ELFA *Updates*

ELFA Legal & Regulatory Update
19/10/2020 – 23/10/2020

Key Highlights:

- This Legal & Regulatory Update covers the week commencing **19/10/2020**.
- HM Treasury publishes consultation paper relating to Phase II of its Future Regulatory Framework (FRF) Review.
- UK Government introduces Financial Services Bill to Parliament.
- BoE and CFTC sign new MOU for supervision of cross-border clearing organisations.
- PRA publishes consultation paper 17/20 “Capital Requirements Directive V (CRD V): further implementation”.
- BoE signs up to ISDA’s IBOR Fallbacks Protocol.
- FCA welcomes Financial Services Bill.
- FRC issues three sets of amendments to UK and Ireland accounting and reporting standards.
- FRC launches consultation on revised auditing standard for auditor’s responsibilities relating to fraud.
- FRC publishes its Annual Review of Corporate Reporting revealing where company reporting needs to improve.
- ESMA consults on standards for CCP activities and model amendments.
- ESMA consults on CCP supervisory reviews and evaluation processes.
- ESMA’s Chair, Steven Maijoor, delivers speech on how retail investors and asset management are pillars of successful Capital Markets Union.
- EIOPA publishes third annual European Insurance Overview.
- EBA issues opinion on measures to address macroprudential risk following notification by Finansinspektionen.
- EBA issues opinion to address possible infection risk stemming from legacy instruments.
- ESRB publishes EU Non-bank Financial Intermediation Risk Monitor 2020.
- Council of the EU agrees its position on Capital Markets Recovery Package.
- European Commission adopts its 2021 work programme affirming key regulatory developments.
- European Commission launches public consultation on EU rules for long-term investment funds (ELTIF).
- European Commission issues first emission of EU SURE social bonds.
- European Commission consults on AIFMD review.
- CBI publishes outcome of thematic review of fund management companies.
- FSB encourages use of cyber incident response and recovery toolkit.
- In this update, we also cover some of the most important news on leveraged finance published by the Financial Times & Thomson Reuters during the week.

UK Government

19 October 2020: HM Treasury publishes consultation paper relating to Phase II of its Future Regulatory Framework (FRF) Review

HM Treasury published a consultation paper relating to Phase II of its Future Regulatory Framework (FRF) Review, which considers how the regulatory framework for financial services needs to adapt to be fit for the future, in particular to reflect the UK’s new position outside of the EU. In doing so, the key aim is to achieve an agile and coherent approach to financial services regulation in the UK, with appropriate democratic policy input to support a stable, innovative and world leading financial services sector. This consultation will therefore propose a blueprint for the future regulatory framework which builds on the strengths of the FSMA model.

This blueprint, which is referred to in this consultation as the post-EU framework proposal, has the following key features:

- a clear allocation of responsibilities between Parliament, HM Treasury and the financial services regulators;
- Government and Parliament will be responsible for setting the policy framework for financial services regulation;

- the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) will be responsible for designing and implementing the regulatory standards that apply to financial services firms and markets using their existing rule-making powers in FSMA;
- the PRA and FCA will be subject to enhanced transparency requirements obliging them to explain how they have had regard to the public policy issues set out by Parliament in activity-specific policy framework legislation; and
- the cooperation and coordination arrangements that exist between HM Treasury and the financial services regulators will include more systematic consultation between these institutions at an early stage in the policymaking process.

The consultation will remain open for three months, closing on 19 January 2021.

21 October 2020: UK Government introduces Financial Services Bill to Parliament

The UK Government announced that it has introduced the Financial Services Bill to Parliament. The Bill is designed to ensure the UK's world-leading financial services sector continues to thrive and grasp new opportunities on the global stage. The Financial Services Bill is an important first step for the UK to take responsibility of its financial services regulation, ensuring that the UK maintains the highest regulatory standards and remains an open and dynamic global financial centre.

The measures in the Bill will:

- enhance the UK's world-leading prudential standards and promote financial stability by enabling the implementation of the remaining Basel III standards and a new prudential regime for investment firms, and giving the Financial Conduct Authority the powers it needs to oversee an orderly transition away from the LIBOR benchmark;
- promote openness between the UK and international markets by simplifying the process to market overseas investment funds in the UK and delivering a Ministerial commitment to provide long-term access between the UK and Gibraltar for financial services firms; and
- maintain an effective financial services regulatory framework and sound capital markets with a number of smaller measures, including measures to improve the functioning of the Packaged Retail and Insurance-based Investment Products Regulation and increase penalties for market abuse.

