European Leveraged Finance Association

ELFA *Updates*

ELFA Legal & Regulatory Update
12/10/2020 – 16/10/2020

Key Highlights:

- This Legal & Regulatory Update covers the week commencing **12/10/2020**.
- BoE sends letter on operation readiness for zero or negative Bank Rate.
- BoE consults on proposed approach in respect of firms' use of overseas Internal Ratings Based (IRB) credit risk models, built to non-UK regulatory requirements, in calculation of UK group consolidated capital requirements.
- FRC releases set of tips to help companies make Section 172 statements more useful.
- TPR launches discussion on its 15-year corporate strategy to protect savers.
- ESMA's Chair, Steven Maijoor, calls to review Money Market Fund Regulation.
- EIOPA calls on insurance sector to complete preparations for end of UK transition period.
- EBA supports harmonisation of creditworthiness assessment for consumer credit across EU.
- European Commission confirms its intention to review AIFMD.
- European Commission confirms its intention to review CSDR.
- CBI publishes special edition of Household Credit Market Report 2020.
- FINMA releases Guidance on LIBOR replacement for derivatives.
- FSB considers financial stability implications of BigTech in finance in emerging market and developing economies.
- FSB publishes high-level recommendations for regulation, supervision and oversight of global stablecoin arrangements.
- FSB publishes global transition roadmap for LIBOR.
- ICMA's AMIC publishes position paper on ESMA's letter on AIFMD review.
- ICMA notifies market that third phase of SFTR reporting has gone live.
- In this update, we also cover some of the most important news on leveraged finance published by the Financial Times and Thomson Reuters during the week.

Bank of England (BoE)

12 October 2020: BoE sends letter on operation readiness for zero or negative Bank Rate

The Bank of England (BoE) sent a letter to chief executive officers to request information about firms' operational readiness to implement a zero or negative Bank Rate. As highlighted in the September minutes of the Monetary Policy Committee (MPC), the BoE and the Prudential Regulation Authority (PRA) are commencing structured engagement on the operational considerations of a zero or negative policy rate. This structured engagement is not indicative that the MPC will employ a zero or negative policy rate. This letter has been sent to specific firms to help the Bank and PRA to understand the operational implications of implementing a negative or zero policy rate. All firms are welcome to complete the data template and return it via email to negativeratesops@bankofengland.co.uk by Thursday 12 November 2020.

12 October 2020: BoE consults on proposed approach in respect of firms' use of overseas Internal Ratings Based (IRB) credit risk models, built to non-UK regulatory requirements, in calculation of UK group consolidated capital requirements

The PRA published Consultation Paper 16/20 that sets out the PRA's proposed approach in respect of firms' use of overseas Internal Ratings Based (IRB) credit risk models, built to non-UK regulatory requirements, in the calculation of UK group consolidated capital requirements. The proposals in this CP would result in changes to Supervisory Statement (SS) 11/13 'Internal Ratings Based (IRB) approaches' to include the PRA's approach to overseas IRB models. The proposals are relevant to UK banks, building societies and PRA-designated UK investment firms. This consultation closes on Tuesday 12 January 2021.

The PRA currently permits the solo capital requirements generated by non-European Economic Area (EEA) IRB models (developed to meet non-EEA IRB requirements) to be included in the firms' UK group consolidated capital requirements. These overseas models may not be fully compliant with all relevant UK IRB requirements as they are designed to comply with non-UK IRB requirements, although the PRA's criteria seek to ensure a prudent approach. For overseas IRB models built to non-UK requirements that are not currently used for UK consolidated capital requirements, the proposed implementation date for the changes resulting from this CP would be Thursday 1 July 2021. For existing overseas IRB models built to non-UK requirements used for UK consolidated capital requirements that meet the proposed criteria, those models can continue to be used for UK consolidated capital requirements. There may be existing overseas models that do not meet the criteria for use of the revised approach from Thursday 1 July 2021, and firms may therefore need to remediate these models in order to meet UK IRB requirements. The PRA expects those models that do not meet the proposed criteria to be remediated by Sunday 1 January 2023 in line with the planned implementation of Basel 3.1.

12 – 16 October 2020: Speeches, Letters & Publications

During the week, the BoE released the following speeches & other publications that might be of interest to our readers:

- Counterparty credit risk: Treatment of model limitations in banks' internal models PS22/20 – this Policy Statement (PS) provides feedback to responses to Consultation Paper (CP) 17/19 'Counterparty credit risk: Treatment of model limitations in banks' internal models'. It also contains final policy in the form of the updated Supervisory Statement (SS) 12/13 'Counterparty credit risk'. The PRA received three responses to the CP. The responses were broadly supportive of the principle of a centralised inventory for monitoring model limitations and assumptions, and were broadly opposed to the principle of a floor for over-collateralised exposures. The changes to SS12/13 will be effective on publication of this PS, on Wednesday 14 October 2020. If firms have concerns about their ability to comply with these expectations, they should get in touch with their usual supervisory contacts
- Bank of England Weekly Report 14 October 2020
- Credit Conditions Survey 2020 Q3
- Bank Liabilities Survey 2020 Q3
- Statistical Notice 2020/10 – Statistical Notices update the definitions and guidance contained in the Banking Statistics Yellow Folder
- How will spare capacity in the economy affect inflation? – Bank Overground
- From hot air to cold hard facts: how financial markets are finally getting a grip on how to price climate risk and return, and what needs to happen next – Speech by Andrew Hauser
- Opening remarks at the launch of the Artificial Intelligence Public Private Forum – Speech by Dave Ramsden
- Cross-border payments - innovating in a changing world – Speech by Victoria Cleland
- Fintech AI Public-Private Forum – the BoE and the Financial Conduct Authority have launched the Artificial Intelligence Public Private Forum on 12 October 2020. The purpose of the Forum is to facilitate dialogue between the public and private sectors to better understand the use and impact of AI in financial services, which will help further the BoE's objective of promoting the safe adoption of this technology. The Forum, which is expected to run for one year, will consist of a series of quarterly meetings and workshops structured around three topics: data, model risk management, and governance
- The PRA hosts IRB mortgage roundtable – PRA hosted a virtual roundtable meeting on internal ratings based (IRB) mortgages, for PRA-regulated firms with an IRB permission for mortgage exposures, on Monday 5 October 2020
- Elisabeth Stheeman reappointed to the Financial Policy Committee

