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Butterworths Financial Regulation Service

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RECENT DEVELOPMENTS UK

HM Treasury News

Small and medium enterprise finance: help to match small and medium enterprises rejected for finance with alternative lenders

The government has published its response to the feedback that it received on its consultation '*SME finance: help to match SMEs rejected for finance with alternative lenders*'. The government welcomes the widespread support for its proposals to improve access to finance for small and medium enterprises ('SMEs') through a mandatory process whereby lenders are required to share details of SMEs they reject for finance, so those businesses can be approached by alternative lenders.

In light of this support, the government has decided to proceed with legislation through the Small Business, Enterprise and Employment Bill. The legislation will require the largest UK SME lenders to forward on details of SMEs they reject for finance (where SMEs give their consent) to platforms that will help them be linked up with alternative lending opportunities. Private sector platforms will be designated to receive this information by the government on the basis of their meeting clear minimum standards that focus on ensuring that SMEs are in control and properly protected throughout the process.

HM Treasury 06.08.14

Government consults on EU Mortgage Credit Directive

The government has launched (on 5 September 2014) a consultation on incorporating new European regulations on mortgage lending into UK law.

These new regulations, which are set out in the EU Mortgage Credit Directive (2014/17/EU), set common standards that EU members need to meet in order to protect consumers taking out loans to buy a residential property.

The government has already introduced a number of major reforms to mortgage lending, including creating new, stronger regulators with powers to ensure people only borrow what they can afford to repay, as well as tackle any future risks to financial stability from the mortgage market at a much earlier stage.

While the UK already complies with most of these new EU rules, the legislation implementing the Directive contains some changes which include:

- bringing the regulation of second charge mortgage lending into line with first charge mortgage lending. The government has intended to make this change for a number of years but chose to wait for these new EU rules to be implemented, in order to avoid excessive disruption to both mortgage firms and customers; and
- introducing a new set of regulations for buy-to-let lending, where the lending is to consumers rather than for business purposes. This is not expected to affect the vast majority of buy-to-let lending which is done for business purposes and is therefore not subject to the Directive.

The changes will not come into effect until March 2016, but the government is consulting now in order to give mortgage firms and customers as long as possible to prepare for them.

The consultation will run for eight weeks.

HM Treasury 05.09.14

Government takes action to modernise 100-year-old insurance industry rules

The government has introduced the Insurance Bill to Parliament, which will support the growth of Britain's insurance industry and help customers by updating the 100-year-old rules governing contracts between businesses and insurers.

The new Bill introduces a more modern legal regime which will benefit both insurers and their business customers by increasing transparency and certainty over the rules that govern contracts between them and reducing the number of legal disputes over time.

This will mean that British insurers are better equipped to compete against their global competitors, some of whom have already introduced more modern legal regimes for insurance, while businesses are expected to benefit by around £100m over the next ten years, as a result of factors such as lower litigation and transaction costs.

Economic Secretary to the Treasury, Andrea Leadsom, said:

> 'Britain's insurance industry is a major success story, employing over 300,000 people across the country, helping millions of British people and businesses every day and exporting across the globe. We want the

> industry to continue to grow and provide better services to customers, which is why we need to bring insurance contract law into the 21st century.
>
> The Insurance Bill that the government is introducing today will ensure that Britain's insurers can succeed in the future, while business customers can take advantage of lower costs.'

Maurice Tulloch, CEO of Aviva UK & Ireland GI, said:

> 'At Aviva, we've been pushing for some time for contracts to be easier to understand and provide greater clarity for customers. Underpinning this is reform of insurance law to make it more relevant for today's businesses.
>
> The Bill is a very welcome development which will deliver significant benefits to both customers and the industry, helping make the UK a great place to do business.'

John Hurrell, Chief Executive of Airmic, the UK's risk management trade body, said:

> 'We welcome this legislation as it addresses serious shortcomings in the legal framework. The UK is unique amongst advanced economies in that our current legal framework potentially penalises the purchaser of commercial insurance and creates uncertainty over whether policies bought in good faith will pay out in the event of a claim.
>
> The new legislation provides much needed clarity which will be good for business and will help to maintain confidence in the London insurance market.'

