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Banking Law Update

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REGULATORY DEVELOPMENTS

Financial Conduct Authority (FCA)

Illegal Land Bank

St Clair Estates and Elizabeth Fischer have entered into a settlement agreement with the Financial Conduct Authority (FCA) to repay around £380,000 from frozen bank accounts for redistribution to investors. St Clair Estates and former director, Elizabeth Fischer, had sold plots in a disused airfield near Winkleigh, Devon to around 70 investors for between £6,000 and £12,000 each and total sales of £2,209,296. The sales were managed by OFG Investments Ltd, Option Land UK Ltd, GIG Properties Ltd, Mehmet Husnu and Ali Seytanpir. St Clair Estates and Fischer agreed that they had operated an unauthorised collective investment scheme with the other firms and individuals agreeing to repay the amount of the FCA claim and to permanent restraining orders preventing them from operating another collective investment scheme or similar businesses selling land. Civil proceedings had commenced in December 2011 with the FCA obtaining a court freezing order against the bank accounts of the companies and individuals concerned and injunctions.

FCA, 21.06.2013

Sale and Rent Back Agreements

Sales and rent back arranger, Gurpreet Singh Chadda, has been fined £945,277 by the FCA and banned from working in the financial services industry following significant failings in conducting business. The FCA had investigated seven sale and rent back transactions between June 2009 and January 2010 with Chadda having traded in Birmingham under the names Red2Black Homes and B&L Homes. The investigation confirmed a number of failings including misleading property sellers, failing to notify the sellers that the purchasers were not authorised or regulated by the FCA, assisting purchasers obtain mortgages through the provision of misleading information, falsely claiming that the price would be based on independent valuation, misleading the sellers about expected values and charging grossly unfair and excessive hidden fees. As a result of these actions, three of the sellers received less than half of the value of their property and only 38% in two cases. Chadda received £695,277 from the transactions. The FCA fine includes disgorgement of this amount. Sale and rent back agreements have been regulated since July 2009.

FCA, 19.06.2013

Credible Deterrence

FCA Director of Enforcement and Financial Crime, Tracey McDermott, has given an address on ″Enforcement and Credible Deterrence in the FCA″ before the Thompson Reuters Compliance & Risk Summit, London. McDermott accepted that the FCA was the same legal entity as the former Financial Services Authority (FSA), occupied the same buildings and had many of the same staff although she claimed that it was a ″new regulator″ with new objectives, new powers and new key partners with the Prudential Regulation Authority (PRA) and the Financial Policy Committee (FPC) with a new approach to regulation most significantly. This had led to a number of structural and process changes. A new Policy, Risk and Research Division had been set up including competition specialisation. A new supervision model had been developed to oversee the activities of the 26,000 firms for which the FCA was responsible and 23,000 firms it regulated. The FCA and PRA had attempted to reduce barriers to entry with a joint paper on regulatory requirements and authorisation. The FCA philosophy was set out in its *Journey to the FCA* paper in October 2012 with its new anticipatory, innovative and confident approach. The FCA was still dealing with new challenges in terms of its competition responsibility, transfer of consumer credit regulation, implementation of relevant EU requirements including the Alternative Investment Fund Managers Directive (AIFMD) 2011/61/EU and Capital Requirements Directive (CRD) IV as well as the Parliamentary Commission on Banking Standards' (PCBS) recommendations. The FCA had announced that it would make use of behavioural economics in developing its understanding of consumer decision taking. Firms were also expected to change to rebuild trust in the financial services industry. People were expected to consider whether their actions were consistent with the strict letter and spirit of the FCA rules including the 11 Principles for businesses (PRIN). The authorities had also to be able to rely on senior managers to lead by example and specifically secure full compliance with APER and develop an appropriate compliance culture. The FCA remained as committed to securing credible deterrence as the FSA which had published 76 Final Notices and imposed £423.2 million in fines in its last year. Following LIBOR, in particular, firms had to consider how to manage conflicts of interest, culture and governance and risk management. In terms of future priorities, the FCA would focus on consumer protection and mis-selling as well as specifically unregulated collective investment schemes and the recent growth in pension liberation activities.

FCA, 18.06.2013

General Prohibition Breach

Former mortgage broker, Michael Joseph James Lewis, has plead guilty to ten counts of breaching the general prohibition under s19 Financial Services and Markets Act (FSMA) 2000 in providing mortgage advice to clients having been prohibited from doing so since August 2011. He also plead guilty to two counts of supplying/making an article for use in fraud contrary to s7 Fraud Act 2006 to provide false employment details for two clients to inflate incomes. Lewis had been arrested in October 2012 in a joint operation with the Kent Police and charged in February 2013. Lewis had operated as ″The Lewis Partnership″ or ″The Medway Partnership″ in Gillingham, Kent. Lewis would be sentenced in July 2013.

FCA, 14.06.2013

Client Asset Failings

Retail investment and capital markets business, Xcap Securities plc has been fined £120,900 for client asset failings in protecting client money and assets. The fine represents 2% of the firm's average client money balance with 0.2% of its average client asset balance over the period of the breach. These apply the new penalty levels introduced in March 2010. The firm had commenced trading in June 2010 and had breached PRIN 3 on management and control of its business and PRIN 10 on arranging adequate protection for clients' assets between June 2010 and August 2011. The company had failed to segregate client money from its own, maintain accurate records and accounts and carry out accurate client money reconciliations.

FCA, 11.06.2013

Penalty Charges

The FCA has secured agreement with seven of the UK's largest high street banks that they will use a ″retry system″ in processing Direct Debits, standing orders and future dated bill payments to avoid unnecessary penalty charges being imposed. The charges can arise where deposits or account transfers are made later in the day after banks have processed incoming and outcoming payments through the UK Faster Payments Service in the morning. £200 million in penalty fees are imposed each year. Under the retry system, banks will reprocess transactions before close of business to avoid fees being imposed. Banks will also confirm to customers the time at which money must be in their accounts to cover outgoing payments. The Faster Payments Service is managed by the Payments Council.

FCA, 07.06.2013

Investment Advice

Sesame Ltd has been fined £6,031,200 for failing to ensure that investment advice given to customers is suitable and for failings in the oversight of appointed representatives (ARs) under its systems and controls. The company had advised 426 customers to invest £6.1 million in Keydata life settlement products between July 2005 and June 2009 despite mismatches between customers' investment objectives, risk attitude and the product sold, inaccuracies in suitability letters and investors being advised that the product was low risk. The firm had also failed to take reasonable care to organise and control its affairs responsibly and effectively in overseeing the activities of its ARs between July 2010 and September 2012 with inadequate sales monitoring, desk-based file reviews and recordkeeping.

FCA, 05.06.2013

Regulation and Growth

FCA Chief Executive, Martin Wheatley, has spoken before the Investment Management Association (IMA) on ″Regulation as a spur to growth″ at Mansion House, London. Martin Wheatley referred to the need to restore consumer confidence and trust and respond to the challenges of increased competition and higher expectations. Trust had to be merited, deserved and earned. The UK asset management industry has demonstrated the highest ethical standards and remains one of the more successful UK industries. The FCA was responsible for ensuring that the market continues to work well with good regulation being a feature of all high-performing industries. The FCA new regulatory philosophy would be forward-looking, use real time data and be based on judgement. Martin Wheatley highlighted three ″Cs″ with cooperation, competition and client focus.

FCA, 05.06.2013

Unregulated Collective Investment Scheme Restrictions

The FCA has published a final paper on *Restrictions on the retail distribution of unregulated collective investment schemes and close substitutes* (June 2013) PS13/3 following the earlier Consultation Paper 12/9. The rules would prohibit the sale of Non-Mainstream Pooled Investments (NMPIs) to most retail investors with sales being restricted to sophisticated investors and high net worth individuals. FSA research had confirmed that only one in four advised sales of unregulated schemes to retail customers had been suitable with many promotions breaching marketing restrictions. Similar concerns arose with regard to close substitute products with a number of NMPIs failing more recently. Following the consultation conducted, the definition of NMPIs had been refined to highlight the products generating the greatest risk of inappropriate distribution with sales restrictions to high net worth and sophisticated retain clients being amended. The marketing restrictions would be disapplied to exchange traded products, overseas investment companies that satisfied the UK investment trust status criteria, real estate investment trust and venture capital trusts as well as enterprise investment schemes and seed enterprise investment schemes as well as special purpose vehicles pooling investment primarily in shares and bonds. Marketing restrictions would apply to units in qualified investor schemes (QIS), traded life policy investments, units in unregulated collective investment schemes and securities issued by SPVs pooling investment in assets other than listed or unlisted shares or bonds. The FCA would also monitor other non-pooled investment products such as contingent convertibles (CoCos), building society deferred shares and similar instruments.

FCA, 04.06.2013

Conflicts of Interest

The FCA has published a Decision Notice against Angela Burns having decided to ban and fine the former non-executive director £154,800 for failing to disclose conflicts of interest. The matter will be considered by the Upper Tribunal. The FCA considers that she had failed to act with integrity as a non-executive director at two mutual societies by failing to disclose her conflicts of interest. Ms Burns had completed a consultancy project for a US based investment manager in 2006 with further work proposed in September 2008. Ms Burns became a non-executive director and chair of the investment committee for two UK mutual societies in January 2009 and May 2010 failing to disclose her relationship with the investment manager. The societies considered placing £350 million and £750 million respectively with the investment manager. The FCA considered that she had failed to make proper disclosure and had attempted to use her non-executive positions to benefit her own interest.

FCA, 24.05.2013

JPMorgan Fine

JPMorgan International Bank has been fined £3,776,200 for systems and controls failings relating to the provision of retail investment advice and portfolio investment management services. The FCA had identified a number of concerns with the bank's processes and inability to demonstrate client suitability from client files. Senior management failed to have sufficient information and oversight tools to respond to the deficiencies with customers being exposed to the risk of incorrect advice and inappropriate investments. Specific issues arose with regard to keeping client files up to date, sufficient information being retained on computer based record systems, suitability report content and communication failures. There had also been failure to ensure that there had been adequate risk and compliance monitoring and oversight of the business.

FCA, 23.05.2013

Growth Challenge

FCA Chief Executive, Martin Wheatley, has spoken on ″Meeting the growth challenge″ before the British Insurance Brokers' Association (BIBA) conference, ExCel Centre, London. The London insurance market had grown to be worth over £187 billion a year. Martin Wheatley wanted to ensure that the UK insurance market would work well and that regulation would support this success. The regulator and industry had to consider issues concerning trust, poor quality advice, information asymmetries and misaligned incentives. The FCA would be forward looking, focus on culture and controls and act early to prevent loss. Good regulation was in everyone's interest. The FCA was specifically concerned with personal lines claims with complaints having arisen in recent years. The FCA was accordingly adopting a strategic review into the claims process and hope that the BBA and its member would take a leading role in this.

FCA, 15.05.2013

Mortgage Market Review

The Financial Conduct Authority (FCA) has issued a consultation paper on *Mortgage Market Review – Data Reporting* (May 2013) cp13/2. The objective is to collect additional data on mortgages to monitor and supervise market conduct as part of its Mortgage Market Review (MMR). The MMR includes new measures on responsible lending and prudential requirements for non-deposit taking mortgage lenders with the FCA requiring additional information on market developments. The paper examines product sales data and mortgage lending and administration return with a cost benefits analysis, compatibility statement and list of questions being set out in the Annex. Draft Handbook text is included as a separate Appendix.

FCA, 15.05.2013

Unregulated Collective Investments Schemes

The FCA has issued a statement on ″Restrictions on the retail distribution of unregulated collective investments schemes and close substitutes″ following its earlier Consultation Paper 12/19 which was issued in August 2012. This sets out the FCA's proposed approach on the marketing of unregulated collective investments schemes (UCIS) and close substitutes. The FCA accepts that a number of important issues remain to be resolved with the decision being taken not to refer the original proposals to the FCA Board for approval. The FCA will issue a further policy statement with revised rules implementation timetable. A final policy statement will be issued later in 2013.

FCA, 07.05.2013

Transparency

The FCA has made available the responses received to the Financial Services Authority's (FSA) Discussion Paper on *Transparency* (March 2013) DP13/1. This follows a review of constraints and the need to balance transparency and sound regulation following the additional regulatory principles imposed on transparency under the Financial Services and Markets Act 2000 (as amended by the Financial Services Act 2012). Two new specific principles were imposed on the desirability of publishing information about regulated firms and individuals or requiring such persons to publish information with the FCA separately being required to exercise its functions as transparently as possible. The FCA's approach has adopted a presumption of transparency unless there are compelling regulatory, legal or other reasons to the contrary. The paper sets out the types of information that the FCA could or could not disclose about its regulatory activities and organisation and what it would require from firms. The current legal framework on disclosure is summarised in the Appendix. Including on disclosure, confidential information and public censure with specific amendments made with regard to publicity of enforcement action and on financial promotions. The responses to the earlier FSA document are available on the FCA website.

FCA, 03.05.2013

Insider Dealing

A man aged 41 and a woman aged 37 have been arrested in West London and questioned in connection with insider dealing and market abuse. Separate business and private premises in Switzerland were searched by the Swiss authorities as part of an FCA investigation. The arrests were carried out with the assistance of the City of London Police Economic Crime Directorate.

FCA, 03.05.2013

Interest-Only Mortgages

The FCA has published the results of its research into the ability of consumers to repay interest-only mortgages on maturity. Six hundred thousand borrowers had mortgages that would mature before 2020 with 90% of interest-only borrowers having a repayment strategy. Just under half of the interest-only borrowers modelled were likely to experience a shortfall with a third of shortfalls expected to be over £50,000. The majority of these were held by individuals with relatively high incomes, high assets and high levels of forecast equity in the property. Separate statistics were provided on mortgages expected to mature over the following 30 years. The FCA expected three peak periods for the maturity of residential interest-only mortgages in 2017/2018, 2027/2028 and 2032. The FCA has published separate guidance on how it expects lenders to treat concerned borrowers. The research includes a study carried out by Experian with a separate quantitative study undertaken by GfK NOP. The FCA guidance is set out in, *Dealing fairly with interest-only mortgage customer who risk being unable to repay their loan* (May 2013) Guidance Consultation CG13/2. This follows the earlier FSA Discussion Paper on *Consumer Responsibility* (December 2008) DP08/5. The FCA has been working with the Council of Mortgage Lenders (CML) and the Building Societies Association (BSA).

FCA, 02.05.2013

Unauthorised Business

Michael Lewis, Rainham, Gillingham has been committed for trial to Maidstone Crown Court in an action by the FCA. Lewis has been charged with 13 counts of breaching the General Prohibition in s23 FSMA 2000 in conducting a regulated business without authorisation and three counts of Assisting a Fraud by False Representation contrary to s44 of the Serious Crime Act 2007 and s2 of the Fraud Act 2006 in assisting or encouraging others to commit fraud by falsifying documents. The Court ordered under the Contempt of Court Act 1981 that the issuance of the prohibition order made by the FSA in August 2011 could be published but with no further information on any findings or circumstances due to the substantial risk of prejudice to the administration of justice.

FCA, 02.05.2013

Payment Services Regulations

Horn Express Ltd (formally Qaran Express Money Transfer Limited) has been publicly censured for breaches of the Payment Services Regulations (PSR) 2009. The firm was authorised as a money transfer company under the PSR. The firm had mixed customer funds with its own between December 2009 and August 2011 and failed to record accurately how much money was customer funds in the same account. It had also failed to reconcile properly customer funds held in its bank account between December 2009 and December 2011. The bank account had not been set up properly and had specifically not been labelled as a customer funds account and had failed to segregate and safeguard funds correctly. The firm would have been fined £136,687 if it had not been able to confirm that the fine would have caused serious financial hardship.

FCA, 30.04.2013

Unauthorised Investment Scheme

Alex Hope of Docklands, London and Raj Von Badlo of Bourne End, Buckinghamshire have been charged with ten offences relating to the promotion and operation of an unauthorised investment scheme. The scheme received £5 million from investors and purported to provide FOREX trading services. The charges follow earlier arrests.

FCA, 29.04.2013

Platforms Industry

The FCA has published rules to increase the transparency of invested payments for advised and non-advised platform services. Investment product providers, including investment managers, have paid rebates to platforms to have products included on the platform with the rebate coming from the annual management charge (AMC) paid by the investor to the fund manager. This creates the impression of the provision of a free service. The new rules will require platform charges to be paid for which will be disclosed to and agreed by investors. The objective is to allow investors to make fully informed choices if they wish to use a platform and understand the services provided. The FCA rules are included as an Appendix to the Policy Statement PS13/1.

FCA, 26.04.2013

Money Laundering Fine

EFG Private Bank Ltd has been fined £4.2 million for failing to take reasonable care to establish and maintain effective anti-money laundering (AML) controls for high risk customers. EFG is the private banking subsidiary of the global private banking group, EFGI Group, in Switzerland. Four hundred of EFG's 3,342 customer accounts had been deemed by the firm to present a higher risk of money laundering or reputational risk with 94 being with politically exposed persons (PEPs). The FCA had visited EFG in January 2011with 17 of 36 customer files reviewed indicating significant money laundering risks and insufficient records of proper senior management and mitigation. EFG qualified for a 30% discount on the fine which would have been £6 million.

FCA, 24.04.2013

Member Controls

The FCA has issued proposed guidance on the oversight of member controls carried out by recognised investment exchanges (RIEs) and multilateral trading facilities (MTFs) (FCA, *Special member controls edition* (April 2013) GC13/1). The guidance is in response to industry request for clarification of FCA expectations. The guidance relates to how RIEs and MTFs should ensure continuing oversight of the systems and controls that their member firms operate to comply with their operator's rulebook under REC 2.6.27G and MAR 5.5.1R. Firms should maintain a pro-active approach to oversight of member controls and adopt a risk based and targeted approach focusing on key members with proper evidence of the approach adopted being provided to the FCA.

FCA, 23.04.2013

Firm Culture

Clive Adamson, Director of Supervision at the CFA Society, has spoken on ″The importance of culture in driving behaviours of firms and how the FCA will assess this″ at the UK Professionalism Conference in London in April 2013. Trust had been eroded in the financial services area partly due to the financial collapse in the banking sector as well as a series of large-scale conduct failings over a number of years including pensions mis-selling, endowment mis-selling, split caps, PPI and interest rate hedging product sales with the LIBOR scandal in the wholesale area. Firms had not properly considered client's interest in designing products and had adopted a tick box approach to disclosure at point of sale to avoid liability. Culture underpinned all of this which shapes judgements, ethics and behaviours. An effect culture had to be adopted that supported a business model and business practices that had at their core the fair treatment of customers and behaviours that do not harm market integrity. The responsibility for ensuring the right outcomes for customers resided with everyone in the firm, led by senior management, and not simply delegated to compliance or control functions. The key drivers of culture were referred to as setting the tone from the top, translating this into easily understood business practices and supporting the right behaviours through performance management, employee development and reinforcing through reward programmes. The FCA would assess culture in terms of how firms behaved rather than attempt to assess culture directly. The FCA could not have direct rules on culture although it relied on the high-level principles and more specific sets of professional standards such as with regard to the Retail Distribution Review (RDR).

FCA, 19.04.2013

Regulatory Failure

The FCA has published a paper on, *How the Financial Conduct Authority will investigate and report on regulatory failure* (April 2013). The FCA is required to publish a policy statement setting out the matters that will be taken into account in deciding whether an investigation into possible regulatory failure is required and report to the Treasury. Two conditions are set out under the FSMA in terms of a significant failure either to secure an appropriate degree of protection for consumers or failure that could have had a significant adverse effect on the integrity of the UK financial system or effective competition in the interest of consumers and the events occurred or were aggravated due to a serious failure of the regulatory system or on the part of the FCA. The FSA had earlier issued reports in connection with the failure of Northern Rock, RBS and LIBOR with a new statutory requirement being imposed under the FSMA. The statement examines regulatory failure, adverse effects, thresholds, serious systems or operational failure and explains how investigations and reports will be carried out.

FCA, 18.04.2013

Land Banking

The FCA has been investigating three land banking companies under Operation Cotton involving Plott UK Ltd, European Property Investments (UK) Ltd and Stirling Alexander Ltd. Eight men have since been charged with conspiracy to defraud contrary to the common law between August 2007 and November 2011 and with carrying out a regulated activity without authorisation or exemption contrary to s 19 of FSMA 2000. Solicitor, Dale Walker, has also been charged with money laundering under the Proceeds of Crime Act 2002 and Daniel Forsyth with providing false information to the FSA contrary to s 177 of FSMA 2000.

FCA, 17.04.2013

Prudential Regulation Authority (PRA)

Financial Conglomerates

The PRA has published a final statement of policy and rules implementing the European Financial Conglomerates Directive Technical Review 2013/89/EC (FICOD 1) which amends the Financial Conglomerates Directive 2002/87/EC. The amendment specifically related to conglomerate supervision to supplement sectoral supervision, conglomerate capital calculation methodology, inclusion of asset management companies and alternative investment fund managers within the conglomerate identification process, conglomerate identification threshold triggers and requirements for conglomerate stress testing. The provisions are set out in the PRA Policy Statement, *Financial Conglomerates Directive Technical Review* (May 2013) PS3/13 which follows the earlier FSA and HM Treasury Consultation Paper on *Financial Conglomerates Directive – Technical Review Amendments* (December 2012) CP12/14. The amendments would be given effect to under the Financial Conglomerates Directive (Handbook Amendments) Instrument 2013 (PRA 2013/22).

PRA, 30.05.2013

Statutory Investigations

The Prudential Regulatory Authority (PRA) has issued a Policy Statement on, *Conducting statutory investigations* (April 2013). This is in response to the requirement under s80 FSMA to set out how it will discharge its functions in carrying out investigations and identifying regulatory failure. This parallels the FCA policy statement referred to above. Investigations are required in the event of public expenditure being necessary, safety or soundness being threatened and policyholder protection being required. A separate condition applies with regard to the Lloyd's insurance market. An investigation will be conducted where any of these events have arisen and they arose as a result of a serious failure of the regulatory system or its operation. Initial investigations will be conducted by separate divisions within the PRA not involved with supervision and subject to PRA Board oversight. Independent external specialists will be engaged where necessary. Firms are expected to deal with any investigation in an open and cooperative manner. Reports will be referred directly to the PRA Board. The PRA may consider postponing or suspending investigations where this is necessary to minimise any adverse effect on its other functions. Investigations are subject to HM Treasury directions with the PRA reporting separately to the Treasury on the results of the investigation.

PRA, 18.04.2013

Bank for International Settlements (BIS)

Markets Committee

The central bank governors of the Global Economy Meeting (GEM) have appointed Guy Debelle, Assistant Governor at the Reserve Bank of Australia, as Chairman of the Markets Committee. The Markets Committee allows senior central bank officials to monitor developments in financial markets and assess the implications for central bank market operations. The committee replaces the earlier Committee on Gold and Foreign Exchange originally set up in 1962 following the establishment of the Gold Pool. The Markets Committee has considered a wide range of issues concerning financial market developments and cooperated on assessing current events and longer-term structural trends that may affect market function and central bank operations.

BIS, 24.06.2013

Annual General Meeting

The Bank for International Settlements (BIS) held its Annual General Meeting in Basel on 23 June 2013. BIS General Manager, Jaime Caruana, spoke of ″Making the most of borrowed time: repair and reform the only way to growth″. Six years following the beginning of the financial crisis, central bank balance sheets had doubled from $10 trillion to $20 trillion with fiscal authorities’ debt increasing by $23 trillion since 2007. Despite the intervention which prevented a global recession, global recovery has remained halting, fragile and uneven. Central banks had to intervene again in mid-2012 to support the markets. Raghuram Rajan, gave the first Andrew Crockett Memorial Lecture on ″A step in the dark: unconventional monetary policy after the crisis″. The BIS balance sheet was $317.9 billion with the BIS having earned a net profit of $1,346.9 million in the past year. The Board of Directors of the BIS agreed to extend Jaime Caruana’s term of office as General Manager to March 2017. The Annual Report contains additional material on the previous year, removing the roadblocks to growth, fiscal sustainability, a more resilient banking sector and monetary policy.

BIS, 23.06.2013

Large Exposures

The Basel Committee on Banking Supervision has issued a consultative document on *Frequently Asked Questions on Large Exposures QIS* (June 2013). This provides guidance on responses to technical and interpretative questions raised by supervisors and banks during the conduct of the quantitative impact study (QIS) on larger exposures. This follows the earlier consultative document on *Supervisory framework for measuring and controlling large exposures* (March 2013).

BIS, 20.06.2013

Effective Exchange Indices

The BIS has extended its effective exchange rate (EER) indices to include three new economies to bring the total to 61 including euro area countries and the euro area as a whole. The indices have also been updated using trade data 2008–2010 weights. Two sets of basket compositions are available with broad indices and narrow indices. Links are available to the EER indices methodology.

BIS, 17.06.2013

Interest Rate Effects

The BIS has published a working paper on ″The interest rate effects of government debt maturity″ (June 2013; no 415) by Jagjit S Chadha, Philip Turner and Fabrizio Zampolli. The paper examines the effects of the US Treasury policy of lengthening the maturity of its bond issuance. It is estimated that lowering the average maturity of US Treasury debt held outside the Federal Reserve by one year will reduce the five-year forward 10-year yield by 130 to 150 basis points. Central banks will have to deal with the true magnitude of maturity effects and the size and concentration of interest rate risk exposures within the financial system.

BIS, 14.06.2013

Foreign Exchange Intervention

The BIS has published a working paper on ″Foreign exchange intervention and expectation in emerging economies″ (no 414) by Ken Miyajima. The paper confirms that using monthly data for selected emerging economies, sterilised central bank foreign exchange intervention has little systemic influence on the near-term nominal exchange rate expectations changes intended by the central banks with intervention not changing near-term exchange rate expectations.

BIS, 12.06.2013

Economic Consultative Committee

The BIS Board has appointed Agustin Carstens, Governor of the Bank of Mexico, as Chairman of the Economic Consultative Committee (ECC) and the Global Economy Meeting (GEM). Mario Draghi, President of the

European Central Bank, has also been appointed Chair of the Group of Governors and Heads of Supervision (GHOS). The appointments are made following the retirement of Mervyn King as Governor of the Bank of England.

BIS, 05.06.2013

Quarterly Review

The BIS has published its June 2013 *Quarterly Review* entitled ″Markets under the spell of monetary easing″. This includes a number of chapters on the effects of monetary easing, highlights of the BIS international statistics, template for recapitalising too-big-to-fail banks, examining total credit as an early warning indicator for systemic banking crisis and considering price-based measures of systemic importance.

BIS, 03.06.2013

International Journal of Central Banking

The BIS has published the latest copy of its quarterly *International Journal of Central Banking* (IJCB). This examines central bank theory and practice with reference to research on monetary and financial stability. The edition includes papers on global imbalances and taxing capital flows, monetary policy, financial stability and the distribution of risk, imbalances and policies, capital injection, financial frictions, unconventional monetary policy, house prices and the importance of non-linearities and expectations in the recent crisis.

BIS, 31.05.2013

Collateral Assets

The Committee on the Global Financial System (CGFS) has published a paper on ″Asset encumbrance, financial reform and the demand for collateral assets″ (May 2013; no 49). The paper examines the implications for markets and policy from the need for financial institutions to provide higher-quality assets for collateral purposes. Concerns with an overall shortage of high-quality assets are considered unjustified although shortages have been experienced in some countries. Collateral transformation activities should assist deal with supply-demand imbalances.