Following its introduction to Parliament, the Bill will be subject to the usual processes of legislative scrutiny in both the House of Commons and the House of Lords. Once both Houses of Parliament have agreed, it will move forwards to receive Royal Assent at which point the Bill will become law. The timing of the Bill's progression through Parliament is subject to parliamentary scheduling.

Bank of England (BoE)

20 October 2020: BoE and CFTC sign new MOU for supervision of cross-border clearing organisations

The Bank of England (BoE) and the Commodity Futures Trading Commission (CFTC) announced that they have signed an updated Memorandum of Understanding (MOU) regarding cooperation and the exchange of information in the supervision and oversight of clearing organizations that operate on a cross-border basis in the United States and in the United Kingdom. The MOU strengthens the relationship between the regulators responsible for the resilience of the largest and most important derivatives markets and central counterparties (CCPs) in the world.

20 October 2020: PRA publishes consultation paper 17/20 "Capital Requirements Directive V (CRD V): further implementation"

The Prudential Regulation Authority (PRA) published Consultation Paper 17/20, which sets out proposed changes to the PRA's rules, supervisory statements (SS) and statements of policy (SoP) to implement elements of the Capital Requirements Directive V (CRD V). It also proposes to update aspects of the UK framework as a result of amendments to the Capital Requirements Regulation (CRR, as amended in CRR II), which apply during the EU Exit Transition Period. This CP is relevant to banks, building societies, PRA-designated investment firms, UK financial holding companies, and UK mixed financial holding companies of certain PRA-authorised firms.

The CRD V measures covered by this CP include:

- a new requirement for the approval and supervision of certain holding companies;
- measures to enhance supervisory requirements to measure, monitor, and control interest rate risk in the banking book;
- measures revising the framework for applying capital buffers;
- amendments to the definition of the maximum distributable amount that constrains a firm's distributions when it uses its capital buffers; and
- clarifying the quality of capital required to meet Pillar 2 requirements.

The CRR measures covered comprise adjustments to:

- the process through which variable capital requirements may be applied to firms' real estate exposures (and the public authority responsible for applying it); and
- the methods that may be used for the purposes of prudential consolidation.

This consultation closes on Tuesday 17 November 2020. Please note that this is a shortened consultation period, which is necessary to meet the transposition date for CRD V (Monday 28 December 2020).

23 October 2020: BoE signs up to ISDA's IBOR Fallbacks Protocol

The BoE signed up to the International Swaps and Derivatives Association's (ISDA) 'IBOR Fallbacks Protocol'. This will apply both to transactions the Bank undertakes on its own behalf, and those it enters into as an agent for HM Treasury and other entities. ISDA's Protocol provides an efficient mechanism for market participants to amend existing derivative contracts based on LIBOR and a range of other benchmarks to include fallback language. This new fallback language has been developed by ISDA at the request of the Financial Stability Board (FSB), working with a wide range of market participants and international authorities, and the FSB has strongly encouraged its widespread adoption. As the FSB has observed, any market participants who choose not to do so for some or all of their relevant trades will need to take robust alternative steps, such as closing out these positions or appropriate bilateral amendments, to avoid the risk of disruption.

19 – 23 October 2020: Speeches, Letters & Publications

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

- Bank of England Weekly Report 21 October 2020
- PRA issues final notice to Goldman Sachs International – the PRA imposed a financial penalty on Goldman Sachs International (GSI) of £48,308,400 for risk management failures connected to 1Malaysia Development Berhad (1MDB) and its role in three fund raising transactions for 1MDB. The PRA fine is part of a US$2.9 billion globally coordinated resolution reached with The Goldman Sachs Group Inc. (GSG) and its subsidiaries
- Predicting Covid-19's impact on GDP: how can high-frequency data help us? – Bank Overground
- Assessing the health of the economy – Speech by Gertjan Vlieghe
- The monetary policy toolbox in the UK – Speech by Dave Ramsden
- 1st Joint Bank of England, Banque de France, IMF and OECD Workshop on International Capital Flows and Financial Policies – Workshop

Financial Conduct Authority (FCA)

21 October 2020: FCA welcomes Financial Services Bill

The Financial Conduct Authority (FCA) released a statement welcoming the Financial Services Bill (Discussed above) introduced in Parliament. This Bill amends the Benchmarks Regulation, which is intended to help manage and direct an orderly wind-down of critical benchmarks such as LIBOR.

The Bill also includes a number of areas of interest to the FCA, including:

- the prudential regulation of investment firms (measures relating to the Investment Firms Prudential Review);
- a new route for overseas funds to market to retail investors through the introduction of a new Overseas Funds Regime; and
- a new framework for the FCA's regulatory relationship with Gibraltar.