Financial Conduct Authority (FCA)

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the Financial Conduct Authority (FCA) released the following publications & and announcements that might be of interest to our readers:

- FCA fines ARCM £873,118 for breaches of short selling disclosure rules – the firm failed to notify the FCA and disclose to the public its net short position in Premier Oil Plc built between February 2017 and July 2019
- FCA regulation of consumer credit: during the pandemic and beyond – Speech by Nisha Arora, Director of Consumer and Retail Policy
- Market abuse in a time of coronavirus – Speech by Julia Hoggett, Director Market Oversight
- Occasional Paper 57: Mortgage Market Disruptions – this paper analysis all regulated mortgage contracts in the UK, documents the major trends associated with the 2020 pandemic and compares them with the 2007-09 financial crisis
- FCA bans IFA directors who provided false and misleading SIPP declarations
- FCA proposes additional measures to help insurance customers in financial difficulty

Financial Reporting Council (FRC)

14 October 2020: FRC releases set of tips to help companies make Section 172 statements more useful

The Financial Reporting Council (FRC) Lab published a set of tips intended to help companies consider what content to include in a Section 172 statement, how to present it and how to facilitate the process of preparing the statement. This first year of reporting on directors' Section 172 duty to promote the success of the company has seen companies try a variety of approaches. These tips were developed following the Lab's discussions with investors and other stakeholders about what information would be most useful on how directors have had regard to the matters set out in section 172(1)(a) to (f) of the Companies Act 2006 and how it can be presented effectively. The Lab also spoke to companies to understand their processes and challenges in preparing this statement.

16 October 2020: FRC publishes key facts and trends in accountancy profession for year 2019

The FRC published its Key Facts and Trends in the Accountancy Profession Report (KFAT) for the year of 2019. The report reveals that fees for audit work at the largest UK companies increased in 2019 as audit quality improvements continued to be a major focus. The Big Four's fees for non-audit work for audited entities declined 20.8% in 2019 according to the new data, revealing a positive market shift ahead of operational separation by 2024. This reflects the application of the non-audit services fee cap for public interest entities for the first time. From a competition perspective, the Big Four continued to audit all of the FTSE 100 in 2019; however, the two largest firms outside the Big Four audited 10 FTSE 250 companies, increasing their share of the FTSE 250 market from 3.2% in 2017 to 4.8% in 2019.

The data also reveals:

- the number of audit firms registered with the Recognised Supervisory Bodies (RSBs) continues to decline, down to 5,127 as at 31 December 2019, compared to 5,394 in 2018 and 5,660 in 2017;
- the Big Four firms continued to see an increase in their total fee income up 7.1%. Firms outside the Big Four saw a smaller decline in their total fee income in 2018/19 (-0.1%) compared to 2017/18 (-8.1%); and
- audit fee income for Big Four firms increased by 6.9% from 2018 to 2019 compared to 1.7% from 2017 to 2018. Audit fee income for audit firms outside the Big Four increased by 2.2% from 2018 to 2019 compared to a 6.3% decrease from 2017 to 2018.

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the FRC released the following publications & and announcements that might be of interest to our readers:

- Keith Skeoch appointed Interim FRC Chair
- FRC explains accounting profession needs to improve its diversity at the most senior levels – the accounting profession needs to prioritise increased diversity at the most senior levels of management with partners being the least diverse when it comes to gender, ethnicity and disability, according to recent data collected by the FRC and published in its (KFAT) Report (Discussed above)
- COVID-19: Resources, action, the future (a look forward) – this report looks back at key elements highlighted in the Lab's previous work, considers current practice and takes a look forward at how reporting is developing. The report focuses on the areas and themes addressed previously in the COVID-19 – Resources, action, the future report. Where relevant, this report includes examples of current disclosure practices and provides some ideas of how we expect disclosure to evolve
- COVID 19: Going concern, risk, and viability (a look forward) – this report looks back at key elements highlighted in the Lab's previous work, considers current practice and takes a look forward at how reporting is developing. The report focuses on the areas and themes addressed previously in the COVID-19 – Going concern, risk and viability report. Where relevant, this report includes examples of current disclosure practices and provides some ideas of how we expect disclosure to evolve

The Pensions Regulator (TPR)

16 October 2020: TPR launches discussion on its 15-year corporate strategy to protect savers

The Pensions Regulator (TPR) announced that protecting the future financial wellbeing of savers will sit at the heart of its work for the next 15 years as it delivers on its statutory objectives. Reflecting the changing nature of workplace pensions, TPR's corporate strategy outlines a shift in focus, over time, from defined benefit (DB) to defined contribution (DC) saving. It also builds on TPR's transformation to be a clear, quick and tough regulator. Launching the strategy, Chief Executive Charles Counsell said that while support remains in place for pension schemes and employers in the wake of COVID-19, the future financial wellbeing of savers must underpin its long term and stretching ambition. The strategy has been published in the form of a discussion paper and meetings with key stakeholders are planned. The closing date for the discussion is 16 December 2020. The final strategy will be published in the new year when TPR will work closely with the industry to deliver on its priorities. The strategic priorities will form a core part of TPR's annual three-year corporate planning going forward.

European Securities and Markets Authority (ESMA)

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the European Securities and Markets Authority (ESMA) released the following publications & and announcements that might be of interest to our readers:

- Steven Maijoor speaks at the ESAs Annual ECON Committee Hearing – Chair of ESMA, Steven Maijoor, calls to review the Money Market Fund Regulation
- ESAs' Board of Appeal dismisses case against ESMA on alleged non-application of Union law – the Board of Appeal's decision considered as inadmissable the Appellant's claim that six national financial supervisory authorities and ESMA should have taken supervisory steps in relation to an alleged non-application of Union law

European Insurance and Occupational Pensions Authority (EIOPA)

12 October 2020: EIOPA finalises Guidelines on information and communication technology security and governance

The European Insurance and Occupational Pensions Authority (EIOPA) finalised the Guidelines on Information and Communication Technology (ICT) Security and Governance. These guidelines shall provide guidance to national supervisory authorities and market participants on how regulation regarding operational risks set forth in Directive 2009/138/EC and in the Commission's Delegated Regulation 2015/35 is applied in the case of ICT security and governance, considering as well EIOPA's Guidelines on System of Governance. The objective of the guidelines is to promote the increase of the operational resilience of the digital operations of insurance and reinsurance undertakings against the risks they face. Operational resilience is key to protect insurance and reinsurance undertakings' digital assets, including their systems and data from policyholders and beneficiaries.

