SHEARMAN & STERLING

FINANCIAL REGULATORY DEVELOPMENTS FOCUS

JUNE 7, 2018
ISSUE 22

In this week's newsletter, we provide a snapshot of the principal U.S., European and global financial regulatory developments of interest to banks, investment firms, broker-dealers, market infrastructure providers, asset managers and corporates.

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Bank Prudential Regulation & Regulatory Capital

EU Authorities Raise Concerns About Proposed Data Waiver for Non-Performing Loans

On June 1, 2018, the European Banking Authority and the European Central Bank wrote to the European Commission, the European Parliament and the Council of the European Union expressing concerns about the impact of proposed data waivers for non-performing loans. The letter refers to a proposal put forward by certain stakeholders, in particular the Bank of Italy, that losses due to the sale of NPLs should be permanently eliminated from the dataset used for the Loss Given Default (LGD) estimation for the firm disposing of the NPLs. The proposal is based on the belief by some stakeholders that the disposal of NPLs and the corresponding capital release is hindered by the regulatory framework for internal models, in particular the requirements in the Capital Requirements Regulation for LGD estimation.

The EBA and the ECB do not support the introduction of such data waivers and argue that the losses should be appropriately reflected in the assessment of risk. The EBA and ECB do not consider that the build-up of NPLs in the EU banking sector is extraordinary because it has taken place in other cyclical downturns. Furthermore, the EBA and the ECB are of the view that the introduction of the proposed waiver would lead to an underestimation of LGD and inadequate capital requirements. This would provide preferential treatment to banks which have accumulated high levels of NPLs, creating regulatory arbitrage. Finally, the EBA and ECB highlight that the current regulatory regime already allows waivers where appropriate.

The letter is available at: https://www.eba.europa.eu/documents/10180/2101654/Joint+letter+with+ECB+to+Olivier+Guersent%2C%20Roberto+Gualtieri+and+Jeppe+Tranholm%E2%80%90Mikkelsen+on+the+considerations+on+the+LGD+waivers+under+the+IRB+framework+-+01062018.pdf/b8440766-117f-4723-a305-903064aacc4c.

European Central Bank Updates Guide to Management Body Fit and Proper Assessments

On May 28, 2018, the ECB published an updated Guide to Fit and Proper assessments for the suitability of members of the management body and key function holders in significant institutions. The ECB is responsible for direct prudential supervision of certain significant banks based in the Eurozone as part of the Single Supervisory Mechanism.

The ECB Guide covers fit and proper assessments of members of management bodies, both in their management function (executives) and supervisory function (non-executives). It applies to all institutions under the direct supervision of the ECB, namely in-scope credit institutions, financial holding companies and mixed financial holding companies. In the context of licensing or qualifying holdings, the ECB Guide will also apply to less significant institutions.

The ECB Guide has been updated following the publication of the joint EBA and European Securities and Markets Authority Guidelines on the suitability of management body members and key function holders, which will apply from June 30, 2018, and the EBA Guidelines on Internal Governance.

The ECB Guide sets out the supervisory policies, processes and practices the ECB follows when conducting fit and proper assessments and is based on six Principles, namely:

I. the primary responsibility of ECB-supervised institutions in carrying out due diligence and assessments;

II. the role of the ECB as a “gatekeeper”;

III. the harmonization of assessments across the Euro area;

IV. proportionality and case-by-case assessment;

V. due process and fairness; and

VI. interaction with ongoing supervision.

A fit and proper assessment can be triggered by a new appointment, a change of role, a renewal or a resignation, new facts (or any other issue) or a licensing or qualifying holding procedure. The ECB Guide sets out the criteria against which the ECB will assess the fitness and propriety of appointees to the management body. These are experience, reputation, conflicts of interest and independence of mind, time commitment and collective suitability.

The ECB Guide provides information on the purpose, scope and type of interviews conducted by the ECB of appointees. The ECB Guide then explains how a decision is taken by the ECB after every fit and proper assessment and the various types of decisions that may be taken.

The ECB Guide also notes that under the SSM Regulation, the ECB has the power to remove, at any time, members from the management body of a significant supervised entity who do not fulfill the fit and proper requirements.