19 – 23 October 2020: Speeches, Letters & Other Publications

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

- FCA and PRA fine Goldman Sachs International £96.6m for risk management failures in connection with 1MDB – the FCA and the Prudential Regulation Authority (PRA) have fined Goldman Sachs International (GSI) a total of £96.6 million (US$126 million) for risk management failures connected to 1Malaysia Development Berhad (1MDB) and its role in three fund raising transactions for 1MDB. The FCA and PRA fines are part of a US$2.9 billion globally coordinated resolution reached with the Goldman Sachs Group Inc. (GSG) and its subsidiaries
- FCA writes joint letter on Brexit with the Bank to CEOs of insurance firms and updates its website for all firms – jointly with the BoE, the FCA wrote a letter to CEOs of insurance firms on the importance of being prepared for the end of the transition period, in order to minimise disruption and ensure market stability

- FCA writes letter to the TSC on passive servicing issues after the transition period – the FCA's Chief Executive, Nikhil Rathi, wrote a letter on 9 October to Rt Hon. Mel Stride MP, Chair of the Treasury Select Committee, about UK bank closures of the current accounts of customers living in the EU after the EU withdrawal transition period
- FCA confirms measures to support closed book and interest-only/part-and-part mortgage borrowers – the FCA has confirmed the introduction of measures to support some closed book mortgage borrowers, some of whom may be mortgage prisoners
- FCA highlights continued support for consumers struggling with payments – the FCA urged consumers struggling to make repayments due to the impact of coronavirus (Covid-19), to speak to their lenders about options available to them. The FCA has put in place a package of support for people in difficulty to ensure help is available after 31 October 2020
- Occasional Paper No. 58: Understanding consumer financial wellbeing through banking data – in this paper, the FCA analysis survey responses and their personal banking data to better understand consumer financial wellbeing
- FCA Handbook Notice 81 – this Handbook Notice describes the changes to FCA Handbook and other materials made by the FCA boar under legislative and other statutory powers

Financial Reporting Council (FRC)

19 October 2020: FRC issues three sets of amendments to UK and Ireland accounting and reporting standards

The Financial Reporting Council (FRC) issued three sets of amendments to UK and Ireland accounting and reporting standards. The amendments address some topical issues and maintain a necessary alignment with international standards. The amendments are:

- Amendment to FRS 101: Effective date of IFRS 17 – which changes the effective date of an amendment to the definition of a qualifying entity, effectively allowing relevant insurers to continue to apply FRS 101 for a further two years. The revised effective date for the new definition of a qualifying entity is accounting periods beginning on or after 1 January 2023;
- Amendments to FRS 102 and FRS 105: COVID-19-related rent concessions – which sets clear requirements for recognising changes in operating lease payments arising from COVID-19-related rent concessions on a systematic basis over the periods the change in lease payments is intended to compensate. These amendments are effective for accounting periods beginning on or after 1 January 2020, with early application permitted; and
- Amendments to FRS 104: Going concern – which clarifies and enhances requirements relating to the going concern basis of accounting in respect of interim financial reports. These amendments are effective for interim periods beginning on or after 1 January 2021, with early application permitted.

20 October 2020: FRC launches consultation on revised auditing standard for auditor's responsibilities relating to fraud

The FRC launched a consultation on the proposed revision of its UK auditing standard ISA (UK) 240 (Updated January 2020) 'The Auditor's responsibilities Relating to Fraud in an Audit of Financial Statements'. ISA (UK) 240 contains a significant number of requirements designed to assist the auditor in identifying and assessing the risks of material misstatement due to fraud and in designing procedures to detect such misstatement. However, concerns have been raised that auditors are not doing enough work to detect material fraud, including by Sir Donald Brydon in his review of the quality and effectiveness of audit. As described in the consultation paper, the FRC is proposing revisions to address these concerns. These include providing increased clarity as to the auditor's obligations together with enhancements to the requirements for the identification and assessment of risk of material misstatement due to fraud and the procedures to respond to those risks.

When finalised, the revised UK standard is proposed to be effective for audits of periods commencing on or after 15 December 2021 with early adoption permitted. This is the same effective date as for ISA (UK) 315 (Revised July 2020) 'Identifying and Assessing the Risks of Material Misstatement' - and will enable firms to address both revised standards in a single update of their procedures rather two separate updates within a relatively short period of time. The consultation runs until 29 January 2021.