In particular, the guidelines:

- provide clarification and transparency to market participants on the minimum expected information and cyber security capabilities, i.e. security baseline;
- avoid potential regulatory arbitrage; and
- foster supervisory convergence regarding the expectations and processes applicable in relation to ICT security and governance as a key to proper ICT and security risk management.

EIOPA consulted on the guidelines between December 2019 and March 2020 and took into account the views of stakeholders wherever possible. National supervisory authorities are expected to apply these guidelines from 1 July 2021.

13 October 2020: EIOPA calls on insurance sector to complete preparations for end of UK transition period

EIOPA released a statement urging the insurance sector to finalise preparations and implement suitable and realistic contingency plans in advance of the end of the UK transition period. In particular, EIOPA expects (re)insurance undertakings to have measures in place to prevent insurance activity without authorisation and ensure service continuity of cross-border business, as specified in the EIOPA Opinion issued in 2017, in order to minimise the detriment to policyholders and beneficiaries.

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, EIOPA released the following publications & and announcements that might be of interest to our readers:

- Introductory statement of Gabriel Bernardino at hearing of the ECON Committee – Introductory Statement

European Banking Authority (EBA)

12 October 2020: EBA supports harmonisation of creditworthiness assessment for consumer credit across EU

The European Banking Authority (EBA) responded last week to the European Commission's consultation on the proposed new consumer agenda where it called for harmonisation of the creditworthiness assessment process for consumer lending across the EU. The EBA response focuses on the revision of the Consumer Credit Directive (CCD) and builds on the recent EBA Guidelines on loan origination and monitoring. In its response, the EBA calls for the introduction of binding principles on responsible lending such as an obligation to take into account target consumer interests, objectives and characteristics when designing credit products. The response also calls for harmonisation of the creditworthiness assessment across the EU, including the introduction of standards for the data and creditworthiness assessment process.

14 October 2020: EBA consults on revision of Guidelines on major incident reporting under PSD2

The EBA launched a public consultation to propose revising the Guidelines on major incident reporting under the Payment Service Directive (PSD2). The proposal aims at optimising and simplifying the reporting process, capturing additional relevant security incidents, reducing the number of operational incidents that will be reported, and improving the meaningfulness of the incident reports received. The revision of the guidelines also intends to decrease the reporting burden on payment service providers (PSPs). The consultation runs until 14 December 2020.

14 October 2020: EBA publishes final draft regulatory technical standards specifying prudential treatment of software assets

The EBA published its final draft Regulatory Technical Standards (RTS) specifying the prudential treatment of software assets. As the banking sector is moving towards a more digital environment, the aim of these draft RTS is to replace the current upfront full deduction prudential regime so as to strike an appropriate balance between the need to maintain sufficient conservatism in the prudential treatment of software assets and their relevance from a business and an economic perspective. The final draft RTS keep a simple approach based on a prudential amortisation of software assets calibrated over a period of maximum three years. These final draft RTS specify the methodology to be adopted by institutions for the purpose of the prudential treatment of software assets, following the amendments introduced as part of the Risk Reduction Measures (RRM) package adopted by the European legislators. In particular, these draft RTS envisage the application of a prudential treatment based on software amortisation, which is deemed to strike an appropriate balance between the need to maintain a certain margin of conservatism in the treatment of software assets as intangibles, and their relevance from a business and an economic perspective.

European Central Bank (ECB)

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the European Central Bank (ECB) released the following speeches, letters and publications that might be of interest to our readers:

- Consolidated financial statement of the Eurosystem
- Euro area securities issues statistics: August 2020
- ECB Survey of Monetary Analysts (SMA), October 2020
- Pulling together: fiscal and monetary policies in a low interest rate environment – Speech by Isabel Schnabel
- A digital euro for the digital era – Speech by Fabio Panetta
- The pandemic and ECB monetary policy – Speech by Philip R. Lane
- Remarks at the G30 International Banking Seminar – Contribution by Christine Lagarde
- IMFC Statement – Statement by Christine Lagarde at the forty-second meeting of the International Monetary and Financial Committee
- How has the U.S. coronavirus aid package affected household spending? – Research Bulletin
- A review of economic analyses on the potential impact of Brexit – Occasional Paper Series
- Firm-specific shocks and contagion: are banks special? – Working Paper Series
- Central bank information effects and transatlantic spillovers – Working Paper Series

European Commission (EC)

15 October 2020: European Commission confirms its intention to review AIFMD

The European Commission (EC) has confirmed its intention to review the Alternative Investment Fund Managers Directive (AIFMD) through a consultation in Q3 2021, according to the provided EC timeline. This initiative will examine how to strengthen the rules and complete the internal market for such investment funds. This may also lead the Commission to adjust the rules on undertakings for collective investment in transferable securities (UCITS).

15 October 2020: European Commission confirms its intention to review CSDR

The EC has confirmed its intention to review the Central Securities Depositories Regulation (CSDR) through a consultation in Q1 2021, according to the provided EC timeline. This review will assess how the EU rules on CSDs are working, especially:

- how CSDs are able to operate in different countries across the EU;
- how requests to use their services are handled; and
- whether there are other substantive barriers to competition in this sector that need to be addressed.

Depending on its findings, the EC may propose certain changes to the rules in Q2 2021.

