



## Regulatory Radar

Regulatory Newsletter, Issue 26, July-August 2010

Newsletter on banking and financial regulation

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So, the compromise Basel III proposals are known. Next to significantly cranking up the actual capital requirements and demanding that the capital be of better quality in terms of loss absorption capacity, the phasing in of these requirements is extended over a several year period. The press related that very few banks would not make it on time by natural capital growth, and bank stocks duly went up. At the same time, newspapers were also reporting that there is again uncertainty on the actual disclosures banks made during the stress test on their holdings of sovereign debt.

The new rules were preceded by a few weeks by a paper by the Basel committee arguing that the new rules would be good for the economy in the long term.

The core of the argument here seems to be that by imposing higher capital requirements, you may temporarily put a brake on the provision of credit, and hence slow down the economy, but, by significantly reducing the probability of a systemic financial crisis, the long term costs for society are dramatically reduced. Given our limited understanding of the interplay between global financial crises and the economic health of the planet, it is hard to know for sure, and we will have to take it on faith for the moment.

However, it is likely that either RoE of financial institutions will go down, or the cost of financial products will rise. To us, these are two indicators that despite the fact that the BANKERS got all the blame for the crisis, we should not forget that, as a society, we also profited from the deregulation driven financial bubble, either by services that we did not pay the right (risk-adjusted) price for, or by investment returns in our pension and mutual funds that were too high.

Hopefully, we get it right this time as a society. A lot is riding on it...

In July and August, a significant amount of publications on the Basel reform package and on Solvency II have been issued. In addition other interesting publications

have been issued on topics such as the fair value option for financial liabilities (IAS 39), the deposit guarantee schemes proposal, UCITS, short selling, the market abuse directive and on the adoption of simplified rules on VAT invoicing.

We hope you enjoy the reading.

The Editorial Board.



## Financial Services Industry

### Normative documents

#### **Official Journal of Belgium (BS/MB)**

##### **Guarantee Fund**

On 5 August, the Official Journal of Belgium published the [Royal Decree](#) of 22 July 2010 amending the Royal Decree of 16 March 2010 on the protection of deposits and life insurances by the special guarantee fund for deposits and life insurances.

#### **Official Journal of the European Union (OJ)**

##### **AML/CTF**

In July, the following documents related to AML/CTF were published:

- [Commission Regulation \(EU\) No 586/2010 of 2 July 2010](#) amending for the 130th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban in OJ L 169 of 03/07/2010;
- [Council Decision 2010/386/CFSP of 12 July 2010](#) updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism in OJ L 178 of 13/07/2010;
- [Council Implementing Regulation \(EU\) No 610/2010 of 12 July 2010](#) implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) No 1285/2009 in OJ L 178 of 13/07/2010;
- [Notice for the attention of the persons, groups and entities on the list provided for in Article 2\(3\) of Council Regulation \(EC\) No 2580/2001](#) on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (see Annex to Council Regulation (EU) No 610/2010) in OJ C 188 of 13/07/2010;

- [Commission Regulation \(EU\) No 663/2010 of 23 July 2010](#) amending for the 131st time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban in OJ L 193 of 24/07/2010;
- [Agreement between the European Union and the United States of America](#) on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program in OJ L 195 of 27/07/2010;
- [Council Decision 2010/414/CFSP of 26 July 2010](#) amending Decision 2010/127/CFSP concerning restrictive measures against Eritrea in OJ L 195 of 27/07/2010;
- [Council Decision of 26 July 2010](#) concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP in OJ L 195 of 27/07/2010;
- [Council Decision of 13 July 2010](#) on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program in OJ L 195 of 27/07/2010;
- [Council Decision of 28 June 2010](#) on the signing, on behalf of the Union, of the Agreement between the European Union and the United States of America on the processing and transfer of financial messaging data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program in OJ L 195 of 27/07/2010;
- [Information concerning the date of entry into force of the Agreement](#) between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program in OJ L 195 of 27/07/2010;
- [Council Regulation \(EU\) No 667/2010 of 26 July 2010](#) concerning certain restrictive measures in respect of Eritrea in OJ L 195 of 27/07/2010;
- [Council Implementing Regulation \(EU\) No 668/2010 of 26 July 2010](#) implementing Article 7(2) of Regulation (EC) No 423/2007 concerning restrictive measures against Iran in OJ L 195 of 27/07/2010;
- [Notice](#) for the attention of the persons and entities to which restrictive measures provided for in Council Decision 2010/413/CFSP and in Council Regulation (EC) No 423/2007 apply and a ➤ [second notice](#) in OJ C 205 of 29/07/2010;
- [Corrigendum to Council Decision of 26 July 2010](#)

concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP in OJ L 197 of 29/07/2010;

- [Notice](#) for the attention of Amir Abdullah, Anwar Nasser Abdulla Al-Aulaqi, Nasiruddin Haqqani and Gul Agha Ishakzai who were added to the list referred to in Articles 2, 3 and 7 of Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, by virtue of Commission Regulation (EU) No 681/2010 in OJ C 206 of 30/07/2010;
- [Commission Regulation \(EU\) No 681/2010 of 29 July 2010](#) amending for the 132nd time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban in OJ L 198 of 30/07/2010

During August, OJ published the following documents related to AML/CFT:

- [Commission Regulation \(EU\) No 713/2010 of 9 August 2010](#) amending the Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban in OJ L 209 of 10 August
- [Corrigendum to notice 2010/C 205/02](#) for the attention of the persons and entities to which restrictive measures provided for in Council Decision CFSP/413/2010 and in Council Regulation (EC) No 423/2007 apply in OJ C 211 of 4 August
- [Corrigendum to notice 2010/C 205/03](#) for the attention of the persons and entities to which restrictive measures provided for in Council Decision CFSP/413/2010 and in Council Regulation (EC) No 423/2007 apply in OJ C 211 of 4 August

## **Target2**

➤ [Decision of the ECB of 29/07/2010](#) on access to and use of certain Target2 data has been published in the OJ L 211 of 12 August.

## **Corrigendum of Directive 2006/46/EC**

➤ [Corrigendum of Directive 2006/46/EC of 14/06/2006](#) amending the 4<sup>th</sup> and 7<sup>th</sup> Directives on the annual accounts and consolidated accounts was published in The OJ L 217 of 18 August. The corrigendum is only for the French Version of the Directive.

## **Banking, Finance and Insurance Commission (CBFA)**

### **Periodical reporting by payment institutions**

On 5 July, the CBFA published a circular (in [Dutch](#) and in [French](#)) regarding periodical reporting by payment institutions.

### **Reporting by financial holdings**

On 15 July, the CBFA published a circular (in [Dutch](#) and in [French](#)) regarding the reporting by financial holdings.

### **Contribution to cover the operating costs of the CBFA**

On 5 August, the CBFA published a communication (in [Dutch](#) and in [French](#)) regarding the contribution duty of banking and investment service intermediaries to cover the operation costs of the CBFA.

### **AML/CFT**

On 25 August, the CBFA published a communication (in [Dutch](#) and in [French](#)) on enhanced due diligence in the context of the fight against money laundering, financing of terrorism and the proliferation of weapons of mass destruction.

## Consultative or informative documents

### **Banking, Finance and Insurance Commission (CBFA)**

#### **Compliance with reporting obligations**

On 2 July, the CBFA announced (in [Dutch](#), in [French](#) and in [English](#)) the publication of its study on the half-yearly financial reports drawn up in accordance with IAS 34. This study examines whether the second year of implementation of Royal Decree of 14 November 2007 on the obligations of issuers of financial instruments admitted to trading on a regulated market shows a greater degree of compliance by listed companies with their obligations as concerns the publication of their half-yearly financial report. It also examines compliance with certain obligations that changed when IFRS 8 Operating segments and certain changes in IAS 1 Presentation of financial statements came into force.

### **CEA**

#### **Fair Value Option for Financial Liabilities**

On 12 July, CEA published a [comment letter](#) on IASB exposure draft on Fair Value Option for Financial Liabilities. CEA stated that it believes that the current IAS 39 requirements for financial liabilities are appropriate and therefore support the IASB decision to largely retain them. In addition, we share the IASB concern that it is counter-intuitive to report a gain in the profit and loss account when the credit risk of a financial liability worsens (and conversely report losses when it improves). However, the organization fears that the IASB mechanism (the two-step approach) may have unintended consequences and create an accounting mismatch for certain financial liabilities.

## **Corporate governance and remuneration in financial institutions**

On 31 August CEA published its [response](#) to the European Commission's Green Paper on corporate governance and remuneration in financial institutions.

## **Committee of European Securities Regulators (CESR)**

### **Report on trends, risk and vulnerabilities in financial markets**

On 29 July, CESR published for the first time its [report on trends, risks and vulnerabilities in financial markets](#). In its report, CESR has identified a range of key trends, risk and vulnerabilities.

### **Development of Pan-European Access to Financial Information Disclosed by Listed Companies**

On 2 August, CESR launched a consultation in regards to the development of the network of officially appointed mechanisms for the central storage of regulated information (OAMs) in terms of search facilities and integration of the network. In the [accompanying consultation paper](#) CESR examined the feasibility of requiring harmonised search facilities throughout the OAM network and the feasibility of the Integration of national OAMs into a Pan-European OAM network. The deadline for contributions: 24 September.

### **Guidance regarding credit rating agencies**

On 30 August, CESR published a set of guidelines in the field of credit rating agencies (CRA's). The [first guidance](#) sets out guidelines on the enforcement practices and activities to be conducted by competent authorities under article 21.3 (a) of the Credit Rating Agencies Regulation. The [second guidance](#) concerns the typical information that competent authorities would expect to receive for ongoing supervision of the registered CRA in order to assess its compliance with the provisions concerning credit rating methodologies as per Article 8.3 of the aforementioned Regulation.

## **Council of the European Union**

### **Strategy on Terrorist Financing**

On 1 July, the Council published a [report](#) on the implementation of the revised Strategy on Terrorist Financing.

### **European Financial Supervision and Macro Prudential Oversight of the Financial System**

During July, the Council published the following documents related to the reform of the European Financial Supervision:

- ➔ [Report](#) on the proposal for a regulation establishing a European Banking Authority and

the proposal for a regulation on EU macro prudential oversight of the financial system and establishing a European Systemic Risk Board "Financial Supervision Reform";

- *Résultats des travaux du Parlement européen sur la proposition de règlement instituant une Autorité européenne des assurances et des pensions professionnelles* (French only at this stage);
- *Résultats des travaux du Parlement européen sur la proposition de règlement du Parlement européen et du Conseil instituant une Autorité bancaire européenne* (French only at this stage);
- *Résultats des travaux du Parlement européen sur la proposition de règlement du Parlement européen et du Conseil instituant une Autorité européenne des marchés financiers* (French only at this stage);
- *Compromis de la présidence révisé sur la proposition de règlement du Parlement européen et du Conseil instituant une Autorité bancaire européenne* (French only at this stage);
- *Résultat des travaux du Parlement européen sur la proposition de règlement relatif à la surveillance macro prudentielle du système financier et instituant un Comité européen du risque systémique* (French only at this stage);
- **Presidency compromise** on the Proposal for a regulation on EU macro prudential oversight of the financial system and establishing a European Systemic Risk Board followed by a ➤**first revision** (in French only at this stage), a ➤**second revision** and a ➤**third revision**

### **Financial Conglomerate: Supplementary Supervision of Financial Entities**

On 26 August, the Council published its ➤**Proposal for a Directive of the European Parliament and of the Council amending Directives 98/78/EC, 2002/87/EC and 2006/48/EC** as regards the supplementary supervision of financial entities in a financial conglomerate accompanied by a ➤**first Commission Staff Working Document Impact Assessment** and a ➤**second one**.

### **European Association of Co-operative Banks (EACB)**

#### **IFRS 9/ IAS 39**

On 16 July, EACB published its ➤**comments on IASB's exposure draft on classification and measurement of financial liabilities at fair value option**. The IASB proposes to maintain the current requirements in IAS 39 regarding financial liabilities except for specific amendments on the cost exception for equity derivatives and the treatment of credit risk for liabilities designated under the fair value option.

## **EU Presidency**

### **Provisional Agenda Economic and Financial Affairs Council**

On 13 July, the Belgian Presidency published the indicative [provisional agendas](#) for Council meetings prepared by the Permanent Representatives Committee for the period up to December 31, 2010. The provisional agenda of the Economic and Financial Affairs Council on December 7, 2010 in Brussels includes legislative deliberations on important financial services regulations and on the VAT treatment of insurance and financial services.

## **European Banking Federation (EBF)**

### **Report on retail financial services market**

In a [press release](#) of 27 July, the EBF announced the publication of its [report](#) on retail financial services market. The report aims to discuss the impact of current initiatives on further integration in a post-crisis environment.

## **European Commission**

### **Annual Report on the protection of the EU's Financial Interests and the Fight against Fraud**

In a [press release](#) of 14 July, the European Commission announced the publication of its [annual report](#) on the protection of the EU's Financial Interests and the Fight against Fraud. This report outlines important measures taken by the Commission and Member States in 2009 to prevent, detect and tackle irregularities and fraud.

### **Revision of the Financial Conglomerates Directive**

In a [press release](#) of 16 August, the European Commission presented the frequently asked questions regarding the revision of the Financial Conglomerates Directive.

## **European Central Bank (ECB)**

### **Review of risk control measures in collateral framework**

In a [press release](#) of 28 July, the ECB announced that its Governing Council has reviewed risk control measures in the framework for assets eligible for use as collateral in Eurosystem market operations. The new schedule duly graduates haircuts according to differences in maturities, liquidity categories and the credit quality of the assets concerned, based on an updated assessment of risk characteristics of eligible assets and the actual use of eligible assets by counterparties. The new haircut schedule will enter into force on 1 January 2011.

## **European Parliament**

### **Avoid Future Banking Crisis**

On 7 July, the Parliament published a [press release](#) titled "Tighter coordination and planning to avoid future banking crises". A special system should be set up to ensure that crises are resolved earlier and to avoid rushed, weekend bank bailouts costing the taxpayer hundreds of billions of Euros, says the Parliament in a resolution passed. The growing size, complexity and interconnectedness of banks means that such a system must be established at European level.

### **European Financial Supervision**

On 14 July, the European Parliament published a [press release](#) titled "No deal yet on EU financial supervision system: negotiations will continue" in which the Parliament announced Negotiations on a EU-wide financial supervision system between the Council and the European Parliament produced some progress on 14 July, but a complete deal was not clinched.

Regarding the same topic, a [press release](#) "MEPs back root-and-branch reform of financial supervision" was published on 7 July.

## **Financial Law Institute**

### **Implementation of the Payment Services Directive in Belgium**

In July the Financial Law Institute published a [working paper regarding the implementation of the Payments Services Directive in Belgium](#) (only available in Dutch). The paper focuses on how the Belgian legislator has implemented the directive and on which points the relevant Belgian legislation deviates from the directive.

### **Allocating liability in case of fraudulent use of electronic payment instruments and the Belgian mobile payment instrument pingping**

In July the Financial Law Institute published a [working paper on the subject of allocation of liability in case of fraudulent use of electronic payment instruments and the Belgian mobile payment instrument pingping](#). The first part of the paper focuses on the rules determining who is liable in case of fraudulent use of a traditional electronic payment instrument, such as a debit card, a credit card or an e-banking system. In the second part of the paper will deal with the applicability of these rules to mobile payment instruments, using the new Belgian payment system, pingping as an example.

## **Financial Stability Board (FSB)**

### **Feedback on risk disclosure practices**

In a [press release](#) of 21 July, the FSB invited public input on the implementation of the recommendations concerning risk disclosures by market participants that were made in the April 2008 [FSB Report on Enhancing Market and Institutional Resilience](#) and are currently being peer-reviewed. The consultation period ended on 10 September.

## **International Capital Market Association (ICMA)**

### **Newsletter**

On 7 July, ICMA published the [Issue 18 of its Regulatory Policy Newsletter](#). The newsletter focused on the sovereign debt crisis in Europe, the regulatory responses to the crisis and the major reform of financial regulations taking place in the European Union.

## **International Monetary Fund (IMF)**

### **Monetary Policy and Bank Risk Taking**

On 27 July, the IMF published its [Staff Position Note "Monetary Policy and Bank Risk Taking"](#) which examines how monetary policy affects bank risk taking (defined as choices that increase the volatility of bank profits). This question is key to the current debate over what role financial stability considerations should play in monetary policy decisions and how best to integrate the macro-prudential and monetary policy frameworks.

### **Price of Risk**

On 12 August, the IMF published its [Working Paper "Price of Risk - Recent Evidence from Large Financials"](#). This paper discusses three issues that should be taken into account in using "probability of default"-based methodologies for loss or contagion analyses: (i) the use of - risk-neutral probabilities - vs. -real-world probabilities; - (ii) the divergence between movements in credit and equity markets during periods of financial stress; and (iii) the assumption of stochastic vs. fixed recovery for financial institutions' assets.

### **Global Liquidity**

On 25 August, the IMF published its [Working Paper "Can Global Liquidity Forecast Asset Prices?"](#). This paper attempts to determine the extent to which the rise in asset prices was influenced by developments in global liquidity. The paper also examines spillovers from global liquidity to domestic variables.

## **International Organization of Securities Commissions (IOSCO)**

### **Transparency of Structured Finance Products**

On 9 July, the [report of the Technical Committee of IOSCO regarding Transparency of Structured Finance Products \(SFP's\)](#) was published. The report sets out a number of factors that are designed to assist market authorities when considering how to enhance post-trade transparency of SFPs in their respective jurisdictions. It also lists the factors that market authorities should use in determining which structured finance products should be made transparent, and how this could best be implemented.

## **Internal controls and policies with regard to structured finance products and regulatory approaches to liquidity risk management**

On 2 August, the [↻ Consultation report of the Technical Committee of IOSCO on Intermediary Internal Controls Associated with Price Verification of Structured Finance Products and Regulatory Approaches to Liquidity Risk Management](#) was published. The Report sets out the results of surveys of firms and regulators on the internal controls and policies in effect at firms, and pertinent regulations, in or around June 2006 i.e., prior to the financial crisis, and any changes made as a result of the crisis with regard to structured finance products. The surveys also sought respondents' views concerning the viability of the traditional independent investment banking model in light of the financial crisis that developed after 2006. The documents also contains the results of a prudential survey on how jurisdictions' liquidity regimes applied to securities firms

## **Direct Electronic Access to Markets**

On 12 August, IOSCO published its [↻ report on the principles for Direct Electronic Access to Markets \(DEA\)](#). The report sets forth eight principles applicable to DEA to guide markets, intermediaries and regulators in regard to pre-conditions for DEA, information flow and adequate systems and controls. A key aspect of the principles provide that neither the market nor an intermediary should offer DEA unless adequate pre-trade information is provided, and both regulatory and financial controls, including automated pre-trade controls, are in place to enable intermediaries to implement appropriate risk limits.

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## **Credit institutions and investment firms**

### **Normative documents**

#### **Official Journal of Belgium (BS/MB)**

##### **Capital Requirements**

On 5 August, the Official Journal of Belgium published the [Royal Decree of 20 July 2010](#) regarding the approval of the Regulation of 2 March 2010 of the Banking, Finance and Insurance Commission amending the Regulation of 17 October 2006 on the capital requirements for credit institutions and investments firms.

#### **Official Journal of the European Union (OJ)**

##### **Credit Agreements for Consumers**

A [↻ Corrigendum to Directive 2008/48/EC](#) of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing

Council Directive 87/102/EEC have been published in OJ L 199 of 31/07/2010.

## **Banking, Finance and Insurance Commission (CBFA)**

### **Capital requirements**

On 24 August, the CBFA published a circular (in [Dutch](#) and in [French](#)) providing guidance for implementation of the amended Regulation of 17 October 2006 on the capital requirements for credit institutions and investments firms.

## Consultative or informative documents

### **Official Journal of the European Union (OJ)**

#### **Capital Requirements and Remuneration Policies**

The [Opinion of the European Central Bank of 6 August 2010](#) on a proposal for a Directive amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies has been published in the OJ C 223 of 18 August.

### **Basel Committee**

#### **Progress on regulatory reform package**

In a [press release](#) of 16 July, the Basel Committee announced the launch of a public consultation on its [countercyclical capital buffer proposal](#). Comments on this document were expected before 10 September 2010.

#### **Agreement on capital and liquidity reform package**

In a [press release](#) of 26 July, the Basel Committee announced the publication of an [agreement](#) on the overall design of the capital and liquidity reform package. In particular, this includes the definition of capital, the treatment of counterparty credit risk, the leverage ratio, and the global liquidity standard. The European Banking Federation also published, on 29 July, a [press release](#) on this subject.

#### **Assessment of the macroeconomic impact of stronger capital and liquidity requirements**

In a [press release](#) of 18 August, the Basel Committee and the Financial Stability Board announced the publication of two reports, entitled ["An assessment of the long-term economic impact of stronger capital and liquidity requirements"](#) and ["Assessing the macroeconomic impact of the transition to stronger capital and liquidity requirements"](#), prepared as inputs to the calibration of the new bank capital and liquidity standards and to inform the transition arrangements for implementation of the new standards.

### **Proposal to ensure the loss absorbency of regulatory capital at the point of non-viability**

In a [press release](#) of 19 August, the Basel Committee announced the launch of a public consultation on a [proposal](#) based on a requirement that the contractual terms of capital instruments will allow them at the option of the regulatory authority to be written off or converted to common shares in the event that a bank is unable to support itself in the private market in the absence of such conversions. This proposal should also help to reduce a source of moral hazard, seen by some as an underlying cause of the current financial crisis and a potential cause of future crises. All interested parties are invited to submit their comments by 1 October 2010.

### **Microfinance activities and the Core Principles for effective banking Supervision**

In a [press release](#) of 30 August, the Basel Committee announced the publication of its final paper entitled ["Microfinance activities and the Core Principles for Effective Banking Supervision"](#). This paper examines the applicability of the Core Principles of effective banking supervision to the supervision of microfinance activities. It also highlights key differences between conventional retail banking and microfinance activities.

## **Committee of European Banking Supervisors (CEBS)**

### **Consultation paper on guidelines on Article 122a of the Capital Requirements Directive**

In a [press release](#) of [1 July](#), the CEBS announced the launch of a [public consultation](#) on guidelines to the new Article 122a of the Capital Requirements Directive (CRD). This consultation paper is in response to the amendments to the CRD by Directive 2009/111/EC relating to securitizations, which requests CEBS to elaborate guidelines for the convergence of supervisory practices with regard to Article 122a, including the measures taken in case of breach of the due diligence and risk management requirements. All interested parties are invited to submit their comments by 1 October 2010.

### **Results of the 2010 EU-wide stress testing exercise**

In a [press release](#) of 23 July, the CEBS announced the publication of its [summary report](#) on the results of the EU-wide stress test exercise. The exercise includes a sample of 91 European banks, representing 65% of the European market in terms of total assets, in coordination with 20 national supervisory authorities.

### **Implementation guidelines on large exposures exemptions for money transmission, correspondent banking, clearing and settlement and custody services**

In a [press release](#) of 28 July, the European Commission announced the publication of its [implementation guidelines](#) on Article 106(2) (c) and (d) of Directive 2006/48/EC (Capital Requirements Directive) as

amended by Directive 2009/111/EC.

### **Revised guidelines on stress testing**

In a [press release](#) of 26 August, the CEBS announced the publication of its [revised guidelines](#) on stress testing which takes into the account the results of the earlier public consultation which run from December 2009 to March 2010.

## **Committee on the Global Financial System (CGFS)**

### **Report on long-term issues in international banking**

In a [press release](#) of 29 July, the CGFS announced the publication of its report entitled [“Long-term issues in international banking”](#). This report addresses structural issues in international banking from three angles: a historical perspective, what the drivers have been and what might happen next.

## **Council of the European Union**

### **Capital Requirements and Remuneration Policies**

During July, the Council published the following documents related to the Proposal for a Directive of the European Parliament and of the Council amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies:

- ➔ [Résultat de la première lecture du Parlement européen](#) (French only at this stage) on 27 July;
- ➔ [Letter to European Parliament](#) on 1 July and revised on 2 July.

### **Deposit Guarantee Schemes**

During July, the Council published the [Proposal for a Directive](#) of the European Parliament and of the Council on Deposit Guarantee Schemes (recast) and a [report from the Commission](#) to the European Parliament and to the Council on Review of Directive 94/19/EC on Deposit Guarantee Schemes accompanied by the following documents:

- ➔ [Commission Staff Working Document Impact Assessment](#);
- ➔ [Commission Staff Working Document Summary of the Impact Assessment](#).

## **European Association of Co-operative Banks (EACB)**

### **Enhancing Corporate Governance Principles**

On 1 July, EACB published its [comments](#) on the Basel Committee’s Consultative Document on Enhancing Corporate Governance Principles. The EACB commented

that the principles set out by the Basel Committee are considered as important elements of an effective corporate governance process. It however remarked that the principles are rather focused towards commercial banks rather than banks which apply the cooperate principles.

### **Deposit Guarantee Schemes**

On 12 July the EACB published a [press release](#) about the European Commissions' Proposal on Deposit Guarantee Schemes. In the press release the EACB stated that while it favoured a quick adoption of the Commission's proposal for a new directive on deposit guarantee schemes, it believes that significant improvements will have to be made during the coming months.

## **European Banking Industry Committee (EBIC)**

### **Bank account switching**

On 2 August EBIC published its [report on the implementation of the EBIC common principles on bank account switching](#). The report presents an overview of the results of implementation of the common principles at national level.

## **European Central Bank (ECB)**

### **Banking lending in the Euro area**

On 28 July the ECB published its [quarterly bank lending survey for the Euro area](#).

### **EU-stress testing exercise**

On 23 July the ECB published three documents in regards to the EU-stress testing exercise conducted by CEBS and the national supervisory authorities. The [first document](#) contained key messages on methodological issues. The [second document](#) detailed the main technical features of the stress test exercise such as the macroeconomic scenarios (benchmark and adverse) and the corresponding key micro parameters (probabilities of default (PDs), loss given default (LGDs), and haircuts for holdings of government bonds in the trading book). The [third and final document](#) was a Q&A document.

## **Eurofinas**

### **ISO standard on consumer credit scoring**

In a [press release](#) of 7 July Eurofinas reported that it had succeeded in halting the development of an international standard on consumer credit scoring as the proposal has been dropped as a work item by the International Organisation for Standardisation (ISO). Credit providers feared that any such standard would hinder innovation in scorecard development. This would ultimately be damaging to consumers in situations where risk assessments could no longer be appropriately tailored to an applicant borrower.

## **European Mortgage Federation (EMF)**

### **Review of Mortgage Markets**

On 5 August the EMF published its [Quarterly Review of European Mortgage Markets](#) for Q12010. The review indicated among other things that the positive developments recorded in Q4 2009 across many EU mortgage markets came to a halt in Q12010 in some countries while the recovery in some other markets continued, notwithstanding adverse or scarcely supportive macroeconomic condition. However most housing markets showed positive signs.

### **Mortgage info**

On 12 August the EMF published its [Mortgage info](#) newsletter for July and August. The newsletter covers subjects such as covered bonds, UK proposals to ensure affordability of lending and tying and bundling

## **European Savings Bank Group (ESBG)**

### **Deposit Guarantee Schemes**

On 13 July ESBG published its [comments](#) on Proposal for a recast of the Deposit Guarantee Schemes Directive. The comments are summarised in the following [press release](#).

### **Basel III**

On 27 July ESBG published a [press release](#) titled "The Basel III update - steps in the right direction?" in which the organisation welcomes the 'Basel III' update published by the Basel Committee on 26 July. The Group did however underline its reservations arising from the lack of a complete and consistently calibrated reform package: with a disconnected focus on the reform details there is no certainty that banks will not be overwhelmed by accumulating requirements.

### **Capital Requirements Directive**

On 27 August ESBG published its [response](#) to CEBS consultation regarding guidelines on the application of Article 3 of the Capital Requirements Directive.

## **Febelfin**

### **Deposit-guarantee schemes**

In a press release of 12 July (in [Dutch](#), in [French](#) and in [English](#)), Febelfin responded to the European Commission's proposal to amend Directive 1994/19/EEC regulating the national deposit-guarantee systems. The Federation welcomed the proposal and indicated that it favored a system based on maximum international harmonization. It also stated that the financial sector will take an in-depth look not only at the Commission's new proposal for readjusting the national deposit-guarantee systems, but also at the question how this proposal ties in with the other measures aimed at reinforcing the financial system and the global bank tax.

## **Financial Stability Board (FSB)**

### **Unwinding Temporary Deposit Insurance Arrangements**

In July the FSB issued an [update](#) to the [report on Unwinding Temporary Deposit Insurance Arrangements](#) published on 7 November 2009 and which surveyed jurisdictions that had increased deposit insurance protection or adopted full depositor guarantees in response to the financial crisis. Jurisdictions were asked to provide information on measures taken, plans for unwinding temporary deposit insurance coverage measures, and whether the jurisdiction had initiated transition planning with other jurisdictions in their region that may be affected by their transition plan. The update published in July highlights any major recent changes and developments that have occurred since the completion of the aforementioned report.

## **International Monetary Fund (IMF)**

### **Liquidity Stress Testing**

On 7 July, the IMF published its [Working Paper "Of Runes and Sagas: Perspectives on Liquidity Stress Testing Using an Iceland Example"](#). This paper uses publicly available data from a now-defunct bank in Iceland, where liquidity shocks were immense, to demonstrate how a combination of stress tests of the various risks would have provided a clearer picture of existing vulnerabilities of the financial system.

### **Sub-Prime Residential Mortgages**

On 16 July, the IMF published its [Working Paper "Local Housing Market Cycle and Loss Given Default: Evidence from Sub-Prime Residential Mortgages"](#). This paper studies the impact of housing market cycles on loss given default (LGD). Previous studies have shown that the current loan-to-value ratio (CLTV) is the most important determinant of LGD.

### **Bank Wholesale Funding**

On 20 July IMF published its [Working Paper "The Dark Side of Bank Wholesale Funding"](#). Banks increasingly use short-term wholesale funds to supplement traditional retail deposits. Existing literature mainly points to the "bright side" of wholesale funding: sophisticated financiers can monitor banks, disciplining bad but refinancing good ones. This paper models a "dark side" of wholesale funding.

### **Cross-Border Banks**

On 21 July, the IMF published its [Policy Paper "Resolution of Cross-Border Banks - A Proposed Framework for Enhanced Coordination"](#) and its [Public Information Notice 10/90 "IMF Executive Board Discusses Cross-border Bank Resolution"](#). In the above mentioned Paper the IMF advocates the establishment of a pragmatic framework for enhanced international coordination, which would be subscribed to by countries

that are in a position to satisfy its elements.

## **Organization for Economic Co-operation and Development (OECD)**

### **Government Guarantees for Bank Bonds**

On 16 July, OECD published a [report](#) regarding the use of [Government Guarantees for Bank Bonds](#) in response to the financial crisis. The report concluded that Government-guaranteed bank bonds have been an effective tool in avoiding the worst during the financial crisis. However, the pricing of the guarantees has created competitive distortions and the continued availability of such guarantees into 2010 may have reduced the pressure on some banks to address their weaknesses.

### **EU Stress Test and Sovereign Debt Exposures**

In August OECD published a [working paper](#) regarding the [EU Stress Test and Sovereign Debt Exposures of banks](#). The paper concluded that most of the sovereign debt is held on the banking books of banks, whereas the EU stress test only considered their small trading book exposures.

## **World Savings Bank Institute (WSBI)**

### **Guidance on Fair and Clear Relations with Customers**

In a [press release](#) of 2 July, WSBI announced the launch of "Guidance on Fair and Clear Relations with Customers" in which WSBI/ESBG stresses that a good customer relations policy based on concepts such as transparency, personalised advice, trust, attention to customers in difficult financial circumstance and rapid response to customer requests are key elements to secure customer satisfaction and confidence. Trust in the financial services sector is of crucial importance and it is a major task for financial institutions to regain the trust of the general public, in situations where this has been adversely affected.

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## **Investment products and asset management**

### **Normative documents**

## **Banking, Finance and Insurance Commission (CBFA)**

### **Approval of market rules**

On 17 August, the CBFA [announced](#) that it had approved the modified market rules of the regulated markets organized by Euronext NV/SA (namely "Euronext Brussels" and "the Euronext Brussels Derivative Instruments Market"). The new rules went into effect on 13 September.

## European Commission

### UCITS

In a [press release](#) of 1 July, the European Commission announced the adoption of the following UCITS IV Level 2 measures:

- [Commission Directive 2010/42/EU](#) of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure published in OJ L 176 of 10/07/2010. A [corrigendum](#) to this directive was published in OJ L 179 of 14/07/2010;
- [Commission Directive 2010/43/EU](#) of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organizational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depository and a management company published in OJ L 176 of 10/07/2010;
- [Commission Regulation \(EU\) No 583/2010](#) of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website published in OJ L 176 of 10/07/2010;
- [Commission Regulation \(EU\) No 584/2010](#) of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities published in OJ L 176 of 10/07/2010.

Member States now have 12 months to implement the directives, while the regulations will apply from 1 July 2011.

### Consultative or informative documents

## Committee of European Securities Regulators (CESR)

### Market transparency

On 4 June, CESR has published the [responses](#) received on the consultation on non-equity market transparency in the context MiFID.

## Banking, Finance and Insurance Commission

## **(CBFA)**

### **Guidance on auction manipulation**

On 25 August, the CBFA published a Joint guidance on Auction Manipulation (in [↻Dutch](#), in [↻French](#) and in [↻English](#)) together with the financial market regulators of France, the Netherlands and Portugal.

## **CEA**

### **OTC derivatives**

On 2 July CEA published [↻high-level messages on OTC derivatives](#). The organization stated that it believes that the central clearing of OTC derivatives is a positive move and one which it will support. However, CEA had concerns about how the current proposals will affect insurance companies and their clients, who are ordinary savers and investors.

## **Committee of European Securities Regulators (CESR)**

### **Guidance on Key Investor Information Document**

On 2 July CESR published two guidance documents concerning the Key Investor Information Document (KII) for UCITS. The [↻first document](#) sets out the methodology for the synthetic risk and reward indicator (SRRI). It stipulates how the volatility intervals should be defined as well as detailed rules on how to assess migrations. The [↻second document](#) contains guidelines concerning the methodology for calculation of the ongoing charges figure. The methodology identifies which items should be included in the ongoing charges figure.

Additionally CESR published four new consultation documents on 20 July regarding:

- ↻ [A template for the Key Investor Information document](#)
- ↻ [Guidelines to clear language and layout for the Key Investor Information document \(KII\)](#)
- ↻ [Guidelines on the selection and presentation of performance scenarios in the Key Investor Information document \(KII\) for structured UCITS](#)
- ↻ [Guidelines for the transition from the Simplified Prospectus to the Key Investor Information document](#)

The deadline for contributions was September 10<sup>th</sup>.

### **Client categorization under MiFID**

In response to a call for advice from the European Commission, CESR launched a [↻consultation to gather stakeholders' views on client categorization](#) issues under MiFID on 12 July. The consultation period ended on 9 August. The [↻responses of stakeholders](#) were published on 16 August.

## **Transaction Reporting on OTC Derivatives and**

## **Extension of the Scope of Transaction Reporting Obligations**

On 19 July CESR published a [consultation paper on Transaction Reporting on OTC Derivatives and Extension of the Scope of Transaction Reporting Obligations](#). In this paper CESR set out a proposal for the possible organisation of transaction reporting on OTC derivatives as well as for the extension of the scope of transaction reporting obligations.

The consultation period ended on 9 August. The [responses of stakeholders](#) were published on 24 August.

## **Standardisation and exchange trading of OTC Derivates**

On 19 July CESR published a [consultation paper on standardisation and exchange trading of OTC](#). In its paper the Committee explored the need for taking regulatory actions in relation to further standardisation for OTC derivatives and also in relation to the promotion of trading of these derivatives on organized markets. The consultation period on the subject ended on 16 August. [Stakeholder responses](#) were published on 30 August.

## **Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS**

On 28 July CESR issued its [guidelines for Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS](#) which accompany the level 2 implementing measures in the context of risk measurement and the calculation of global exposure and counterparty risk for UCITS. In the guidelines CESR provides a harmonised definition of global exposure. The Committee also stresses that the calculation of the global exposure represents only one element of the UCITS' overall risk management process and that it remains the responsibility of the UCITS to select an appropriate methodology to calculate it. Concerning the calculation of the global exposure, CESR sets out detailed methodologies to be followed by UCITS when they use the commitment or the Value at Risk (VaR) approach.

## **First set of technical advice to the European Commission in the context of the MiFID Review**

On 29 July CESR published a [first set of technical advice to the European Commission in the context of reviewing MiFID](#). They aim at improving pre- and post-trade transparency and the orderly functioning of the markets, strengthening investor protection and ensuring securities regulators are equipped with tools which enable them to effectively monitor trading. The technical advice provided by CESR is four-fold and includes policy proposals on equity markets, non-equity markets transparency, transaction reporting and investor protection and intermediaries. An overview of the main recommendation can be found [here](#).

On the same day CESR also published its [feedback statement](#) regarding the advice on transaction reporting in the context of MiFID review.

## **Council of the European Union**

### **Investor-Compensation Schemes**

On 20 July the Council published a [Proposal for a Directive of the European Parliament and of the Council amending Directive 97/9/EC of the European Parliament and of the Council on investor-compensation schemes](#). The proposal was accompanied by a [Commission Staff Working Document Summary of the Impact Assessment](#).

### **Alternative Investment Fund Managers**

On 29 August the Council published its [Proposal for a Directive of the European Parliament and of the Council on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC](#).

## **European Association of Co-operative Banks (EACB)**

### **Client categorization under MiFID**

On 9 August EACB published its [position paper](#) on the technical advice of the CESR to the EC on client categorisation in the context of the review of MiFID. EACB stated that rules currently in place already ensure an appropriate level of investor protection and flexibility for clients and investment firms in respect of the different types of clients, different services and different financial instruments. For this reason the organization indicated that it was against major changes in the MiFID obligations on client categorisation.

### **Derivatives and market infrastructures**

On 12 July EACB published its [position paper](#) on the EC consultation on Derivatives Markets and Infrastructures. In the paper the EACB expressed some reservation as regards the approach proposed in consultation in that it is specially designed for major counterparties with big OTC derivatives positions. This one size fits all-approach will force smaller financial and non financial counterparties to enter into agreements under foreign legislation and in foreign language, undermining the legal certainty for these parties.

## **European Association of Public Banks (EAPB)**

### **Derivates and market infrastructures**

On 9 July the EAPB published its [comments on European's Commission public consultation on derivatives and market infrastructures](#). EAPB commented that the desire to move towards central counterparty (CCP) clearing, even when applied to OTC derivatives, is understandable and accepted by credit institutions, as this would create cost benefits. Clearing would not require as much resources as it currently does. However, the world of OTC-derivatives is heterogeneous. Most of the OTC derivatives are tailor-made instruments, which

are only used between two counterparties for an individual deal.

Therefore, at least in the foreseeable future, it will be difficult to create an effective CCP clearing model for these instruments. Since a significant part of these OTC-instruments are used for risk mitigation purposes only, credit institutions should not be punished with higher capital requirements, resulting from the use of OTC-derivatives not under the CCP clearing in case that such a clearing is not an option for these instruments.

### **Revision of Market Abuse Directive (MAD)**

On 22 July, EAPB published its [comments](#) on the European Commission's public consultation on the revision of the Market Abuse Directive.

### **Client categorization under MiFID**

On 19 August published its [comments on the consultation paper on "CESR's Technical Advice to the European Commission in the context of the MiFID Review - Client Categorisation"](#). The Association commented that the existing regime of categorising clients has been implemented – in a very cost-intensive way – and works well. The present provisions foresee the necessary flexibility in giving advice to different clients in altering situations. It stated that its members are not aware of any practical problems that would make an alignment necessary and are therefore rather critical towards the suggestions made by CESR in the aforementioned consultation paper.

### **Revision of Transparency Directive**

On 20 August, EAPB published its [response to the European Commission's public consultation on the revision of the Transparency Directive](#). The Association indicated that its members are of the opinion that there is a need for a uniform European reporting regime since the various national legislations are not consistent. It has to be kept in mind, however, that more information does not necessarily lead to more transparency.

## **European Central Bank (ECB)**

### **Derivates and market infrastructures**

On 9 July the ECB published [Eurosystem's contribution to the European's Commission public consultation on derivatives and market infrastructures](#).

### **Short selling**

On 5 August, the ECB published [Eurosystem's response to the European Commission's public on short selling](#). In general the Eurosystem welcomes the intention of the Commission to propose an EU harmonised regime on short selling practices. Recent events have shown the necessity of enhancing the level of transparency in the financial markets. However when considering a possible EU regime on short selling practices, it is necessary to take into account the current state of the policy debate at international level, as only coordinated actions could be

truly effective in particular in crisis situations.

### **Harmonised ECB statistics on Euro area investment funds and their analytical use for monetary**

On 12 August the ECB published an [article](#) on harmonised ECB statistics on Euro area investment funds and their analytical use for monetary. The article sets out the main features and concepts of the new statistics and provides an overview of the euro area investment fund industry.

## **European Fund and Asset Management Association (EFAMA)**

### **Monthly Industry Fact Sheet**

In a [press release](#) of 14 July EFAMA presented its [Monthly Fact Sheet for May](#). The Eurozone's sovereign debt crisis and its risk to economic recovery created apprehension in the market in May, thereby affecting investors' appetite for risk. However, total net outflows from long-term UCITS remained modest in terms of total long-term UCITS assets (0.2 percent).

On 24 August EFAMA published its [Monthly Industry Fact Sheet of June 2010](#). The highlights can be read [here](#).

### **Short Selling**

On 14 July, EFAMA published its [response](#) to the European Commission's Public Consultation on Short Selling.

### **Derivatives and market infrastructures**

On 14 July, EFAMA published its [response](#) to European Commission's Public Consultation on Derivatives & Market Infrastructures.

## **European Savings Bank Group (ESBG)**

### **Short Selling**

On 9 July, ESBG published its [response](#) to the European Commission's public consultation on short selling.

### **Derivatives and Market Infrastructure**

On 9 July ESBG published its [response](#) ESBG European Commission's Public Consultation on Derivatives and Market Infrastructure

### **Revision of the Market Abuse Directive**

On 26 July, ESBG published its [response](#) to the public consultation on a revision of the Market Abuse Directive.

### **Client categorization under MiFID**

On 9 August ESBG published its [response](#) to the technical advice of the CESR to the European Commission's on client categorisation in the context of the review of MiFID.

### **Revision of Transparency Directive**

On 13 August, ESBG published its [response](#) to the public consultation on the revision of the Transparency Directive.

### **Transaction Reporting on OTC Derivatives and Extension of the Scope of Transaction Reporting Obligations**

On 17 August ESBG published its [response](#) to CESR consultation paper on Transaction Reporting on OTC Derivatives and Extension of the Scope of Transaction Reporting Obligations.

## **Federation of European Securities Exchanges (FESE)**

### **Equity Data Consolidation**

On 7 July FESE published a [statement on Equity Market Data](#). In the statement the Federation provided its views on the importance of a competitive framework for market data and the key positive role Regulated Markets play in this market. Moreover, it made a number of operational commitments to further improve the availability and consolidability of market data so that the market-based solutions for pan-European consolidation can deliver their full potential.

### **Derivatives and Market Infrastructures**

On 12 July published its [response to the Public Consultation on "Derivates and Market Infrastructures"](#) launched by the European Commission on June 14<sup>th</sup>. The consultation covered clearing and risk mitigation of OTC derivatives, requirements for central counterparties and interoperability.

### **Short Selling**

On the same day FESE also published its [response to the European Commission's consultation paper on short selling](#) which requested input on several policy options for a proposal for legislation dealing with potential risks arising from short selling. The consultation paper covered rules to increase transparency of short sales, rules to reduce risk of uncovered short selling, possible exemptions and emergency powers for competent authorities to impose temporary short selling restrictions.

### **Revision of the Market Abuse Directive (MAD)**

On 27 July, FESE published its [response](#) to the European Commission Consultation on "A Revision of the Market Abuse Directive".

### **Standardisation and exchange trading of OTC Derivates**

On 25 August FESE published its [response to CESR's consultation paper on standardisation and exchange trading of OTC Derivatives](#). FESE stated that it believes that standardisation is desirable and that all products that

can be standardised should be standardised: where appropriate, and to the maximum extent possible, OTC derivatives should benefit from legal, process and product standardisation in order to significantly reduce operational risk, facilitate clearing and facilitate reporting of regulatory information to supervisors. On the other hand, it will be key to preserve the ability of nonfinancial users to hedge against risk using the instruments they consider appropriate. With regard to CESR's assessment of the benefits and limitations of exchange trading of OTC derivatives, FESE broadly agrees with CESR's analysis

### **Transaction Reporting on OTC Derivatives and Extension of the Scope of Transaction Reporting Obligations**

Also on 25 August FESE published its [response to CESR's consultation paper on Transaction Reporting on OTC Derivatives and Extension of the Scope of Transaction Reporting Obligations](#). The response indicated that the FESE members sympathise with the solution proposed by CESR to define a new position reporting regime through trade repositories and allow MiFID transaction reporting through trade repositories. Moreover, they particularly welcome CESR's suggestion concerning the possibility for investment firms to comply with MiFID provisions to report transactions by relying on TRs or CCPs.

## **International Capital Market Association (ICMA)**

### **Short Selling**

In its [press release](#) "European Repo Market White Paper emphasises importance of repo and urges reform of market infrastructure" of 13 July, ICMA presented its [white paper](#) on the operation of the European repo market, the role of short-selling, the problem of settlement failures and the need for reform of the market infrastructure.

### **Client categorization under MiFID**

On 20 August, ICMA published its [response](#) to the technical advice of the CESR to the European Commission's consultation on client categorisation in the context of the review of MiFID.

### **Revision of Transparency Directive**

On 23 August, ICMA published its [response](#) to the public consultation on the modernisation of the Transparency Directive.

## **International Monetary Fund (IMF)**

### **Derivatives and market infrastructures**

On 9 July, the IMF published its [comments on European's Commission's Consultation on Derivatives and](#)

Market Infrastructures.

### **Short Selling**

On 16 August, the IMF published its [IMF Staff Comments on European Commission's Consultation on Short Selling](#).

## **International Organization of Securities Commissions (IOSCO)**

### **Trade repositories in OTC derivatives markets**

On 19 July, IOSCO published the [comments](#) it had received in relation to the [Consultation Report on Trade Repositories in OTC Derivatives Markets](#) and the [Guidance on the Application of the 2004 CPSS-IOSCO Recommendations for Central Counterparties to OTC Derivatives CCPs](#) of 12 May.

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## **Insurance, reinsurance and pensions**

### Normative documents

#### **Official Journal of Belgium (BS/MB)**

##### **Accessibility of pension related information**

On 13 August, a [Royal Decree](#) was published with respect to the accessibility of pension related information on the website of the Pension administration.

#### **Banking, Finance and Insurance Commission (CBFA)**

##### **Contribution to cover the operating costs of the CBFA**

On 5 August, the CBFA published a communication (in [Dutch](#) and in [French](#)) regarding the contribution duty of (re)insurance intermediaries to cover the operation costs of the CBFA.

### Consultative or informative documents

#### **Assuralia**

##### **Political memorandum of the insurance sector**

On 12 July, Assuralia published a political memorandum (in [Dutch](#) and in [French](#)) regarding topics that should be addressed by the new government. The following topics are included: taxation of insurance products (life insurance, pension saving,...), the creation of a level playing in regards capital requirements, the fight against

insurance fraud and public-private cooperation.

## **Belgian Association of Pension Institutions (BVPI/ABIP/BAPI)**

### **Political memorandum for the new government**

On 7 July, BAPI published its political memorandum for the new government (in [Dutch](#) and in [French](#)). The memorandum contains policy recommendations for the development of strong, stable, stimulating and innovative framework for the second pillar of pension provision, in particular the pension funds (OFF's), to deal with the aging of the population.

## **Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)**

### **Occupational Pensions: Ring-fencing in Stress Situations and Market Developments**

On 5 July, CEIOPS published two reports in the area of occupational pensions, namely the [Ring-fencing in Stress Situations Report](#) and [the 2010 Report on Market Developments](#). The first report analyses the effectiveness of ring-fencing measures in protecting pension benefits in stress situations, in particular where such measures are imposed by a Home Member State Competent Authority, as envisaged by Article 16(3) of the Institutions for Occupational Retirement Provision Directive. The second report provides a general overview of the developments in cross-border arrangements of Institutions for Occupational Retirement Provision (IORPs), following the implementation by Member States of Directive 2003/41/EC. The release of the reports was accompanied by a [press release](#).

### **Preparedness of insurance supervisors to implement Solvency II**

On 8 July, CEIOPS published its [Report on the preparedness of supervisors to implement Solvency II](#). The report presents the results of a detailed and extensive stock taking exercise undertaken by CEIOPS in the first half of 2010. The aim of this exercise was to provide CEIOPS and its Members a clear and comprehensive overview of current levels of supervisory preparedness for Solvency II. CEIOPS also sought to identify areas where action is still needed in order to ensure the proper level of convergence of supervisory practices in the new solvency framework. The report is summarized in the accompanying [press release](#).

### **European Commission's Green Paper on Pensions**

On 2 August, CEIOPS send a [general message](#) to European Commission's regarding its Green Paper on Pensions welcoming the Green Paper as an important event for European pensions. The Commission indicated that it fully shares the objectives of the paper of providing greater security, efficiency and adequacy in

retirement provision.

### **Spreadsheet to support the QIS5 exercise**

In a [press release](#) of 24 August, CEIOPS announced that it has published the main spreadsheet to be used by solo undertakings and groups to complete their QIS5 submission due for end-October 2010 (solo) and mid-November 2010 (groups).

### **Equivalence assessments to be undertaken in relation to Articles 172, 227 and 260 of the Solvency II Directive**

On 31 August, CEIOPS submitted its [advice on the Equivalence assessments to be undertaken in relation to Articles 172, 227 and 260 of the Solvency II Directive](#) to the European Commission.

## **European Commission**

### **Solvency II Quantitative Impact Study (QIS5)**

On 6 July, the Commission sent CEIOPS a [Call for Advice](#) along with the [final technical specifications](#) regarding the fifth quantitative impact study on Solvency II (QIS5) that will be run by the CEIOPS from August to November 2010.

### **Insurance Guarantee Schemes**

On 12 July, the European Commission launched a consultation on its [white paper](#) on Insurance Guarantee Schemes. The white paper was accompanied by an [Impact Assessment](#) and [Methodological Report](#). A general overview of Solvency II is available [here](#). All interested parties are invited to submit their comments and further input by 30 November 2010.

### **Commission urges insurance companies to participate in the Solvency II Quantitative Impact Study (QIS5)**

In a [press release](#) of 23 August, the European Commission announced the launch of a fifth Quantitative Impact Study (QIS5) that will be run by the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) from August to November 2010. The European Commission strongly encourages insurance and reinsurance companies across the EU to participate in this exercise.

## **European Fund and Asset Management Association (EFAMA)**

### **European Pension Systems**

In a [press release](#) of 8 July, EFAMA welcomed the EC Pensions Green Paper and looks forward to working co-operatively with the Commission over the consultation period.

## **CEA**

### **Insurance guarantee schemes**

In a [press release](#) of 12 July, CEA responded to the European Commission's White Paper on a framework for EU action on insurance guarantee schemes (IGS). CEA stated that it supports Commission's proposal of minimum harmonisation of national schemes. However it does question pre-funding of IGS as suggested by the EC, and believes that the decision on how to fund schemes should be left to individual EU member states provided that equivalent protection is given to policyholders.

### **Insurance distribution**

On 16 July, CEA issued its [briefing note on insurance distribution](#). The document contains Points to consider when regulating insurance distribution and CEA proposals for high-level principles.

### **Revision of Insurance Mediation Directive**

On 19 July, CEA published its [comments](#) regarding the proposed revision of the Insurance Mediation Directive (IMD).

## **International Association of Insurance Supervisors (IAIS)**

### **ComFrame**

On 1 July, IAIS [announced](#) it had begun the development of the Common Framework for the Supervision of Internationally Active Insurance Groups (or ComFrame). Conceptually, ComFrame is a new, integrated package that aims to provide supervisors with the means to assess and compare internationally active insurance groups around the world through better aligned and more consistent supervision undertaken by home and host supervisors on a multilateral basis.

### **Revision of Insurance Core Principles (ICP's)**

On 22 July, IAIS released the [information document](#) regarding the revision of the Insurance Core Principles (ICP's). The purpose of this document is to explain to Members and Observers the process for review and consultation to ensure there is a clear understanding of how the material will be developed and consolidated into a cohesive set of revised ICPs and corresponding standards and guidance material.

### **Insurance specific macro prudential surveillance**

On 26 August, IAIS published its mid-year edition of the [Global Reinsurance Market Report, entitled "Macro prudential Surveillance and \(Re\)Insurance"](#). The report discusses macro prudential surveillance in insurance and reinsurance, looking at current issues and debates on the meaning, scope and value of macro prudential surveillance. The report also discusses current macro prudential surveillance practices among insurance supervisors as well as recent work at a global level. The release of the report was accompanied by a [press](#)

release.

## **Organization for Economic Co-operation and Development (OECD)**

### **Defined Benefit Plans and the Financial Crisis**

In July the OECD published a [working paper on the Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations](#). The paper discusses the impact of the crisis on Defined Benefit (DB) pension schemes and the temporary responses taken by regulators to help ease financially strained plan sponsors. Furthermore, the paper presents suggestions to governments and policy-makers for making funding regulations more counter-cyclical in nature. Such measures could strengthen the security of DB benefits and help to maintain DB plans for future workers.

### **Pension fund assets struggle to return to pre-crisis levels**

In the [July issue of Pension Markets in Focus](#) the OECD discussed effects of the financial and economic crisis on public and private pension funds. It concluded that, while pension funds have strengthened with the financial market rebound, data shows that pension fund assets in most countries have yet to recover to pre-crisis levels. Public pension reserve funds, however, have however fully made up for their crisis-related losses due to more conservative investment strategies.

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## **Tax**

### **Normative documents**

#### **Council of the European Union**

##### **Council adopts simplified rules on VAT invoicing**

On 13 July, The Council adopted a [directive](#) aimed at simplifying value-added tax (VAT) invoicing requirements, in particular as regards electronic invoicing. The new directive sets out to ensure the acceptance by tax authorities of e-invoices under the same conditions as for paper invoices, and to remove legal obstacles to the transmission and storage of e-invoices.

#### **Official Journal of Belgium (BS/MB)**

##### **Liabe representative in the centralized securities lending system**

On 16 August, a [Royal Decree](#) was published amending the Royal Decree implementing the Income Tax Act with

respect to the so-called liable representative in the centralized securities lending system.

## Consultative or informative documents

### **Banking, Finance and Insurance Commission (CBFA)**

#### **Statistics regarding the insurance market**

On 6 July, the CBFA published [statistics](#) regarding the insurance market, (re)insurance companies and (re)insurance transactions for fiscal year 2009.

### **Belgian Parliament**

#### **Tax on stock transactions**

On 9 August, the Belgian Parliament adopted a [proposal](#) concerning the optimization of the tax on stock transactions. This proposal has dual goals namely reducing market speculation and making sure that the proceeds of market transactions contribute evenly to the state budget. To achieve this goal the proposal foresees in rising the tax on market transactions to 0,5% and in the rescission of the cap on taxes per transaction.

### **Belgian Tax Authorities (Ministry of Finance)**

#### **Dividend distribution under the US-BE tax treaty**

On 5 August, an [Agreement](#) was published with respect to dividend distributions and their taxation under the convention for avoidance of double taxation concluded between Belgium and the United States of America

#### **Application of the Savings Directive**

On 18 August, a [Parliamentary Question](#) was published with respect to the application of the European Savings Directive vis-à-vis tax havens as Liechtenstein, San Marino, Monaco and Andorra. Belgium has agreed to exchange financial information with these countries.

### **CEA**

#### **CEA voices concerns over US affiliated reinsurance tax proposals**

The CEA has [written](#), on 26 July, to the US House of Representatives to express its concerns over proposals to change the US tax treatment of reinsurance between affiliated entities

#### **CEA's submission to US Congress Hearing on the deductibility of reinsurance premiums paid to affiliates**

In a [position paper](#) dated 26 July, the CEA draws attention to the negative effects of the proposals on disallowing tax deduction of certain reinsurance premiums paid to affiliated foreign reinsurers as outlined in the US Administration's 2011 Budget Proposal and in

bill H.R. 3424 introduced in the House of Representatives on 30 July 2009 by Representative Richard Neal.

## **European Commission (EC)**

### **Proposal for extending VAT refund deadline for 2009 claims**

On 16 July, 2010, the Commission adopted a [proposal](#) to postpone the deadline for the submission of VAT refund requests related to 2009. In view of the late implementation by Member States of the new VAT refund procedure, which came into force on 1st January 2010, the Commission proposes giving more time to taxpayers to introduce their requests for VAT refund. At the same time, the Commission proposes harmonising some features of the national VAT refund web portals in order to make them more interoperable and accessible for taxpayers.

## **European Court of Justice (ECJ)**

### **Court rules against Belgium on application of municipal tax on foreign income**

On [1 July](#), the ECJ ([C-233/09](#)) ruled that the supplementary municipal tax, due by physical persons resident in Belgium upon receiving foreign interest or dividends, when they have not elected for that income from moveable assets to be paid to them by an intermediary established in Belgium, is contrary to the free movement of capital, since income of the same type from investments made in Belgium, because it is subject to withholding tax at source, need not be declared and, in that case, is not subject to the supplementary municipal tax.

### **Non-EU financial institutions cannot claim back VAT based on their non-EU financial and insurance transactions**

On 15 July, the ECJ rendered a [judgment](#) in the case of the European Commission against the United Kingdom. The Court ruled that the regulation under UK law, according to which traders who are established outside the European Union are not entitled to recover input tax in the UK in respect of goods or services used for the purposes of transactions falling within the categories mentioned in Article 169(c) of the VAT Directive (insurance and financial transactions towards non-EU clients), is in accordance with EU-law. The Court did thereby not follow the European Commission who had argued that such entitlement followed automatically from the EU VAT Directive.

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