The Updated Guide to Fit and Proper Assessments (May 2018) is available at: https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.fap_guide_201705_rev_201805.en.pdf, details of the joint EBA/ESMA Guidelines on the suitability of management body and key function holders are available at: https://finreg.shearman.com/european-securities-and-markets-authority-and-eur and details of the EBA Guidelines on internal governance are available at: https://finreg.shearman.com/european-banking-authority-final-guidelines-on-in.

Bank Structural Reform

US Federal Financial Regulators Propose First Major Revisions to Volcker Rule

The U.S. Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Securities and Exchange Commission and Commodity Futures Trading Commission released for public comment a proposal that would simplify and tailor the Volcker Rule. The joint notice of proposed rulemaking includes 342 specific questions for public comment largely focused on reducing compliance burdens under the Volcker Rule.

One of the key aspects of the proposal is that it would divide banking entities into three tiers for compliance purposes, based on total trading assets and liabilities. The most stringent requirements of the Volcker Rule would thus apply only to the 18 banking organizations with over $10 billion in trading assets and liabilities, while those with trading assets and liabilities under $1 billion would be presumed to be in compliance with the Volcker Rule and exempt from establishing a compliance program unless otherwise directed. The approximately 22 banks with between $1 billion and $10 billion in total trading assets and liabilities would be subject to a tailored, simplified compliance program.

Other proposed changes include allowing banking entities to establish internal risk limits for their market-making and underwriting activities, within which they are presumed to be in compliance with current RENTD requirements, as well as replacing the intent prong of the trading account definition and its 60-day “trading account” presumption with an accounting-based prong and a limited rebuttable presumption that trading desks are subject only to the accounting prong that fall within a $25 million profit and loss threshold comply with the Volcker Rule. Several key changes to improve exemptions for foreign banking entities are also included.

Comments on the proposed changes are due within 60 days following the proposal's publication in the Federal Register.

The full text of the proposal is available at: https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20180530a1.pdf.

For a more comprehensive discussion of the proposed changes to the Volcker Rule, you may wish to refer to our client publication: "Volcker Rule 2.0: First Major Rule Revisions Proposed" available at: https://www.shearman.com/perspectives/2018/06/volcker-rule-2-first-major-rule-revisions-proposed.

Consumer Protection

European Securities and Markets Authority Extends Product Intervention Measures for Contracts for Difference and Binary Options for a Further Three Months

On June 1, 2018, ESMA adopted two Decisions on the provision of Contracts for Difference and binary options to retail investors. The effect of the Decisions is to prohibit the marketing, distribution and sale of binary options to retail investors and to impose a number of restrictions on the marketing, distribution and sale of Contracts for Difference to retail investors. Both CFDs and binary options are considered to have given rise to significant investor protection concerns, due to their complexity, the lack of transparent information at the point of sale, the risk of significant loss for investors and the deployment of aggressive marketing techniques by providers and distributors of the products.

In issuing these Decisions, ESMA has exercised for a second time its powers under the Markets in Financial Instruments Regulation to impose temporary prohibitions or restrictions on certain financial instruments, financial activities or practices. This may be done when, among other conditions, the exercise of ESMA's power addresses a significant investor protection concern in the Union. ESMA can exercise this power for renewable temporary periods of up to three months. Product intervention measures imposed by ESMA under MiFIR must be reviewed at appropriate intervals and at least every three months. If a measure is not renewed after three months, it will expire. ESMA issued product intervention measures for CFDs and binary options in March 2018. The scope of the new Decisions is unchanged from those issued in March.

The Decision relating to binary options enters into force on July 2, 2018 and the Decision relating to CFDs enters into force on August 1, 2018.

Alongside the publication of its two Decisions, ESMA has issued updated Q&A to promote common, uniform and consistent supervisory approaches and practices in the day-to-day application of the measures. The updated Q&A cover the treatment of existing contracts, payments (for the purposes of entering into a CFD), margin close-out protection, aggregate liability, monetary benefits, binary options, CFDs referencing futures and guaranteed stop loss orders.

The Decision on temporary restrictions for CFDs is available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2018_136_R_0006&from=EN, the Decision on temporary prohibition for binary options is available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2018_136_R_0005&from=EN, the ESMA Q&A are available at: https://www.esma.europa.eu/questions-and-answers and details of ESMA's Decisions in March 2018 are available at: https://finreg.shearman.com/european-securities-and-markets-authority-confirm.