21 October 2020: FRC publishes its Annual Review of Corporate Reporting revealing where company reporting needs to improve

The FRC published its Annual Review of Corporate Reporting, which reveals the FRC's top ten areas where improvements to reporting quality are needed so users of accounts have a clearer understanding of company performance and position. According to the review, in the last year, the FRC reviewed 216 accounts and wrote to 96 companies with substantive questions about their reports. Fourteen companies were required to restate their accounts in instances where significant non-compliance occurred. The frequency of restatements relating to cash flow statements remains a concern. Ahead of the 2020/21 reporting cycle, preparers will face additional demands to produce high-quality reports against the backdrop of the Covid-19 pandemic and increased economic uncertainty. However, the key considerations for companies when preparing their report and accounts, such as clarity, consistency, relevance and transparency, remain. The FRC also expects disclosure of forward-looking information that is specific to the entity and which provides insights into the board's assessment of business prospects and the methods and assumptions underlying that assessment. The FRC's upcoming monitoring of annual reports will focus on disclosures addressing risk, judgement and uncertainty in the face of the ongoing impact of Covid-19; the UK's exit from the European Union and climate-related risks.

19 – 23 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:

- FRC Board Minutes 1 July 2020
- 2020 Annual Review of Corporate Reporting Highlights

The Pensions Regulator (TPR)

19 – 23 October 2020: Speeches, Letters & Other Publications

During the week, The Pensions Regulator (TPR) released the following publications & and announcements that might be of interest to our readers:

- TPR publishes new Guidance for trustees and employers considering a DB superfund – the guidance explains that trustees and employers must carefully consider their options, and it is designed to help them understand and meet the regulator's expectations in considering a transfer

European Securities and Markets Authority (ESMA)

23 October 2020: ESMA consults on standards for CCP activities and model amendments

The European Securities and Markets Authority (ESMA) launched a consultation on draft Regulatory Technical Standards (RTS) related to changes to central counterparties' (CCPs) activities and models. Specifically, the RTS relate to the conditions for a CCP to add new additional services or activities to its business, that are not already covered by the initial authorisation. The RTS also set out the conditions under which changes to CCP models and parameters are significant under EMIR. The closing date for responses is 16 November 2020. ESMA will consider the responses to this consultation and will publish the final report in Q1 2021 with a view to submitting draft technical standards to the European Commission for endorsement.

23 October 2020: ESMA consults on CCP supervisory reviews and evaluation processes

ESMA launched a consultation on guidelines addressing the consistency of supervisory reviews and evaluation processes of CCPs under Article 21 of EMIR. The consultation paper seeks input from all interested stakeholders on draft guidelines aimed at clarifying common procedures and methodologies for the supervisory review and evaluation process of CCPs by their competent authorities. The closing date for responses is 16 November 2020. ESMA will consider the feedback it receives to the consultation and aims to finalise the guidelines by Q1 2021.

19 – 23 October 2020: Speeches, Letters & Other Publications

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

- ESMA publishes Newsletter N°17 – this is the 17th edition of the newsletter. In September, ESMA appointed its CCP Supervisory Committee staff, published the TRV and reviewed the Market Abuse Regulation. In this edition, ESMA also takes a look at its full list of ESMA staff external appearances taking place in October and finally catches up on the latest publications
- Steven Maijoor, Chair of ESMA delivers keynote at Irish Funds Annual Global Funds online conference – in his speech, Mr Maijoor focused on how retail investors and asset management are the pillars of a successful Capital Markets Union (CMU). The speech addresses topics such as investor protection and transparency, financial literacy and the role of pensions in the CMU

European Insurance and Occupational Pensions Authority (EIOPA)

21 October 2020: EIOPA publishes third annual European Insurance Overview

The European Insurance and Occupational Pensions Authority (EIOPA) published its third annual European Insurance Overview. The European Insurance Overview report is published by EIOPA as an extension of its statistical services in order to provide an easy-to-use and accessible overview of the European insurance sector. The report is based on annually reported Solvency II information. This ensures that the data has a high coverage in all countries and is reported in a consistent manner across the European Economic Area. The report is objective, factual and data driven and does not contain analysis or policy messages. It provides highly-relevant and easily-accessible data at the European level.

