fall within the concept of management of special investment funds. The Court ruled that the VAT exemption of article 135(1)(g) does indeed apply to such services, given that they are intrinsically connected to the core activity of the fund manager. Also, based on the neutrality principle, IMC should be able to choose the form of organization it wishes, without running the risk having their transactions excluded from the aforementioned VAT exemption.

VAT exemption for the management of pension funds

In the case Wheels Common Investment Fund Trustees Ltd and other vs. Commissioners for Her Majesty's Revenue and Customs (C-424/11) (in **Dutch** and in **French**), the ECJ was asked to make a preliminary ruling on application of the VAT exemption for management services rendered to pension funds based on article 135(1)(g) of Directive 2006/112/EC. In the case at hand, Capital International Limited (CIL) provides management services to Wheels, a trustee of an occupational pension scheme established by the Ford Motor Company. The pension scheme was optional and open to all employees. CIL argued that the management services provided to Wheels were VAT exempt under article 135(1)(g) of Directive 2006/112/CE. The CJEU rejected the application of this VAT exemption based on the fact that the occupational pension scheme at issue was not open to the public but constitutes an employment-related benefit. The ECJ also ruled that the pension scheme is not in competition with collective investment undertakings, since it does not meet the same needs and characteristics.

UK Government

On 18 April 2013, the UK Government (with the support of Luxembourg) lodged a formal legal claim at the European Court of Justice against the introduction of the EU Financial Transaction Tax (FTT) under the Enhanced Cooperation Procedure. This claim is based on the grounds that the existing proposal will impact countries not taking part to the initiative. This casts more doubts on the likelihood of the EU FTT being introduced on 1 January 2014, as originally planned by the EU Commission.

We are always interested in your feedback. Please let us know what you think of this newsletter and send your comments to Regulatory Radar**. Visit our website** here**.**

Berkenlaan 8b,
1831 Diegem
Belgium