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the EC released the following speeches, letters and publications that might be of interest to our readers:

- Commission prolongs and expands Temporary Framework to further support companies facing significant turnover losses – the EC decided to prolong and extend the scope of the State aid Temporary Framework adopted on 19 March 2020 to support the economy in the context of the coronavirus outbreak. All sections of the Temporary Framework are prolonged for six months until 30 June 2021, and the section to enable recapitalisation support is prolonged for three months until 30 September 2021
- State of the Energy Union: Progress made on the clean energy transition and a basis for green recovery – the EC adopted the 2020 State of the Energy Union Report and its accompanying documents focused on different aspects of EU energy policy. This year's Report is the first one since the adoption of the European Green Deal and looks at the Energy Union's contribution to Europe's long-term climate goals
- Reducing greenhouse gas emissions: Commission adopts EU Methane Strategy as part of European Green Deal – the EC presented an EU strategy to reduce methane emissions. Methane is the second biggest contributor to climate change, after carbon dioxide
- Boeing subsidy case: World Trade Organization confirms EU right to retaliate against $4 billion of U.S. imports – the WTO allowed the EU to raise tariffs up to $4 billion worth of imports from the U.S. as a countermeasure for illegal subsides to the American aircraft maker, Boeing. The decision builds upon the WTO's earlier findings recognising the U.S. subsidies to Boeing as illegal under the WTO law

Basel Committee on Banking Supervision (BCBS)

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the Basel Committee on Banking Supervision (BCBS) released the following speeches, letters and publications that might be of interest to our readers:

- The Basel Committee's initiatives on climate-related financial risks – Speech by Kevin Stiroh

Central Bank of Ireland (CBI)

15 October 2020: CBI publishes special edition of Household Credit Market Report 2020

The Central Bank of Ireland (CBI) published a special edition of the Household Credit Market Report 2020 (HCMR), providing information on the household credit market since the emergence of COVID-19. The HCMR provides an up-to-date picture of developments in the household credit market in Ireland.

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the CBI released the following speeches, letters and publications that might be of interest to our readers:

- A financial sector better serving citizens and the economy: the role of Supervisory Inspections in driving improvements – Speech by Gerry Cross, Director of Financial Regulation Policy & Risk and Investment Banking Supervision (Interim)
- Supervision has become significantly more intrusive and impactful over recent years – Remarks by Gerry Cross, Director of Financial Regulation Policy & Risk and Investment Banking Supervision (Interim)
- Central Bank meets with representatives from Mayo businesses – Webinar Events

Commission de Surveillance du Secteur Financie (CSSF)

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the Commission de Surveillance du Secteur Financier (CSSF) released the following speeches, letters and publications that might be of interest to our readers:

- CSSF releases statement on designation of Operators of Essential Service (OES) – CSSF is informing the supervised institutions that the ones identified as OES have been notified of this decision on 15 September 2020. The supervised institutions which have not received this notification are therefore not designated as OES and are not required to comply with the requirements of the NIS Law

Swiss Financial Market Supervisory Authority (FINMA)

16 October 2020: FINMA releases Guidance on LIBOR replacement for derivatives

In a survey of Swiss institutions conducted in June 2020, the Swiss Financial Market Supervisory Authority (FINMA) noted that OTC derivatives worth over CHF 11.5 trillion are contractually linked to LIBOR beyond the year 2021. On 9 October 2020, the International Swaps and Derivatives Association (ISDA) announced its IBOR fallback documents for such OTC derivatives. Consequently, FINMA released a Guidance on LIBOR replacement for derivatives. In the guidance, FINMA recommends that the affected supervised institutions sign the Fallbacks Protocol and the expected equivalent adjustments to the Swiss Master Agreement for OTC derivative instruments as soon as possible. FINMA considers the application of the new fallback documents to as many OTC derivatives contracts as possible to be essential for minimising the high risks associated with the discontinuation of LIBOR. After the ISDA fallback documents enter into force in January 2021, no new LIBOR-linked OTC derivatives contracts should be entered into without robust fallback clauses.

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the FINMA released the following speeches, letters and publications that might be of interest to our readers:

- FINMA's Takeover and State Liability Committee rejects the appeals against the Swiss Takeover Board's decision 756/02 dated 20 August 2020 regarding MCH Group AG – in its decision 765/02 of 20 August 2020, the Takeover Board partially approved LLB Swiss Investment AG's objection to decision 765/01 of 13 July 2020 and established in particular that the formally selective opting-up clause, which was voted on at the Extraordinary General Meeting of MCH Group AG on 3 August 2020, is invalid under takeover law. MCH Group AG and Lupa Systems LLC have filed appeals against this decision. FINMA's Takeover and State Liability Committee has rejected the appeals in its ruling of 16 October 2020

Financial Stability Board (FSB)

12 October 2020: FSB considers financial stability implications of BigTech in finance in emerging market and developing economies

The Financial Stability Board (FSB) published a report about market developments and financial stability implications from the provision of financial services by BigTech firms in emerging market and developing economies (EMDEs). The report is being delivered to G20 Finance Ministers and Central Bank Governors for their virtual meeting on 14 October. The report finds that the expansion of BigTech firms in financial services in EMDEs has generally been more rapid and broad-based than that in advanced economies. Additionally, the expansion of BigTech firms in EMDEs has had benefits but can also give rise to risks and vulnerabilities. Use of technology has increased the efficiency with which financial services are provided. It has also given rise to financial services that can be cheaper, more convenient, and tailored to users' needs, thereby offering opportunities to improve consumer welfare and support financial stability. However, the expansion of BigTech activity also gives rise to operational and consumer protection risks and concerns about market dominance. Competition from BigTech firms may, in places, also reduce the profitability and resilience of incumbent financial institutions and lead to greater risk-taking. The experience of some EMDEs demonstrates the positive role that strong regulation, supervision and other official-sector policy can play in supporting innovation in financial services and mitigating risks. Governments in some EMDEs have also driven the development of financial infrastructures and digital identity. In doing so, they have facilitated the growth of financial technology, including that employed by BigTech firms.

13 October 2020: FSB publishes high-level recommendations for regulation, supervision and oversight of global stablecoin arrangements

The FSB published the final version of its high-level recommendations for the regulation, supervision and oversight of global stablecoin (GSC) arrangements following an earlier public consultation. The report states that GSC arrangements are expected to adhere to all applicable regulatory standards and to address risks to financial stability before commencing operation, and to adapt to new regulatory requirements as necessary. The emergence of GSCs may challenge the comprehensiveness and effectiveness of existing regulatory and supervisory oversight. The FSB has agreed on 10 high-level recommendations that promote coordinated and effective regulation, supervision and oversight of GSC arrangements to address the financial stability risks posed by GSCs, both at the domestic and international level. They support responsible innovation and provide sufficient flexibility for jurisdictions to implement domestic approaches. The recommendations call for regulation, supervision and oversight that is proportionate to the risks. Authorities agree on the need to apply supervisory and oversight capabilities and practices under the "same business, same risk, same rules" principle. The performance of some functions of a GSC arrangement may have important impacts across borders. Therefore, the recommendations also stress the value of flexible, efficient, inclusive, and multi-sectoral cross-border cooperation, coordination, and information sharing arrangements among authorities.