19 – 23 October 2020: Speeches, Letters & Other Publications

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

- EIOPA launches program of targeted training on insurance supervision for 17 national competent authorities – the training will enhance supervisory capacity of insurance national competent authorities to reinforce high-quality and effective supervision, the protection of policyholders and beneficiaries and financial stability. The training will help to promote a common supervisory culture and enable experts and supervisors in national authorities to implement the necessary practices and tools to supervise the compliance with Solvency II requirement. The training is carried out in the context of EU technical support coordinated by the Directorate-General for Structural Reform Support (DG REFORM)

European Banking Authority (EBA)

19 October 2020: EBA issues opinion on measures to address macroprudential risk following notification by Finansinspektionen

The European Banking Authority (EBA) published an Opinion following the notification by Finansinspektionen, the Swedish Financial Supervisory Authority (FSA), of its intention to extend a measure introduced in 2018, which aims at enhancing the resilience of Swedish banks to potential severe downward corrections in residential real estate markets. Based on the evidence submitted, the EBA does not object to the extension of such measure, which Finansinspektionen intends to apply to credit institutions that have adopted the Internal Rating-Based (IRB) Approach. The extension will be applied from 31 December 2020 until 30 December 2021. With the extension of the proposed measure, Swedish institutions adopting the IRB approach would be subject to a minimum level of 25% risk weight on Swedish retail loans secured by real estate. This risk weight floor will act as a backstop to ensure that these credit institutions fully capture the risk of credit losses stemming from a severe downward correction in real estate markets.

21 October 2020: EBA issues opinion to address possible infection risk stemming from legacy instruments

The EBA issued an Opinion to clarify the prudential treatment of the so-called 'legacy instruments" in view of the end of the grandfathering period on 31 December 2021. In its Opinion, the EBA proposes policy options to address the infection risk when created by such instruments. The EBA's recommendations aim at ensuring a high quality of capital for EU institutions and a consistent application of rules and practices across the Union. When reviewing EU institutions' legacy instruments and examining the clauses that led to their grandfathering, the EBA identified two main issues, which could create the so-called infection risk, i.e. the risk that other layers of own funds or eligible liabilities instruments are disqualified. The first issue relates to the flexibility of distribution payments principle, while the second one regards clauses that might contradict the eligibility criterion of subordination. Legacy instruments will need to be subject to different tests to be cascaded down into a lower category of capital or as eligible liabilities instruments without creating an infection risk.

To address the infection risk and preserve the quality of regulatory capital, the EBA, in its Opinion, envisaged two main options. Institutions can either call, redeem, repurchase or buy-back the relevant instrument or, alternatively, amend its terms and conditions. In a limited number of cases, where institutions could demonstrate to their competent authorities that neither of these two options can be pursued, and taking into account all the relevant circumstances, the EBA also considered a third and last resort option. This option would allow institutions to keep the legacy instrument in their balance sheet while it would be excluded from regulatory own funds and TLAC / MREL eligible instruments. The EBA will continue to monitor the situation of the legacy instruments until the end of the grandfathering period and will place particular focus on the use of the proposed options across jurisdictions with a view to ensuring a consistent application. In addition, the EBA will consider the transposition of specific provisions of Directive 2014/59/EU into national legislation and how this might alleviate concerns about the existence of infection risk linked to subordination aspects.

European Central Bank (ECB)

19 – 23 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:

- ECB enhances internal whistleblowing framework – ECB announced an enhanced internal whistleblowing framework to protect the integrity of the institution. It encompasses a new internal tool for simple and secure reporting of potential breaches of professional duties, inappropriate behaviour or other irregularities, and the possibility for whistle-blowers and witnesses to request protection from retaliation. The new IT tool also allows for anonymous reporting
- Consolidated financial statement of the Eurosystem
- Euro area monthly balance of payments: August 2020
- The ECB's monetary policy amid the pandemic – Introductory remarks by Yves Mersch at the MNI Connect Roundtable
- On the edge of a new frontier: European payments in the digital age – Keynote speech by Fabio Panetta at the ECB Conference "A new horizon for pan-European payments and digital euro"
- Are banks Cyber-proof in the digital world? – Speech by Pentti Hakkarainen at the European Banking Federation's online conference on "Cyber security and resilience: the basis of it all in digital innovation"
- International flows and the pandemic: evidence from the euro area – Presentation by Philip R. Lane at the 1st Joint Workshop of Bank of England, Banque de France, IMF and OECD
- Financial regulation in 2020: trends in the EU and global patterns – Presentation by Edouard Fernandez-Bollo at the Mazars-OMFIF virtual panel
- Loukas Karabarbounis's contribution to research on the interaction between labour and capital market imperfections and macroeconomic outcomes – Remarks by Luis de Guindos on the occasion of the award of the Bernácer Prize to Professor Loukas Karabarbounis
- Don't take it for granted: the value of high-quality data and statistics for the ECB's policymaking – Blog by Isabel Schnabel
- Macroprudential capital buffers: objectives and usability – Macroprudential Bulletin
- Buffer use and lending impact – Macroprudential Bulletin
- Financial market pressure as an impediment to the usability of regulatory capital buffers – Macroprudential Bulletin
- Enhancing macroprudential space when interest rates are "low for long" – Macroprudential Bulletin
- Macroprudential policy measures – Macroprudential Bulletin
- Does a big bazooka matter? Quantitative easing policies and exchange rates – Research Bulletin NO.76
- PCCI: a data-rich measure of underlying inflation in the euro area – Statistics Paper Series
- Money markets, central bank balance sheet and regulation – Working Paper Series
- Selected Pillar 3 information of SSM Significant Institutions 2019