The Bill is the product of recommendations made to the government by the Law Commission and the Scottish Law Commission following eight years of consultation with businesses and insurers. HM Treasury informally consulted on the Bill in June 2014.

The reforms contained in the Insurance Bill cover three main areas:

- Disclosure and misrepresentation in business and other non-consumer insurance contracts. The Bill amends the duty on business policyholders to disclose risk information to insurers before entering into an insurance contract, introducing a duty of 'fair presentation' of the risk. It also provides the insurer with a number of proportionate remedies for breach of the duty of fair presentation.
- Warranties. The Bill abolishes 'basis of the contract' clauses, which have the effect of converting pre-contractual information supplied to insurers into warranties without further discussion. It also provides that the insurer's liability should be suspended, rather than discharged, in the event of a breach of warranty, meaning insurance coverage is restored after a breach of warranty has been remedied.

- Insurers' remedies for fraudulent claims. The Bill provides the insurer with clear, robust remedies when a policyholder submits a fraudulent claim.

HM Treasury 15.09.14

Britain leads clamp down on international tax avoidance

UK-based multinationals will have to report to HMRC where they make profits and pay taxes around the world, as Britain takes the lead to clamp down on international tax avoidance, Financial Secretary to the Treasury, David Gauke, announced (on Saturday 20 September).

The UK is the first of 44 countries to formally commit to implementing the new country-by-country reporting template, which was this week unveiled by the Organisation for Economic Co-operation and Development ('OECD').

The template is designed to help tax authorities gather information on multinational companies' global activities, profits and taxes, enabling them to better assess where risks lie and where their efforts to counter tax avoidance should be focused.

The UK initiated the country-by-country reporting template during its G8 Presidency last year, calling on the OECD to develop the template as part of its project to strengthen international standards on Base Erosion and Profit Shifting ('BEPS').

The OECD will present the reporting template to G20 Finance Ministers this weekend.

Financial Secretary to the Treasury, David Gauke, said:

> 'The UK has been at the forefront of tackling international tax avoidance.
>
> We believe that country-by-country reporting will improve transparency and help identify risks for tax avoidance – that's why we're formally committing to it.
>
> In time improved transparency between business and tax authorities will also help developing countries in dealing with compliance, as they often lack the capacity to collect this information themselves.
>
> Reporting high level information using a standardised format across all jurisdictions will ensure consistency, give tax authorities the information they need and minimise the additional administration burden on business.'

HM Treasury 20.09.14

Code of conduct for operational Private Finance Initiative/Public Private Partnership contracts

The voluntary code of conduct sets out the basis on which public and private sector partners agree to work together to make savings in operational Public

Private Partnership ('PPP') contracts. The code applies to all PPPs that signatories are parties to, such as Private Finance Initiative ('PFI') contracts, Private Finance 2 ('PF2') and other variants of PPP contracts.

The code sets out commitments from both public and private sector parties on constructive engagement, flexibility and improving operational efficiency. These commitments will support an overall improvement in contract management relationships and behaviours and the creation of a more effective working environment between customers and suppliers. This will help the public and private sectors work together on existing contracts for schools, hospitals and many other public infrastructure projects.

The launch of the code forms part of the government's wider work on reducing the cost of PFI deals under the Operational Savings programme, which has already achieved savings of over £1.5bn since it launched two years ago. It has been developed with the support and engagement of relevant trade bodies and a cross-section of lenders, investors, construction contractors and facilities management providers. All parties to PPP contracts should be able to sign up to these commitments which reflect best practice in the sector.

HM Treasury 22.09.14

Government consults on extending LIBOR powers to more financial benchmarks

The government has today launched a consultation on extending the new legislation the government put in place to regulate LIBOR to cover further benchmarks in the foreign exchange, fixed income and commodity markets.

In June this year, the government announced the establishment of the Fair and Effective Markets Review, which is a joint review by the Treasury, the Bank of England, and the Financial Conduct Authority ('FCA') into the way wholesale financial markets operate. Strong and successful financial services that set the highest standards are an essential part of building a resilient economy.

Recent events have demonstrated the need for authorities and market participants to take action to ensure fair and effective markets. Forward-looking in nature, this review reflects the government's long-term economic plan to ensure Britain remains a world leader in financial services, with successful institutions operating to the highest standards.

Drawing on the insights of public officials, market participants, and users of wholesale financial services, the review is also intended to reinforce confidence in the fairness and effectiveness of UK wholesale financial market activity, and influence the international debate on trading practices.

While the review will publish its final report in June 2015, the Chancellor confirmed at the time that the government will extend the new legislation the government put in place to regulate LIBOR to cover further financial benchmarks, based on an early recommendation of the review.

The recommendations have now been submitted to the Treasury and have been published alongside the consultation.

The government is consulting on extending the legislation to the following seven major benchmarks:

- Sterling Overnight Index Average ('SONIA') and the Repurchase Overnight Index Average ('RONIA'), which both serve as reference rates for overnight index swaps;
- WM/Reuters 4pm London Fix, which is the dominant global foreign exchange benchmark;
- ISDAFix, which is the principal global benchmark for swap rates and spreads for interest rate swap transactions;
- London Gold Fixing and the LMBA Silver Price, which determine the price of gold and silver in the London market; and
- ICE Brent futures contract, traded on the ICE Futures Europe ('IFEU') exchange, which acts as the crude oil futures market's principal financial benchmark.

Economic Secretary to the Treasury, Andrea Leadsom, said:

> 'The integrity of the City matters to the economy of Britain. Ensuring that the key rates that underpin financial markets are robust, and that anyone who seeks to manipulate them is subject to the full force of the law is vital.
>
> That's why the government is determined to deal with abuses, tackle the unacceptable behaviour of the few and ensure that markets are fair for the many who depend on them.
>
> So I am very pleased that the Fair and Effective Markets Review has made these recommendations.'

The consultation will run from 25 September to 23 October 2014. As part of the consultation process, the government will hold targeted industry roundtables with affected parties.

The government intends to have the new regime for the designated benchmarks in place by the end of the year, and will continue to engage in ongoing international discussions on improving the integrity of all benchmarks.

The Fair and Effective Markets Review is being led by Bank of England Deputy Governor for Markets and Banking, Minouche Shafik, with Martin Wheatley (Chief Executive Officer, FCA) and Charles Roxburgh (Director General, Financial Services, HM Treasury) as co-chairs.

HM Treasury 25.09.14

Chancellor abolishes 55% tax on pension funds at death

The Chancellor announced (on Monday 29 September) that from April 2015 individuals will have the freedom to pass on their unused defined contribution pension to any nominated beneficiary when they die, rather than paying the 55% tax charge which currently applies to pensions passed on at death.

Around 320,000 people retire each year with defined contribution pension savings; these people will no longer have to worry about their pension savings being taxed at 55% on death.

Under the current system, a 55% tax charge on inherited pensions applies when an individual wants to pay their defined contribution pension out to somebody else as a lump sum after they die, and where the pension money is:

- already in a drawdown account (regardless of the individual's age); or
- 'uncrystallised' (ie hasn't been touched) and the individual dies at or over the age of 75.

The individual can also pass their defined contribution pension to a dependant (which includes their spouse/civil partner or child under the age of 23), who can then draw down on it at their marginal rate of tax.

Where the individual dies under the age of 75 and the defined contribution pension has not been touched, it can be paid out as a lump sum completely tax free (up to the lifetime allowance).

From next year, individuals with a drawdown arrangement or with uncrystallised pension funds will be able to nominate a beneficiary to pass their pension to if they die.

If the individual dies before they reach the age of 75, they will be able to give their remaining defined contribution pension to anyone as a lump sum completely tax free, if it is in a drawdown account or uncrystallised.

The person receiving the pension will pay no tax on the money they withdraw from that pension, whether it is taken as a single lump sum, or accessed through drawdown.

Anyone who dies with a drawdown arrangement or with uncrystallised pension funds at or over the age of 75 will also be able to nominate a beneficiary to pass their pension to.

The nominated beneficiary will be able to access the pension funds flexibly, at any age, and pay tax at their marginal rate of income tax.

There are no restrictions on how much of the pension fund the beneficiary can withdraw at any one time. There will also be an option to receive the pension as a lump sum payment, subject to a tax charge of 45%.

This system replaces the current 55% tax charge which the government committed to reviewing as part of the Freedom and Choice in Pensions consultation and has the potential to benefit all those with some form of defined contribution pension savings – that is 12m people in the UK.

At Budget 2014, the government announced a fundamental change to how people can access their pension.

From April 2015, around 320,000 individuals retiring each year with defined contribution pension savings will be able to access them as they wish, subject to their marginal rate of tax.

The tax free pension commencement lump sum (usually 25% of an individual's pot) will continue to be available.

HM Treasury 29.09.14

Bank of England and Prudential Regulation Authority News

Bank of England publishes approach to supervising international banks: the Prudential Regulation Authority's approach to branch supervision

The Bank of England has published its final policy approach to supervising international banks confirming proposals which were consulted on earlier this year. This sets out how the Prudential Regulation Authority ('PRA') will supervise UK branches of banks based outside the European Economic Area ('EEA') and also explains in more detail the PRA's approach to subsidiaries and EEA branches.

Internationally headquartered banks can operate in the UK either as subsidiaries or as branches. The approach published by the Bank of England sets out a framework which takes into account the different legal requirements for branches and subsidiaries.

For branches from outside the EEA, this framework focuses on three main factors:

- whether the home state supervision of the firm is equivalent to that of the PRA;
- the nature of the branch's UK activities such as whether they will undertake wholesale or retail banking activities; and
- whether the PRA has assurance from the home supervisor over the firm's resolution plan in a way that reduces the impact on financial stability in the UK.

Where the PRA is satisfied of these factors, it will also need to have a clear and agreed split of prudential supervisory responsibilities with the home state supervisor. Where the PRA is not content, it will consider the most appropriate course of action, which could include refusing authorisation of a new branch or cancelling an authorisation of an existing branch.

To implement this approach, the PRA has introduced a new rule which requires internationally headquartered banks to take all steps within their

control to ensure that their resolution plan provides adequately for the resolution of the UK branch. This rule comes into force on 5 September 2014.

Bank of England 05.09.14

Bank of England announced changes to the PRA Board

The Bank of England has announced two changes to the Board of the PRA. The Court of Directors of the Bank, with the approval of the Chancellor of the Exchequer, has appointed David Belsham, who is retiring as an Executive Director of the Prudential Plc's UK and European subsidiaries, as an independent member of the Board, effective 1 May 2015. In addition, Rosalind Gilmore has announced her intention to step down as an independent member of the Board from 30 September.

Mark Carney, Governor of the Bank and Chair of the PRA Board said:

> 'I am delighted that David Belsham will be joining the Board as an independent member early next year. The Board will greatly benefit from his deep insurance sector expertise and experience. I am also very grateful to Rosalind for her important contribution to the PRA Board since April 2013. She has been an invaluable source of sound advice and keen judgment, drawing on her vast experience in financial regulation. I thank her for her service and wish her the very best for the future.'

Bank of England 05.09.14

Bank of England maintains Bank Rate at 0.5% and the size of the Asset Purchase Programme at £375bn

The Bank of England's Monetary Policy Committee at its meeting (on 4 September 2014) voted to maintain the Bank Rate at 0.5%. The Committee also voted to maintain the stock of purchased assets financed by the issuance of central bank reserves at £375bn, and so to reinvest the £14.4bn of cash flows associated with the redemption of the September 2014 gilt held in the Asset Purchase Facility.

Bank of England 04.09.14

Financial Conduct Authority News

FCA says firms must do more to ensure financial promotions do not mislead

Since 1 April, the FCA has reviewed over 1,500 financial promotions for consumer credit products. The rules state that all promotions must be clear, fair and not misleading for consumers.

In the same period, the FCA has opened 227 cases about non-compliant promotions for products such as payday loans, debt management services and credit brokers. A quarter of these cases relate to advertisements for high-cost short-term credit, with many not prominently displaying a risk

warning or representative APR. 80% of consumer credit cases to date relate to digital media, such as websites, emails and text messages.

Clive Adamson, Director of Supervision at the FCA, said:

> 'It is important that all firms ensure financial promotions are fair, clear and not misleading so that customers are able to make informed decisions. We are disappointed to see standards fall short of what we expect, particularly in the consumer credit space, four months from when we took over regulation. We believe that firms in this sector can do more to ensure financial promotions meet the standards we would expect and will continue to monitor performance in this area.'

Examples of financial promotions which did not meet the regulations included:

- advertisements for fee-paying debt management firms that did not make it clear that services are not free of charge;
- promotions that guaranteed firms would provide credit regardless of customers' circumstances;
- a logbook lender who provided misleading information about its APR, made unclear comparisons between its rates and those of other lenders, and implied its services were endorsed by the FCA; and
- internet search terms that took consumers to unrelated sponsored links, for example, a search for 'government debt help' returned a sponsored link for a loan, potentially misleading people to believe the firm was offering government assistance when this was not the case

Firms have responded positively when contacted by the FCA and have been quick to make changes to promotions that do not meet the standards. The FCA will continue to monitor financial promotions and take action where required to drive up standards. The FCA acts on complaints received from the public, the Advertising Standards Authority and other organisations.

FCA 13.08.14

FCA restricts distribution of CoCos to retail investors

CoCos are highly complex and the FCA believes they are unlikely to be appropriate for the mass retail market, so has stepped in to temporarily restrict their distribution only to professional, institutional and sophisticated or high net worth retail investors ahead of consulting on permanent rules later this year.

Christopher Woolard, FCA director of policy, risk and research said:

> 'In a low interest rate environment many investors might be tempted by CoCos offering high headline returns. However, they are complex and can be highly risky, and the FCA has used its new powers to ensure that CoCos are not inappropriately made available to the mass retail market while still allowing access for experienced investors.'

CoCos can be written off (in part or entirely) or converted into equity when the issuer's capital position falls, while issuers can have unusually broad discretion in relation to coupon payments making it extremely difficult for investors to assess, understand and price CoCos. At present there is little experience of how CoCos operate in practice.

Although the UK market is at an early stage of development, the FCA expects to see more firms issue CoCos in future. The restriction announced by the FCA will apply from 1 October 2014 to 1 October 2015. In the interim the FCA will continue to work with issuers to ensure that the sale of these instruments is appropriately targeted.

Today's announcement reflects the FCA's objective to secure appropriate protection for consumers and follows announcements by the European Securities and Markets Authority and Joint Committee of European Supervisory Authorities highlighting the risks of CoCos and firms responsibilities when selling them.

FCA 06.08.14

Debt management firms must raise their game, says FCA

Firms that provide services which pose a higher risk to consumers will be assessed first, including debt management firms, payday lenders and credit brokers.

Victoria Raffe, Director of Authorisations at the FCA, said:

> 'These firms are advising consumers who have often reached rock bottom, so it's important that firms get it right. Many firms are falling well short of our expectations and they will need to raise their game if they want to continue operating.'

The process for authorisation will be more rigorous than the previous Office of Fair Trading licensing regime. The emphasis is on creating a sector that works well for both firms and consumers. The FCA expects all debt management firms to meet required standards, including:

- a business model where customers benefit fully from the service offered, and fees are fair and transparent;
- providing suitable advice that takes into account a client's circumstances and for debt solutions to be appropriate, affordable and sustainable;
- advice to be provided by trained staff whose interests are in getting the best outcomes for the customer, rather than driven by incentives;
- appropriate systems and controls that will protect client money;
- notifying the FCA if they have obtained a book of customers from a firm or a legal entity undertaking debt management; and

- telling customers about free debt services and signposting them to the Money Advice Service for more information in their first communication with the customer.

The FCA has conducted targeted firm visits and has found that many debt management firms are failing to adequately follow the consumer credit rules brought in to provide additional protection for consumers in April.

Since April:

- the FCA has issued final notices against two firms who have had their applications refused;
- seven firms' bank accounts have been frozen to protect client money;
- two firms have entered administration;
- one firm is closed to all business;
- 14 firms have agreed to stop taking on new business;
- seven firms have been directed to appoint a 'skilled person' to report on the firm's compliance with FCA rules;
- a further firm has cancelled its interim permission and will no longer provide debt management services; and
- the FCA is also investigating a number of other debt management firms and individuals.