13 October 2020: FSB delivers roadmap to enhance cross-border payments

The FSB published a roadmap to enhance cross-border payments. The roadmap has been delivered to G20 Finance Ministers and Central Bank Governors for their meeting on 14 October 2020. This report presents a roadmap to address the key challenges often faced by cross-border payments and the frictions in existing processes that contribute to these challenges. These challenges, namely high costs, low speed, limited access and insufficient transparency, affect end-users and service providers, though not all in the same way. Individuals and small companies face particular challenges with retail cross-border payments, and financial inclusion remains a challenge for many, especially in emerging market and developing economies. This roadmap has been developed by the FSB, in coordination with the Committee on Payments and Market Infrastructures (CPMI) and other relevant international organisations and standard-setting bodies. The roadmap provides a high-level plan, which sets ambitious but achievable goals and milestones, and is designed to allow for flexibility and adaptation in the path to get there as the work progresses, while ensuring that the safeguards in terms of secure processing and legal compliance are observed.

14 October 2020: FSB gives update on work to address market fragmentation

The FSB published an update on its work, in collaboration with the international standard setting-bodies, to address market fragmentation. The report was delivered to G20 Finance Ministers and Central Bank Governors ahead of their meeting. In June 2019, the FSB identified four areas for further work to address market fragmentation.

This latest progress report provides an update on work in these areas:

- deference,
- pre-positioning of capital and liquidity,
- regulatory and supervisory coordination and information sharing, and
- too-big-to-fail (TBTF) evaluation.

16 October 2020: FSB publishes global transition roadmap for LIBOR

The FSB published a global transition roadmap for LIBOR. The roadmap sets out a timetable of actions for financial and non-financial sector firms to take in order to ensure a smooth LIBOR transition by end-2021. Transition away from LIBOR by end-2021 requires significant commitment and sustained effort from both financial and non-financial institutions across many LIBOR and non-LIBOR jurisdictions. This Global Transition Roadmap for LIBOR is intended to inform those with exposure to LIBOR benchmarks of some of the steps they should be taking now and over the remaining period to end-2021 to successfully mitigate these risks. These are considered prudent steps to take to ensure an orderly transition by end-2021 and are intended to supplement existing timelines/milestones from industry working groups and regulators.

Among the steps in the Roadmap:

- firms should have already, identified and assessed all existing LIBOR exposures and agreed on a project plan to transition in advance of end-2021;
- by the effective date of the ISDA Fallbacks Protocol, the FSB strongly encourages firms to have adhered to the Protocol;
- by the end of 2020, firms should be in a position to offer non-LIBOR linked loans to their customers;
- by mid-2021, firms should have established formalised plans to amend legacy contracts where this can be done and have implemented the necessary system and process changes to enable transition to robust alternative rates; and
- by end-2021, firms should be prepared for LIBOR to cease.

12 – 16 October 2020: Speeches, Letters & Other Publications

During the week, the FSB released the following speeches, letters and publications that might be of interest to our readers:

- FSB Chair updates G20 on action to harness benefits from financial technology and innovation – the FSB published a letter from its Chair, Randal K. Quarles, to G20 Finance Ministers and Central Bank Governors ahead of their virtual meeting. The letter notes the extraordinary challenges for the global financial system this year

International Capital Market Association (ICMA)

12 October 2020: ICMA's AMIC publishes position paper on ESMA's letter on AIFMD review

The International Capital Market Association's (ICMA) Asset Management and Investors Council (AMIC) published a series of first views on the review of AIFMD, following ESMA's letter and ahead of the upcoming EC consultation. AMIC argues that the current framework, which was continuously enhanced over the years has proven to be fit for purpose in light of the crisis and that re-writing AIFMD and the UCITS directive on key aspects (such as delegation, leverage/liquidity, reporting) as suggested by ESMA would be a major distraction for policy makers, supervisors and asset managers at a time when collective energy should be devoted to the post-COVID 19 recovery, the Sustainable Finance Action Plan and the Capital Markets Union. AMIC believes a lot of the points raised in ESMA's letter can be dealt with by the European authority and NCAs by making use of their existing and recently reinforced powers (i.e. Guidelines, Q&As, Common Supervisory Action) or via targeted level 2 measures and calls the EC, to focus on vehicles which, with changes, could foster growth in European capital markets (e.g. ELTIF) rather than those which have been successful in ensuring EU's competitiveness and attractiveness.

12 October 2020: ICMA notifies market that third phase of SFTR reporting has gone live

ICMA released a statement notifying the market that the third phase of SFTR reporting has gone live. As of the 12 of October, SFTR reporting obligations will apply to investment funds, pensions funds and (re-) insurance undertakings, who will join sell-side firms, CCPs and CSDs, who have already been reporting for 3 months. The first few months of SFTR reporting have certainly exceeded expectations with consistently high acceptance rates reported by the trade repositories. It is hoped that the buy-side firms that will start reporting can build on and replicate this success.

ICMA has put together detailed best practice recommendations for the industry which complement and supplement the regulatory framework and aim to ensure consistency in firms' implementation efforts. In addition to the best practices, ICMA has published a set of sample reports, some of which show how buy-side repos should be reported. ICMA is also publishing, on a weekly basis, consolidated SFTR data released by the TRs. Figures and charts from the first 3 months of reporting are available on the SFTR public data page.

Other Updates

We would like to bring to our ELFA readers' attention the following regulatory updates from regulators & associations we are not currently monitoring.

October 2020: AFME is hosting its virtual Leverage Finance Conference

The Association for Financial Markets in Europe (AFME) is hosting its virtual Leverage Finance Conference on 20th and 21st of October – investors attend for free. For more information, contact Jade Cannon at Jade.Cannon@afme.eu.

In the News

During the week, the Financial Times & Thomson Reuters published the following news that might be of interest to our readers.