European Systemic Risk Board (ESRB)

21 October 2020: ESRB publishes EU Non-bank Financial Intermediation Risk Monitor 2020

The European Systemic Risk Board (ESRB) published the EU Non-bank Financial Intermediation Risk Monitor 2020 (NBFI Monitor). This is the fifth issue in an annual series that contributes to the monitoring of a part of the financial system that has grown in recent years and accounts for around 40% of the EU financial system. This issue of the NBFI Monitor focuses on data up to end-2019, but also considers market developments at the onset of the coronavirus (COVID-19) pandemic in early 2020. The latter includes the use of liquidity management tools in EU investment funds, developments in money market funds and developments in corporate bond exchange-traded funds. The NBFI Monitor also considers structural risks and vulnerabilities in the NBFI sector, as well as cyclical risks affecting the sector.

The key structural risks and vulnerabilities identified include:

- risk-taking, liquidity risk, pricing uncertainty and risks associated with leverage among some types of investment funds and other non-bank financial institutions;
- interconnectedness and the risk of contagion across sectors and within the non-bank financial sector, including domestic and cross-border linkages; and
- activities-related risks – procyclicality, leverage, and liquidity risk – created through the use of derivatives and securities financing transactions.

Council of the European Union (Council)

21 October 2020: Council of the EU agrees its position on Capital Markets Recovery Package

The Council of the European Union (Council) adopted measures to make it easier for capital markets to support economic recovery from the COVID-19 crisis. Member states' ambassadors to the EU agreed the Council's position on the Capital Markets Recovery Package, which contains targeted amendments to the EU capital market rules to help EU companies raise capital on public markets, support the lending capacity of banks and boost investment in the real economy. The European Commission presented the package at the end of July; it was subsequently taken forward by the presidency as a key priority dossier in the Council. The Council explained that it lends its full political support to the Commission's package. The amendments proposed focus on the Markets in financial instruments directive (MiFID) II, the Prospectus Regulation and the securitisation framework laid down in the Securitisation Regulation and the Capital Requirements Regulation.

Firstly, the package introduces adjustments to the MiFID II requirements. The Commission proposed a number of amendments to the MiFID II rules to simplify information requirements and address the needs of the commodity derivatives market. The new rules will reduce the level of information that will have to be provided to professional investors such as institutional investors and banks, and, in some limited cases, to retail investors. This includes the phase-out of paper-based information, unless retail clients ask to receive it. The Council will also exempt non-complex ('plain vanilla') bonds sold to both retail and professional investors from certain product governance-related information requirements under certain conditions. It supports the Commission's proposal to suspend best-execution reports by trading venues (the so-called 'RTS 27') in order to free up resources. In addition, the Council is fine-tuning changes to the MiFID rules aimed at supporting the growth of euro-denominated derivatives markets.

Secondly, one of the key changes is the introduction of an 'EU Recovery Prospectus' - a shorter prospectus which companies with a track record in the public market could use for disclosing information to their investors when they issue shares and bonds. This new type of prospectus will make it easier for companies to issue capital and thus meet their funding needs. In its position, the Council expanded the minimum information to be included in the EU Recovery Prospectus compared to the Commission's proposal, to ensure better investor protection. The Council also introduces a cap on its use to avoid highly dilutive issuances, while ensuring that it may be used as a basis for meaningful capital increases. The EU Recovery Prospectus should thus be limited to offers equivalent to no more than 90% of outstanding capital, expressed as the ratio between the number of shares offered and the total number of shares before the issuance. In the context of COVID-19, the Council also proposed to amend the so-called Transparency Directive, to provide member states with the option to postpone, by one year, the requirement for listed companies to prepare all annual financial reports in a European Single Electronic reporting Format (ESEF) for financial years beginning on or after 1 January 2020. This may free up companies' resources for more urgent needs.