The application periods for firms with interim permission start in October 2014.

FCA 22.09.14

Consultation Paper CP14/20: Implementing the Mortgage Credit Directive and the new regime for second charge mortgages

This consultation sets out the FCA's proposed approach to implementing the Mortgage Credit Directive ('MCD').

The MCD applies equally to first and second charge mortgages, so the UK government has decided that second charge mortgage regulation should move from the FCA's consumer credit regime into its mortgage regime as part of implementing the Directive.

In this paper the FCA sets out its proposals for the new second charge lending regime alongside its plans for MCD implementation.

FCA 25.09.14

Consultation Paper CP14/17: Early implementation of the Transparency Directive's requirements for reports on payments to governments

The FCA is consulting on the early implementation of the Transparency Directive Amending Directive (2013/50/EU) requirement for issuers who are

active in the extractive or logging of primary forest industries to prepare a report annually on payments made to the governments in the countries in which they operate.

The Transparency Directive ('TD') has recently been amended by the Transparency Directive Amending Directive ('TDAD') to introduce, among other changes, new country by country reporting requirements for issuers who are active in the extractive or logging of primary forest industries.

The TDAD came into force on 26 November 2013 and each member state is required to implement the TDAD within 24 months of that date.

However, the Treasury has asked the FCA to align implementation of the country by country reporting requirements set out in Article 6 of the TD (as revised by the TDAD) with the implementation by the Department for Business, Innovation and Skills of the country by country reporting requirements set out in Chapter 10 of the Accounting Directive (2013/34/EU) ('AD') which takes effect for financial years commencing on or after 1 January 2015.

FCA 26.08.14

Consultation Paper CP14/16: Proposed rules for independent governance committees

The FCA has been working with the Department for Work and Pensions ('DWP') and the Pensions Regulator ('PR') to design a package of reform measures that will help ensure that all workplace pension schemes are high quality and offer value for money. This consultation paper sets out the FCA's proposed rules for independent governance committees ('IGCs'). These new bodies will provide governance oversight of defined contribution workplace personal pensions, such as group personal pensions. They will act in the interests of scheme members by providing credible and effective challenge to providers on the value for money of their pension schemes.

FCA 06.08.14

FCA bans and fines

Barclays Bank Plc

Barclays Bank Plc has been fined £37,745,000 by the FCA for failing to properly protect clients' custody assets worth £16.5bn. As a result clients risked incurring extra costs, lengthy delays or losing their assets if Barclays had become insolvent.

23.09.14

Peter Carron

Between 2004 and 2010, Peter Carron, formerly a senior partner at St James's Place Wealth Management Plc, advised 11 clients to invest a total of £2.4m in three companies of which he was director and majority shareholder without adequately disclosing this fact to them. The clients later lost approximately

£2.2m when the companies went into liquidation between May and August 2010. St James's Place subsequently paid these 11 investors £1.9m in compensation.

As a result, the FCA has concluded that Carron lacks honesty and integrity, fined him £300,000 and banned him from performing any function related to regulated activities in financial services.

16.09.14

Craig Cameron

The FCA has fined Craig Cameron £350,000 and banned him from any involvement in FCA authorised firms, after it found that he lacked honesty and integrity in relation to the promotion of three unregulated collective investment schemes ('UCIS') to retail investors.

29.08.14

Deutsche Bank AG

Deutsche Bank AG London Branch has been fined £4,718,800 by the FCA for incorrectly reporting transactions between November 2007 and April 2013. Deutsche failed to properly report 29,411,494 Equity Swap CFD (contracts for difference) transactions. The failure, which affected all Deutsche's Equity Swap CFD transaction reports in this period, breaches FCA rules on transaction reporting.

28.08.14

Royal Bank of Scotland and NatWest

The FCA has fined the Royal Bank of Scotland and NatWest £14,474,600 for serious failings in their advised mortgage sales business. The firms failed to ensure that advice given to customers was suitable. Two reviews of sales from 2012 found that in over half the cases the suitability of the advice was not clear from the file or call recording.

27.08.14

EU AND INTERNATIONAL

European Central Bank Allots €82.6bn in First Targeted Longer-term Refinancing Operation

The European Central Bank ('ECB') has allotted €82.6bn to 255 counterparties in the first of eight targeted longer-term refinancing operations ('TLTROs') to be conducted between September 2014 and June 2016. The programme is designed to enhance the functioning of the monetary policy transmission mechanism by supporting bank lending to the real economy.

In order to participate in the tender that was announced on 16 September, credit institutions had to express their interest and send completed reporting templates by 28 August. A total of 382 entities were eligible to bid in the first TLTRO, representing, either directly or indirectly, 1372 credit institutions.

Additional counterparties that intend to participate in the second TLTRO in December will have to send completed reporting templates by 20 November 2014, 3.30 pm CET.

The second TLTRO, as previously communicated, will be announced on 9 December and allotted on 11 December.

In the first two tenders, banks and groups of banks are entitled to an initial borrowing allowance equal to 7% of the total amount of their loans to the euro area non-financial private sector, excluding loans to households for house purchase, outstanding on 30 April 2014. Therefore, eligible banks who have not reached their initial allowance limit in the first TLTRO will be able to increase their initial borrowing amount up to that limit in the second TLTRO.

Thereafter, banks will be able to apply for additional funding, depending on the evolution of their lending activities against a specific benchmark.

The TLTROs, first announced on 5 June, together with measures announced on 4 September related to the purchase of non-financial private sector assets, will have a sizeable impact on the ECB's balance sheet.

ECB 18.09.14

International Organization of Securities Commissions Consults on Risk Mitigation Standards for Non-Centrally Cleared OTC Derivatives

The International Organization of Securities Commissions ('IOSCO') published the consultation report *Risk Mitigation Standards for Non-centrally Cleared OTC Derivatives*, which proposes nine standards aimed at mitigating the risks in the non-centrally cleared OTC derivatives markets. The proposed risk mitigation standards would contribute to the G20 effort to strengthen the OTC derivatives market in the wake of the global financial crisis. One of the key planks of the G20 reform programme has been to encourage the central clearing of standardised OTC derivatives.

However, a substantial proportion of OTC derivatives are not standardised and hence not suitable for central clearing. The proposed standards are aimed at these non-centrally cleared OTC derivatives.

The proposed risk mitigation standards are expected to bring about three main benefits:

- promoting legal certainty and facilitating timely dispute resolution;
- facilitating the management of counterparty credit and other risks; and
- increasing overall financial stability.

The proposed risk mitigation standards, which are developed in consultation with the Basel Committee on Banking Supervision ('BCBS') and the Committee on Payments and Market Infrastructures ('CPMI'), would complement the margin requirements developed by the BCBS and IOSCO in September 2013 in strengthening the non-centrally cleared OTC derivatives market.

The proposed risk mitigation standards cover nine areas:

Standard 1: Scope of Coverage

Standard 2: Trading Relationship Documentation

Standard 3: Trade Confirmation

Standard 4: Valuation with Counterparties

Standard 5: Reconciliation

Standard 6: Portfolio Compression

Standard 7: Dispute Resolution

Standard 8: Implementation

Standard 9: Cross-border Transactions

Comments on the proposals should be submitted on or before 17 October 2014.

IOSCO 17.09.14

ECB Modifies Loan-level Reporting Requirements for Some Asset-backed Securities

The Governing Council of the ECB has decided to modify the loan-level reporting requirements for asset-backed securities ('ABSs') backed by auto loans, leasing receivables, consumer finance loans and credit card receivables that are used as collateral in Eurosystem monetary policy operations and are unable to satisfy the timeline announced on 27 November 2012.

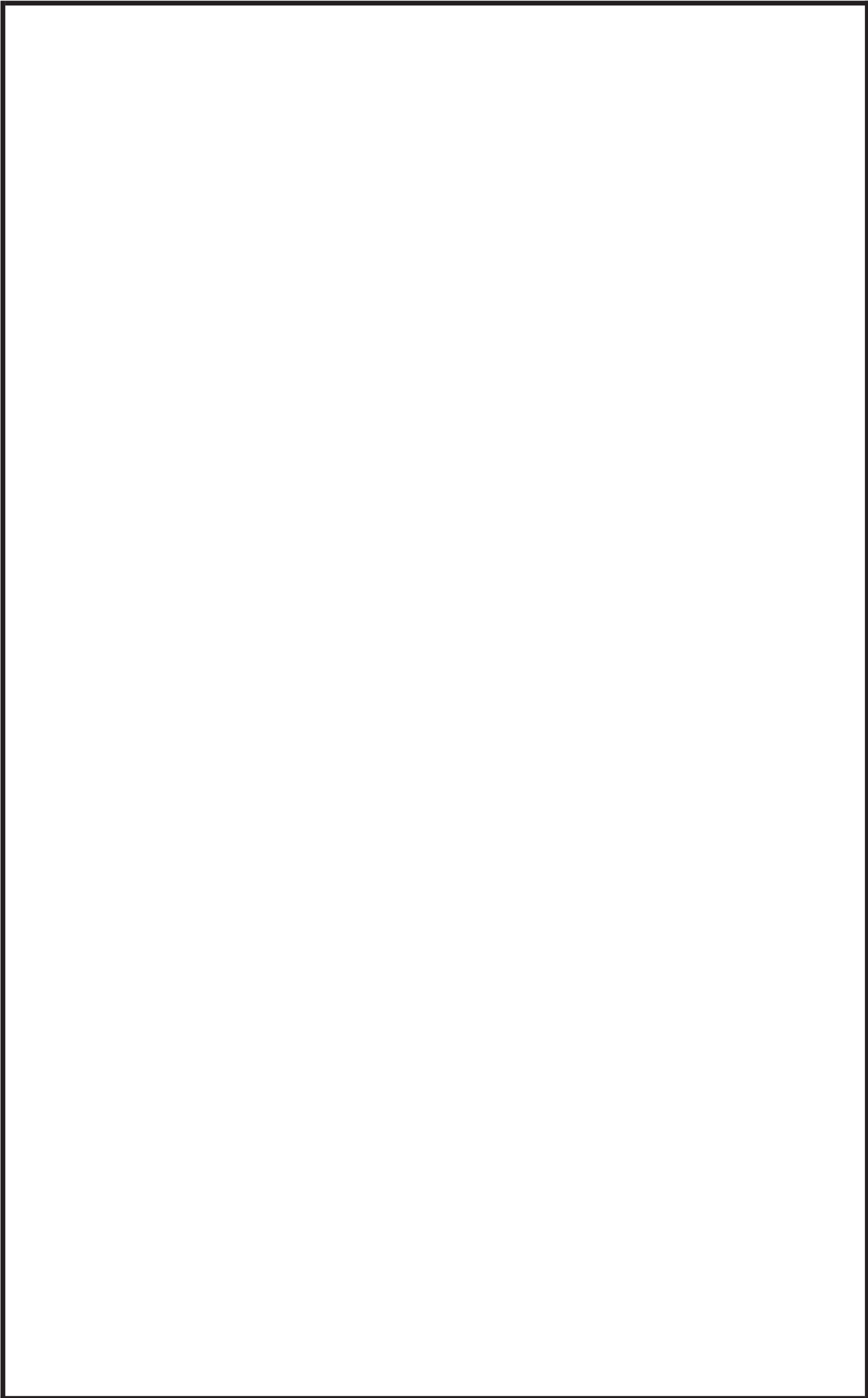
As of 1 October 2014, auto loan, leasing, consumer finance and credit card ABSs for which the mandatory level of compliance with reporting requirements has not been attained and for which the data provider has neither given an explanation for that non-compliance nor provided an action plan for achieving full compliance, will become ineligible for use as Eurosystem collateral.

Additionally, the Governing Council has decided that, as of 1 October 2014, the Eurosystem may temporarily accept non-compliant auto loan, leasing, consumer finance and credit card ABSs as eligible collateral, on a case-by-case basis and subject to the provision of adequate explanations for the failure to achieve the mandatory score required. For each adequate explanation, the Eurosystem will specify its tolerance stance.

These decisions will help secure a smooth transition to full compliance while ensuring a level playing field between different classes of ABSs at different stages of the compliance process.

Further details of the ABS loan-level initiative, including the above-mentioned modifications, are available via the ECB's dedicated web pages.

ECB 04.09.14



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