Financial Times

- BoE asks banks how ready they are for negative rates
  “The Bank of England has begun a fact-finding mission to see whether banks could cope if the central bank wanted to introduce negative interest rates to support the UK economy. On Monday the BoE wrote to banks it regulates asking them about their readiness to deal with a zero or negative bank rate”

- FCA fines hedge fund £900,000 for not disclosing short selling
  “A Hong Kong hedge fund that built up a large short position in the North Sea energy group Premier Oil has been fined more than £870,000 by the UK regulator for hundreds of disclosure failures over more than two years”

- UK’s biggest asset manager to warn 500 companies on climate change
  “Legal and General Investment Management is set to warn 500 companies to do more to tackle climate change or risk being publicly named and shamed, in an escalation of a long-running environmental campaign by the UK’s largest asset manager”

- Rolls-Royce and Jaguar Land Rover pay up for bond deals
  “UK engineering stalwarts Rolls-Royce and Jaguar Land Rover have both dipped into the bond markets for much-needed funding in the past week, with investors demanding hefty interest rates from the coronavirus-hit businesses”

- Rolls-Royce’s bond issue prepares it for the long haul to recovery
  “It is a dark hour for Rolls-Royce, aero-engine maker. The pandemic is in a second wave. Wide-body, long-haul aircraft remain grounded. The credit rating of the company, so-often dubbed a British engineering champion, is two notches below investment grade. That’s not quite junk squared”

- EG Group’s bonds fall after auditor’s abrupt resignation
  “EG Group’s bonds dropped in value on Thursday morning after the Financial Times reported that the auditor of the highly acquisitive UK petrol station operator had resigned over governance concerns”

- British pubs in crisis as Covid calls last orders
  “In a sign of the sector’s dire need for cash, listed pub groups have raised more than £4bn through share placings since March”

- Pandemic shopping surge boosts retailer Asos’s profit
  “Online fashion retailer Asos has spelt out just how big a boost it received from Covid-19, which drove shoppers online in their masses. The retailer’s pre-tax profits for the year to August more than quadrupled, from £33m to £142m. Almost a third of the profits for the year — £45m — were thanks to behaviour changes due to the pandemic, with extra costs from operating with social distancing, for example, offset by lower returns rates”

- Europe’s second wave raises threat of double-dip recession
  “Europe’s economy is sliding towards a double-dip recession, with economists warning that rising coronavirus infections and fresh government restrictions on people’s movement are likely to cut short the region’s recent recovery”

- Europe meets resistance as it sets the rules of the ESG road
  “Then there is another issue that deserves more debate: if the EU rules penalise banks that lend to dirty industries in emerging markets, as Mr Hanna points out, that will remove capital at the very moment that EM businesses need it to create growth — or (hopefully) transition from brown to green”

- [ECB to consider using climate risk to steer bond purchases, says Lagarde]
“The European Central Bank will consider ditching a key principle behind its corporate bond purchases to offset the underpricing of climate risk in financial markets, Christine Lagarde has said”

- [EU energy boss hails coal’s demise on path to carbon neutrality]
“Kadri Simson, the EU’s top energy official, wants to oversee the end of an 150-year era in Europe with the phasing out of coal-powered electricity”

- [How cheaply can the EU fund its borrowing spree?]
“Since July’s agreement by EU leaders to establish a €750bn coronavirus recovery package funded by borrowing, investors have been preparing for the arrival of Brussels as a major force in bond markets”

- [Italy sells interest-free bonds as investors bet on ECB action]
“Investors queued up to buy Italy’s new three-year bond on Tuesday, even though they will get nothing back until early 2024. The sale of Rome’s first benchmark government bond with a zero coupon, meaning it offers no interest payments, is the latest sign of red-hot demand for riskier eurozone debt, as investors bet that the European Central Bank will scale up its asset-purchasing programme”

- [France and Netherlands back EU move against Big Tech]
“There has been a lot of pressure lately to curb the powers of Amazon, Apple, Facebook and Google. Now the US tech giants are facing the threat of an EU attempt to break them up after France and the Netherlands jointly issued a call for the bloc’s competition authorities to take pre-emptive measures as they prepare sweeping legislation to curb the companies’ market power”

- [Italy’s former finance minister named UniCredit chairman]
“Pier Carlo Padoan, Italy’s former finance minister, has been named as the next chairman of UniCredit, the country’s largest financial institution by assets, the company said in a statement”

- [French billionaire Xavier Niel takes activist tack at Unibail-Rodamco]
“Xavier Niel, the French telecoms billionaire, has teamed up with a well-known real estate investor to buy a 4.1 per cent stake in Europe’s biggest shopping centre operator, Unibail-Rodamco, with the aim of scuppering its forthcoming €3.5bn rights issue”

- [KPMG audited Mauritian company used in suspicious Wirecard deals]
“KPMG, which this year revealed its rival accounting firm EY had missed a chance to stop Wirecard’s fraud, was itself the auditor to a suspicious vehicle that investigators believe may have been used to siphon off the payments group’s funds”

- [Falling interest rates drag on Bank of America and Wells Fargo profits]
“Falling interest rates took a painful toll on third-quarter profits at Bank of America and Wells Fargo, continuing to compress lending margins, overshadowing falling credit costs and improved results from the banks’ fee-based businesses”

- [Citigroup records falling credit costs in sign of easing Covid strain]
“Citigroup’s credit costs dropped dramatically in the third quarter, pushing earnings past Wall Street’s expectations, a reassuring sign of stability for the bank and the US economy as the Covid-19 crisis grinds on”

- [US banks warn bonuses will not keep pace with profits]
“Citigroup, JPMorgan Chase and Bank of America have warned staff their bonuses will not keep pace with blowout performances in areas such as fixed-income trading and debt and equity underwriting, setting the scene for a record gap between payouts and profits”

- [BlackRock kicks off earnings for fund management industry in tumult]
“BlackRock will this week kick off third-quarter earnings season for a fund management industry where the widening gap between its winners and losers has unleashed a wave of consolidation”

- [Cinema chain AMC warns it could run out of cash this year]
  "AMC has warned it could run out of cash by the end of the year as the world's largest cinema chain struggles to entice audiences without the usual run of box-office hits"