Derivatives

Commodity Futures Trading Commission Proposes to Maintain $8 Billion Swap Dealer De Minimis Threshold and Approves Proposed Changes to the Volcker Rule

On June 4, 2018, at the CFTC's open meeting, the CFTC voted to propose rules that would permanently maintain the swap dealer *de minimis* registration threshold at $8 billion. The Commission voted 2-1 to issue the proposal, with Chairman J. Christopher Giancarlo and Commissioner Brian Quintenz voting in favor and Commissioner Rostin Behnam dissenting.

Under the proposed rule, firms with less than $8 billion in notional value of OTC derivatives would be exempted from the CFTC's swap dealer registration requirements, as under the current regime. The proposed rule also would exclude swaps of insured depository institutions made in connection with loans from a firm's notional calculation. The proposal seeks comment on a number of other potential exclusions from the *de minimis* threshold, and Chairman Giancarlo stated that the CFTC is exploring with its counterparts at the SEC and prudential regulators further potential exclusions from swap dealer registration.

The de minimis threshold is currently scheduled to be lowered to $3 billion on December 31, 2019, absent further action by the CFTC.

The CFTC also voted 2-1 to propose changes to the Volcker Rule, consistent with the proposed changes previously released by the Board of Governors of the Federal Reserve System. As one of the five regulators responsible for overseeing the rule, the CFTC's approval is required for any proposed changes.

Chairman Giancarlo's opening remarks are available at: https://www.cftc.gov/PressRoom/SpeechesTestimony/giancarlostatement060418, Commissioner Behnam's opening remarks are available at: https://www.cftc.gov/PressRoom/SpeechesTestimony/behnamstatement060418, Commissioner Quintenz's opening remarks are available at: https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement060418.

European Securities and Markets Authority Finalizes Guidelines on Anti-Procyclicality Margin Measures for CCPs

On May 28, 2018, ESMA published a Final Report, setting out Guidelines for national regulators of CCPs on the application of rules under the European Market Infrastructure Regulation that require CCPs to adopt anti-procyclicality margin measures.

EMIR requires CCPs to impose, call and collect margins to limit their credit exposures from clearing members. A CCP must also regularly monitor and, if necessary, revise the level of its margins to reflect current market conditions taking into account any potentially procyclical effects of those revisions. Procyclicality of margin is the term used to describe the fact that margin requirements for the same portfolio are higher in times of market stress and lower in calm conditions. Regulatory Technical Standards under EMIR set out requirements for CCPs to use at least one of three options to limit procyclicality to the extent that the financial soundness of the CCP is not negatively affected. This has been controversial, since U.S. regulators impose no such requirements in practice on U.S. CCPs, leading to more expensive margin requirements in Europe. The Guidelines seek to clarify and ensure consistent application of the requirements across the EU.

ESMA has finalized the Guidelines following a consultation on draft guidelines which closed on February 28, 2018. Respondents to that consultation were largely supportive of the draft guidelines. However, following responses received, ESMA has made a number of small revisions to the draft guidelines, in particular relating to quantitative metrics for monitoring margin procyclicality, incorporation of all risk factors in APC margin measures and the frequency and alignment of margin floor parameters to margin calculation.

The Guidelines will apply from December 3, 2018 to all national regulators that supervise CCPs authorized under EMIR.

The ESMA's Final Report is available at: https://www.esma.europa.eu/sites/default/files/library/esma70-151-1293_final_report_on_guidelines_on_ccp_apc_margin_measures.pdf and details of the consultation are available at: https://finreg.shearman.com/proposed-eu-guidelines-on-ccp-requirement-for-ant.

Enforcement

Major European Investment Bank Settles Charges of Manipulation, Attempted Manipulation and False Reporting of Reference Rates

On June 4, 2018, CFTC filed and settled charges against a major European investment bank, and the U.S. Department of Justice entered into a deferred prosecution agreement with the bank relating to charges of manipulation and attempted manipulation of LIBOR and Euribor at various points from 2006 to 2012.

