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Banking Law Update

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REGULATORY DEVELOPMENTS

Prudential Regulation Authority (PRA)

Solvency II

The Prudential Regulation Authority (PRA) has released a supervisory statement on *Solvency II: life insurance product reporting codes* (August 2015) SS36/15. This sets out the list of codes that firms are expected to use in reporting information on life business or annuities related to non-life business at the product level. The lift product codification includes a number of specific categories covering investment and savings (100–132), individual pensions (200–232), corporate pensions (300–322), protection (404–624) and annuities (700–794). Firms are expected to use a defined list of product codes under the Implementing Technical Standards (ITSs) for Solvency II Directive (Article 11 template s 14.01). The codes are set out in the appendix to the statement with the third digit distinguishing variations within the same product. The PRA has also issued a supervisory statement on *Solvency II: internal model reporting codes and components* (August 2015) SS37/15. This explains how firms should submit information using product reporting codes using an internal model or partial internal model for use in templates s 25.02 and s 25.03. Characters 1–3 identify the risk category, characters 4–5 the component number and character 6 consists of an I for capital requirements from risks within the insurer and P for risks arising within the pension scheme. The first three characters relate to market risk (101–199), counterparty default (201–299), life underwriting risk (301–399), health underwriting risk (401–499), non-life underwriting risk (501–599), intangible asset risk (601), operational risk (701) and other risks and adjustments (801–804).

PRA, 17.8.2015

PRA Rulebook

The PRA has issued a fourth consultation paper on the revision of its Handbook to create an independent freestanding Rulebook distinct from the earlier FSA Handbooks (PRA, *The PRA Rulebook: Part 4* (August 2015) CP28/15). The PRA Rulebook is to be made available in a new online website as set out in Ch 10 of CP8/13. The latest consultation paper covers replacement of the rules set out in Ch 3.1 (Cross sector groups) in the General Prudential sourcebook (GENPRU) and Adequacy calculations for financial conglomerates (GENPRU 3 Annex 1) which will be replaced by a new Rulebook Part 'Financial Conglomerates'. A new Chapter 'Third country groups' in the Groups Part will replace banking and investment groups within GENPRU 3.2. The rules on Group risk systems and controls requirements (SYSC 12.1) will be replaced by a new Rulebook Part 'Group risk systems' with the General provisions on reporting (SUP 16.3) and Compliance reports (SUP 16.6) being included within new rules in the Regulatory Reporting Part of the new Rulebook.

PRA, 14.8.2015

Accountability

The PRA has published a consultation paper and series of policy statements on the strengthening of accountability in connection with UK branches of foreign banks (PS20/15) and insurance firms and a number of papers on strengthening accountability in connection with insurance firms. CP9/15 contains final and near-final rules on the application of the Senior Managers Regime (SMR), Certification Regime and Conduct Rules to UK branches of non-EEA banks and PRA-designated investment firms (non-EEA branches). The other releases cover implementation proposals for non-Solvency II insurance firms (SP26/15), feedback on *Senior Insurance Managers Regime: a streamlined approach for non-Solvency II firms* (CP12/15) (PS21/15), strengthened individual accountability in insurance (SS35/15) and feedback to the responses received with regard to CP26/14, CP7/15 and CP13/15 (PS22/15).

PRA, 13.8.2015

Non-Solvency II Firms

The PRA has released a separate consultation paper on the new Parts within its Rulebook that would apply only to insurance firms outside the scope of Solvency II after 1 January 2016 with such firms being collectively referred to as 'non-directive firms' (NDFs) (CP27/15). The Rulebook will contain specific Parts on friendly societies and other insurers with exceptions for NDF Governors, Actuarial Requirements, With-Profits, Run-Off Operations and Transitional Measures. The consultation paper also covers consequential amendments and to reflect the adoption of the Solvency II Firms Sector section of the Rulebook. Specific provisions are set out in the three Appendices attached to the consultation paper.

PRA, 13.8.2015

Cooperative Bank plc

The PRA has censured the Cooperative Bank plc for serious risk management and transparency failings between 22 July 2009 and 31 December 2013 following a joint investigation conducted with the Financial Conduct Authority (FCA). The bank had also failed to deal with the PRA and FCA in an open and cooperative manner. The bank's control framework had been defective in design and operation with inadequacies being revealed in its risk management framework policies and capital management and corporate lending policies and procedures. The firm failed adequately to consider the level of risk assumed and lacked the capability to manage that risk which weakened the firm and its resilience. The Coop Bank's Board had also not been appropriately informed of certain matters due to deficiencies in the management information produced. A culture had been maintained that encouraged prioritising the short-term financial position of the firm which undermined its ability to take prudent and sustainable actions for the longer-term. The bank failed to notify the regulators of two intended personnel changes in senior positions without delay. The PRA would have imposed a financial penalty of £120 million although it considered that this

would not advance its statutory objective of promoting the safety and soundness of firms with the bank taking appropriate action to deal with the concerns revealed.

PRA, 11.8.2015

Financial Services Compensation Scheme

The PRA has published new rules to ensure that depositors experiencing a decrease in the level of protection provided under the Financial Services Compensation Scheme (FSCS) deposit protection limit are able to adjust to the new limit without penalty or loss of interest. The £85,000 deposit protection level is to be reduced to £75,000 from 1 January 2016. Depositors contractually tied to products with balances above £75,000 can withdraw funds between the two limits without penalty, charge or loss of interest until 31 December 2015. Firms are not required to take any action until 1 October 2015 although they will have to return funds to depositors within two months of request or by 31 January 2016 whichever is earlier. Firms cannot require customers to close accounts unless the firms are placed into a new product with similar terms. Where depositors have multiple accounts with the same firm, the firm is to determine from which accounts the withdrawn amounts are to be taken subject to withdrawal from transactional accounts requiring customer consent.

PRA, 31.7.2015

Pillar 2 Capital Requirements

The PRA has released a feedback statement (PS17/15), supervisory statements (SS31/15 and 32/15) and policy statement with a reporting instrument on Pillar 2 capital requirements in the banking sector. This follows an earlier consultation paper in January to enhance the transparency and accountability of the PRA's approach to setting Pillar 2 capital requirements in a consistent and proportionate manner. The purpose of Pillar 2 is to ensure that firms hold adequate capital to support all relevant risks across their business activities and to encourage firms to develop and use enhanced risk management techniques in monitoring and managing risks. The PRA specifically focuses on risks that are not captured or not fully captured (Pillar 2A) and firms that may arise over a forward-looking planning horizon (Pillar 2B). The Pillar 2 framework has been reviewed following the publication by the European Banking Authority (EBA) of its guidelines for the Supervisory Review and Evaluation Process (SREP guidelines) with the PRA also attempting to re-align its Pillar 2 framework within its supervisory approach and improve its Pillar 2A capital methodologies to be more risk sensitive and consistent. Under the proposals, the capital planning buffer will specifically be replaced by a new 'PRA buffer' to cover losses that may arise under a severe but plausible stress under the CRD IV rules. The PRA buffer may also be used to cover the risk generated by weaknesses in firms' risk management and governance where this is significantly defective. Firms will be required to submit necessary data for the PRA to run the new Pillar 2 methodologies within their ICAAP submissions.

PRA, 29.7.2015

PRA Board

The Bank of England has confirmed that David Thorburn and Dr Norval Bryson have been appointed independent members of the PRA Board from 1 September 2015. David Thorburn was Chief Executive Officer (CEO) of Clydesdale & Yorkshire Banks with significant retail and commercial banking experience. Dr Norval Bryson was Deputy Chairman of Scottish Widows Group plc and non-executive director of the TSB Banking Group plc. The PRA Board consists of the Bank of England Governor with the Deputy Governors for Financial Stability, Prudential Regulation and Markets & Banking with five other independent members including the CEO of the FCA.

PRA, 27.7.2015

Bank of England Bill

HM Treasury has published a technical consultation document on *Bank of England Bill* (July 2015) outlining the content of a proposed new Bank of England Bill announced in the Queen's Speech on 27 May 2015. This sets out the further evolutionary reforms proposed by the Government to be implemented to strengthen the ability of the Bank to deliver its financial stability mandate. This complements the Bank of England's 'One Mission, One Bank' strategic plan and the blueprint for reform published by the Bank in *Transparency and accountability at the Bank of England* (December 2014). The objective was to ensure a transparent, accountable and well governed central bank to support effective policy production and democratic legitimacy with a number of measures being proposed to secure international best practice. The Bill will specifically bring the PRA within the Bank through the termination of its subsidiary status and creation of a Prudential Regulation Committee (PRC). Resolution planning and crisis management arrangements between the Treasury and Bank are to be revised to reflect recent improvements in resolution planning for systemic financial institutions and the crisis management of institutions in distress including a strengthened requirement for Bank to provide the Treasury with information on risks to public funds to protect taxpayers' interest and the wider economy from bank failure. Bank governance is to be improved with the Court of Directors being reduced in size and made more focused with a new Deputy Governor for Markets and Banking being provided for. Recommendations are to be implemented following the review by Kevin Warsh on *Transparency and the Bank of England's Monetary Policy Committee* in December 2014 including moving the Monetary Policy Committee to eight-year meeting schedule. The statutory basis for the Financial Policy Committee (FPC) is to be adjusted with the FPC acting as a sub-committee of the Bank rather than the Court as with the MPC and new PRC. The Bank will also become subject to National Audit Office (NAO) oversight to improve transparency and accountability of resource use.

PRA, 21.7.2015

Deposit Protection

The PRA announced at the beginning of July 2015 that bank compensation levels under the FSCS would be reduced from £85,000 to £71,000 from 1 January 2016. The PRA is required to recalculate the limit every five years and to set it at a sterling equivalent amount of €100,000 under the European Deposit Guarantee Schemes Directive. The limit had been raised to £85,000 in December 2010 based on the then sterling equivalent value. Large corporate customers are also brought within scheme protection for first time with certain other categories of depositors. Depositors with short term funds may be provided with protection up to £1 million.

PRA, 3.7.2015

Financial Conduct Authority (FCA)

Consumer Redress Scheme

Consumers that purchased card security products from one of a list of product names can claim compensation from end August 2015 with payments being made from late September 2015. The products covered consist of Card Protection, Sentinel, Sentinel Gold, Sentinel Protection, Sentinel Excel and Safe and Secure Plus. The redress scheme covers sales and renewals of card security products since 2005 with a separate company, AI Scheme Limited, being set up to provide redress scheme on behalf of Affinion International Limited and relevant banks and credit providers. Compensation claim forms are to be sent to eligible product providers with claims being made before 18 March 2016. The FCA had conducted an investigation into card security product insurance to cover fraudulent use if a card was lost or stolen. This was unnecessary where the bank or card issuer was responsible for any transactions after the cards were reported lost or stolen with customers only being liable for unauthorised use in limited circumstances before notification. Affinion and a number of leading high street banks and credit card issuers had voluntarily agreed to participate in the AI Scheme.

FCA, 18.8.2015

Approved Persons Regime

The Financial Conduct Authority (FCA) has published a consultation paper on *Changes to the Approved Persons Regime for insurers not subject to Solvency II* (August 2015) CP15/25 following its early consultation paper CP15/15 in March 2015. The latest consultation paper sets out amendments to the arrangements for small non-directive firms (NDFs) and consults on a revised regime for larger NDFs and changes to forms necessary to implement the reformed regime for all NDFs with appropriate transitional arrangements. This parallels the provisions issued by the PRA referred to above.

FCA, 13.8.2015

Market Abuse

The High Court has held that the FCA is entitled to permanent injunctions and penalties totalling £7,570,000 against Da Vinci Invest Ltd, Mineworld Ltd, Szabolcs Banya, Gyorgy Szabolcs Brad and Tamas Pornye for market abuse. Four of the five defendants had been incorporated a resident in Switzerland, the Seychelles and Hungary. The defendants had committed market abuse with regard to 186 UK listed shares using the manipulative trading strategy of layering. The FCA had applied for an interim injunction in July and August 2011 and for the assets of the three companies to be frozen. The defendants had entered and traded orders on the electronic trading platform of the London Stock Exchange (LSE) and multi-lateral trading facilities (MTFs) which created a false or misleading impression as to the supply and demand for the shares and allowing the defendants to trade at an artificial price. A combination of large and small orders were entered on one side of the LSE's order book to create a false impression of supply and demand without intention to complete the orders. Small share orders were used to improve the best bid or offer price and then large orders placed at prices close to the new best bidder offer to support the improved price with the shares being manipulated up or down. The trading platforms were accessed using Direct Market Access (DMA) which allows clients direct access to exchanges and platforms with the defendants using Contracts for Differences (CFDs) to match the share prices. CFD orders placed through the DMA would immediately and automatically result in equivalent orders on the relevant trading platform.

FCA, 12.8.2015

Financial Advice Market Review

The FCA and HM Treasury have launched a Financial Advice Market Review (FAMR) to examine how financial advice could be improved in the customer interest. The purpose is to examine how the market is working with regard to the provision of advice especially with regard to mortgages and pension assets. The terms of reference of the FAMR were published by the Treasury on 3 August 2015. The purpose is to examine advice gaps, regulatory and other barriers, regulatory clarity, opportunities and challenges presented by new and emerging technologies and how to encourage a healthy demand side for financial advice. The review will consider the current regulatory and legal framework governing the provision of financial advice and guidance to consumers and its effectiveness and that consumers have access to the information, advice and guidance necessary for them to make effective finance decisions.

FCA, 3.8.2015

Mortgage Credit Directive

A policy statement has been published on *Implementation of the Mortgage Credit Directive: Consequential Changes to the Consumer Credit Sourcebook* (*CONC*) (July 2015) PS15/20. This follows the CP15/6 *Consumer Credit – proposed changes to our rules and guidance* (February 2015) which set out the

proposed amendments to the CONC to implement the Mortgage Credit Directive (MCD). The policy statement summarises the feedback received the changes will affect lending firms subject to the CONC which will become subject to the MCOB from 21 March 2016 including almost all agreements secured on land. Firms holding interim permission for credit related regulated activity in relation to second charge mortgages will have to apply for mortgage permission with firms conducting MCD lending not secured on the home or the required consumer credit permissions as well as possible new permission of advising on MCD lending not secured on the home.

FCA, 31.7.2015

Benchmark Review

The FCA has published the findings of its *Financial Benchmarks: Thematic Review of Oversight and Controls* (July 2015) TR15/11. The review was carried out between August 2014 and June 2015 to assess the extent to which firms had learnt necessary lessons from previous failures with regard to benchmark activity and had taken appropriate corrective action. Although firms had adopted a number of changes to improve their governance and controls, significant further work was required to ensure that all risks were managed appropriately. It was essential that firms' senior management took into account the findings and recommendations made and took appropriate action.

FCA, 29.7.2015

Unauthorised Transactions

The FCA has published the results of its thematic review on *Fair treatment for consumers who suffer unauthorised transactions* (July 2015) TR15/10. The purpose of the review was to determine whether consumers were being treated fairly with regard to unauthorised transactions. Protections were available under the Payment Services Regulations 2009 (PSRs), Consumer Credit Act 1974 (CCA) and the FCA Handbook. The review considered current accounts and credit cards as core services used by consumers in carrying out day-to-day transactions. Firms were generally complying with their legal requirements and had attempted to deliver fair outcomes for their consumers. Firms erred on the side of the consumer in reviewing claims and there was no evidence of firms declining claims on the basis of customer non-compliance with prescriptive security requirements in terms and conditions. Some issues arose with regard to the content of account terms and conditions with some minor issues with regard to decision taking organisation especially in connection with more complex cases and overreliance on experienced staff.

FCA, 28.7.2015

Payday Lender

The payday lender, *Cash Genie*, has been ordered to pay £20 million in redress to 92,000 consumers by the FCA. Ariste Holding Ltd, trading as Cash Genie,

had entered into an agreement with the FCA after it had voluntarily notified the FCA that it had engaged in unfair practices in June 2014. The firm had agreed to an independent review being carried into its business practices and redress scheme. A number of serious failings had taken place which had caused detriment to many customers. Fees and interest had been unfair including charging £50 where customers were transferred to connected debt collection firm. Loans were rolled over or refinanced without explicit request or consent and without undertaking appropriate checks or assessments. Banking information provided in connection with connected brands was used to take payments for existing customers without informed consent. There had been a failure to provide annual statements to customers who have not repaid loans after 12 months which should have prevented further fees or interest being applied.

FCA, 27.7.2015

Performance Management

The FCA has finalised its guidance to assist firms limit risks created to consumers by inappropriate performance management practices. This applies with regard to firms with staff that deal directly with retail customers and small and medium sized enterprise (SME) customers. There had been an increase in the level of intelligence concerning poor performance management practices in sales areas with specific instances of poor practice being revealed through whistleblowing reports. Good performance management was of assistance, although poorly executed performance management can encourage or drive mis-selling through the pressure to achieve targets or corporate objectives. Middle managers were particularly likely to have to manage conflicts of interest including in balancing objectives liked to sales results and product sales practices. Firms had to manage to risk of mis-selling effectively.

FCA, 27.7.2015

Complaints and Call Charges

The FCA has finalised its rules on complaints and call charges. A policy statement has been produced on *Improving complaints handling* (PS15/19) following an earlier consultation paper on *Improving complaints handling* (CP14/30) in December 2014. The FCA had conducted a separate thematic review on *Complaint handling* in November 2014 (TR14/18). The rules are intended to ensure that complaints are dealt with in a quicker, easier and fairer manner. Firms will have additional time to resolve complaints less formally with up to three days to address a complaint to a consumer’s satisfaction. A simpler template message is to be sent, complaints are resolved. Consumers will have additional access to data on complaints made to financial services companies with firms being required to report all complaints to the FCA which will publish the information to allow consumers to compare firms. Firms will be prevented from charging customers premium rates in asking for assistance or making complaints.

FCA, 23.7.2015

Cash Savings Remedies

A consultation paper on *Cash savings remedies* (July 2015) CP15/24 has been released by the FCA following publication of its findings on the *Cash savings market study report* in January 2015. The cash savings market was considered defective in connection with disclosure, switching, convenience of saving with different providers and transparency of interest rates to longstanding customers. The latest document sets out the FCA feedback to its proposals with regard to remedies and necessary rule changes to improve disclosure and switching. Four specific sets of remedies are discussed included disclosure, switching, convenience and sunlight (through increased branch or FCA disclosure) (pp 11–28) with other remedies being rejected including switching extensions, simplified products, banning bonus rates, requiring off-sale products with possible revisions to the Annual Equivalent Rate (AER) Code published by the British Bankers Association (BBA) and Building Societies Association (BSA) and FCA regulation of the Code.

FCA, 23.7.2015

Annual Public Meeting

The FCA held its Annual Public Meeting (APM) on 22 July 2015 which considered its *Annual Report* for 2014/15. This explained how the FCA had secured its strategic objective to make markets work well and its three operational objectives of securing consumer protection, protecting and enhancing UK financial system integrity and promoting effective competition in the interests of consumers. The opening remarks were delivered by FCA Chairman, John Griffith Jones with a follow-up address by FCA CEO, Martin Wheatley. A separate question and answer session was held with the transcript being made available on the FCA website. Unanswered questions were responded to separately subsequently. Martin Wheatley announced that he would stand down as CEO with effect from 12 September 2015 although he would continue to act as an advisor to the FCA Board until end January 2016.

FCA, 22.7.2015

Concurrent Competition Powers

The FCA has produced final guidance on its concurrent competition powers with a policy statement on responses to the feedback received following its earlier consultation. The FCA was given power to enforce against competition law infringements and to conduct market review studies or refer markets to the Competition and Markets Authority (CMA) for further investigation from 1 April 2015. This allows the FCA to exercise these powers concurrently in addition to the CMA. This is considered an important part of its toolkit and supports its European level work in dealing with cross-border competition issues. The FCA has amended its Handbook to strengthen the requirement by authorised firms to disclose actual or potential competition law infringements. The amendments will take effect from 1 August 2015.

FCA, 15.7.2015

Ring Fencing

The FCA has produced draft rules that non-ring-fenced bodies (NRFBs) should provide to individuals with financial assets of, at least, £250,000 that are either account holders or have applied to open an account including a joint account with an NRFB (CP15/23). An NRFB is a deposit-taker that is not a ring-fenced body (RFB) or a deposit-taker exempt from ring fencing, including being part of a group that contains an RFB or where the group does not hold core deposits of more than £25 billion. NRFBs are required to provide customers with descriptions of their investment and commodities trading activities that they carry out and details of any prohibited action permitted within an NRFB but prohibited by an RFB (under Article 14 of the Financial Services and Markets Act 2000 (Ring-fence Body and Core Activities) Order 2014). The FCA will require firms to provide relevant information before becoming NRFBs and before eligible individuals open an account with additional explanatory information being provided and with the relevant information being displayed and kept up to date on the firm's website. Ring fencing is provided for under the Financial Services (Banking Reform) Act 2013 and amended FSMA following the earlier Independent Banking Commission final report in September 2011.

FCA, 14.7.2015

Banking Accountability

The FCA has published a consultation paper on *Strengthening accountability in banking: Final rules* (July 2015) CP15/22 which includes feedback on CP14/31 and CP15/15 and contains further consultation on extending the Certification Regime to wholesale market activities. The paper contains the final rules establishing the new accountability regime for individuals working in banks, building societies and credit unions to ensure that senior managers are held accountable for any misconduct within their areas of responsibility. The final rules are published with the PRA's Policy Statement 16/15 on strengthening individual accountability in banking. The new arrangements specifically consist of the Senior Managers Regime (SMR) which focuses on individuals holding key roles or with responsibility for whole areas of relevant firm activity, the Certification Regime (CR), applicable to other staff who may create a risk of significant harm to the firm or customers, and the Conduct Rules (CRs), which contain high level requirements that attempt to hold individuals to account. The new arrangements are to come into effect on 7 March 2016 with firms extending the Conduct Rules to other staff, apart from under the SMR or Certification Regime, by 7 March 2017. Additional work has also been undertaken in connection with remuneration, formalising firm whistleblowing procedures, the treatment of incoming branches of overseas firms and the accountability of Solvency II firms. The SMR and Certification Regime may also be extended to fixed income, commodity and currency markets following the Fair and Effective Markets Review published on 10 June 2015. The FCA attempts to provide further clarification in the

most recent paper on the operation of the new regime following comment that aspects of this were confusing. The SMR is specifically based on the definition of 17 Senior Management Functions (SMFs), 30 Prescribed Responsibilities and Overall Responsibilities with specific requirements applying with regard to shared responsibilities and for smaller firms with total gross assets of £250 million or less. Relevant functions specifically include the Chief Executive function (SMF1), Chief Finance function (SMF2), Chief Risk function (SMF4), Head of Internal Audit function (SMF5), Head of Key Business Area function (SMF6), Group Entity Senior Manager function (SMF7), Credit Union Senior Manager function (SMF8), Chairman function (SMF9), Chairman of Risk Committee function (SMF10), Chairman of Audit Committee function (SMF11), Chairman of Remuneration Committee function (SMF12), Chair of the Nomination Committee function (SMF13), Senior Independent Director function (SMF14), Non-Executive Director function (SMF15), Compliance Oversight function (SMF16), Money Laundering Reporting function (SMF17) and Other overall responsibility function (SMF18). The PRA is responsible for SMF1–2, 4–12 and 14 with the FCA being responsible for SMF3, 13 and 16–18. The Certification Regime will generally apply to significant harm functions including Material Risk Takers and Other significant harm functions which are based in the UK or dealing with a UK client. FCA and PRA certification functions will generally cover CASS oversight, benchmark submission and administration, proprietary traders, significant management, functions requiring qualifications, managers of certification employees and other material risk takers.

FCA, 7.7.2015

Annual Report

The FCA published its *Annual Report* for 2014/15 at the beginning of July 2015. This reviews the FCA's activities over the past year. This includes regulating 73,000 new consumer credit firms, launching Project Innovate to assist bring new products and services to the market, implementing the Senior Managers Regime (SMR), carrying out market studies, in particular on cash savings, retirement income and competition review in wholesale section, and the FCA's response to the Simon Davis review of the FCA's handling of the announcement of proposed supervisory work on the fair treatment of long standing customers in life insurance. The report contains an overview of the year with separate chapters on protecting consumers, enhancing integrity, promoting competition, FCA performance and regulation, international activities, operation and the Payment Systems Regulatory (PSR) with the strategic report, directors' report and financial statements. Three appendices are provided on skilled persons reports, enforcement and diversity. Fifty-three skilled persons reports were commissioned under s 166 FSMA. One hundred and fifteen cases were closed including 39 by executive settlement. Forty-three fines were imposed totalling £1,409,800,000.

FCA, 2.7.2015

Bank for International Settlements (BIS)

Unique Transaction Identifier

The Committee on Payments and Market Infrastructures (CPMI) and the International Organisation of Securities Commissions (IOSCO) has issues a consultative report on *Harmonisation of the Unique Transaction Identifier* (*UTI*) (August 2015). This sets out guidance on UTI definition, format and usage to allow for consistent global aggregation or OTC derivatives transaction data. The G20 Leaders directed in 2009 that all OTC derivatives contracts should be reported to trade repositories (TRs) to improve transparency, limit systemic risk and protect against market abuse. The CPMI and IOSCO were required under Financial Stability Board (FSB) *Feasibility study on approaches to aggregate OTC derivatives data* (19 September 2014) to develop guidance on the global harmonisation of data elements reported to TRs including UTIs and Unique Product Identifiers (UPIs). This provided for the carrying out of a feasibility study with the paper examining objectives, scope and approach, existing trade reporting systems, requirements for aggregated OTC derivatives data, legal issues, data and technological considerations and data aggregation options assessment. The latest consultation paper examines UTI characteristics (neutrality, uniqueness, consistency, persistence, traceability, clarity, ease and timely generation, existing UTI respect, scope and flexibility, representation, long-term viability and potentially anonymity), proposals and options, structure and format and implementation.

BIS, 19.8.2015

Basel III

The Basel Committee on Banking Supervision has published a series of responses to frequently asked questions in connection with the standardised approach for measuring counterparty credit risk exposures (SA-CCRs). The Committee published the SA-CCR requirements in March 2014 which were revised in April 2014. This will replace current non-internal model approaches consisting of the Current Exposure Method (CEM) and Standardised Method (SM). The Committee had agreed periodically to review interpretation questions received and publish responses with any technical explanations and interpretive guidance required.

BIS, 19.8.2015

Foreign Exchange Markets

The Bank of International Settlements (BIS) Governors has set up a Foreign Exchange Working Group (FXWG) to strengthen code of conduct standards and principles in foreign exchange markets. The FXWG is to operate under the Markets Committee and chaired by Guy Debelle, Reserve Bank of Australia and Chairman of the Markets Committee. Its purpose is to facilitate the establishment of a single global code of conduct standards and principles and promote greater adherence to these standards and principles in practice. This will cover all parts of the global wholesale foreign exchange market adjusted for local implementation. This will develop the work already

carried out by the eight principal regional foreign exchange committees (FXCs) in major financial centres which already hold separate global meetings. These consist the Australian Foreign Exchange Committee (AFEC), Canadian Foreign Exchange Committee (CFEC), European Central Bank (ECB) Foreign Exchange Contact Group (FECG), Hong Kong Treasury Markets Association (TMA), Tokyo Foreign Exchange Market Committee (TFEMC), Singapore Foreign Exchange Market Committee (SFEMC), UK Foreign Exchange Joint Standing Committee (FEJSC) and US Foreign Exchange Committee (FEC). This work will also be incorporated into wider FSB agenda. The FXWG will be supported by a Market Participants Group (MPG) made up of sell and buy side participant and foreign exchange infrastructure providers.

The FXWG intends to produce a final code of conduct before May 2017.

BIS, 24.7.2015

International Banking Statistics

The BIS has released the international banking statistics to end March 2015. Global cross-border claims by BIS reporting banks rose by 6% or 755 billion to 32.595 trillion dollars. Euro-denominated cross-border claims and euro lending increased substantially in the first quarter of 2015 except in Greece with cross-border lending to residents falling by $22 billion. Lending to emerging economies also contracted by $50 billion on an exchange rate-adjusted basis with lending to China, Russia and Ukraine also declining.

BIS, 24.7.2015

Securitisation

The Basel Committee and IOSCO have published a final report on *Criteria for identifying simple, transparent and comparable securitisations* (July 2015). The purpose is to assist the development of appropriate securitisation structures without undermining the responsibility of investors to carry out due diligence. The three principle criteria are listed in terms of simplicity, transparency and comparability. These are intended only to apply to term securitisations and are expressly stated to be non-exhaustive and non-binding with additional or more detailed criteria being applied in specific cases as necessary. Simplicity is concerned with the homogeneity of underlying assets containing simple characteristics and with a transaction structure that is not overly complex. Transparency is intended to provide investors with sufficient information on the underlying assets, transaction structure and parties involved in the transaction to promote understanding of the risks involved with the manner in which the information is provided not undermining transparency. Comparability is intended to insist investors understand relevant investments and undertake a more straight forward comparison between securitisation products within specific asset classes.

BIS, 23.7.2015

Account Opening

The Basel Committee on Banking Supervision has published a revised consultation paper on *General guide to account opening* (July 2015). The guide was first released in February 2003. Account opening procedures require banks to collect relevant customer information for verification purposes as part of anti-money laundering and counter-financing of terrorism (AML/CFT) rules with relevant policies and procedures implementing applicable requirements. The guidance is intended to assist banks without separately weakening or modifying relevant Financial Action Task Force (FATF) standards. The guidance will be annexed to the Committee's paper on *Sound management of risks related to money laundering and financing of terrorism* (January 2014).

BIS, 16.7.2015

Weak Banks

The Basel Committee has published a final set of *Guidelines for indentifying and dealing with weak banks* (July 2015). This updates the Committee's earlier *Supervisory guidance on dealing with weak banks* (2002). Supervisory authorities had to be able to limit the incidence of weak banks and deal with difficulties that arise irrespective of political structure, financial system and degree of economic and technical development. The report examines the underlying supervisory conditions necessary for dealing with weak banks and techniques to identify specific problems including carrying out preparatory work on recovery and resolution issues. The paper also examines corrective measures available to strengthen weak banks or to resolve failing or failed banks. The more significant changes stressed the need for early intervention and use of recovery and resolution tools with supervisory communication policies for distressed banks being updated. Additional guidance is provided on improving supervisory processes especially in incorporating macroprudential assessments, carrying out stress tests and business model analysis and reinforcing the need for sound corporate governance within banks. Specific issues are highlighted including liquidity shortfalls, excessive risk concentrations, misaligned compensation practices and inadequate risk management systems. Guidelines are extended on information sharing and cooperation between relevant authorities.

BIS, 16.7.2015

Supervisory Colleges

The Basel Committee has released a *Progress report on the implementation of principles for effective supervisory colleges* (July 2015). This follows the original good practice principles on supervisory colleges published in 2010 and revised in 2014. The paper contains the Committee's findings on its monitoring of the implementation of the principles and review of college effectiveness with relevant supervisory challenges being highlighted and recommendations provided on improvement. The functioning of supervisory colleges had generally continued to improve with considerable advances being achieved in implementing the college principle. Colleges assisted supervisors

by providing home and host authorities with a comprehensive overview of relevant risks and vulnerabilities on a timely basis. Colleges had evolved into significant fora to examine wider issues to enhance supervision and plan supervisory assessments. A number of different college structures had been developed having regard to the range of group sizes, complexity and global activities involved with home supervisors being sensitive to host supervisory concerns in developing appropriate criteria for college membership. Legal and institutional arrangements were important elements in ensuring that colleges operated successfully supported by necessary trust and mutual understanding. Collaborative work between college members improved the effectiveness of the oversight of cross-border banking groups. The interaction between firms and colleges had improved especially in terms of high-quality engagement with management although firms had asked for additional feedback on college discussion. The most significant residual challenges remain with regard to crisis preparedness with crisis management groups (CMGs) assuming earlier college responsibilities.

BIS, 15.7.2015

Financial Market Infrastructures

The CPMI and IOSCO have commenced the first Level 3 assessment of the implementation of the *Principles for financial market infrastructures* (PFMI) to examine consistency in the outcomes of principles implementation to ensure full, timely and consistent adoption. The review is intended to focus on a subset of requirements under the PFMI covering financial risk management by central counterparties (CCPs), in particular, with regard to governance, stress testing, margin, liquidity, collateral and recovery. The activities of a number of specific global and local CCPs clearing exchange traded and OTC derivatives are to be reviewed. The results were expected to be published in 2016.

BIS, 9.7.2015

Corporate Governance

The Basel Committee has published a revised set of *Corporate governance principles for banks* (July 2015). This updates the earlier principles published in 2010. The importance of risk governance within banks' overall corporate governance frameworks is stressed with the promotion of strong boards and board committees with effective control functions. Thirteen specific principles are listed covering board responsibilities, qualifications and composition, structure and practices, senior management, governance, risk management, risk identification, monitoring and control, risk communication, compliance, internal audit, compensation, disclosure and transparency and the role of supervisors. The revised principles extend the guidance on the role of bank boards in overseeing the implementation of effective risk management systems. The importance of the board's collective competence is stressed and the obligation of individual board members to dedicate sufficient time to carry out their mandates and to be familiar with banking development. The guidance on risk governance was strengthened with additional guidance for

bank supervisors in assessing board processes used to select board members and senior management. Compensation systems are recognised as important components in the overall governance and incentive structures of banks through which the board and senior management set out acceptable risk taking behaviour and reinforce banks' operating and risk culture.

BIS, 8.7.2015

Working Papers

The BIS has published a number of working papers. These cover such matters as 'Bond markets and monetary policy dilemmas for the emerging markets' (August 2015) WP508, 'Macroeconomic Effects of Banking Sector Losses across Structural Models' (July 2015) no 507, 'Macroprudential Policies in a Commodity Exporting Economy' (July 2015) 506, 'Phases of global liquidity, fundamentals news, and the design of macroprudential policy' (July 2015) 505, 'Credit and macroprudential policy in an emerging economy: a structural model assessment' (July 2015) 504, and 'Inflation targeting and financial stability: providing policymakers with relevant information' (July 2015) 503.

BIS, 8.7.2015

Leverage Ratio

The Basel Committee has published a set of first and second frequently asked questions relating to the Basel III leverage ratio framework. This follows the Committee's *Basel III leverage ratio framework and disclosure requirements* (January 2014) with the public disclosure requirements released in January 2015. The Committee has undertaken to review questions and respond with appropriate technical elaborations and interpretive guidance as necessary. The questions and responses are structured in terms of criteria for the recognition of cash variation margin associated with derivatives exposures, centrally cleared client derivatives exposures, exposures and netting of securities financing transactions (SFTs), the treatment of netting of SFTs and derivatives under cross-product netting agreements, the exposure measure under the additional treatment for credit derivatives and the treatment of long settlement transactions and failed trades.

BIS, 7.7.2015

Banking Supervision

The Basel Committee has published a *Report on the impact and accountability of banking supervision* (July 2015). This provides a review of how supervisory agencies across the world define and assess the impact of their policies and actions, manage impact and accountability with external stakeholders. The Committee accepts the need for effective supervision in addition to the strengthened regulation and increased resilience of banks secured under the revised Basel III framework. Supervisory authorities have revised and strengthened their strategies and practices with supervision becoming more comprehensive and intrusive and wider in scope. Authorities have also

attempted to understand the impact of their activities in more detail. Various practices have been used to determine how supervisory activities contribute to the soundness and stability of financial institutions and the financial system although various methods and indicators are used with no single methodology. The paper examines supervisory agency role, trends and supervision and supervisory style. It also examines supervisory objectives, impact measures and the need for well designed systems of accountability that support operational independence and enhance transparency while protecting institution specific confidentiality.

BIS, 2.7.2015

Credit Valuation Adjustment

The Basel Committee has published a consultative paper on *Review of the Credit Valuation Adjustment* (*CVA*) *Risk Framework* (July 2015). The objective is to ensure that all significant drivers of credit valuation adjustment (CVA) risk and CVA hedges are covered by the regulatory capital standard, align the standard with the fair value measurement of CVA used under various accounting regimes and ensure consistency with the proposed revisions to the market risk framework under the Committee's *Fundamental review of the trading book* (December 2014). A minimum capital charge is imposed under Basel III to capture the potential mark-to-market losses faced by a bank from the deterioration in a counterparty's creditworthiness under the CVA. This deals with variability in CVA arising from changes in credit spreads excluding variability arising from daily changes in market risk factors or account exposure variability. The revised CVA framework includes the market risk exposure component with associated hedges with the capital requirement being based on exposure models used to determine CVA accounting subject to conditions intended to reduce potential variability due to risk-weighted asset (RWA) calculations or remaining discrepancies in financial reporting practices across banks and jurisdictions.

BIS, 1.7.2015

Financial Stability Board (FSB)

China Peer Review

The Financial Stability Board (FSB) has published the result of its *Peer Review of China* (August 2015). The FSB had examined the macroprudential management framework and non-bank credit intermediation within China. This included an examination of the work undertaken by the Chinese authorities to deal with the challenges in these areas including implementation of the recommendations set out in the International Monetary Fund (IMF) and World Bank 2011 *Financial Sector Assessment Programme* (FSAP) report. The FSB review concluded that China had made good progress in dealing with the FSAP recommendations although additional work was required. Closer coordination and information sharing was required between authorities to deal with a dynamic financial system with enhanced inter-agency coordination and the development of an integrated

risk assessment framework being required to promote a common understanding of relevant objectives and risks to support joint policy actions and public communication. The People's Bank of China (PBOC) and China Banking Regulatory Commission (CBRC), China Securities Regulatory Commission (CSRC) and China Insurance Regulatory Commission (CIRC) had undertaken important work in developing a macroprudential management framework. Monitoring frameworks had been established and toolkits created by each agency to assess systemic risks in relevant sectors. Data collection had been improved with work being undertaken to develop a shared statistical platform. Enhanced inter-agency coordination was secured through the Financial Crisis Response Group (FCRG) set up under the State Council and the Financial Regulatory Coordination Joint Ministerial Committee (JMC). The authorities were considered to have available a wide range of tools that could be used for macroprudential purposes and had deployed them frequently in response to economic and financial system development. Additional work was still necessary to develop and operationalise a comprehensive and coordinated macroprudential policy framework. This specifically required clarifying the mandate and rules of the different inter-sector agencies in assessing systemic risk and designing macroprudential policies and strengthening supporting infrastructure. An integrated systemic risk assessment framework had to be developed incorporating the views of the separate agencies involved and accounting for relevant cross-sectoral policy interactions and overall macroprudential policies. An inter-agency protocol was necessary on financial stability monitoring and assessment including information sharing based on the roles of each authority in the overall macroprudential policy framework. The outcome of key inter-agency meetings and discussions should be published periodically to communicate macroprudential policy outlook and policy. Authorities had also improved the monitoring on non-bank credit intermediation which made up 20% of new financing flows between 2012–14. Data collection had been improved, enhanced cooperation ensured between the authorities through the GMC and action taken to mitigate identified risks relating to the interbank market, trust sector and bank wealth management product. Significant challenges nevertheless remained in assessing and mitigating emerging risks in the sector especially in terms of data collection and undertaking coordinated and comprehensive risk assessments to direct relevant policy tools.

FSB, 13.8.2015

NBNI Assessment Methodologies

The FSB has confirmed that it will delay finalising the assessment methodologies for non-bank non-insurer (NBNI) global systemically important financial institutions (G-SIFIs) until it has completed its work on financial stability risks and asset management activities. The FSB had published with IOSCO a second consultative document on *Assessment Methodologies for Identifying Non-Bank Non-Insurer Global Systemically Important Financial Institutions* (4 March 2015) with 50 comments being received principally on asset management entity methodologies. FSB work in this area has specifically focused on market liquidity and asset management activities as well as

potential structural sources of vulnerability. Initial findings will be considered by the FSB at its September 2015 Plenary meeting before reporting to the G20 and producing specific policy recommendations and a final methodology in 2016.

FSB, 30.7.2015

OTC Derivatives

The FSB has published its *Ninth Progress Report on Implementation of OTC Derivatives Market Reforms* (July 2015). The G20 Leaders had required in 2009 that a comprehensive reform agenda was established for OTC derivatives to improve transparency, mitigate systemic risk and protect against market abuse. OTC derivative contracts had to be reported to Trade Repositories (TRs), all standardised contracts traded on exchanges or electronic traded platforms and cleared through central counterparties (CCPs) and non-centrally cleared contracts subject to higher capital requirements and minimum margining conditions. The FSB confirmed that implementation of these requirements was being taken forward with most member jurisdictions having the necessary laws in place. Implementation was most developed in connection with trade reporting and hard capital requirements for non-centrally cleared derivatives. Further progress had been secured in promoting central clearing of standardised derivative contracts although few countries had systems to promote execution of standardised contracts on organised trading platforms. Most jurisdictions were only at an early stage in implementing margin requirements for non-centrally cleared derivatives although the availability and use of centralised infrastructure to support OTC derivatives reforms had continued to develop.

FSB, 24.7.2015

Interest Rate Benchmarks

The FSB has published an interim report on *Progress in Reforming Major Interest Rate Benchmarks* (July 2015). This examines reforms in connection with major benchmarks, including the London interbank offered rate (LIBOR), Euro interbank offered rate (EURIBOR) and Tokyo interbank offered rate (TIBOR) (collectively referred to as IBORs) and the development of alternative near risk-free interest rate benchmarks (RFRs). Recommendations had been produced by the Official Sector Steering Group (OSSG) in July 2014 which specifically required that existing IBORs should be strengthened with other reference rates based on unsecured bank funding costs through the use of relevant transactions data (referred to as IBOR+ rates) with alternative RFRs also being developed for specific financial transactions including derivatives where the rates should be closer to risk free. Action had been undertaken to review benchmark methodologies and definitions, data collection and feasibility with transitional and legal issues being considered and consultations undertaken with submitting banks, users and other stakeholders. Separate progress had also been achieved in identifying potential RFRs especially through the conduct of detailed data collection exercises. OSSG members in a number of jurisdictions were working with industry to

develop RFRs in major currencies. The OSSG would continue to monitor progress in implementing the FSB recommendations.

FSB, 9.7.2015

Shadow Banking

The FSB has announced a peer review on the implementation of its policy framework to deal with the financial stability risk created by non-bank financial entities other than money market funds (MMFs) referred to as ‘other shadow banking entities’. The objective is to assess progress in FSB jurisdictions in implementing the overarching principles on shadow banking and, in particular, to assess shadow banking entities based on economic functions, adopt policy tools where necessary to mitigate identified financial stability risks and to participate in relevant FSB information sharing processes. A summarised *Terms of Reference* has been produced for the review which contains additional details on relevant objectives, scope and process.

FSB, 2.7.2015

International Organisation of Securities Commissions (IOSCO)

Credit Default Swaps

IOSCO has published a final report on *Post-Trade Transparency in the Credit Default Swaps Market* (August 2015). This examines the impact of mandatory post-trade transparency in the OTC credit default swaps (CDS) market. Increased transparency, in particular, on the price and volume of publically available transactions, would assist market participants and other market observers with IOSCO encouraging member countries to enhance post-trade transparency. The report examines the level of transaction level data available before and after the introduction of mandatory post-trade transparency requirements in specific CDS markets in the US. The work of international bodies and the academic literature are also reviewed. A survey was also conducted of market participants and market observers with regard to their use of post-trade data. The new requirements should not have a substantial effect on market risk exposure or product market activity. The report only examines compulsory rather than voluntary or selective disclosure arrangements as well as aggregate data disclosure. The BIS estimates that the CDS market is worth around $16 trillion end 2014.

IOSCO, 7.8.2015

Investor Disclosure

IOSCO has published a *Thematic Review of the Implementation on the Timeliness and Frequency of Disclosure to Investors according to Principles 16 and 26 of the IOSCO Objectives and Principles of Securities Regulation* (July 2015). Investor disclosure is considered important to support investor protection and promote fair, efficient and transparent markets. The review examines regulatory approaches in implementing Principles 16 and 26. Principle 16

requires that there should be full, accurate and timely disclosure of financial results, risk and other information that is material to investors' decisions and Principle 26 requires disclosure necessary to assess the suitability of a collective investment scheme (CIS) for a particular investor and the value of the investor's interest in the scheme. The report examines periodic and material event based disclosure rather than point-of-sale disclosure arrangements. Principle 16 implementation varied with regard to whether and when information was required to be disclosed depending upon the type of issuer and information involved. Principle 26 disclosure was generally required in connection with the value, risk reward profile and cost of CIS especially through perspectives and offer requirement. Thirty seven countries participated in the review.

IOSCO, 30.7.2015

Derivative Market Intermediaries

A report on *Review of Implementation Progress in Regulation of Derivative Market Intermediaries* (DMIs) (July 2015). This examines implementation progress in six reform areas referred to in IOSCO's report on *International Standards for Derivative Market Intermediary Regulation* (2012) adopted under the G20 requirements for OTC derivatives market reform. The DMI Standards regulate market participants dealing, making a market or intermediating transactions in OTC derivatives. The six reform areas cover scope of regulatory reform (including DMI definition and regulatory framework), registration and licensing standards and other financial resources requirements for non-prudentially regulated DMIs, business conduct standards, business supervision standards and recordkeeping standards. Member jurisdictions had made significant progress in adopting legislation, regulation or policy in each area. Overall implementation should be well progressed or completed by 2016.

IOSCO, 29.7.2015

Pakistan Review

IOSCO has published a review by its Assessment Committee of *SEC Pakistan's implementation of IOSCO Objectives and Principles of Securities Regulation* (July 2015). This represents the first Country Review conducted by the Assessment Committee. The report refers to progress in compliance with relevant international regulatory standards with certain areas being highlighted for improvement. The regulatory framework had undergone significant improvement in structure and practice since 2004 following the IMF and World Bank FSAP evaluation. Many deficiencies and vulnerabilities had already been identified by the Securities and Exchange Commission of Pakistan (SECP) prior to their review with a programme of legislative and regulatory reforms being under way. A number of additional recommendations are made in the review in addition to this work with a roadmap also being provided to deal with particularly important issues. The SECP welcomed the opportunity of being the first jurisdiction subject to review which

involves an examination of the country's self-assessment of its implementation of the IOSCO Principles. The review team consisted of six experts nominated by member bodies in Dubai, Saudi Arabia, Luxembourg, Turkey, Australia and a member of the IOSCO General Secretariat under the independent consultant, Richard Britton. The Assessment Committee had been set up in 2012 which carries out individual Country Reviews and Thematic Reviews of specific IOSCO Principles and Standards.

IOSCO, 28.7.2015

SME Financing

IOSCO has issued a report on *SME Financing through Capital Markets* (July 2015) which examined capital raising financing by small and medium sized enterprises (SMEs) in emerging economies. The report identifies a number of challenges in securing market based financing with successful arrangements used by regulators and policy makers to assist capital market use by SMEs. The results are based on survey responses and member country best practice. SME financing may be limited due to the relatively high investment risk involved with this increasing following the global financial crisis with tighter liquidity and leverage conditions. Capital markets are important in providing alternative funding access. A Task Force on Financing of SMEs Capital Markets by the Emerging Markets Committee (now the Growth and Emerging Markets Committee) in May 2012 with an initial fact finding exercise being conducted. Bank loans remained the primary source of financing for publically and privately held SMEs followed by equity finance, venture capital and other governmental and international funds. Options included the establishment of separate equity and fixed income markets with regulatory requirements designed to support SMEs, establish market advisor and market making systems and introducing alternative methods of financing including through private equity, venture capital and securitisation.

IOSCO, 9.7.2015

International Association of Insurance Supervisors (IAIS)

Compensation Practices

The International Association of Insurance Supervisors (IAIS) held a joint Workshop with the FSB in May 2015 on Compensation Practices in the Insurance Sector with the results being published in August 2015. The workshop was held in Washington on 12 May 2015. This examined the governance of compensation frameworks and alignment of compensation with prudent risk-taking in insurance groups. The workshop examined best practices on the implementation of the FSB Principles and Standards for Sound Compensation Practices in the insurance area. Risk alignment of compensation was common practice in the insurance area with the importance of sound risk management and a focus on internal controls. Representatives from the FSB Compensation Monitoring Contact Group, IAIS Governors Group and senior executives from internationally active insurance companies participated.

IAIS, 4.8.2015

International Swap Derivatives Association (ISDA)

The International Swaps and Derivatives Association (ISDA) has released its latest *ISDA Margin Survey 2015* which shows a small decline in the total amount of collateral supporting non-cleared derivative transactions in 2014 connected with a shift to central clearing. Collateral supporting cleared transactions had increased significantly with an increased number of client cleared collateral agreements with end users also increasingly relying on clearing in response to regulatory changes. Total collateral supporting non-cleared derivatives fell by 6.2% from $5.34 trillion in 2013 to $5.01 trillion in 2014. Total collateral for cleared derivatives increased 54% from $295 billion to $455 billion with collateral for client clearing increasing by 262.5%. 46.8% of non-cleared agreements were based on the ISDA 1994 Credit Support Annex (CSA) New York Law (pledge) and 30.1% on the ISDA 1995 Credit Support Annex English Law (title transfer). Cash represented the principal form of collateral used especially with the US dollar and euro although yen and other currencies also increased. ISDA published a separate research note on 'The Impact of Compression on the Interest Rate Derivatives Market' (July 2015). Compression activity had increased significantly due to regulatory and technological changes especially with the Basel III leverage ratio which created an incentive for banks to reduce their legacy derivative books with compression services and, in particular, the unblinking of cleared trades, supporting a decrease in total notional interest rate derivatives outstanding. ISDA Chief Executive Office (CEO) Scott O'Malia, has spoken before the US House of Representatives Committee on Agriculture on Dodd Frank Wall Street Reform and Consumer Protection Act 2010 implementation in the derivatives area especially with regard to clearing, reporting and trade execution. ISDA provided a separate 'Five Year Appraisal' of Dodd Frank as part of its *derivatiViews*. ISDA noted that significant progress had been made in implementing the 848-page piece of legislation. Around three quarters of interest rate derivatives average daily notional volume reported to US swap data repositories (SDRs) was now cleared with over half of reported interest rate transactions being traded on a swap execution facility (SEF) each day. All swaps were also reported to an SDR which increased transparency. US margin rules for non-cleared derivatives were close to finalisation with capital rules being phased in. ISDA published a separate new classification letter to allow counterparties to notify each other of their status for clearing and other regulatory requirements under the European Market Infrastructure Regulation (EMIR) 648/2012.

ISDA, 8/7.2015

EUROPEAN DEVELOPMENTS

Delegated regulation on central clearing for interest rate derivatives

On 6 August 2015 the Commission adopted a delegated regulation under EMIR requiring certain over-the-counter (OTC) interest rate derivative

contracts to be cleared through central counterparties. Mandatory central clearing is a central part of the Commission's response to the financial crisis; it follows commitments made by world leaders at the G-20 Pittsburgh Summit in 2009, to improve transparency and mitigate risks.

The regulation applies to the following derivatives in certain currencies and referenced against specified indices:

- Fixed-to-float interest rate swaps (IRS), ie plain vanilla swaps;
- Float-to-float swaps, ie basis swaps;
- Forward Rate Agreements; and
- Overnight Index Swaps.

After scrutiny by the Parliament and Council, the clearing obligations will, be phased in over three years.

The delegated regulation can be accessed through the European Commission's Banking and Finance website: ec.europa.eu/finance/index_en.htm.

Stephen Maijoor, the chair of ESMA, addressed this delegated regulation in a speech to ISDA on 22 September 2015. He referred to similar rules for the clearing of index credit default swaps as being nearly finalised and also spoke about ESMA's forthcoming priorities in respect of EMIR. He characterised these as the establishment of an 'OTC Derivatives Union' through the uniform implementation of EMIR across the EU.

ESMA recommendations for improvement of EMIR

On 13 August 2015 ESMA published four reports on the functioning of EMIR, providing recommendations on how it may be improved. These covered the used of OTC derivatives by non-financial counterparties, the efficiency of margining requirements, segregation and portability requirements and its input to the more general commission review of EMIR. Stephen Maijoor also referred to these reports in his recent speech to ISDA referred to above. They can be accessed through the ESMA website: www.esma.europa.eu.

ISLAMIC FINANCE DEVELOPMENTS

UK Export Finance Airbus and Emirates with a world first in Islamic financing

When Emirates wanted to use Islamic finance to fund its purchase of four new Airbus A380s for its fleet, UK Export Finance (UKEF) developed an innovative guarantee for a sharia-compliant sukuk (Islamic bond) in the debt capital markets.

The case was hailed as a new gold standard for sharia-compliant asset finance. It widened the options for buyers of UK exports and boosted the UK's aspiration to become the leading Western hub for Islamic finance.

Financing the sale of large passenger aircraft such as the Airbus A380 poses ever-shifting challenges. Buyers typically require large loans with long repayment terms. Manufacturers require certainty that they will be paid. And the banks asked to arrange the finance do not always have the risk capacity to square this circle, and may turn to export credit agencies such as UKEF to provide a payment guarantee.

Nearly a third by value of an Airbus 380 carrying Rolls-Royce engines is made in the UK. Therefore UKEF is keen to help if it can, as more than 3,000 companies in the supply chain stand to benefit.

UKEF support can provide loan guarantees to the banks of purchasing airlines, or guarantees for money raised on the capital markets. But to meet changing demand, the agency is always looking to add new finance options and in 2015 it developed a facility allowing the airline Emirates to raise funds from investors in sharia-compliant Islamic bonds, known as sukuk. In a deal that has been hailed as a new gold standard for sharia-compliant asset finance, the UKEF guarantee was applied to the issue of US$913 million of trust certificates sold in compliance with the requirements of Islamic scholars. The financing was used to buy four Airbus A380 aircraft, and UKEF can potentially now offer its new product to other overseas buyers of UK exports.

The sukuk issuance was reported in the media as a triple world first:

* the first sukuk certificate issuance guaranteed by an export credit agency;
* the largest ever debt capital markets offering in the aviation sector with an ECA guarantee; and
* the first time a sukuk has been issued to raise finance for aircraft prior to their delivery.

With the UK government in 2014 also having been the first in the Western world to issue an Islamic bond for sovereign borrowing, this new success is a boost to the UK's aspiration to become the leading Western hub for Islamic finance.

UK Export Finance 21.07.15

www.gov.uk/government/case-studies/we-helped-airbus-and-emirates-with-a-world-first-in-islamic-financing

Land Registry has updated its Practice Guide 69 concerning Islamic finance

Since interest-based lending may not appeal to followers of Islam, Islamic finance products have been structured so as to avoid the payment of interest. These financial products have been developed so that they fall within the regulatory and legal framework of England and Wales and so introduce no new concept in Land Registry terms. They are available in the UK to Muslims and non-Muslims alike. This guide defines the three forms of contract that are mainly used with regard to property transactions which are:

- Ijara wa Iqtina;
- Diminishing Musharaka; and
- Murabaha.

The guide clarifies the documents that need to be sent to Land Registry, the application of Stamp Duty Land Tax and fees with regard to each contract of the three. It also discusses the emergence of the Islamic bond or sukuk market.

The detailed guide is available on:

www.gov.uk/government/publications/islamic-financing/practice-guide-69-islamic-financing.

Land Registry 24.06.15

The IFSB issues Exposure Draft of IFSB-IAIS Joint Paper on issues in Regulation and Supervision of Microtakaful (Islamic Microinsurance) for public consultation

The Islamic Financial Services Board (IFSB) issued the Exposure Draft of its Joint Paper with the International Association of Insurance Supervisors (IAIS) namely, 'Issues in Regulation and Supervision of *Microtakaful* (Islamic Microinsurance)' for public consultation starting from 22 June 2015 to 6 August 2015 and invited comments from regulatory and supervisory authorities, international organisations, market players, academics and other interested parties.

Regulators and supervisors in jurisdictions where *Takaful* (Islamic insurance) providers offer their services have relatively little experience or empirical data to support their role in creating a conducive environment for the *Microtakaful* market that could work effectively for the lower income segments. Therefore, the main objective of the Joint Paper is to highlight and identify regulatory issues prevailing in the *Microtakaful* sector and outline the role this sector can play in enhancing financial inclusion. In particular, the objectives include:

a. To identify the current practices and models used for offering *Microtakaful* products, and the challenges and potential issues arising from *Microtakaful* transactions;

b. To review the current regulatory framework for the *Microtakaful* sector in various jurisdictions and suggest initiatives to strengthen the framework and thus enhance financial inclusion through the *Takaful* sector; and

c. To provide guidance to the regulatory and supervisory authorities in putting in an enabling environment for the overall development and growth of the *Microtakaful* sector.

The Joint Paper highlighted the distinguishing features of various models used for offering *Microtakaful* products which, despite being similar to the models used for *Takaful* products in many respects, pose various unique supervisory challenges. Backed by a survey from the regulatory authorities and *Microtakaful* operators, the Joint Paper delineated the main features of *Microtakaful* from various aspects including types of participants, product features and contributions as well as distribution channels.

The Joint Paper also examined critical issues that require the attention of regulatory and supervisory authorities pertaining to the *Microtakaful* sector. These include:

- the requirements of separation of funds,
- solvency and capital adequacy framework, and
- investment framework and *Sharī'ah* compliance.

Other pivotal aspects covered in the Joint Paper included customer education and awareness, consumer protection, licensing requirements and supervisory review process. Additionally, the Joint Paper illustrates the relevance of IAIS' Insurance Core Principles in the practice of *Microtakāful*.

The consultation period closed on 6 August 2015.

Islamic Financial Services Board 22.06.15

www.ifsb.org/preess_full.php?id=307&submit=more

Islamic Development Bank raises Sukuk Issuance Ceiling from US$10 billion to US$25 billion

The 305th session of the Board of Executive Directors (BED) of the Islamic Development Bank held in Maputo, Mozambique, in conjunction with the 40th Annual Meeting of the Board of Governors of the IDB Group in the Mozambican capital, under the chairmanship of HE Dr Ahmad Mohamed Ali, Chairman of the IDB Group, approved raising the current limit of the Bank's medium term Sukuk Issuance Program from US$10 billion to US$25 billion.

On this occasion the BED commended the success recorded by the Sukuk Issuance Program since it began in 2003. The Board stated that this is a reflection of the high status and confidence that the Bank continues to enjoy in the international financial arena, in which IDB has been rated more than 12 consecutive years with 'AAA', the highest international credit rating available, by the three major international credit rating agencies – Standard & Poor's, Fitch and Moody's. This is in addition to the designation of the IDB as 'Zero-Risk Weighted' Multilateral Development Bank by the Basel Committee on Banking Supervision in 2004 and by the European Commission in 2007.

The US$10 billion so far raised as part of the IDB's Sukuk program have been utilised to finance various development programs in member countries,

particularly infrastructure projects. This is at a cost much lower than that of the beneficiary countries if they had raised the funds themselves from the international markets.

Islamic Development Bank 15.07.15

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

CIBAFI and the World Bank sign memorandum of understanding to foster cooperation on Islamic finance

The General Council for Islamic Banks and Financial Institutions (CIBAFI), the global umbrella of Islamic financial institutions, and the World Bank announced (9 July 2015) the signing of a Memorandum of Understanding (MoU) that will help foster the development of Islamic finance globally and expand its use as an effective tool for financing development worldwide, including in non-Muslim countries.

The MoU serves as the foundation for future cooperation in the areas of knowledge generation and dissemination; distilling and sharing lessons of experience; encouraging research and promoting awareness; and enhancing capacity in the Islamic financial services industry.

World Bank 09.07.15

www.worldbank.org/en/news/press-release/2015/07/09/cibafi-and-the-world-bank-sign-memorandum-of-understanding-to-foster-cooperation-on-islamic-finance

DED and Hawkamah to support creation of 'Islamic Management and Governance Centre' in Dubai

The Department of Economic Development (DED) in Dubai and the Institute of Corporate Governance (Hawkamah), a subsidiary of the Dubai International Financial Centre (DIFC), have signed an agreement to co-operate in the setting up of an 'Islamic Management and Governance Centre' in Dubai, in line with the vision of His Highness Sheikh Mohammed bin Rashid Al Maktoum, UAE Vice President and Prime Minister and Ruler of Dubai, to transform Dubai into the capital of Islamic economy.

The agreement, signed between Ali Ibrahim, Deputy Director General of DED, and Dr Ashraf Gamal El Din, CEO of Hawkamah, is part of public sector collaboration for developing the economic and trade aspects of Islamic governance across all levels in Dubai.

'The Department of Economic Development seeks to provide the best practices in the field of Islamic management and governance in co-operation with specialised agencies such as Hawkamah. Through such partnerships, we aim to bring in standards and practices necessary to support the establishment of a Centre dedicated to Islamic management and governance. The Centre will focus on management aspects in organisations including Islamic financial institutions but will also work to ensure its implementation in alignment with best global governance practices,' said Ali Ibrahim.

'The Hawkamah will support Department of Economic Development in the design and implementation of Islamic governance standards to enact corporate governance principles set forth in the Sharia laws. We will work together towards establishment of the Islamic Management and Governance Centre as a novel infrastructure institution of Islamic economy not only at the local economic level but also at the global level,' added Ibrahim.

Dubai International Financial Centre 30.06.15

www.difc.ae/news/ded-and-hawkamah-support-creation-%E2%80%98islamic-management-and-governance-centre%E2%80%99-dubai

Bank of Tokyo-Mitsubishi UFJ Dubai Branch obtains Islamic finance license

Bank of Tokyo-Mitsubishi UFJ, Ltd (BTMU) (President: Nobuyuki Hirano) announced that it obtained an Islamic Financial Business endorsement to operate an Islamic Window from the Dubai Financial Services Agency on 8 July 2015. This approval has enabled its Dubai Branch to offer both conventional and Islamic financial services to customers. This is reflective of the recent change in the Japanese FSA's supervisory guideline and the first ever case of a Japanese bank obtaining approval of an Islamic Finance Business from regulators outside Japan. BTMU commenced its Islamic finance services in 2008 through its Malaysian subsidiary, the Bank of Tokyo-Mitsubishi UFJ, Berhad (BTMU Malaysia), when Ordinance for Enforcement of the Banking Act was amended. Since then, the Bank has accumulated various skill sets and expertise regarding Islamic finance services such as deposits and loans. BTMU opened its Dubai Representative Office (now Dubai Branch) in 2007, consistently providing loans, project finances or other related services for customers in the Middle East region. Dubai Branch, leveraging the experience in BTMU Malaysia, will be the Bank's central hub of Islamic finance services in Europe, Middle East and Africa region. The Branch is committed to supporting the local economy and maximising the customer experience through Islamic finance offerings, on top of its existing conventional finance services.

Bank of Tokyo-Mitsubishi UFJ 09.07.15

www.bk.mufg.jp/global/newsroom/index.html

INTERNATIONAL DEVELOPMENTS

IMF Executive Board adopts decisions to enhance the financial safety net for developing countries

The Executive Board of the International Monetary Fund (IMF), on 1 July 2015, adopted a set of proposals to enhance the access of developing countries to IMF financial support. These proposals, and the case for adopting them, are contained in the staff paper '*Financing for Development: Enhancing the Financial Safety Net for Developing Countries.*'

The staff paper makes proposals to strengthen the financial safety net for developing countries by increasing access to concessional Fund resources for all Poverty Reduction and Growth Trust (PRGT)-eligible countries and to fast-disbursing support under the Rapid Financing Instrument (RFI) for all members when faced with urgent balance of payments needs. Developing countries' efforts to achieve sustained and inclusive growth remain vulnerable to global volatility in the form of external shocks, unpredictable sudden stops and reversals of capital inflows, and significant commodity price volatility. Enhanced access to Fund financing provides countries with greater flexibility to meet balance of payments needs as they pursue inclusive growth and poverty reduction.

The proposals aim to provide developing countries with greater access to Fund resources while better targeting access to concessional resources towards the poorest and most vulnerable countries. The proposals include:

i) increasing access to Fund concessional resources for all countries eligible for the Fund's PRGT;

ii) rebalancing the mix of concessional to non-concessional financing towards more use of non-concessional resources for better-off PRGT-eligible countries that currently receive "blended" financial support from the Fund;

iii) increasing access to fast-disbursing concessional and non-concessional resources for countries in fragile situations, hit by conflict, or natural disasters, and

iv) setting the interest rate on loans under the Rapid Credit Facility (RCF) at zero percent.

Executive Directors welcomed the opportunity to consider the staff's proposals to strengthen the financial safety net for developing countries. Directors concurred that developing countries' efforts to achieve sustainable and inclusive growth remain vulnerable to global volatility, and that enhanced access to Fund financing would provide these countries with greater flexibility to meet their balance-of-payments needs.

Directors broadly supported a set of proposals to:

(i) enhance access to all concessional facilities;

(ii) better target concessional financing to the poorest and most vulnerable members eligible for support from the Poverty Reduction and Growth Trust (PRGT), while also boosting access for better-positioned members through greater use of financing from the General Resources Account (GRA);

(iii) complement increased access under the Rapid Credit Facility (RCF) for PRGT-eligible countries with a parallel increase of fast-disbursing support under the Rapid Financing Instrument (RFI) to assist all countries in fragile situations or hit by conflict or natural disasters; and

(iv) to set the interest rate on RCF loans at zero percent. Directors emphasized the importance of safeguarding the self-sustaining nature of the PRGT.

Some Directors noted that these proposals could have been more ambitious, and could have sought to mobilize additional PRGT subsidy resources, as well as go beyond focusing primarily on low-income countries.

On access, Directors broadly agreed that PRGT access norms and limits have eroded relative to economic indicators since these norms and limits were last increased in 2010. Accordingly, Directors supported raising all access norms, and annual and cumulative access limits, by 50% for the RCF, the Standby Credit Facility (SCF), and the Extended Credit Facility (ECF), in line with staff proposals. They noted that access norms or limits should not be considered an entitlement and that actual access should be determined on a case-by-case basis, guided by the current policy on determination of access. A number of Directors requested that staff give further thought to policy changes to more effectively assist small member countries affected by severe natural disasters and states in fragile situations.

Directors generally supported rebalancing the funding mix of concessional and non-concessional resources provided to countries that receive Fund support in the form of a blend of concessional and non-concessional resources from 1:1 to 1:2. Directors agreed that such rebalancing would help conserve scarce resources, is consistent with the self-sustainability of the PRGT financing framework, and is warranted in light of the significantly greater market access in some blender countries than had been previously envisaged. The need to ensure that the increase in blending is consistent with limiting risks of higher borrowing costs and preserving countries' debt sustainability was underscored.

Directors broadly supported increasing the RFI annual and cumulative access limits in line with the increase in access limits for the RCF to enhance its usefulness in providing support to all members with urgent balance-of-payments needs. Many Directors agreed that, in blended cases, any purchases under the RFI should count toward the applicable RCF annual and cumulative limits to eliminate an anomaly in the current rules and guidelines that allows some PRGT-eligible countries to 'double dip' in PRGT and GRA resources. Directors took note of the safeguards in place under the RCF and RFI to avoid Fund support of countries with continued weak policies and unwarranted diversion of demand away from upper credit tranche facilities. Some Directors cautioned about the risks of 'facility shopping' and the scope for repeated use of the RCF, which has no ex post conditionality.

Directors generally agreed that, when the quota increases under the 14th General Review of Quotas (GRQ) come into effect, access limits and norms as a percentage of quota and the quota levels that determine the application of procedural safeguards would be reduced by half to broadly preserve the higher access in Special Drawing Rights (SDR) terms. A number of Directors

had reservations about the automatic reduction in access norms and limits and argued in favour of delinking change in access levels from the date of effectiveness of the GRQ.

Directors broadly supported the proposal – intended to further enhance support for PRGT-eligible countries in fragile situations, or those affected by conflict or natural disasters – to make drawings under the RCF more concessional by setting the interest rate at zero percent, while preserving the PRGT interest rate mechanism for the SCF and ECF. They emphasised the importance of allowing this interest rate mechanism to function as intended to safeguard the self-sustaining capacity of the PRGT and, in this context, looked forward to the next review of the PRGT interest rate structure. A number of Directors noted potential risks from setting the RCF interest rate at zero, as it could set a precedent for other PRGT facilities, ultimately straining the self-sustainability of the PRGT.

With regard to the case for general and special allocations of SDRs as a mechanism for assisting developing countries, some Directors saw merit in exploring such allocations. Other Directors did not see a compelling case for SDR allocations, and noted that a general allocation must be guided by a long-term global need to supplement existing reserves assets.

International Monetary Fund 08.07.15

www.imf.org/external/np/sec/pr/2015/pr15324.htm

People's Bank of China decides to cut RMB benchmark loan and deposit interest rates and reduce reserve requirement ratio

The PBC has decided to cut RMB benchmark loan and deposit interest rates for financial institutions as of 26 August 2015 to further reduce the financing cost of the corporate sector. The one-year RMB benchmark loan interest rate and deposit interest rate will both be lowered by 0.25 percentage points, to 4.6% and 1.75%, respectively. Adjustments are made correspondingly to benchmark interest rates on deposits and loans of other maturities, and to deposit and loan interest rates on personal housing provident fund. Furthermore, the upper limit of the floating range of the interest rate of time deposit with a maturity of more than one year is lifted while the upper limit of the floating range of the interest rate of time deposit with a maturity of less than one year and that of demand deposit remain unchanged.

Effective from 6 September 2015 onward, the RMB deposit reserve requirement ratio of financial institutions will be lowered by 0.5 percentage points to maintain adequate liquidity in the banking system and guide the stable and reasonable growth of money and credit. Meanwhile, in order to enhance the capacity of financial institutions to support the agricultural sector, rural area and the farmers, and the small and micro-enterprises, the deposit reserve requirement ratio will be cut by an additional 0.5 percentage points for the county-level rural commercial banks, rural cooperative banks, rural credit

cooperatives, and township and village banks; the deposit reserve requirement ratio of financial leasing companies and auto finance companies will be cut by an additional 3 percentage points to support its role in boosting consumption.

People's Bank of China 26.08.15

www.pbc.gov.cn/english/130721/2941752/index.html

The Reserve Bank of India launches FCTRS module on e-Biz platform to facilitate FDI reporting

The Reserve Bank of India launched (24th August) a module for reporting Foreign Currency Transfer of Shares (FCTRS) on eBiz portal of the Ministry of Commerce & Industry, Government of India. This initiative is a step forward in the direction of promoting the ease of doing business in India.

The FCTRS service on eBiz portal will facilitate reporting of transactions relating to transfer of shares and other instruments of foreign direct investments (FDI) between a resident and a non-resident, currently being done in FCTRS form.

This is the third service of its reporting service relating to FDI that the Reserve Bank has launched on eBiz portal of the Ministry. Online filing of FC-GPR and ARF forms were launched on the eBiz portal of the Ministry in February 2015.

Online reporting facility on eBiz portal of the Ministry will be available in parallel with the physical filing of returns. Physical filing of returns will be discontinued in next three months.

The Reserve Bank of India 24.08.15

www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=34798

HKEx intends to rely on US Securities and Exchange Commission Class No-action Relief Letter covering foreign options markets and certain options traded on them

Hong Kong Futures Exchange Limited ('HKFE') is pleased to announce that it has notified the US Securities and Exchange Commission ('SEC') that HKFE and/or its participants ('Eps') intend to engage in limited activities to familiarise certain registered broker-dealers and large financial institutions in the US with HKFE's options market and certain options traded on it ('familiarisation activities'). The engagement in familiarisation activities shall be in reliance on the SEC letter (1 July 2013 issued by the SEC www.sec.gov/divisions/marketreg/mr-noaction/2013/liffe-am-070113.pdf) providing class no-action relief, subject to the conditions described therein, to all foreign options markets and their members and representatives ('Class Relief Letter'). The above arrangement will cover EP's limited activities in reliance on the Class Relief Letter to familiarise US Eligible Brokers-Dealers/Eligible

Institutions with HKFE's Hang Seng Index Options, H-shares Index Options and Mini-Hang Seng Index Options products ('Eligible Options'), subject to compliance with the conditions stated in the Class Relief Letter. EPs are requested to note that 'Eligible Broker-Dealer/Eligible Institution' ('EBD/EI') is defined in the Class Relief Letter to mean any entity that meets the following standards:

1. it must be a "qualified institutional buyer" as defined in Rule 144A(a)(1) under the U.S. Securities Act of 1933 ("Securities Act"); or an international organization excluded from the definition of "U.S. person" in Rule 902(k)(2)(vi) of Regulation S under the Securities Act; and
2. it must have had prior actual experience with traded options in the U.S. options markets (and, therefore, would have received the disclosure document for U.S. standardized options called for by Rule 9b-1 under the U.S. Securities Exchange Act of 1934 ("Exchange Act")).

EPs are also requested to refer to the separate HKFE circular of 27 August 2015 regarding amendments to the Rules, Regulations and Procedures of HKFE ('HKFE Rules') which enable HKFE to prescribe conditions and procedures for EPs to comply with for the purpose of relying on the extension of the Class Relief Letter covering familiarisation activities with respect to the Eligible Options. The conditions and procedures set forth in this circular are prescribed by HKFE pursuant to Rule 309(c) of the HKFE Rules. EPs who may potentially engage EBD/EIs in familiarisation activities with respect to the Eligible Options shall comply with the conditions stated in the Class Relief Letter and the following conditions and procedures:

1. under U.S. law, EPs that are not registered with the SEC as broker-dealers may deal with Eligible Institutions only in accordance with Rule 15a-6 under the Exchange Act, principally through U.S. registered broker-dealers, as provided in Rule 15a-6;
2. any options on securities of U.S. issuers, or on an index that includes any securities of U.S. issuers, that are traded on HKFE, if any, are not available for sale to U.S. persons;
3. EPs who intend to transact Eligible Options with one or more EBD/EI are required to notify HKFE for record keeping purpose by completing and returning the signed form at Appendix I of this circular to dtproducts@hkex.com.hk before transacting, following with a hard copy sending to Derivatives Trading, Global Market Division at 6/F Two Exchange Square, 8 Connaught Place, Central, Hong Kong;
4. without prejudice to paragraph 3 above, EPs engaging or are expected to continue to engage in transactions in Eligible Options with EBD/EI in reliance on the Class Relief Letter shall, if they wish to continue to engage in such transactions, provide HKFE with annual confirmation of compliance with the conditions and procedures in the Class Relief Letter and this circular in accordance with the requirements specified by HKFE from time to time;

5. before effecting a transaction in Eligible Options with an EBD/EI, EPs are required to obtain, and maintain a record of, representations from such EBD/EI, signed by an appropriate officer, to the effect as that set forth in Conditions B1 – 7 of the Class Relief Letter. HKFE may require EPs to provide copies of the representations to it. A sample of the representation form is set forth in Appendix II; and

6. such other conditions, requirements, procedures and criteria as HKFE may prescribe from time to time.

EPs are advised to refer to the relevant rules and regulations under the Securities Act and the Exchange Act, and the Class Relief Letter which are available on the www.sec.gov for details, and to consult their professional advisors before engaging in any activities with US clients to ensure compliance with the requirements of SEC.

Hong Kong Exchanges and Clearing Limited 27.08.15

www.hkex.com.hk/eng/newsconsul/hkexnews/2015/1508272news.htm

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