- [Grim picture for US malls as crisis in movies business takes toll]
  "The crisis in the movies business is spreading through US shopping centres as cinema closures hit footfall for restaurants and other tenants, exacerbating financial problems for already struggling malls"

- [Apartments may be next trouble spot for property investors]
  "Where is the next area of pain for commercial property markets? Ask analysts, investors and even the debt collectors responsible for chasing unpaid mortgages and there is usually one common answer: apartment buildings"

- [Wells Fargo returns to profit after painful second quarter]
  "Wells Fargo returned to profit in the third quarter as the bank followed other US lenders in reporting a steep decline in provisions for bad loans, reflecting a stabilising economy"

- [Ligado tests limits of bond markets with highest rate in 9 years]
  "Wireless communication company Ligado Networks is preparing to pay a whopping 17.5 per cent interest rate in the US bond market this week, the most any company has shelled out to investors since coronavirus struck and the highest rate on any US corporate bond since 2011"

- [Vista Equity Partners founder reaches $140m settlement with DoJ]
  "Robert Smith, the billionaire founder of Vista Equity Partners, has agreed to a $140m settlement with the Department of Justice to resolve a long-running criminal tax investigation, said a person familiar with the matter"

- [Billionaire Robert Brockman charged in $2bn tax evasion case]
  "The US Department of Justice has charged Robert Brockman, the Houston software billionaire, with tax evasion for allegedly hiding $2bn from the government in what prosecutors called the biggest case ever against an American citizen"

- [Edmond de Rothschild hit with $100m fraud suit by ex-Rosneft boss]
  "A prominent Russian businessman has accused Edmond de Rothschild, the Swiss private bank, of engaging in a kickback scheme that pilfered millions of dollars from his investment fund and ultimately cost him more than $100m"

- [Shale binge has spoiled US reserves, top investor warns]
  "A fracking binge in the American shale industry has permanently damaged the country's oil and gas reserves, threatening hopes for a production recovery and US energy independence, according to one of the sector's top investors"

- [JPMorgan Asset Management plans ESG ETFs for Asian clients]
  "JPMorgan Asset Management is looking to offer Asian institutional investors a range of environmental, social and governance exchange traded funds, as well as thematic and sector-based ETFs"

- [Newmont looks to set Paris-aligned emissions targets]
  "Newmont, the world's biggest gold miner, is looking to set a long-term emissions target consistent with the Paris climate agreement, in what would be a first for the sector"

- [ESG funds forecast to outnumber conventional funds by 2025]
  "Assets in sustainable investment products in Europe are forecast to reach €7.6tn over the next five years, outnumbering conventional funds, as investors' growing focus on risks including climate change and social inequality pushes these strategies into the mainstream"

- Investors should watch the transatlantic split on ESG closely
“The reason is that a transatlantic split in investing has opened up under the administration of US president Donald Trump. In Europe, regulators and officials have been racing to embrace ESG-friendly standards, particularly for the E — environment”

- US investors sceptical of ESG, Hindenburg targets Loop, EU rises as green leader
“The outlier, though, is America: just 74 per cent of US investors think ESG improves performance, which is down from 78 per cent the previous year — and 24 per cent think it harms performance. It is not entirely clear why that gap exists”

- Better stock selection boosted ESG funds, research suggests
“Avoiding exposure to fossil fuel companies, which slumped earlier this year when oil prices crashed, cannot explain all of the outperformance of funds, invested according to environmental, social and governance principles, new research suggests”

- Social impact bonds boost literacy and numeracy but can they scale?
“To their supporters, social impact bonds are a way to expand funding from the private and non-profit sectors to improve education through incentives and greater accountability. To their critics, they are a costly distraction and risk undermining approaches led by the public sector”

- Number-crunchers hope new benchmark will bring boards up to speed with ESG
“This in turn could force the C-suite to uphold ESG values as much out of self-preservation (to avert investor, employee and consumer pressure) as anything else”

- Why start-ups are more likely to dodge greenwashing label
“Yet greenwashing does exist in smaller companies, according to Hjalmar Stahlberg Nordegren, the founder of Karma, a Swedish start-up that works to reduce food waste. One reason is that the benefit of being seen to be green is big but the risk of being scrutinised is small”

- IMF urges governments to spend their way out of pandemic
“Most advanced economies need not cut public spending to restore government finances after the coronavirus pandemic, the IMF said on Wednesday, in a reversal of the advice given following the last financial crisis”

- Beijing’s first bond offer to US investors draws record demand
“Beijing sold dollar debt directly to US buyers for the first time, with a $6bn offering drawing record demand on the back of China’s economic recovery from coronavirus”

- Evergrande tumbles 17% as share placement falls short
“Shares in China Evergrande sank 17 per cent after the latest effort by the world’s most indebted property developer to shore up its balance sheet fell flat”

- Evergrande highlights risks in China’s offshore bond market
“For years China has been trying to get its banks to reduce exposure to property, get its shadow banking system under control and ensure its overly indebted firms reduce debt. But it is inconceivable that Evergrande will be allowed to implode, Lehman-style, given the effect on the banks, the macro economy, and even on social stability”

- Chinese banks are chasing Anil Ambani through the UK courts
“Once one of the world’s richest men with a fortune estimated at more than $40bn by Forbes, the Indian businessman is being pursued through the UK courts by creditors, led by Industrial and Commercial Bank of China, after last year’s collapse of his telecoms company Reliance Communications”

Thomson Reuters

- Bank of England says company disclosures on climate risks will be mandatory
  "Current rules on company disclosures to help markets price in risks from climate change will become mandatory, a senior Bank of England official said"

- Bank of England says bank buffers may need change to boost lending
  "The rules surrounding banks' risk buffers may need to change to encourage lenders to tap their capital and avoid a squeeze on credit following the coronavirus pandemic, Bank of England Deputy Governor Jon Cunliffe said"

- BoE's Bailey sees economic risks skewed 'very heavily' to downside
  "Bank of England Governor Andrew Bailey said there is a significant risk of further disappointments to UK economic growth, and that the country faced unprecedented uncertainty as coronavirus cases began to climb again"

- Rolls-Royce prices 2 billion pound equivalent bond to boost finances
  "Rolls-Royce said it had successfully priced a 2 billion pound ($2.6 billion) equivalent bond offering in three tranches, more than the 1 billion pounds it was aiming for due to strong demand from investors for the notes"