The CFTC and DOJ alleged that from around 2010 to 2012, the investment bank made deliberately false reports of USD and Euro LIBOR and Euribor to artificially lower the bank's submissions to create the appearance that the bank was able to borrow money at more favorable rates and was therefore more creditworthy than it was.

It was also alleged that the investment bank's traders on the bank's Paris Treasury Desk and others attempted to manipulate and actually manipulated LIBOR and Euribor at certain points from 2006 to 2010 by tailoring submissions in order to maximize profits and mitigate losses. The investment bank was also alleged to have aided and abetted traders from another bank to manipulate the rates in order to benefit the positions of both banks. According to the CFTC's enforcement order, this type of behavior was facilitated by the bank's failure to institute proper internal controls, procedures and policies to monitor its LIBOR and Euribor submission processes.

The investment bank has agreed to pay a fine of $475 million to the CFTC and $275 million to the DOJ, cease and desist from further violations and take steps to ensure the integrity of its benchmark interest rate submissions in the future.

The CFTC's press release is available at: https://www.cftc.gov/PressRoom/PressReleases/7736-18, the CFTC's enforcement order is available at: https://www.cftc.gov/sites/default/files/2018-06/enfsocietegeneralesaorder060418.pdf and the DOJ's press release is available at: https://www.justice.gov/opa/pr/soci-t-g-n-rale-sa-agrees-pay-860-million-criminal-penalties-bribing-gaddafi-era-libyan.

Funds

EU Consultation on Duties of Third-Party Custodians Safe-Keeping Fund Assets

On May 29, 2018, the European Commission consulted on revisions to the Delegated Regulations on the safekeeping duties of depositaries under both the Alternative Investment Fund Managers Directive and the Undertakings for Collective Investment in Transferable Securities Directive. Both the AIFMD and the UCITS Directive require that where a depositary delegates safekeeping functions to third-party custodians, the assets also need to be segregated at the level of the delegate. The respective Delegated Regulations set out how that obligation should be fulfilled to ensure a clear identification of assets belonging to a particular AIF or UCITS and the protection of assets in the event of the depositary or custodian entering insolvency.

The proposed changes follow the European Securities and Markets Authority's Opinion, "Asset segregation and application of depositary delegation rules to CSDs," issued on July 20, 2017. In its Opinion, ESMA identified that the delegation rules are being applied in different ways by EU Member States' national regulators and market participants and invited the Commission to make clarifications to the rules. The Commission concurs that the Delegated Regulations need to be amended to ensure a more uniform approach is adopted across the EU.

The proposed changes clarify that UCITS, AIFs and other client assets can be comingled at the level of the first custodian provided that they are initially held by the same depositary or by the same custodian in the event of further delegation. This amendment should prevent the erroneous interpretation of the segregation obligations as requiring separate accounts per depositary and per type of fund at each level of the custody chain.

The proposed revisions to the respective Delegated Regulations also prescribe that the contract delegating safekeeping of the assets between a depositary and a custodian must guarantee the depositary's rights to information, inspection and access to records so as to enable the depositary to fulfill its oversight and due diligence obligations. A depositary should be able to identify all entities within the custody chain (including such entities' respective rights and obligations where further delegation of custody functions by third parties takes place) and verify that the quantity of financial instruments recorded in its own books matches the records of the third-party custodian.

Where delegation of the custody functions relating to AIF clients occurs, before delegating this function to a third party located outside of the EU, the depositary should receive an independent legal opinion assessing the insolvency law of the third country where that third party is located. The Commission suggests that an opinion provided by relevant industry federations or by law firms for the benefit of several depositaries will be acceptable. Furthermore, the depositary should ensure that the third party located outside the EU informs it of any change in circumstances or in that third country's insolvency law that may affect the status of the assets of the depositary's AIF clients.

Custodians will be required to provide the depositary with a statement when a change relating to the assets occurs. The proposed revisions also provide for the factors determining the frequency of reconciliation between the depositary's accounts and internal records and those of the custodian.

Feedback to the proposals can be provided via the European Commission's website by June 26, 2018.

The proposed revisions to the AIFMD Delegated Act and feedback page are available at: http://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-2778659_en?_sm_au_=iVVS6ZD6nLftftLR, the proposed revisions to the UCITS Delegated Act and feedback page are available at: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-2778673_en and the ESMA's Opinion is available at: https://www.esma.europa.eu/press-news/esma-news/esma-publishes-opinion-asset-segregation-and-applying-depositary-delegation.

MiFID II

European Securities and Markets Authority Issues Final Guidelines on MiFID II Suitability

On May 28, 2018, ESMA published a Final Report setting out finalized Guidelines on aspects of the suitability requirements under the revised Markets in Financial Instruments Directive. ESMA consulted previously on a draft version of the Guidelines between July and October 2017.

The finalized Guidelines largely confirm ESMA's previous 2012 guidelines on MiFID I, but have a broader scope and ESMA has added clarifications and refinements where necessary.

The finalized Guidelines have been broadened to reflect the suitability requirements under MiFID II by:

I. considering technological developments of the advisory market, notably the increasing use of automated or semi-automated systems for the provision of investment advice or portfolio management (robo-advice);

II. building on national regulators' supervisory experience on the application of suitability requirements (including the 2012 guidelines);

III. taking into account the outcome of studies in the area of behavioral finance; and

IV. providing additional details on some aspects that were already covered under the 2012 guidelines.

In addition, ESMA explains, in the Overview section of the finalized Guidelines, that it has taken into account the European Commission's Action Plan on sustainable finance and has included a good practice at this stage, to ensure that non-financial factors (i.e. environmental, social, ethical impacts associated to investments, and sustainable development) are taken into account in the product assessment process and suitability assessment. ESMA will monitor the legislative proposals stemming from the Commission's action plan and will consider making focused amendments to the guidelines to reflect sustainability-related changes to the MIFID II delegated acts.

The finalized Guidelines will replace ESMA's 2012 guidelines and will apply to national regulators supervising investment firms that provide investment advice (whether independent or not) or portfolio management. Firms offering these services must, as applicable, provide suitable personal recommendations to their clients or make suitable investment decisions on behalf of their clients.

The finalized Guidelines will now be translated into the official EU languages and published on ESMA's website, following which national regulators will have a two-month period in which to notify ESMA whether they comply or intend to comply with the guidelines. National regulators should state their reasons for non-compliance where they do not comply or do not intend to comply. The Guidelines will take effect (replacing the 2012 Guidelines) 60 calendar days after expiry of the two-month notification period.

The ESMA's Final Report is available at: https://www.esma.europa.eu/sites/default/files/library/esma35-43-869-_fr_on_guidelines_on_suitability.pdf, the Commission Proposal for Sustainable Finance legislation is available at: https://finreg.shearman.com/european-commission-proposes-legislative-package-, the ESMA's 2012 Guidelines on suitability are available at: https://www.esma.europa.eu/document/guidelines-certain-aspects-mifid-suitability-requirements-0 and the ESMA's July 2017 consultation is available at: https://www.esma.europa.eu/sites/default/files/library/2017-esma35-43-748_-_cp_on_draft_guidelines_on_suitability.pdf.

Recovery & Resolution

EU Authorities Highlight Importance of Bail-In Risk Disclosures for Retail Investors in Bank Debt Liabilities

On May 30, 2018, the EBA and ESMA published a joint statement on the treatment of retail holdings of debt financial instruments under the EU Bank Recovery and Resolution Directive and MiFID II. The EBA and ESMA highlight that care is needed when bail-in is implemented in relation to debt liabilities held by retail customers. There have been a number of mis-selling cases as a result of firms not complying with the investor protection requirements at the point of sale of banks' debt liabilities to retail investors.

The EBA and ESMA emphasize that to ensure that debt instruments are distributed to clients for whom they are suitable, firms must properly implement the MiFID II investor protection requirements. Those requirements

oblige firms to, among other things, act honestly, fairly, professionally and in the best interests of clients, disclose certain information to potential and existing clients and conduct suitability assessments. In addition, the product governance framework requires manufacturers and distributors of financial products to act in the client's best interests at all stages of the life-cycle of products or services. In particular, firms must identify the target market for complex products to a greater level of detail than other products. Instruments subject to bail-in must be classified as complex products.

ESMA and the EBA remind firms to comply with MiFID II obligations, including the requirement to disclose to retail investors information on the potential treatment of banks' debt liabilities in resolution or insolvency. ESMA is appealing to firms to send existing customers a specific written communication about the risks involved in investing in debt liabilities issued by banks, even though the obligation may be fulfilled through periodic reporting or other similar means.

The statement is also addressed to resolution authorities who are responsible for winding down a failing bank. The statement confirms that where a bank's liabilities are held by a large number of retail investors, this is not in itself an impediment to resolvability and it does not per se justify an exemption from bail-in. During resolution planning, resolution authorities should consider whether the liabilities held by retail investors should be exempted from bail-in and what the impact of such an exemption would be on the loss absorbing capacity of the bank's liabilities.

The joint statement is available at: http://www.eba.europa.eu/documents/10180/2137845/EBA+ESMA+Statement+on+retail+holdings+of+bail-inable+debt+%28EBA-Op-2018-03%29.pdf.

Securities

US Office of the Comptroller of the Currency and US Federal Deposit Insurance Corporation Issue Final Rule to Shorten Settlement Cycle

On June 1, 2018, the OCC and FDIC issued a final rule shortening the settlement cycle for securities purchased and sold by OCC- and FDIC-supervised financial institutions. This final rule follows the transition from a T+3 settlement cycle to a T+2 settlement cycle that occurred in the securities industry on September 5, 2017. The final rule codifies existing OCC and FDIC guidance published in June and July of 2017, respectively, which notified institutions that they should be in compliance with the T+2 settlement cycle by September 5, 2017. The final rule follows a September 2017 notice of proposed rulemaking published by the OCC and FDIC suggesting two alternatives to the wording of the final rule; one that made specific reference to the T+2 settlement cycle and one that made reference to the "standard settlement cycle followed by registered broker dealers in the United States." The OCC and FDIC settled on the latter of these two options in order to maintain better alignment with the settlement cycle followed by the securities industry going forward. The final rule takes effect 30 days from the date of its publication in the Federal Register.

The full text of the final rule is available at: https://www.occ.treas.gov/news-issuances/news-releases/2018/nr-ia-2018-54a.pdf.

Proposed UK Good Practice on Information Confidentiality for the FICC Markets

On June 1, 2018, U.K. Fixed Income, Currency and Commodities Markets Standards Board published for consultation a Transparency Draft of a new Statement of Good Practice on Information and Confidentiality for fixed income and commodities markets. The proposed Statement of Good Practice will apply in the European Fixed Income and Commodities markets. It is not intended to apply to the FX markets to which the

FX Global Code applies, or to the precious metals markets, which are covered by the Precious Metals Code. The aim of the proposal is to clarify data sharing in the relevant markets and dealing with confidential information within a firm, including what information should not be shared with parties outside of a firm and what can be revealed when discussing "market color." The proposed Statement of Good Practice consists of nine Statements of Good Practice and an explanation of the rationale for each statement.

The consultation closes on August 31, 2018. The FMSB intends to publish the final Statement of Good Practice shortly thereafter. The Statements of Good Practice are not part of the FMSB Standards and are not binding on FMSB members, but reflect the FMSB's view of what constitutes good or best practice in the areas covered.

The consultation paper is available at: https://fmsb.com/wp-content/uploads/2018/05/Information-Confidentiality-SGP_V6.pdf.

People

Jelena McWilliams Sworn in as Chair of US Federal Deposit Insurance Corporation

On June 5, 2018, Jelena McWilliams was sworn in as the 21st Chair of the FDIC. Chair McWilliams succeeds Martin J. Gruenberg, who served as Chairman of the FDIC since November of 2012 and as a Member of the FDIC Board of Directors since August of 2005.

The full text of the FDIC press release is available at: https://www.fdic.gov/news/news/press/2018/pr18034.html.

New Chair Appointed to Bank of England's Governing Body

On May 31, 2018, the Bank of England announced the appointment of Bradley Fried as Chair of the Court of the BoE, replacing Sir Anthony Habgood, as of July 1, 2018. The Court is the BoE's governing body that manages its affairs except for the formulation of monetary policy. In addition, the BoE announced the appointment of Diana Noble and Anne Glover as non-executive directors to the Court and that Tim Frost had rotated off the Court, each as of May 31, 2018.

The announcement is available at: https://www.bankofengland.co.uk/news/2018/may/announcement-of-new-chair-and-non-executive-directors-of-court.

Upcoming Events

June 11, 2018: EBA public hearing on guidelines on the STS criteria for ABCP and non-ABCP securitization

June 12, 2018: FCA Asset Management Conference

June 27, 2018: EBA public hearing on draft Guidelines on disclosure of non-performing and forborne exposures (registration closes June 5, 2018)

Upcoming Consultation Deadlines

June 8, 2018: PSR consultation on its review of PSR Directions made in 2015

June 8, 2018: EBA consultation on draft EBA Guidelines on management of non-performing and forborne exposures

June 12, 2018: European Commission proposed amending Regulation on cross-border payments in the EU

June 15, 2018: ESAs' consultation on revised RTS relating to the EMIR clearing obligation for certain classes of OTC derivatives

June 15, 2018: ESAs' consultation on revised RTS on risk-mitigation techniques for OTC derivative contracts not cleared by a CCP

June 20, 2018: FCA consultation on Model Driven Machine Executable Regulatory Reporting

June 20, 2018: Basel Committee consultation on revisions to minimum capital requirements for market risk

June 21, 2018: FCA consultation on its approach to supervision

June 21, 2018: FCA consultation on its approach to enforcement

June 21, 2018: European Commission consultation on a proposed Commission Delegated Regulation amending delegated legislation under MiFID II

June 21, 2018: European Commission consultation on a proposed Commission Delegated Regulation amending delegated legislation under the IDD

June 21, 2018: European Commission consultation on a Draft Delegated Regulation amending MiFID II secondary legislation, to promote SME Growth Markets

June 22, 2018: EBA consultation on RTS on the specification of the nature, severity and duration of an economic downturn

June 22, 2018: EBA consultation on estimation of loss given default appropriate for conditions of an economic downturn

June 25, 2018: U.S. Federal Reserve Board and OCC proposed amendments to supplementary leverage ratio calculations for G-SIBs and their insured depository institution subsidiaries

June 26, 2018: European Commission consultation on revisions to the Delegated Acts on the safe-keeping duties of Depositaries under AIFMD and the UCITS Directive

June 28, 2018: FCA consultation on revising the Financial Crime Guide to include insider dealing and market manipulation

July 5, 2018: FCA consultation on improving disclosure by AFMs to their investors (part of the Asset Management Market Study)

July 6, 2018: FSB consultation on proposed Recommendations for consistent national reporting of data on the use of compensation tools to address misconduct risk

July 9, 2018: FCA consultation on its approach to ex post impact evaluation

July 13, 2018: U.S. Federal Reserve Board, FDIC and OCC proposed amendments to regulatory capital rules to address changes to U.S. GAAP

July 17, 2018: EBA consultation on draft Guidelines on the exposures to be associated with high risk

July 20, 2018: EBA consultation on draft guidelines on STS criteria for ABCP securitization

July 20, 2018: EBA consultation on draft guidelines on STS criteria for non-ABCP securitization

July 24, 2018: European Commission proposal for a regulation on Sovereign Bond-Backed Securities

July 24, 2018: European Commission consultation on a proposed Regulation amending the Benchmarks Regulation

THIS NEWSLETTER IS INTENDED ONLY AS A GENERAL DISCUSSION OF THESE ISSUES. IT SHOULD NOT BE REGARDED AS LEGAL ADVICE. WE WOULD BE PLEASED TO PROVIDE ADDITIONAL DETAILS OR ADVICE ABOUT SPECIFIC SITUATIONS IF DESIRED. IF YOU WISH TO RECEIVE MORE INFORMATION ON THE TOPICS COVERED IN THIS PUBLICATION, YOU MAY CONTACT YOUR USUAL SHEARMAN & STERLING REPRESENTATIVE OR ANY OF THE FOLLOWING:

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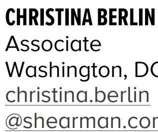

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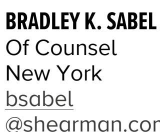

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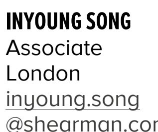

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This memorandum is intended only as a general discussion of these issues. It should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

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