CGFS, 26.5 2013

Monetary Policy

Jaime Caruana, General Manager of the Bank for International Settlements (BIS), has given a speech on, ″Hitting the limits of ″outside the box″ thinking? Monetary policy in the crisis and beyond″ in London in May 2013. Central banks have had to ″think outside the box″ in response to unprecedented financial instability and the need to provide monetary stimulus in difficult times. Monetary accommodation has been necessary to stabilise the financial system and the economy with difficult questions remaining with regard to the efficacy of such policies and their effects on central bank balance sheets and fiscal and structural effects. Significant challenges remain to be dealt with by central banks especially with the need to integrate new perspectives on the financial cycle and global spillovers into their monetary policy frameworks.

BIS, 16.05.2013

OTC Derivatives

The BIS has released the latest OTC derivative statistics for end December 2012. Notional amounts for credit default swaps had declined from $26.9 trillion to $25.1 trillion in the second half of 2012 with an 18 month fall of $7.3 trillion. Reductions were concentrated in reporting dealers and contract maturities over five years. Foreign counterparty contracts also fell to $19 trillion with home country counterparty transactions increasing from $5.4 trillion to $6.1 trillion.

BIS, 08.05.2013

Central Bank Finances

The BIS has published a paper on ″Central bank finances″ (April 2013; no 71) by David Archer and Paul Moser-Boehm. The paper examines the relevance of a central bank's finances on its policy work with a number of banks being exposed to significant financial risks due to their operational environment and policy actions. Financial exposures and losses can weaken the effectiveness of central bank policy transmission. The paper assesses the effects of inadequate financial resources and provides a framework for assessing the sufficiency of resources.

BIS, 29.04.2013

Structural Bank Regulation

The BIS has published a working paper on ″Structural bank regulation initiatives: approaches and implications″ (April 2013) No 412 by Leonardo Gambacorta and Adrian Van Rixtel. The paper examines the rationale and key features of the recent proposals to separate investment and commercial banking activities under the US Volcker Rule, the UK Vickers Independent Commission on Banking (ICB) report and EU Liikanen proposals. It examines the effects of the initiatives on financial stability and systemic risk, banks' business models and the international activities of global banks. Structural regulation questions continued gains from increased diversification of bank activity. Structural regulation aims to reduce systemic risk by protecting institutions from losses incurred elsewhere, limiting subsidies and reducing complexity and size to improve management, transparency and resolution. Challenges nevertheless also arise. Banks may shift activities outside consolidated regulation perimeters with Liikanen, in particular, using subsidiarisation rather than full separation to reduce this, structural regulation may create disincentives for global banking with local depositors being protected and home country safety net costs limited and with ring-fencing and subsidiarisation limiting the allocation of capital and liquidity within global banking groups and a fragmentation of banking markets on a country basis. Structural regulation may also create business models that are more difficult to supervise and resolve especially in designing appropriate resolution strategies for large complex global banks with increased heterogeneity in permitted domestic business models. The paper includes new evidence on risk diversification and economies of scope which indicates benefits to a certain degree of diversification in terms of return on equity (ROE) but with more volatile bank profitability in more diversified banks. It also includes a literature review on the determinance of different business models and global banking models.

BIS, 26.04.2013

Financial Cycles

The BIS has published a working paper on, ″Financial sector ups and downs and the real sector in the open economy: Up the stairs, down the parachute″ (April 2013) no 411. The paper examines how financial expansion and contraction cycles affect the wider economy in a group of countries between 1960–2005. Accelerated growth periods are more likely to be followed abrupt financial contractions with sharp fluctuations in the financial sector having strongly asymmetric effects with the majority of real sectors being adversely affected by contractions and not assisted by expansions.

BIS, 26.04.2013

International Banking Statistics

The BIS has released its preliminary international banking statistics for end December 2012. Cross-border claims on banks and related offices fell by $405 billion between September and December 2012 with claims on non-bank borrowers, including governments and non-bank financial intermediaries, increasing by $132 billion. Interbank claims fell to an historical low of 38% by end December 2012 which was down from 40% in 2011 and 46% in 2007. Total claims as at end December 2012 were $33.659 trillion with $29.31 trillion in cross-border claims and $3.862 trillion in foreign currency claims.

BIS, 26.04.2013

Chinese and Indian Economies

The BIS has published a working paper on, ″Is China or India more financially open?″ (April 2013) no 410. The paper examines a number of measures used to assess capital account openness. Additional quantity measures are included with regard to the openness of consolidated banking systems and the internationalisation of currencies. The paper concludes that both economies have become more financially open over time with the Indian economy becoming more open in six out of the eight dimensions considered. Policy nevertheless continued to divide onshore and offshore markets in both with policymakers facing further challengers in securing further financial integration.

BIS, 23.04.2013

Financial Market Infrastructures

The Committee on Payment and Settlement Systems (CPSS) and the International Organisation of Securities Commissions (IOSCO) have begun monitoring implementation of the *Principles for financial market infrastructures* (PFMIs). The PFMIs were adopted in April 2012 to establish international standards for payment, clearing and settlement systems, including central counterparties (CCPs) and trade repositories (TRs). The objective is to ensure that infrastructure supporting global financial markets is sufficiently strong and able to withstand financial shocks. Twenty four principles have been adopted with five additional sets of guidance on central bank, market regulator and other relevant authority responsibility.

BIS, 17.04 2013

Basel III

The Basel Committee on banking supervision has issued a Report to G20 Finance Ministers and Central Bank Governors on *Monitoring implementation of Basel III regulatory reform* (April 2013). This examines completion of the Basel III framework, adoption of Basel III-based regulations and assessment consistency and regulatory outcomes. The paper states that the full, timely and consistent implementation of Basel III remains fundamental to building a resilient financial system, maintaining public confidence in regulatory ratios and providing a level playing field for internationally active banks. The report updates reform activity since the October 2012 paper. The report includes measures on standards implementation, regulatory standards adoption and banks' progress in increasing capital bases with specific implementation difficulties being highlighted. Fourteen countries had adopted necessary laws and regulations with 11 Basel Committee members having final Basel III capital rules in force (Australia, Canada, China, Hong Kong SAR, India, Japan, Mexico, Saudi Arabia, Singapore, South Africa and Switzerland) with final rules being issued in three others to be brought into force in 2013 (Argentina, Brazil and Russia). Thirteen other member countries failed to meet the deadline including nine EU members (with Indonesia, Korea, Turkey and the US). Average Common Equity Tier 1 (CET1) Ratios had increased from 7.1% to 8.5%. Progress was being monitored through the Basel Committee's Regulatory Consistency Assessment Programme (RCAP) which had been set up in 2012. This specifically examines the content and substance of different country regulations and implementation consistencies including in the estimates of risk-weighted assets (RWAs). The Committee was considering how variation could be limited included through improving public disclosure and regulatory data collection, narrowing modelling choices and harmonising supervisory practices on model approval. The Committee was also monitoring other reform initiatives including specifically liquidity.

BIS, 12.04.2013

Financial Stability Board (FSB)

Regional Consultative Group for the Americas

The Financial Stability Board (FSB) Regional Consultative Group (RCG) for the Americas met for the fourth in Grand Cayman hosted by the Cayman Islands Monetary Authority. The meeting discussed the policy priorities and work plan of the FSB with specific reference to its *Key Attributes of Effective Resolution Regimes for Financial Institutions* and supporting methodology. Members considered original reform implementation and progress in improving Banks' risk governance practices since the crisis. Issues concerning global financial system vulnerability and regional stability were considered.

FSB, 27.05.2013

Regional Consultative Group for Europe

The fourth FSB Regional Consultative Group for Europe was hosted by the FSB in May 2013. The Secretariat of the International Association of Insurance Supervisors (IAIS) provided an update on the extension of the Global Systemically Important Financial Institution (G-SIFI) framework to cover the insurance sector with recovery and resolution planning within Europe also being examined. Members discussed implementation of the FSB principles on reducing reliance on credit rating agency (CRA) ratings with an update on OTC derivatives markets reforms. Structural reform within Europe and its implications for financial markets were also discussed.

FSB, 23.05.2013

Progress Report

The Chairman of the Financial Stability Board (FSB) has provided a progress report on financial regulatory reforms to the G20 Finance Ministers and Central Bank Governors in advance of their meeting in April 2013. This includes the specific work undertaken in implementing Basel III, implementation of resolution regime reform and ending ″too big to fail″ (TBTF), adoption of OTC derivatives reforms and creating continuous markets, transforming shadow banking, reforming financial benchmark setting, credit rating agency reform, long-term investment finance view and implement monitoring. TBTF was specifically being dealt with through the FSB ″Key Attributes for Effective Resolution Regimes″ with a first series of iterative peer reviews having been conducted. Many countries still lacked important legal powers (including on bail-in measures and temporary stays), parent company or affiliate control, non-bank systemic institution protection, cross-border implementation and statutory resolution planning requirement. Members had separately committed to adopt for all Global Systemically Important Financial Institutions (G-SIFIs) resolution strategies, operational resolution plans and firm specific cross-border cooperation agreements (COAGs) detailing necessary cooperation and information sharing arrangements.

FSB, 15.04.2013

G-SIB Data Template

The FSB has completed the first phase of the Data Gaps Initiative intended to obtain information on the bilateral linkages between Global Systemically Important Banks (GSIBs). The FSB began in March 2013 the harmonised collection and pooling of improved consolidated data on bilateral counterparty credit exposures of major systemic banks and their consolidated aggregated exposures. The confidential information will be held centrally in an international data hub hosted by the BIS with reports being shared only with national supervisory authorities participating in the network under a multilateral framework. The FSB had set up a working group to improve the availability, quality and consistency of data of GSIBs following an earlier FSB consultation paper in October 2011. This implements recommendations 8 and 9 in the joint IMF FSB Report to the G20 on ″The Financial Crisis and Information Gaps″ (November 2009).

FSB, 18.04.2013

Financial Derivatives

The FSB has issued its Fifth Progress Report on implementation of *OTC Derivatives Market Reforms* (15 April 2013). The G20 Leaders agreed in Pittsburgh that all standardised OTC derivatives contracts would be traded on exchanges or electronic trading platforms and cleared through central counterparties by end 2012 with contracts being reported to trade repositories. International standards on margining for non-centrally cleared OTC derivatives were also agreed at the Cannes Summit. The report contains detailed information on the work undertaken on reporting to trade repositories, standardisation, exchange and electronic platform trading, central clearing and capital and bilateral risk management. Separate issues on reform implementation are also considered including on cross-commitment and potential inconsistencies with a number of more specific factors being identified. The report also includes a series of appendices on trade repositories and CCPs by asset classes, migration estimates to central clearing, international policy development, jurisdictional tables and members of the OTC Derivatives Working Group.

FSB, 15.04.2013

International Organisation of Securities Commissions (IOSCO)

Exchange Traded Funds

The Board of the International Organisation of Securities Commissions (IOSCO) has published a final report on *Principles for the Regulation of Exchange Traded Funds* (June 2013). This contains nine principles on the regulation of EFTs following the substantial increase in EFT investment. EFT managed funds grew to $1.9 trillion by end January 2013 making up 7% of the global mutual fund market. IOSCO considered EFTs in 2008–2009. The latest paper contains four sets of principles on ETF classification and disclosure covering classification, portfolios, cost, expenses and offsets and strategies (chapter 2) as well as principles on EFT structuring including conflicts of interest and counterparty risks (chapter 3). The full list of nine principles is restated in Appendix 1. An overview of ETF structures and regulation in the US, EU and Asia is provided in Appendix 4.

IOSCO, 24.06.2013

Investor Education Gateway

IOSCO has launched an ″Investor Education Gateway″ on its website as part of its wider investor education initiative to enhance the sharing of investor education information between IOSCO members and the public. This contains online investor education materials from members and published IOSCO reports and presentations on investor education issues. A fifth joint investor education conference was held in Toronto, Canada in June 2013 hosted by IOSCO, the International Forum for Investor Education (IFIE) and the Investment Industry Regulatory Organisation of Canada (IIROC). The key theme was ″Delivering dynamic financial capability and investor education programmes: Changing behaviour across life stages″.

IOSCO, 04.06.2013

Financial Benchmarks

IOSCO has published the responses received to its consultation paper on *Principles for Financial Benchmarks* (April 2013). Forty sets of responses were received. A Board level Task Force had published an earlier *Consultation Report on Financial Benchmarks* (January 2013) with 50 comment letters received. The work is being undertaken as part of IOSCO's efforts to enhance the integrity, reliability and oversight of benchmarks through the establishment of guidelines for benchmark administrators and other relevant bodies on governance, benchmark quality, methodology and accountability.

IOSCO, 03.06.2013

Emerging Market Regulators

Global emerging market securities regulators met in Panama City in May 2013 and called on the need for them to play a more active role in global regulatory reform and to be involved in new international reforms at an early stage to ensure that emerging market issues are properly reflected in final decisions. The IOSCO Emerging Markets Committee (EMC) was renamed the Growth and Emerging Markets (GEM) Committee with its 86 members including some of the world's fastest growing economies and 10 of the G20 members. The GEM Committee would seek to provide greater focus on balancing growth and implementation of regulation including increased inclusiveness, strengthening communication and developing greater regulatory capacity in emerging markets. It was also recommended that an IOSCO Foundation be established to assist members in market development and capacity building.

IOSCO, 23.05.2013

CIS Valuation

The International Organisation of Securities Commissions (IOSCO) has published a final report on *Principles for the Valuation of Collective Investment Schemes* (May 2013). This contains 11 Principles for the valuation of CIS following an earlier paper in 1999. A number of complex and hard to value assets are eligible for inclusion in CIS portfolios which cannot be considered through quoted prices on a mark-to-market basis with internal techniques and judgement (mark-to-model) techniques being used. Regulatory risk arises with the difficulty and subjectivity of the practices adopted. The purpose of the principles is to identify relevant policies and procedures to ascertain the proper valuation of CIS assets.

IOSCO, 03.05.2013

Credit Rating Agencies

IOSCO has responded to the G20 invitation following its meeting in November 2013 on encouraging transparency and competition between credit rating agencies (CRAs). IOSCO considered that transparency and competition between CRAs can promote investor protection, ensure fair and transparent markets and reduce systemic risk as provided for under its core objectives. A number of smaller agencies exist despite the dominance of the three largest globally active CRAs with Fitch Ratings Ltd, Moody's Investors Service Inc and Standard & Poor's Rating Services. These three firms account for 98% of all credit ratings in the US including 96% of asset-backed security ratings, 91% corporate issuer ratings and 99% of government security ratings. IOSCO will continue to monitor the evolution and market concentration of CRAs. Increased transparency will allow smaller CRAs to grow which will, in turn, increase competition. IOSCO has published principles on CRAs with a Code of Conduct Fundamentals for CRAs and subsequent adoption review work. CRAs had substantially implemented the IOSCO CRA Code and its 2008 revisions. Further work would be undertaken in this area. IOSCO had also been monitoring implementation of its CRA Principles in a number of member jurisdictions following the G20 Declaration on strengthening financial system in 2009 which stated that all CRAs whose rating were used for regulatory purposes should be subject to regulatory oversight including registration and consistent treatment under the CRA Code. A number of jurisdictions had given effect to this. IOSCO was also updating its *Objectives and Principles of Securities Regulation* previously revised in 2010.

IOSCO, 15.04.2013

Technological Challenges

IOSCO has published a report on *Technological Challenges to Effective Market Surveillance: Issues and Regulatory Tools* (April 2013). Effective surveillance is necessary to ensure that trading on any specific market is fair and orderly and that authorities can detect market abuse. Technological changes had made it increasingly difficult to secure these objectives. The report examines current market surveillance regimes and identifies continuing challenges with eight specific sets of recommendations being made especially on improving surveillance capabilities on a cross-market and cross-asset basis and making data collected for surveillance purposes more useful to market authorities. The report includes specific sections on current regulatory capabilities, challenges and high level recommendations with a series of detailed appendices.

IOSCO, 22.04.2013

Market Manipulation

IOSCO has published an Addendum to its report on *Investigating and Prosecuting Market Manipulation* (May 2000). The Addendum includes additional information and references to IOSCO and member organisation work on dealing with manipulation especially following recent technological changes, exchange evolution and new emerging types of market abuse. This includes the growth of High Frequency Trading (HFT) and algorithmic trading, market fragmentation and dark liquidity, direct electronic access, co-location, tick-sizes and restructures as well as ″spoofing″ (using false market signals), ″marking the close″ (or ″banging the close″) in addition to false reporting or benchmark manipulation, manipulation through account intrusion and transfer agent manipulation.

IOSCO, 19.04.2013

Retail Structured Products

IOSCO has published a consultation report on Regulation of Retail Structured Products (April 2013). This examines trends in the retail structured product market and provides a regulatory ″Toolkit″ for IOSCO members. IOSCO had agreed in February 2012 to examine the area to understand and analyse the market and related regulatory issues and to develop appropriate guidance on regulatory responses. The paper includes background examination, a methodological note, summary of survey results, observations from the Round Table attendees and the rationale, development and content of the new regulatory Toolkit. This deals with overall regulatory approach, regulation of product design and issuance, product disclosure and marketing, distribution and post-sales practices.

IOSCO, 18.04.2013

Financial Benchmarks

IOSCO has issued a consultation paper on *Principles for Financial Benchmarks* (April 2013). The paper contains 18 high-level principles for the operation of benchmarks used in global financial markets. A Task Force had been set up in September 2012 to develop the principles following recent investigations and enforcement actions including on LIBOR. A consultation report on *Financial Benchmarks* was published in January 2013 with the comments being considered by the Task Force. The principles generally cover governance, quality of the benchmark, quality of the methodology and accountability. The specific Principles deal with administrator overall responsibility, third party oversight, conflicts of interest, control framework, internal oversight, benchmark design, data sufficiency, hierarchy of data inputs, periodic review, methodological content, changes to methodology, transition, submitter Code of Conduct, internal controls on data collection, complaints procedures, audits, audit trail and regulatory cooperation.

IOSCO, 16.04.2013

International Association of Insurance Supervisors (IAIS)

Money Laundering

The International Association of Insurance Supervisors (IAIS) has issued for consultation a revised copy of Insurance Core Principle (ICP) 22 on ″Anti-money laundering and combating the financing of terrorism (AML/CFT)″. The ICPs had been revised in 2011 although it was expected that they would have to be further amended following the Financial Action Task Force's (FATF) revision of its Recommendations and Methodology. ICP 22 has since been reviewed by the Financial Crime Working Group following FATF developments. The changes are principally intended to adopt a more risk-based approach.

IAIS, 21.06.2013

Annual Global Seminar

The IAIS held its sixth *Annual Global Seminar* in Basel in June 2013. 120 members and observers attended to discuss globally significant matters in the insurance area. Specific matters considered included the implementation of IAIS standards, ComFrame, financial stability and the work of the FSB in responding to financial system of vulnerabilities.

IAIS, 19.06.2013

International Swap Derivatives Association (ISDA)

The International Swaps and Derivatives Association (ISDA) has published the latest figures on collateral in circulation in non-cleared OTC derivatives markets. The total amount had risen in 2012 by 1% from $3.65 trillion to $3.7 trillion. 69.1% of all non-cleared trades were subject to collateral agreements and 75.3% for large firms. Cash was used in 79.5% of collateral received cases and 78.7% of collateral delivered. The number of active collateral agreements supporting non-cleared OTC derivatives was 118,853 with 87% being ISDA based and 88% bilateral. ISDA published its separate year end 2012 Market Analysis. Total notional OTC derivatives had increased between 2007–2012 from $529.7 trillion to $565.2 trillion, with a rise of 6.7%. The notional amount following the elimination of double-counting and cleared transactions declined 17.5% from $475.3 trillion to $392 trillion. Total interest rate derivatives had grown 24.6% from $393.7 trillion to $489.7 trillion. £48.7 trillion had been eliminated through portfolio compression with a total of

$214.3 trillion being removed over the last five years. $173.2 trillion of derivatives were centrally cleared end 2012 which included 53.5% of all interest rate derivatives.

ISDA has published a 2013 Standard Credit Support Annex (SCSA) which standardises market practice in collateral management. Stephen O'Connor has been appointed the full time ISDA Chairman having been Chairman since April 2011 and previously Managing Director, Morgan Stanley.

May/June 2013

ISDA has produced its *ISDA 2013 Reporting Protocol*, with a counterparty's consent to information disclosure to facilitate compliance with mandatory trade reporting requirements, and bilateral *Side Letters* (with separate Principle and Agent versions). These were originally intended for use with the US Dodd Frank Act with a separate Protocol to be issued for the European Markets Infrastructure Regulation (EMIR).

ISDA has published its 2013 ″Operations Benchmarking Survey″ which identifies and tracks operations processing trends in privately negotiated OTC derivatives transactions. Credit derivatives outstanding had been reduced from 3.5 business days in 2009 to 0.3 business days. Equity derivatives confirmation dropped 9.7 to 6.1 business days and interest rate derivatives from 6.9 to 1 business day.

ISDA elected 12 directors at its 28th Annual General Meeting in Singapore in April 2013 with two new directors elected and ten re-elected.

The 2013 report on *Global Derivatives – More Change Ahead* has been released. Derivatives markets were undergoing momentous change partly driven through G20 initiatives. Total notional derivatives outstanding was over $600 trillion with gross market value of 4% and 0.2% (or 0.002% notional) following netting and collateral. Seven thousand interest rate derivatives (IRD) contracts were traded every day globally. Netting reduced exposures to 0.6% of notional outstanding amounts and collateral by 0.2%.

ISDA prepared robust and trusted documentation, strengthened the architecture for secure and efficient infrastructure and promoted effective risk management and clearing. There were 117,000 ISDA collateral agreements in place with 50 collateral opinions and 58 netting opinions. Eighty four percent of transactions were subject to collateral with compression substantially reducing total amounts outstanding. Systemic stability was protected through variation margin, clearing and capital cover. Close-out netting under its master documentation had never been declared unenforceable.

ISDA, May/April 2013

EUROPEAN DEVELOPMENTS

CRD IV

The revised Capital Requirements Directive (2013/36/EU) and Regulation (575/2013) have been adopted by the European Council and were published in the Official Journal on 27 June 2013. The key measures in this legislation were summarised in the previous bulletin. Implementation will be required from 1 January 2014.

The final texts of the regulation and the directive are at OJ L 176 27.6.2013 p.1 and p.338 respectively.

Council Sets Out Position on Bank Recovery and Resolution Directive

On 27 June 2013 ECOFIN reached broad agreement on its approach to the draft bank recovery and resolution directive with a view to negotiations with the European Parliament.

The directive would establish a range of instruments to tackle potential bank crises at three stages: preparatory and preventative, early intervention, and resolution.

At the first stage, Institutions would be required to draw up recovery plans (and update them annually) setting out the measures they would take to restore their financial position in the event of significant deterioration. Resolution authorities would also have to prepare resolution plans for each institution, setting out the actions they might take if an institution were to meet the conditions for resolution.

At the second stage, authorities would have the power to appoint special managers to an institution if its financial situation deteriorates significantly or if there were serious violations of the law.

The main resolution measures would then include:

- the sale of (part of a) business;
- establishment of a bridge institution (the temporary transfer of good bank assets to a publicly controlled entity);
- asset separation (the transfer of impaired assets to an asset management vehicle)
- bail-in measures (the imposition of losses, with an order of seniority, on shareholders and unsecured creditors).

The directive would require member states, as a general rule, to set up ex-ante resolution funds to ensure that the resolution tools can be applied effectively. These national funds would have to reach, within 10 years, a target level of at least 0.8% of covered deposits of all the credit institutions authorised in their country. To reach the target level, institutions would have to make annual contributions based on their liabilities, excluding own funds, and adjusted for risk. Member states would be free to choose whether to merge these funds with those for deposit guarantee schemes.

The Council's general approach also provides for national resolution authorities to set minimum requirements for own funds and eligible liabilities (MREL) for each institution, based on its size, risk and business model. A review in 2016 would enable the Commission, based on recommendations by the European Banking Authority, to introduce a harmonised MREL applicable to all banks.

The proposed directive is aimed at transposing into EU law commitments made at the G20 summit in Washington DC in November 2008, when leaders called for a review of resolution regimes and bankruptcy laws 'to ensure that they permit an orderly wind-down of large complex cross-border financial institutions.'

EBA Publishes Good Practices for Responsible Mortgage Lending and Treatment of Borrowers in Payment Difficulties

On 13 June 2013 the EBA published two Opinions on good practices for (i) responsible mortgage lending and (ii) the treatment of borrowers in mortgage payment difficulties. Both Opinions are addressed to competent authorities and aim at promoting common practices, with the ultimate view of enhancing consumer protection and contributing to the stability, integrity and effectiveness of the financial system.

The Opinion on responsible mortgage lending sets out good practices on the following aspects:

- verification of information provided by the mortgage applicant;
- reasonable debt service coverage;
- appropriate loan-to-value ratios; and
- lending and supervisory processes.

The Opinion on the treatment of borrowers in mortgage payment difficulties sets out good practices on the following aspects:

- general principles;
- policies and procedures;
- provision of information and assistance to the borrower; and
- resolution process.

The two opinions aim to complement, and provide suggestions on how to give effect to, the related provisions expected to be set out in the pending Mortgage Credit Directive.

The opinion on responsible mortgage lending can be viewed at: http://goo.gl/PBhc2.

The opinion on the treatment of borrowers in payment difficulties can be viewed at: http://goo.gl/jox35.

Proposed Directive on Transparency and Comparability of Bank Accounts

On 8 May 2013 the Commission published a proposed directive (COM(2013) 266 final) targeting three areas: the transparency and comparability of payment account fees, payment account switching and access to a basic payment account.

Importantly, this would mandate access for all EU consumers to a bank account in any member state, even where they are not a resident of that state. Member states would also be required to ensure that at least one payment services provided offers a basic payment account in their territory that is available.

This draft directive follows previous soft law measures implemented by the commission as part of its focus upon financial inclusion. This has included a recommendation on access to basic payment accounts in 2011 that was of limited effectiveness. The financial inclusion agenda reflects the recognition by the commission of the central nature of bank accounts to modern society.

The proposal can be viewed at: http://goo.gl/sGDqN.

ISLAMIC FINANCE DEVELOPMENTS

IFSB Releases the Islamic Financial Services Industry Stability Report 2013

The Islamic Financial Services Board (IFSB) released the Islamic Financial Services Industry Stability Report 2013 during the 'Meet the Members Lunch' session that was held on 14 May 2013 at Sasana Kijang, Bank Negara Malaysia, Kuala Lumpur. The programme was the first pre-Summit event that was held preceding the 10th IFSB Summit that was held on 16 and 17 May 2013.

Against the backdrop of a slow economic recovery in crisis countries, and continued turmoil in the global economy, the Report focuses on key issues affecting the Islamic financial service industry (IFSI). In general, the IFSI Stability Report covers the following areas:

- Updates on the trends and development in the various segments of the industry – Islamic banking, Islamic capital market and *Takāful*;
- Global initiatives undertaken by international intergovernmental organisations, international standard-setting bodies, as well as international Islamic organisations, to further strengthen the resilience and stability of the financial institutions and markets;
- Issues in regulation and supervision of Islamic finance, focusing on liquidity management and safety nets; and
- Emerging issues for the Islamic financial services industry, namely consumer protection and financial inclusion.