- Heathrow taps bond markets, eyes further cost cuts to weather COVID-19
  "Britain's Heathrow Airport said it raised 1.4 billion pounds ($1.82 billion) from the bond markets to strengthen its financial position as the pandemic continues to suppress travel demand, and warned it could need to cut costs further"

- UK group action against Clydesdale, Australia's NAB heads to High Court
  "Almost 370 businesses have joined a group action suing Clydesdale Bank VMUK.L and its former owner National Australia Bank NAB.AX in a dispute over small business loans that is set for its first day in London's High Court in December"

- Barclays, Staveley spar in final lap of London trial
  "A bitter High Court clash between Barclays BARC.L and British businesswoman Amanda Staveley, over whether she was deceived while negotiating a financial lifeline for the bank at the height of the credit crisis, draws to a close"

- EU to use bond auctions to sell debt for 800-billion-euro recovery fund
  "The European Commission will use bond auctions to sell some of the debt to back its coronavirus recovery fund, the commissioner for budget and administration said"

- EU extends leniency towards COVID-19 support deep into 2021
  "The European Commission said on Tuesday it was extending deep into 2021 its more flexible approach towards state aid and recapitalisation to support companies struggling due to coronavirus restrictions"

- How and when will EU countries get their recovery money?
  "European Union countries will jointly borrow and then spend 750 billion euros ($880 billion) over the next three years to lift the economy out of the deepest recession in the history of the bloc, caused by the COVID-19 pandemic"

- Spain sees risk in possible delay of EU rescue funds, would issue debt
  "The Spanish government would issue debt to compensate for any potential delay in the approval and disbursement of EU rescue funds, which represent a risk for the economic recovery, Economy Minister Nadia Calvino told reporters"

- France plans $23 billion state-backed scheme to avert company failures
  "France plans to raise 20 billion euros ($23 billion) in quasi-equity loans for small firms hit by the coronavirus crisis by offering investors a state guarantee against the first 2 billion euros in losses, officials said"

- France's Renault draws down part of state-backed loan
  "French carmaker Renault RENA.PA has drawn down part of a 5 billion-euro ($5.85 billion) loan guaranteed by the French government, put in place earlier this year to shore up its finances during the coronavirus crisis, its chairman said"

- France's Engie maps $2.2 billion plan for first Australian city to go carbon-neutral
  "A city in Australia's tropical north aims to be the first in the country to go carbon-neutral within 20 years, with the help of a plan worth A$3.1 billion ($2.2 billion) designed by French utility company Engie SA"

- Wall Street bank trading boom does little to assuage concerns about lending
  "As Wall Street banks reported quarterly results this week, investors wondered about the staying power of the trading bonanza that has floated profits, offsetting problems in traditional lending businesses that have been hurt by the pandemic"

- BofA says better equipped to handle recession as loan loss provisions shrink
  "Bank of America Corp executives on Wednesday joined the chorus of U.S. bank officials predicting an economic recovery would improve business in the quarters ahead, after lower interest rates fueled a miss on third-quarter revenue"

- Unilever, JP Morgan entered into $500 million corporate swap linked to new SOFR benchmark
  "Unilever ULVR.L and J.P. Morgan JPM.N entered into a $500 million interest rate swap agreement at the end of September using the new SOFR benchmark interest rate, in one of the first major long-dated corporate SOFR swap transactions, according to the U.S. bank"

- Column: ESG thrives in pandemic but amplifies growth-value split
  "The scramble for funds screened for Environmental, Social and Governance scores appears to be paying off in the strange pandemic-hit world of 2020 - but it may also be aggravating long-standing market skews"

- Sustainable funds offer downside protection, investors say
  "Using environmental, social or governance (ESG) factors to judge securities can offer protection against losses, helping drive the growth of the sector, several large investors said"

- 'Blue wave' U.S. election expectations trigger green stocks frenzy
  "Growing expectations of a strong Democratic victory in U.S. elections have prompted investors to snap up renewable energy stocks, amplifying a recent rush seen after the European Union's fiscal splurge earmarked for green investments"

- Column: How the market learned to stop worrying and love the blue wave - Mike Dolan
  "A narrow and disputed election result has been one of the main investor fears for months"

- U.S. activists seek data to test corporate diversity pledges
  "More data disclosure will help investors, employees and customers judge the pledges many American companies have made to diversify their workforces and boardrooms, activists and analysts said"

- Investor Ubben warns more stocks vulnerable to social, environmental selling
  "Jeffrey Ubben, the former activist turned ethical investor, said on Tuesday that environmental, social and governance concerns will increasingly hit companies' stock prices, just as climate change hurt oil and gas companies' shares"

- Analysis: Investment strategy based on reducing risk faces its own challenge
  "A fund trading strategy that tracks hundreds of billions of dollars in assets and often gets blamed for exacerbating market selloffs is facing a challenge from the policy response to the pandemic. But fund managers said they are adapting, and new money is flowing in"

- Latin American borrowers dial up sustainability efforts
  "Latin America's largest corporate borrowers are doubling down on their commitment to sustainable finance, tying new bank loans to key performance indicators that ensure companies adhere to more transparent environmental, social and governance (ESG) metrics"

- U.S. judge rules PDVSA's 2020 bonds are valid, Citgo still protected
  "A U.S. judge on Friday ruled that Venezuelan state oil company Petroleos de Venezuela's [PDVSA.UL] 2020 bonds are valid and enforceable, a court document showed, in a setback for opposition leader Juan Guaido"

- Saudi Aramco and BlackRock, others, discussing deal worth over $10 billion – sources
  "Saudi Aramco 2222.SE is in talks with BlackRock BLK.N and other investors on a planned deal worth over $10 billion to sell a stake in its pipeline business, sources said"

Regulators & Associations Monitored

1. FCA
2. BoE
3. The Pensions Regulator
4. FRC
5. ESMA
6. EBA
7. EIOPA
8. ECB
9. European Commission
10. BCBS
11. Autorité des Marchés Financiers (AMF) of France
12. CSSF
13. FINMA
14. CBI
15. ICMA
16. IOSCO
17. FSB

Important Information: