



Regulatory Radar

Regulatory Newsletter, Issue 27, September 2010

Newsletter on banking and financial regulation

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As reported in the Financial Times, Mario Draghi, Chairman of the Financial Stability Board and current Governor of the Banca d'Italia, warned the G20 economies that they should ensure that their local laws and regulations, such as in the domain of Solvency requirements, should not refer much to or rely much on credit ratings coming from a few accredited credit rating agencies. Instead "Banks, market participants and institutional investors should make their own credit assessment and not rely solely or mechanistically on credit rating agency ratings".

We could not agree more. One of the root causes of the financial crisis was that few, if any, professionals were having an end-to-end view of the full value chain in the financial industry, e.g. from mortgage loan issued to an individual in California to the return of a structured credit security containing that loan for a pension fund in France.

To some extent, the slicing up of the value chain was a necessity, since the amount of information multiplied with an increased transaction speed enabled by a technology explosion made the challenge for any one individual to have a complete view all but impossible. Moreover, for each building block, there were specialist firms, focusing on the technical skills and the profitability of that step in the value chain (mortgages origination, security structuring,...). In principle, each party got paid exactly in function of its value added, there was no cross-subsidy possible. This makes markets more efficient, in theory.

As reality showed, this slicing up has inherent weaknesses. In particular, when you are not exposed to the risk if your underwriting decision was wrong, you may loosen your lending standards. When you got the opportunity to earn a nice (in fact, unbelievable) return from an AAA security or from a well-reputed Hedge Fund Manager like Madoff, why waste money on excessive due diligence if credit rating agencies or other trustworthy market professionals clearly gave their stamp of approval to the investment? In short, such a

slicing up of the value chain brings all sorts of agency problems.

Clearly, regulators are right to address these concerns. However, the balancing act is again a delicate one.

Regulation should indeed seek a minimum end-to-end coherence in the value chain, but should avoid that vertical integration becomes again the only possible option. Take a recent example from Solvency II. Allegedly, the disappearance of the group support notion from the directive that was finally voted, makes that some pan-European insurers are considering the option to move from a subsidiary to a branch structure.

Such a move would certainly make the supervision harder, and increase the possibility of subsidising unprofitable business at the detriment of policyholders in the profitable markets. This can hardly be the objective of the EU agenda for making our financial markets more efficient and more transparent.

In September, interesting publications have been issued on topics such as the EU financial supervision reform package, Corporate Governance in Financial Institutions and Remuneration Policies, minimum capital standards in credit institutions and central counterparties.

We hope you enjoy the reading.

The Editorial Board.



Financial Services Industry

Normative documents

Official Journal of Belgium (BS/MB)

AML/CMF

On 2 September, the [Royal Decree of 18 August 2010](#) on the appointment of professional organizations in the meaning of article 16, §3 of the Law of 11 January 1993 on preventing the use of the financial system for purpose of laundering money and the financing of terrorism was published in the Official Journal. The Royal Decree appoints Febelfin and Assuralia as professional organizations in the meaning of article 16, §3 of the Law of 11 January 1993. This allows their members to indirectly access the civil registry to verify the identity of their clients.

International factoring

On 21 September, the [Law of 21 February 2010](#) on the ratification of the Unidroit-agreement with respect to international factoring, signed in Ottawa on May 28,

1988, was published in the Official Journal.

New supervisory structure for the financial sector in Belgium

On 28 September, the Law amending the Law of 2 August 2002 on the supervision of the financial sector and the financial services and the Law of 22 February 1998 on the statute of the National Bank of Belgium and miscellaneous provisions was published in the Official Journal. This Law initiates a reform of the supervisory structure for the financial sector in Belgium.

Official Journal of the European Union (OJ)

AML/CFT

During September, the following documents related to AML/CFT have been published:

- [Commission Regulation \(EU\) No 851/2010 of 27 September 2010](#) amending for the 136th 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 253 of 28 September;
- [Council Decision 2010/573/CFSP of 27 September 2010](#) concerning restrictive measures against the leadership of the Transnistrian region of the Republic of Moldova in OJ L 253 of 28 September;
- [Commission Regulation \(EU\) No 835/2010 of 22 September 2010](#) amending for the 135th 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 249 of 23 September.

Consultative or informative documents

3L3 Committees

EU financial supervision reform package

In a [press release](#) of 22 September, the 3L3 Committees (CEBS, CESR and CEIOPS) welcomed the decision of the European Parliament to endorse the EU financial supervision reform package and reaffirmed their commitment to enhance the existing EU financial supervisory architecture. The reform package foresees in the creation of the European system of financial supervisors (ESFS) which consists of the three European Supervisory Authorities (ESAs) and the European Systemic Risk Board (ESRB).

Banking, Finance and Insurance Commission (CBFA)

New supervisory structure for the financial sector in Belgium

In a press release (in [Dutch](#) and in [French](#)) of 28

September, the CBFA gave an overview of the changes that will take place in financial supervisory framework as a result of the Law of 2 July 2010 relating to the reform of the Belgian supervisory system which was published on the same day. The Law aims to:

- Enhance consumer protection;
- Introduce a new sanction regime;
- Set up the Committee for systemic Risks and Systemic Financial Institutions;
- Introduce the Twin Peaks model for supervision;
- Denominate the Systemic Financial Institutions.

Council of the European Union

European Financial Supervision and Macro Prudential Oversight of the Financial System

On 30 September, the Council published the following outcomes of the Parliament's first reading (Strasbourg, 20 to 23 September 2010) on the different proposals for a regulation or a directive of the Parliament and of the Council related to the reform of the European financial supervision:

- ➔ **Outcomes** on the Proposal for a Directive amending Directives 1998/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC, and 2009/65/EC in respect of the powers of the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority;
- ➔ **Outcomes** on the Proposal for a Regulation on Community macro prudential oversight of the financial system and establishing a European Systemic Risk Board;
- ➔ **Outcomes** on the Proposal for a Regulation establishing a European Insurance and Occupational Pensions Authority;
- ➔ **Outcomes** on the Proposal for a Regulation establishing a European Securities and Markets Authority;
- ➔ **Outcomes** on the Proposal for a Regulation establishing a European Banking Authority.

European Association of Public Banks (EAPB)

Corporate Governance in Financial Institutions

On 1 September EAPB published its **comments** on the European Commission's Green Paper on Corporate Governance in Financial Institutions. While it supported the initiative, the association stated that the Commission should have more attention for the European and national differences in the set up of institutions in its reflections on corporate governance. The Commission must also take in account the specificities of the different types of financial institutions. Finally EAPB commented that it is

not always clear what is comprised in the Commission's definition of Corporate Governance.

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

On 24 September EAPB published its [comments](#) on the CESR Consultation Paper "Development of Pan-European Access to Financial Information of Listed Companies" regarding 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. The organization indicated that in regards to the options proposed by CESR to develop a more integrated OAM network its members deem the present classification sufficient. If necessary they would favor a network model between the local OAM's.

European Central Bank (ECB)

The payment system and the role of the Eurosystem

On 6 September the ECB published a book entitled ["The payment system – payments, securities and derivatives, and the role of the Eurosystem"](#). It provides comprehensive insight into the handling of financial transactions and the functioning of the related financial market infrastructure – a core component of the financial system. It also explains the role and policies of the Eurosystem – which comprises the ECB and the 16 national central banks of the euro area – in this field. The publication was accompanied by a [press release](#).

Review of business continuity arrangements of payments systems

In a [press release](#) of 8 September, the ECB announced the publication of its report on the implementation status of the Eurosystem's business continuity oversight expectations for systemically important payment systems. The assessment was carried out as part of the Eurosystem's oversight task and confirmed that the business continuity and crisis communication arrangements of the assessed systems are maintained at high standards by the respective operators. Six payment systems operating in the euro area and classified as "systemically important" were assessed for compliance with the business continuity oversight expectations: TARGET2, EURO1, CORE, POPS, PMJ and CSS. The report can be found [here](#).

Statistics on payments for 2009

On 13 September the ECB published an [overview](#) of the 2009 statistics on payments, which comprise indicators on access to and use of payment instruments and terminals by the public, as well as volumes and values of transactions processed through payment systems.

European Commission

EU financial supervision reform package

In a [press release](#) of 22 September, the European Commission presented the frequently asked questions on the financial supervision reform adopted by the European Parliament on the same day, which create three new supervisory authorities. These authorities are:

- The European Banking Authority (EBA);
- The European Insurance and Occupational Pensions Authority (EIOPA);
- The European Securities and Markets Authority (ESMA).

European Investment Bank (EIB)

Uncovering the common risk free rate in the European Monetary Union

In the fifth Volume (27 September) of the [EIB's Economic and Financial Report](#) the EIB published a paper titled "Uncovering the common risk free rate in the European Union". The risk free interest rate is a cornerstone in the pricing of financial assets, risk measurement, and inter-temporal allocation models. For a monetary union, the risk free rate is not as easily observable as for countries with an individual currency. To address this point, this paper introduces a new technique to extract the common risk free rate from a sample of sovereign bonds.

Proposals to foster long term investment in Europe

In a [press release](#) of 30 September, the EIB announced the publication of the conclusions of the European long-term financial institutions' working group on banking supervision. In this report a working group of experts has identified obstacles to the development of long-term investments in the current European financial regulatory framework. Based on this information the experts have designed proposals that could alleviate these drawbacks, in particular in the context of the reform package of the Basel Committee on capital and liquidity requirements (Basel III) and the new IFRS standard for reporting on financial instruments, and thus could improve long term investment in Europe. The report is available [here](#).

European Insurance and Reinsurance Federation (CEA)

Corporate Governance in Financial Institutions and Remuneration Policies

On 1 September, CEA published its [response](#) to the European Commission's Green Paper on corporate governance and remuneration. In its response, CEA stresses that Solvency II, the new regulatory regime for EU insurers, will reform governance requirements when it

comes into force in 2012 and argues that any potential new requirements resulting from the Green Paper should not duplicate or contradict the Solvency II requirements. Where the Green Paper proposals go beyond Solvency II, the CEA argues for a flexible regulatory approach based on “comply or explain” principles.

EU financial supervision reform package

In a [press release](#) of 8 September, CEA welcomed the approval given to the creation of the new European supervisory authorities yesterday by EU finance ministers. It supports the creation of three separate supervisory bodies for insurance, banking and securities. It believes that the separate European Insurance and Occupational Pensions Authority (EIOPA) will help to ensure that insurers’ distinct business model is recognised and understood.

Compliance with EU’s Iran sanctions

On 10 September, CEA [announced](#) that it had written to the European Commission’s High Representative for Foreign Affairs and Security Policy, Baroness Ashton, to express its concern with some of the compliance challenges created by the new EU sanctions regime against Iran. While supporting the objective of the sanctions, the federation pointed out that, without adequate clarifications in a number of areas, insurers could inadvertently violate the sanctions despite their best efforts to comply with them. It also proposed solutions that would facilitate compliance with the sanctions.

Financial Law Institute

Corporate governance in Belgium

In September the Financial Law Institute published a [working paper](#) titled “Radicalization of corporate governance legislation: remuneration and transparency after the Law of 6 April 2010”. The paper analyses the Belgian “Corporate Governance Act” of April 6 2010, which introduces new binding rules on directors’ and top executives’ remuneration in Belgian listed companies and forces those companies to publish an annual corporate governance report, containing a section on remuneration policies.

European Parliament

EU financial supervision reform package

In September, the Parliament published the following press releases related to the new European financial supervision:

- ➔ [“Parliament gives green light to new financial supervision”](#) on 22 September;
- ➔ [“Economic governance: MEPs asked to fast-track legislative package”](#) on 16 September;

- “MEPs: financial regulation on track but this is; only the beginning” on 8 September;
- “EP adds bite to EU financial watchdog rules” on 2 September.

It also released in the following procedure files that it adopted at first reading with a view to the adoption of proposals for directive and regulations related to the new European financial supervision:

- [COD/2009/0161](#) on Financial supervision: powers of the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (amend. Directives 1998/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC, and 2009/65/EC);
- [COD/2009/0144](#) on European Securities and Markets Authority ESMA: establishment;
- [COD/2009/0143](#) on European Insurance and Occupational Pensions Authority EIOPA: establishment;
- [COD/2009/0142](#) on European Banking Authority EBA: establishment;
- [COD/2009/0140](#) on European Systemic Risk Board ESRB: establishment; macro-prudential oversight of the financial system.

European Savings Banks Group (ESBG)

Corporate Governance in Financial Institutions and Remuneration Policies

On the 1 September, the ESBG published its [response](#) to the European Commission’s consultation concerning the green paper on corporate governance in financial institutions and remuneration policies.

International Capital Market Association (ICMA)

Access to Financial Information

On 24 September, the ICMA published its [response](#) to CESR’s consultation on pan-European access to financial information. In its response the organisation welcomed CESR’s efforts to develop a pan-European OAM network and indicated its preference for the network option which will build on existing structures while developing a Central Access Point. The second option would establish a single European OAM. According to the organization this is the best option as it would allow issuers to retain close links with their home competent authorities and would assist competent authorities with their supervisory responsibilities.

International Monetary Fund (IMF)

AML/CFT

On 8 September, the IMF published the CFATF [Report](#) on Observance of Standards and Codes in Nicaragua regarding the FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism. CFAFT indicated that Nicaraguan AML/CFT legislation is generally adequate except for some key deficiencies. Furthermore the financial cooperative sector is not regulated and the country lacks an adequate AML/CFT institutional framework (e.g. no Financial Intelligence Unit).

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Credit institutions and investment firms

Normative documents

Official Journal of Belgium (BS/MB)

Capital Requirements

On 14 September, the Official Journal of Belgium published the [Royal Decree of 3 September 2010](#) regarding the approval of the Regulation of 27 July 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.

Liquidity requirements

On 16 September, the [Royal Decree of 3 September 2010](#) regarding the approval of the Regulation of 27 July of the Banking, Finance and Insurance Commission on the liquidity of credit institutions, financial holdings, clearing institutions or institutions equivalent to clearing institutions.

Banking, Finance and Insurance Commission (CBFA)

Capital Requirements

On 3 September, the CBFA issued a circular letter (in [Dutch](#) and in [French](#)) regarding the periodic reporting by the institutions on compliance with the capital requirements. This circular transposes the amendments made to Capital Requirement Regulation by Regulation of the CBFA of 27 July 2010 into a schema for periodic reporting by institutions regarding compliance with the capital requirements.

Consultative or informative documents

Basel Committee

Higher global minimum capital standards

In a [press release](#) of 12 September, the Group of Governors and Heads of Supervision of the Basel Committee announced a substantial strengthening of existing capital requirements and fully endorsed the agreements it reached on 26 July 2010. These capital reforms, together with the introduction of a global liquidity standard, deliver on the core of the global financial reform agenda and will be presented to the Seoul G20 Leaders summit in November. The Committee's package of reforms will increase the minimum common equity requirement from 2% to 4.5%. In addition, banks will be required to hold a capital conservation buffer of 2.5% to withstand future periods of stress, bringing the total common equity requirements to 7%. This reinforces the stronger definition of capital agreed by Governors and Heads of Supervision in July and the higher capital requirements for trading, derivative and securitization activities to be introduced at the end of 2011.

Committee of European Banking Supervisors

Revised Guidelines on the management of concentration risk under the supervisory review process and position paper on the recognition of diversification benefits under Pillar 2

In a [press release](#) of 2 September, the CEBS announced the publication of two documents:

- Its [revised Guidelines on the management of concentration risk under the supervisory review process](#), taking into the account the results of the earlier public consultation, which ran from December 2009 to March 2010 ;
- Its [position paper on the recognition of diversification benefits under Pillar 2](#) of the Basel II Framework.

Statement on the disclosure of sovereign exposures in the context of the 2010 EU-wide stress testing exercise

In a [press release](#) of 8 September, the CEBS announced that individual disclosures of sovereign exposures were an essential component of the 2010 EU-wide stress testing exercise and a great enhancement in terms of transparency (see GRC Letter July-August 2010). CEBS notes that comparison with other sources should be treated with caution as a result of different reporting dates and reporting methodologies. For instance, data provided by the Bank for International Settlements (BIS), is aggregated in a way which makes comparison with the data disclosed by banks during the CEBS exercise impossible.

European Association of Co-operative Banks (EACB)

European Banking Sector

In a press release titled [“Co-operative Banks: Thinking beyond the public company”](#) of 14 September, the EACB presented the new [study of Centre for European Policy Studies](#) “Investigating diversity in the banking sector in Europe: Key developments, performance and role of cooperative banks”. This study examines the role of cooperative banks in Europe as a contribution to be derived from diversity in the European banking sector.

European Association of Public Banks (EAPB)

Countercyclical capital buffer proposal

On 9 September EAPB published its [comments](#) on the Basel Committee’s consultation on “Countercyclical capital buffer proposal”. The association stated that while countercyclical buffer proposal as set out in the consultation paper can be a suitable tool to dampen the procyclicality of Basel II, it strongly rejects the idea of a capital conservation buffer.

European Banking Federation (EBF)

Higher global minimum capital standards

In a [press release](#) of 13 September, EBF indicated that they consider the decision of the Basel Committee of 12 September, which foresees in higher minimum capital requirements, to be very demanding. The organization stated that while its members will meet the new requirements but it will have consequences on the volume and cost of lending and therefore a cost on the economy too.

European Commission

Ensuring access to credit and to finance to small businesses

In a [press release](#) of 28 September, the European Commission announced that, in the first meeting of the SME (Small and Medium-sized businesses) Finance Forum today, possible means to improve the current situation of access to finance were discussed, such as the introduction of a grace period for firms in difficulties, the involvement of credit mediators and improved loan guarantees.

European Federation of Building Societies

(EFBS)

Regulation of Mortgage credit in Europe

In a [press release](#) of 10 September, EFBS stated that the European Commission's plans to bring forward a proposal for a Directive for the regulation of mortgage credit in Europe in early 2011 are a move in the wrong direction. As the mortgage market defers from Member State to Member State, only national governments and supervisory authorities can take action wherever the credit institutions have failed to apply sound lending practices.

European Parliament

Capital Requirements

On 14 September, the Parliament published a [press release](#) entitled "Capital requirements: much work still to be done on new Basel standards" in which the Parliament's Economic Affairs Committee stated that the new capital requirement standards agreed by the Basel Banking Committee tackle some of the right issues, but need much more work to transpose them into laws that ensure a global level playing field, reduce risk and do not hamper economic growth.

European Savings Banks Group (ESBG)

Capital Requirements Directive

On 30 September, the ESBG published its [position](#) on CEBS' consultation paper on "CEBS Guidelines to Article 122a of the Capital Requirements Directive".

Basel III

In September, the ESBG published following documents related to the publication of the proposals Basel III framework by the Basel Committee on Banking Supervision:

- [Press release](#) "Basel III framework has to avoid harm to non-quoted retail banks, warn international representatives of savings and retail banks" on 10 September.
- [Remarks](#) on new requirements under Basel III jointly with the WSBI on 13 September;

Febelfin

Audit Committee in the banking sector

On 14 September, Febelfin published an [inventory](#) of the legislation and regulation regarding the Audit Committee in the banking sector.

Barometer for corporate lending

In a [press release](#) of 21 September, Febelfin announced

the launch of its own barometer for corporate lending. The barometer consist of statistical data regarding the number of credit requests, new credits granted, outstanding credit and credit refusals. The press release includes the barometer for second quarter of 2010.

Financial Stability Board (FSB)

Review of residential mortgage underwriting practices

In a [press release](#) of 20 September, the FSB announced the launch of a review of residential mortgage underwriting and origination practices. Problems arising from poorly underwritten residential mortgages contributed significantly to the global financial crisis that began in 2007. The review will survey existing practices across the FSB membership, including recent actions taken by national authorities to promote sound practices, and draw internationally applicable lessons.

International Monetary Fund (IMF)

Bank Capital and Uncertainty

On 9 September, the IMF published a [Working Paper 10/208](#) titled "Bank Capital and Uncertainty". An important role for bank capital is that of a buffer against unexpected losses. As uncertainty about these losses increases, the theory predicts an increase in the optimal level of bank capital. This paper investigates this implication empirically with U.S. Commercial Banks data and finds statistically significant and robust evidence supporting it.

World Savings Bank Institute (WSBI)

Basel III framework

In a [position paper](#) on 10 September, the WSBI and the European Savings Bank Group (ESBG) declared their full support the objective of the Basel III framework to strengthen the resilience of the banking sector by applying stricter capital requirements where banks did not prove resilient during the crisis and whose operations pose systemic risk. However, the new rules, as they are currently expected, will punish some of the most resilient banking structures such as savings and regionally oriented banks by a disproportionate increase in capital requirements.

In a [press release](#) of 13 September, the WSBI and the ESBG provided their remarks regarding the agreement reached by the Basel Committee in regards to Basel III. They reaffirmed they support the efforts for the strengthening the resilience of the banking sector. However, regarding the current proposals, the organization found it regrettable that the Basel Committee has adopted a 'one size fits all' approach for

capital, but does not make use of the possibilities for fine tuning according to banks' activities. WSBI and ESBG also reiterated their strong opposition to the introduction of a leverage ratio as a binding instrument, and disappointment in the fact that the Basel Committee persists in the introduction of such a ratio as a Pillar I requirement

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Investment products and asset management

Consultative or informative documents

Bank for International Settlements (BIS)

Triennial Central Bank Survey of Foreign Exchange and OTC Derivatives Market Activity

In a [press release](#) of 1 September, the BIS announced the publication of the [preliminary results](#) of its triennial Central Bank Survey of Foreign Exchange and OTC Derivatives Market Activity in April 2010.

BIS Quarterly Review

In a [press release](#) of 6 September, the BIS announced the publication of its latest [BIS Quarterly Review](#) which attributes the decline in bond yields to investor concerns about the outlook for economic growth, particularly in the United States.

Second Part of Handbook on Securities Statistics

In a [press release](#) of 7 September, the BIS announced, in cooperation with the European Central Bank (ECB) and the International Monetary Fund (IMF), the publication of the [second part of the Handbook on Securities Statistics](#), which covers debt securities holdings. The aim of the Handbook is to assist national and international agencies in the production of relevant, coherent and internationally comparable securities statistics for use in monetary policy formulation and financial stability analysis. For information, the first part of the Handbook, which covers debt securities issues, was released in May 2009.

Commissie voor Boekhoudkundige Normen (CBN)

CBN n° 2010-12 on the accounting rules on derivate instruments.

In its [advice](#) n° 2010-12 on the accounting rules on derivate instruments published on 8 September, the CBN lists the relevant accounting treatment applicable on derivate instruments.

Committee of European Securities Regulators (CESR)

List of short selling measures updated

On 1 September CESR reported that it has updated its [list regarding measures adopted by CESR Members on short selling](#) as Greece has decided to again allow short selling of shares listed on the securities market of the Athens Exchange under certain conditions. Naked short selling remains banned.

Committee on Payment and Settlement Systems (CPSS)

Central bankers identify options for strengthening repo clearing and settlement arrangements

In a [press release](#) of 15 September, the CPSS announced the publication of a report entitled ["Strengthening repo clearing and settlement arrangements"](#) in which the central bankers highlight issues related to the clearing and settlement infrastructure for repos that have the potential to affect the resilience of repo markets, and recommend that stakeholders in each market review options to further strengthen the repo clearing and settlement infrastructure.

Council of the European Union

Securities: Prospectus and Transparency

On the 30 September, the Council adopted the [Directive 2010/.../EU of the Parliament and of the Council](#) amending Directives 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market. It has not been yet published in the Official Journal.

European Commission

New framework to increase transparency and ensure coordination for short selling and Credit Default Swaps

In a [press release](#) of 15 September, the European Commission announced the adoption of a [proposal](#) for a regulation on short selling and certain aspects of Credit Default Swaps (CDS). Its main objectives are to create a harmonized framework for coordinated action at European level, increase transparency and reduce risks. The new framework will mean regulators – national and

European - have clear powers to act when necessary, whilst preventing market fragmentation and ensuring the smooth functioning of the internal market. On the same day the Commission also published a [frequently asked questions](#) on this subject.

Making derivatives markets in Europe safer and more transparent

In a [press release](#) of 15 September, the European Commission announced the adoption of a [proposal](#) for a regulation aimed at bringing more safety and more transparency to the over-the-counter (OTC) derivatives market. In its draft regulation, the Commission proposes that information on OTC derivative contracts should be reported to trade repositories and be accessible to supervisory authorities. More information will also be made available to all market participants. The Commission also proposes that standard OTC derivative contracts be cleared through central counterparties (CCPs). This will reduce counterparty credit risk, i.e. the risk that one party to the contract defaults. On the same day the Commission also published a [frequently asked questions](#) on this subject.

European Covered Bonds Council (ECBC)

European Covered Bond Fact Book

In a [press release](#) of 8 September, the ECBC announced the publication of the fifth edition of its European Covered Bond Fact Book which is intended to be a benchmark and comprehensive source of information on this asset class.

European Fund and Asset Management Association (EFAMA)

Trends in Fund Industry

In September, the EFAMA published the following reports regarding trends in fund industry:

- [Trends in the European Investment Fund Industry](#) in the Second Quarter of 2010. You can read the highlights [here](#).
- [Monthly Industry Fact Sheet of July](#). The related highlights are available [here](#).
- [International Statistical Release Q1 2010](#). The highlights are available [here](#)

Key Investor Information Document (KII)

On 16 September, the EFAMA published the following position papers in response to the CESR consultation paper regarding the KII:

- [Reply](#) to CESR consultation on Guidelines for the transition from the Simplified Prospectus to the KII;
- [Reply](#) to CESR consultation on the guide to clear language and layout for the KII;

- ➔ [Reply](#) to CESR consultation on level 3 guidelines on the selection and presentation of performance scenarios in the KII for structured UCITS;
- ➔ [Reply](#) to to CESR consultation on a template for the KII.

European Insurance and Reinsurance Federation (CEA)

Greater recognition of covered bonds

On 9 September, CEA published a [joint letter](#) to the Chairman of the Basel Committee on Banking Supervision in which it together with five other trade federations, calls for covered bonds to be given greater recognition in the Committee's proposed capital and liquidity regimes to avoid a negative impact on the European economy compared to other major economic zones.

European Parliament

Short Selling and Certain Aspects of Credit Default Swaps

In September, the Parliament published its procedure file ➔[COD/2010/0251](#) on the new Proposal for a Regulation of the Parliament and of the Council on short selling and certain aspects of credit default swaps.

OTC Derivatives, Central Counterparties and Trade Repositories

The same month, the Parliament also published its procedure file ➔[COD/2010/0250](#) on the new Proposal for a Regulation of the Parliament and of the Council on OTC derivatives, central counterparties and trade repositories.

International Capital Market Association (ICMA)

Key Investor Information Document

On 10 September, the ICMA published the ➔[response](#) of the Joint Associations Committee to both CESR consultations "A guide to clear language and layout for the Key Investor Information document" and "CESR template for the Key Investor Information document"

International Monetary Fund (IMF)

Macro-prudential Regulation under Repo Funding

On 29 September, the IMF published a ➔[Working Paper 10/220](#) on Macro-prudential Regulation under Repo Funding. The paper shows how a liquidity shock to the

cash lender may propagate as a solvency shock via liquidity hoarding even if the cash lender remains solvent in all states of nature. Albeit a cost-effective response of the cash lender to a liquidity shock, liquidity hoarding may lead to the bankruptcy of its repo counterparties triggering contagion across asset classes. To buttress the resilience of the financial system, the paper lays out a menu of macro-prudential policies that deactivate this channel of financial contagion.

Organization for Economic Co-operation and Development (OECD)

Debt Markets in post-crisis landscape

On 10 September the OECD published an article titled [“Debt markets: Policy challenges in the post-crisis landscape”](#). The article summarizes discussions held at the 11th OECD-WBG-IMF Global Bond Market Forum where withdrawal of policy stimulus and sovereign risk were singled out as the two biggest concerns for investors. It addresses the continuing challenge of measuring sovereign risk, the need for more reliable indicators of sovereign risk to help make appropriate investment decisions and how difficult circumstances have forced sovereign issuers to modify their borrowing strategies.

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Insurance, reinsurance and pensions

Consultative or informative documents

Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)

On 28 September, CEIOPS launched a consultation regarding the methodology for equivalence assessments by CEIOPS under Solvency II in preparation for Level 2 implementing measures. In the accompanying [consultation paper](#) CEIOPS examined the methodology and procedural aspects relevant to assessment of the equivalence of third country supervisory regimes mentioned in articles 172, 227 and 260 of the Solvency II Directive. The deadline for comments was 22 October.

European Insurance and Reinsurance Federation (CEA)

Collateral reform in US

On 20 September, CEA published its [response](#) to the US National Association of Insurance Commissioners' (NAIC) consultation on the proposal to revise both the NAIC credit for reinsurance model law and accreditation standard. While welcoming the US National Association of Insurance Commissioners' commitment to addressing the issue of reinsurance collateral reform, the organization expresses disappointment that the NAIC's recommendations on accreditation would only apply to those US states that choose to reform.

Key statistical data

On 28 September, CEA published its statistical booklet "[European Insurance – Key facts](#)" with facts and figures about the European insurance market and the contribution of European insurance to society and the economy.

Differentiation on basis of sex

In a [press release](#) of 30 September, CEA warned for that there could be far-reaching implications for the price and availability of insurance cover if opinion by the Advocate General that the use of risk factors based on sex in connection with insurance premiums and benefits is incompatible with the principle of equal treatment for men and women under European law is upheld by the European Court of Justice (ECJ).

Organization for Economic Co-operation and Development (OECD)

Guidelines for insurer governance

On 17 September, the OECD launched a [public consultation](#) on its draft revised guidelines on insurer governance. These revisions are the result of a comprehensive review of the current [OECD Guidelines on Insurers' Governance](#), first released in 2005. The non-binding guidelines are intended to apply to any insurer licensed to underwrite life, non-life, and reinsurance policies and take into account the specificities of the insurance sector. They are designed in light of the overriding objective of an insurance undertaking, which is to provide benefits to the insured in accordance with the contracts concluded with them and satisfy its shareholders. The deadline for submitting comments was 21 October.

Default investment strategies in defined contribution pension plans

On 23 September, the OECD published a paper titled ["Assessing Default Investment Strategies in Defined Contribution Pension Plans"](#). The paper assesses the relative performance of different investment strategies of different structures of the payout phase, focusing on life-cycle strategies.



Tax

Consultative or informative documents

Official Journal of the European Union (OJ)

SWIFT-services exempt from VAT?

On 11 September, a [reference](#) for a preliminary ruling from the European Court of Justice regarding the question if swift services used in payment transactions and securities transaction settlements between financial institutions are exempt from VAT, was published in the Official Journal. The reference number for the case is C-350/10.

Official Journal of Belgium (BS/MB)

Communication on e-filing of withholding tax formalities

On 24 September, a [communication](#) was published in the Official Journal informing the public that the obligatory e-filing of the withholding tax formalities is delayed to an unknown date.

Commissie voor Boekhoudkundige Normen (CBN)

CBN n° 2010-13 on the accounting treatment on VAT in the hands of the members of a VAT Unity.

In this [advice](#), the CBN gives comments how the recoverable and payable VAT of the members of a VAT Unity should be processed from an accounting point of view.

Council of the European Union

Banking Tax and tax on financial transactions

On 8 September, the [conclusions](#) of the special ECOFIN Council meeting of 7 September 2010 were published. Europe's finance ministers discussed the current financial and economic situation in the EU, as well as the widely debated banking tax. A new topic on the ECOFIN agenda was the tax on financial transactions, which should reduce the risk of speculation on financial markets.

Refund of Value Added Tax

On the 29 September, the Council published following documents relating to a proposal for a Council Directive amending Directive 2008/9/EC laying down detailed rules for the refund of value added tax, provided for in

Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State.

- ⇒ Item note;
- ⇒ Outcome of proceedings.

European Court of Justice (ECJ)

Cross border leasing without VAT not considered abusive

In the case C-277/09 Advocate General Mazák
⇒concluded the VAT directive does not entitle the tax authorities to refuse a taxable person to deduct input VAT paid on goods used for the purposes of leasing supplies provided in another Member State, for the sole reason that those supplies have not actually given rise to the payment of output VAT in the latter State. If this would be confirmed by the Court of Justice, it would mean a significant limitation of the tax authorities' capability to attack such VAT savings schemes through the general anti-abuse provision rather than specific measures.

European Commission (EC)

Taxation Paper on “Innovative public financing at a global level”

On 10 September, the European Commission ⇒published Taxation Paper 23 on “Innovative financing at a global level”. Analysis conducted in the paper shows that there are some instruments of innovative public financing, notably certain forms of contributions from the financial system and the pricing of carbon emissions, where a significant "double dividend" of both raising revenues and improving market efficiency and stability could be reaped, in particular by putting a price on risk-taking in the financial sector and on carbon emissions.

European Fund and Asset Management Association (EFAMA)

UCITS IV: Tax Implications

In its ⇒press release of 15 September, the EFAMA presented jointly with KPMG its ⇒analysis of the tax implications of UCITS IV. In its report, the EFAMA and KPMG make a number of recommendations to resolve the tax barriers preventing an efficient single market.

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