The Report is viewed as a platform for the IFSB to engage on topical issues with its stakeholders and for sharing with them findings of recent IFSB research. Its contents and structure also reflect the theme of the 10th Anniversary Summit with its focus on financial stability, resilience and inclusiveness.

The 'IFSB Meet the Members Lunch' on 14 May was held with the aim to serve as a platform for the IFSB Secretariat to meet members of the organisation and to familiarise itself with the issues and concerns faced by them so as to ensure that IFSB activities and issues are of relevance and in line with the needs of its members.

The Islamic Financial Services Board, 14.05.13

http://www.ifsb.org/preess_full.php?id=221&submit=more

IDB Triples Authorised Capital to US$150bn

The Islamic Development Bank's Board of Governors (BoG) approved to more than triple the Bank's authorized capital to 100 billion Islamic Dinars (about US $150 billion) from 30 billion Dinars, reflecting the Bank's strong balance sheet and the growing economic development needs of its 56 member countries. The BoG also increased the Bank's subscribed capital from 18 billion Islamic Dinars to 50 billion Islamic Dinars.

At its annual meeting in Dushanbe, the capital of Tajikistan, the Bank also announced it will immediately tap the public market with a US $1 billion offering of *sukuk*, or Shari'a-compliant bonds. The five-year offering is rated Triple A by each of the three major bond rating agencies (Standard & Poor's, Moody's and Fitch), and will be dually listed on the London Stock Exchange and Bursa Malaysia.

The benchmark US $1 billion offering comes amid strong demand and limited supply of the highest quality fixed-income securities, in part because a number of large governments have recently lost their Triple A status. There has also been growing demand for Islamic-compliant investments.

"The tenets of Islamic banking have stood the test of time", said Dr. Ahmad Mohamed Ali, President of the IDB Group. "Our emphasis on equity, risk-sharing and partnership enforces discipline on the financial system, allowing us to lift more of our people out of poverty."

The Bank has been designated as a Zero Risk Weighted Multilateral Development Bank by the Basel Committee on Banking Supervision and the Commission of the European Communities.

Saudi Arabia, with a 23.6% stake, has the largest ownership in the Bank, headquartered in Jeddah, followed by Libya with 9.5%, Iran with 8.3%, Nigeria with 7.7% and the United Arab Emirates with 7.5%. The next four biggest holders are Qatar (7.2%), Egypt (7.1%), Turkey (6.5%), and Kuwait (5.5%).

Despite the increase in authorised capital and the new offering of sukuk, the Bank said it intends to maintain a conservative balance sheet. At the annual meeting, the board of governors called upon its member countries to fulfil their commitments to invest US $5.4 billion in fresh capital in the Bank. The Bank also announced its intention to tap the sukuk market periodically going forward.

The Bank's debt-to-equity ratio is expected to gradually climb from its current ultra-conservative 62% to a still highly conservative 100%. Other major development banks are much more highly leveraged, carrying debt amounting to between two and three times equity capital.

'This capital increase will allow the bank to finance more and bigger projects in our member countries' stated, Mr Davlatali Saidov, the chairman of IDB Board of Governors during the 38th Annual Meeting that approved the capital increase.

The Islamic Development Bank 22.05.13

http://www.isdb.org/irj/portal/anonymous/idb_news_en

Strategies for the Development of Islamic Capital Markets

The Islamic Financial Services Board (IFSB) organised and the Hong Kong Monetary Authority (HKMA) hosted the Seminar on Strategies for the Development of Islamic Capital Markets on 27 June in Hong Kong to promote discussions, understanding and experience-sharing in the area of Islamic capital markets. This Seminar is particularly timely and relevant in view of the growing interest in Islamic finance in Hong Kong and at global level.

In the one-day seminar, speakers with extensive experience and expertise in the Islamic finance field discussed the latest developments of the global Islamic capital markets and examined the prospects and opportunities going forward, with particular focus on Sukūk and Islamic collective investment schemes. They also shared their insights into the strategies for bringing Islamic capital markets to the mainstream.

Mr. Jaseem Ahmed, Secretary-General of the IFSB, said,

> "Thanks to its inherent features and widening appeal, Islamic finance has displayed remarkable growth over the years. As far as the Islamic capital market is concerned, we have seen strong growth in Sharī'ah-compliant securities, or Sukūk market. Sukūk issuances reached USD131 billion in 2012, a 54% increase over 2011, and are expected to reach new heights in 2013".

He added that the mandate of the IFSB is to assist and facilitate the building of the supporting financial infrastructure not only for Islamic banking, but also for other segments of the industry, including Islamic capital markets and Islamic Insurance (*Takāful*).

Mr Peter Pang, Deputy Chief Executive of the HKMA, said "Being an international financial centre, it is important for Hong Kong to embrace

Islamic finance given its rising prominence in the global financial arena. The development of an Islamic capital market in Hong Kong will open up new opportunities for our financial sector. We should take full advantage of Hong Kong's position as a gateway to Mainland China in developing the Islamic capital market. The HKMA is very pleased to host this seminar and will continue to work closely with the Government and the industry in furthering the development of this segment in the city."

The seminar was attended by more than 80 delegates including representatives from regulatory authorities, policy-makers, financial institutions, market professionals and legal practitioners from Hong Kong and different parts of the world including the Middle East, Asia, Africa and Europe.

The seminar was supported by the Treasury Markets Association.

The Islamic Financial Services Board 26.06.13

http://www.ifsb.org/preess_full.php?id=229&submit=more

Updated List of Shari'a-compliant Securities

The Securities Commission Malaysia (SC) released an updated list of Shari'a-compliant securities approved by its Sharia Advisory Council (SAC).

The updated list, which will take effect on 31 May 2013, features a total of 801 Shari'a-compliant securities. These counters constitute 88% of the total 910 listed securities on Bursa Malaysia. The list includes five newly classified Shari'a-compliant securities and excludes four from the previous list issued in November 2012. It also indicates that Shari'a-compliant securities are well represented in all sectors of industry (see tables attached).

The full list, which is updated twice a year, is now available on the SC website. The next updated list, to be based on the revised Shari'a screening methodology, will be made available in November 2013.

The Securities Commission Malaysia 30.05.13

http://www.sc.com.my/main.asp?pageid=379&linkid=3278&yearno=2013&mod=paper

IDB prices USD$1bn Fixed-Rate Trust Certificates Issuance

The Islamic Development Bank (IDB), rated AAA by Moody's, S&P and Fitch (all stable outlook), has successfully priced USD $1 billion, 5-year, fixed-rate Trust Certificates (Sukuk) issued at par with a 1.535% semi-annual profit rate under its outstanding US$ 6.5 billion Trust Certificate Issuance Program.

Standard Chartered Bank acted as Global Coordinator for the issuance with Barwa Bank, CIMB, Credit Agricole CIB, Natixis, National Bank of Abu Dhabi, NCB Capital, the Royal Bank of Scotland and Standard Chartered

Bank acting as joint lead managers and joint book-runners on the transaction and Bank of London and The Middle East PLC as co-lead manager on the transaction

Book-building began on Tuesday, May 28 with the release of official price guidance in the MS + high 30's bps context. This ensured good momentum in the book-building process which led to the order-book reaching approximately USD $1.5 billion across a diverse range of high-quality orders, including international institutional investors from non-member countries.

Despite uncertainty around the state of the global macro-economy, the transaction attracted strong interest and allowed the IDB to achieve extremely attractive pricing, at levels much tighter compared to past issuances.

The deal priced approximately 20 bps inside the secondary market levels to result in the lowest spread over mid-swaps ever achieved by the Bank for a public USD-denominated Sukuk transaction. This achievement is a clear outcome of its continuing efforts to position itself closer to its supranational peers.

The success of the transaction was underpinned by a comprehensive set of investor meetings covering key hubs in Asia, the Middle East and Europe. The Islamic Development Bank's AAA ratings, strong stand-alone credit profile and commitment to supporting the secondary-market liquidity of its Sukuk paper, makes for a compelling investor story.

The issue saw strong participation from Asia and the Middle East and North Africa region, in addition to participation by new investors domiciled in Europe. In terms of allocations, the geographic split stood roughly at 50% for MENA, 25% for Asia, 23% for Europe, and 2% Americas.

Overall the deal saw extensive participation from real money accounts and official institutions such as central banks and other supranationals, providing confirmation of the IDB's credit strength. Of the total allocations, 64% was allocated to central banks / agencies, followed by 27% to banks, and 9% to insurance, pension and other real-money fund managers.

The Trust Certificates will be dually listed on the London Stock Exchange and Bursa Malaysia under an Exempt Regime program.

The Islamic Development Bank 01.06.13

http://www.isdb.org/irj/portal/anonymous/idb_news_en

INTERNATIONAL DEVELOPMENTS

The International Monetary Fund's Work Program: Invigorating a Sustainable Recovery and Restoring Resilience

On June 3, 2013, the Executive Board of the International Monetary Fund (IMF) considered the IMF's bi-annual work program. The Work Program translates the policy priorities laid out in the Global Policy Agenda (GPA) presented to the International Monetary and Financial Committee (IMFC) in April 2013, into the agenda for the Fund over the next six to twelve months.

> "The IMF's work program charts a range of actions needed to invigorate a sustainable recovery and to make the global economy more resilient." IMF Managing Director Christine Lagarde said in presenting the work program to the Executive Board. "An important goal for all countries is to have more growth and jobs, although individual countries' challenges and constraints vary," she said. "We also need to think ahead—and be ahead of the curve—by reflecting on longer-term trends and integrating them into our work."

Invigorating a Sustainable Recovery

The Fund will focus on assisting all members in identifying emerging risks, potential financing needs, as well as designing calibrated policies to encourage stronger and sustainable growth.

- In **advanced economies,** the Fund will seek an appropriate balance between supporting activity and addressing underlying fiscal, financial, and private balance sheet risks.
- In **emerging economies**, Fund analysis and policy advice will focus on helping countries recalibrate their policy mix, manage volatile flows, and limit financial stability risks.
- In **low-income countries,** the Fund will assist countries in rebuilding policy buffers while meeting pressing infrastructure and social needs. Given the difficult policy challenges in the **Middle East and North Africa**, the Fund will also provide support as appropriate and help build capacity in the region.

Restoring Resilience

Restoring the world economy's resilience also requires decisively addressing medium-term structural issues. The Fund will support efforts in this area in a number of ways.

- **Strengthening financial systems.** The Fund will continue to support the global regulatory reform agenda monitor and identify risks to financial stability. Efforts will also focus on implementing macro-prudential policies and on financial system deepening to support growth.
- **Addressing high deficits and debt**. Durable fiscal adjustment and institutional reform are needed to get to grips with high public and private debt. The Fund will continue to assist members in identifying and dealing with risks to fiscal and debt sustainability.
- **Supporting jobs and growth**. Work is ongoing to examine macroeconomic and structural factors that may help enhance and sustain growth and support job creation across the membership.

- **Narrowing global imbalances and anticipating spillovers**. The Fund will continue to enhance its analysis of multilateral policy consistency and cross-border spillovers. Cluster-based surveillance in Article IV reports and regional reports can also help to ensure consistent policy responses.
- **Building capacity**. The Fund will work to build on the effectiveness of capacity building and improve its delivery and outreach.

Adapting to the Future

Adapting to the challenges of the future remains a key task for the Fund. Here, the Fund will continue to seek the completion of the 2010 quota and governance reform, reflect on long-term trends that may shape the Fund's operations in the future, and strengthen the Fund's human resource management, including diversity.

The International Monetary Fund, 06.06.2013

http://www.imf.org/external/np/sec/pr/2013/pr13199.htm

The People's Bank of China and the Swiss Federal Department of Finance Signed a MOU on the Establishment of a Financial Dialogue Mechanism

Governor Zhou Xiaochuan and Mr. Michael Ambuhl, the Secretary of State of the Swiss Federal Department of Finance Michael Ambuhl signed an MOU on the Establishment of a Financial Dialogue Mechanism between the People's Bank of China and the Swiss Federal Department of Finance. Premier Li Keqiang of the People's Republic of China and President of the Swiss Confederation Ueli Maurer witnessed the signing of the MOU.

The People's Bank of China, 24.05.2013

http://www.pbc.gov.cn/publish/english/955/2013/20130617090919769405445/
20130617090919769405445_.html

World Bank Supports Strengthening of Kuwait's Insolvency and Creditor/Debtor Regime

A new project will strengthen Kuwait's commercial law and regulation to be more responsive to the needs and aspirations of market participants and bring up to regional and international standards.

The World Bank team in Kuwait May 29-June 5, 2013, includes some of the world's foremost experts on corporate rehabilitation, distress resolution, debt recovery, secured transactions, financial reporting, and judicial system strengthening. They will work with the Government on strengthening key aspects of the country's insolvency and creditor/debtor regime. The team will provide support on a new law on enterprise bankruptcy and a framework for expedited court approval of distressed debt workout plans. It will include a new regime for the creation, registration and enforcement of security interests in movable and intangible assets, a strengthened framework for the collection and dissemination of commercial credit histories and the creation of a specialised commercial court.

The project, launched in March 2013 and expected to be completed mid-2014, will contribute to Kuwait's vision of becoming a financial and trade centre.

The World Bank team visiting Kuwait will work closely with an inter-Ministry Steering Group set up by the Council of Ministers under the leadership of H.E. Anas K. Al-Saleh, Minister of Commerce and Industry, who is assisted by H.E. Sheikh Mishaal Al Jaber Al Subah the Chief of the Kuwait Foreign Investment Bureau. The Steering Group includes senior representatives from the Ministries of Finance and Justice, the Central Bank, and the Fatwa and legislation department. Additional meetings are scheduled with senior members of the Ministry of Justice, the Judiciary, and the Capital Markets Authority. The team will also hold technical discussions with lender and borrower communities and legal, financial and restructuring professionals. The Kuwaiti Government is committed to an inclusive and open dialogue with private sector stakeholders.

The World Bank and the Government of Kuwait are committed to a deliberative and inclusive process to achieve crucial reforms. The team will present its findings to the Steering Group which will in turn communicate the government's feedback. The team is expected to return to Kuwait in a few months for the next round of technical engagements with key stakeholders.

The World Bank 29.05.13

http://www.worldbank.org/en/news/press-release/2013/06/03/world-bank-supports-strengthening-of-kuwait-insolvency-and-creditor-debtor-regime

FTSE Opens New Offices in Dubai International Financial Centre

FTSE Group ("FTSE"), the global index provider, has opened an office within the Dubai International Financial Centre (DIFC). The total number of FTSE offices across Asia Pacific, Europe and the Americas is now 13. The new office will provide a gateway for FTSE's growing business in the Middle East and Africa.

> "The new office will support FTSE's regional presence, bringing FTSE's global expertise to sovereign wealth funds and family offices. It will also act as a hub for FTSE's growing operations in Africa,' said Jonathan Cooper, Managing Director, Middle East and Africa. 'FTSE already works closely with domestic exchanges, market authorities and asset managers in the Middle East and Africa to support the development and capacity of domestic financial markets. This new office will further strengthen our ability to support our growing customer base in the region", commented Cooper.

Welcoming FTSE into DIFC Community, Jeffery Singer, CEO of DIFC Authority, said: 'We, are delighted to be chosen as the hub for the global index provider, FTSE. FTSE has a strong international presence and their decision to establish their regional base in DIFC will provide them with the ideal platform and modern infrastructure they require to further develop and to support financial markets in the Middle East and Africa region'.

Since 2010, FTSE has classified the United Arab Emirates (UAE) as 'Secondary Emerging' in its FTSE Global Equity Index Series (GEIS). FTSE has established on going dialogues with markets across the region and Kuwait is currently on the FTSE Watch List for inclusion in GEIS as Secondary Emerging. FTSE's country classification system was launched in 2004 following extensive market consultation and assesses each country against a set of 25 broad criteria. Leading ETF provider Vanguard recently transitioned to the FTSE Emerging Index for its (NYSEArca: VWO) Emerging Markets ETF, providing additional inflows to companies listed on Abu Dhabi Securities Exchange, Dubai Financial Market and NASDAQ Dubai.

In Africa, FTSE has a long-standing relationship with the Johannesburg Stock Exchange (JSE) and calculates 110 indices across the FTSE/JSE Index Series. FTSE also recently launched the FTSE ASEA Pan Africa Index Series, which represents the performance of eligible securities listed on ASEA (African Securities Exchanges Association) member exchanges. The index series is designed for African investors and to act as a performance benchmark for African equity portfolios.

Dubai International Financial Centre, 11.06.2013

http://www.difc.ae/news/ftse-opens-new-offices-dubai-international-financial-centre

Hong Kong Exchanges and Clearing Limited, the London Metal Exchange and Bank of China Limited Signed a Memorandum of Understanding

Hong Kong Exchanges and Clearing Limited (HKEx), The London Metal Exchange (LME) and Bank of China Limited (BOC) signed on Monday 24 June a memorandum of understanding (MOU) on cooperation and the exchange of information regarding the clearing of renminbi (RMB) commodity products.

The MOU was signed by HKEx's Head of Global Clearing Gerald Greiner, HKEx's Co-head of Global Markets and LME Chief Executive Martin Abbott and BOC's Risk Managing Director Shi Wei. The signing ceremony was held in Hong Kong and was witnessed by HKEx Chief Executive Charles Li and BOC Executive Vice President Chen Siqing. Other senior representatives of HKEx, LME and BOC also attended the ceremony. HKEx acquired the LME last year.

> "The MOU entered into today marks the beginning of our collaboration to examine the feasibility of LME contracts to be cleared in RMB and potential development of RMB-denominated commodity products in the HKEx Group platforms,' said Mr Li. 'This collaboration also

demonstrates our commitment to expanding the membership base of the LME and reaching out to users of the LME in different markets."

"BOCI Global Commodities (UK) Limited, a wholly-owned subsidiary of Bank of China Group, is a clearing member of the LME. It is not only the first Chinese clearing member since LME was founded 135 years ago, but also the first Chinese institution offering direct trading and clearing services in the Exchange,' said Mr Chen. 'I believe the signing of the MOU regarding strategic cooperation among HKEx, LME and BOC marks the new milestone for the overall cooperation in the future."

Hong Kong Exchanges and Clearing Limited, 24.06.2013

http://www.hkex.com.hk/eng/newsconsul/hkexnews/2013/130624news.htm

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