Finally, other proposals included in the Capital Markets Recovery Package aim to facilitate the use of securitisation to support banks in maintaining their capacity to fund the recovery. The proposed amendments extend the existing EU framework for simple, transparent and standardised (STS) securitisations to synthetic securitisations. In addition, regulatory obstacles to the securitisation of non-performing exposures (NPEs) will be removed to support banks in offloading NPEs from their balance sheets in the context of the COVID-19 crisis, while maintaining high prudential standards. The Council also suggests complementing the Commission's proposals with a dedicated prudential treatment for synthetic excess spread (SES) in the Capital Requirements Regulation. SES is a credit enhancement tool and a common feature in synthetic securitisation transactions, which, however, could be misused as a regulatory arbitrage tool. The introduction of dedicated and comprehensive regulatory capital requirements for SES addresses the risk of a potential misuse of SES for arbitrage purposes for all synthetic securitisation transactions, irrespectively of whether they meet the STS criteria or not.

On the basis of this negotiating mandate, the presidency will start negotiations with the European Parliament as soon as the Parliament has adopted its position.

European Commission (EC)

19 October 2020: European Commission adopts its 2021 work programme affirming key regulatory developments

The European Commission (EC) adopted its 2021 work programme. The programme affirms the following key regulatory developments:

- in relation to the Capital Markets Union and Banking Union, the EC will revise the framework for handling EU bank failures, take measures to boost cross-border investment in the EU and step up the fight against money laundering;

- legislation on sustainable corporate governance will be proposed to foster long-term sustainable and responsible corporate behaviour; and
- the EC will continue progress on sustainable financing, notably by proposing to establish an EU green bond standard.

19 October 2020: European Commission launches public consultation on EU rules for long-term investment funds (ELTIF).

The EC launched a public consultation on the EU rules for long-term investment funds. The European long-term investment funds (ELTIFs) is an EU scheme to facilitate investment – through alternative investment funds – in longer-term assets such as transport and social infrastructure projects (energy, hospitals, social housing), property and small firms. The overall objective of the consultation is to evaluate the effectiveness of the ELTIF framework and identify the reasons for the market's failure to develop in line with expectations. This review will analyse how well ELTIF is working, and in particular how it is contributing to:

- the integration of capital markets in Europe (Capital Markets Union); and
- the EU's goal of smart, sustainable and inclusive growth.

By reviewing the legal and policy elements of the ELTIF framework, the Commission aims to enhance attractiveness of the ELTIF legal framework for long-term investment projects, increase the number of ELTIF funds and overall investment in the real economy. In June 2020, the High Level Forum on the Capital Markets Union (HLF) made a set of specific recommendations calling for a review of the ELTIF Regulation broadening the scope of eligible assets and reducing potential barriers to investment. The Commission is currently assessing the HLF's recommendations as part of the ELTIF review and the CMU action plan.

While responding to the consultation, two principles should be kept in mind. First, the review of regulatory issues in the ELTIF regime should not undermine the effectiveness of its investor protection safeguards. Second, while the focus of this public consultation is on the evaluation and the intended improvement of the ELTIF regime, this public consultation will also take into account the parallel consultations and/or review processes, irrespective of the timing, of the other EU financial acquis, such as that of the AIFMD and the MiFID II/MiFIR. The consultation is open until 19 January 20201.

21 October 2020: European Commission issues first emission of EU SURE social bonds

The EC issued a €17 billion inaugural social bond under the EU SURE instrument to help protect jobs and keep people in work. The issuing consisted of two bonds, with €10 billion due for repayment in October 2030 and €7 billion due for repayment in 2040. There was very strong investor interest in this highly rated instrument, and the bonds were more than 13 times oversubscribed, resulting in favourable pricing terms for both bonds.

22 October 2020: European Commission consults on AIFMD review

The EC launched a public consultation on the review of the Alternative Investment Fund Managers Directive (AIFMD). The public consultation follows the European Commission's Review Report, which was sent to the European Parliament and the Council on 10 June 2020. The review report concluded that, while the AIFMD has contributed to the creation of an EU market for alternative investment funds (AIFs), and provided a high level of protection to investors, a number of areas should be improved. The review report does not include any concrete proposals. Instead, it refers to the 2019 Report on the operation of the AIFMD and to a range of other initiatives. Given the European Commission's ongoing efforts to develop the capital markets union (CMU), this consultation seeks the views of stakeholders on how to achieve a more effective and efficient functioning of the EU AIF market as part of the overall financial system.

The consultation is structured as following:

- this public consultation focuses on improving the utility of the AIFM passport and the overall competitiveness of the EU AIF industry. The questions in the section on authorisation / scope seek views from stakeholders on the scope of the AIFM licence, its potential extension to smaller AIFMs and level playing field concerns in relation to the regulation of other financial intermediaries, like MiFID firms, credit institutions or UCITS managers that provide similar services;
- the investor protection section raises questions on investor access that take into account the differences between retail and professional investors;
- the issue of a level playing field is also covered in the section dedicated to international issues. Views are sought on how best to achieve the equitable treatment of non-EU AIFs 4 and securing a wider choice of AIFs for investors while at the same time ensuring that EU AIFMs are not exposed to unfair competition or are otherwise disadvantaged;

- the section dedicated to financial stability seeks stakeholder views on how to ensure NCAs and AIFMs have the tools necessary to effectively mitigate and deal with systemic risks. The consultation suggests the potential for more centralised supervisory reporting and improved information sharing among the relevant supervisors;
- the rules on investment in private companies are examined with a view to potential improvements and comments are sought on the effectiveness of the current rules and their potential enhancement;
- the sustainability related section seeks input on how the alternative investment sector can participate effectively in the areas of responsible investing and the preservation of our planet;
- questions are posed as regards the treatment of UCITS, particularly where a more coherent approach may be warranted. This includes the question of a single licence for AIF and UCITS managers, harmonised metrics for leverage calculation and reporting on the use of liquidity management tools; and
- finally, stakeholders are welcome to raise other AIFMD related issues and submit proposals on how to otherwise improve the AIFMD legal framework with regard to any issues not directly addressed in the consultation.

This public consultation aims to gather views from all interested parties, in particular collective investment fund managers and investment firms, AIF distributors, industry representatives, investors and investor protection associations. The consultation will be open for fourteen weeks until 29 January 2021.

19 – 23 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:

- Questions and Answers on the first emission of EU SURE social bonds
- Latest Eurobarometer survey (July-August): Economic situation is EU citizens' top concern in light of the coronavirus pandemic – Survey
- Statement by Commissioner Hahn at the press conference on the first issuance of EU social bonds under SURE – Statement
- Statement by the European Commission following the fourth meeting of the EU-UK Joint Committee – Statement
- Speech by President von der Leyen at the closing session of the EU Green Week 2020 – Speech

Central Bank of Ireland (CBI)

20 October 2020: CBI publishes outcome of thematic review of fund management companies

The Central Bank of Ireland (CBI) published the outcome of a thematic review of the implementation of its framework for governance, management and oversight in fund management companies (FMCs). The framework was introduced in 2017 for new firms and in 2018 for existing firms. It includes detailed requirements on organisational effectiveness, the performance of managerial functions, delegate oversight, and resourcing. It is key to protecting investors, ensuring the integrity of the market, and promoting systemic stability. The review found that when applied correctly by firms, the rules and guidance provide a framework of robust governance and oversight arrangements.

Some of the key issues identified in the review related to:

- resourcing: a large number of FMCs authorised before the framework have not appropriately increased resources to ensure effective implementation of the framework. The Central Bank expects that the number of FTE should reflect the nature, scale and complexity of the firm and must ensure that sufficient resources are in place;
- designated persons: significant shortcomings were also identified in relation to how some Designated Persons discharged their roles;
- delegate oversight: some firms were unable to evidence that they had carried out the appropriate level of due diligence on their delegates. Not all could demonstrate that they had reviewed and approved delegate / group policies and procedures as being fit for purpose when applied to the firm;
- risk management framework: deficiencies were identified for a significant number of FMCs, with many firms not having an entity-specific risk management framework, no entity-specific risk register, and/or no defined risk appetite in place;
- board approval of new funds: not all FMCs could evidence approval by the Board of the launch of sub-funds. The Central Bank expects evidence of robust discussion and challenge by the Board in relation to proposed new fund strategies / structures and their attendant risks;
- organisational effectiveness director: in many cases, the Organisational Effectiveness Director could not evidence that meetings were conducted and no formal records were kept of meetings

with Designated Persons. An absence of formal reporting to the Board was also identified, particularly in the area of resource evaluation; and
- gender balance: the review found a significant gender imbalance on the Boards of FMCs, with only 16% of Director roles held by women.

The CBI has commenced supervisory engagement with those FMCs where specific concerns have been identified. It is reviewing some of the more serious findings and will have regard to the full suite of tools available under the Central Bank Act 1942 and the Central Bank (Supervision and Enforcement) Act 2013 to resolve the matters identified in this review. All FMCs are required to critically assess their daily operations against the requirements, while taking into account the findings of the review, and implement the necessary changes to ensure full and effective embedding of all aspects of the framework. The firm's analysis should be completed and an action plan discussed and approved by the Board by end Q1 2021.

19 – 23 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:

- Regional impact of COVID-19: Western Region & Atlantic Economic Corridor – this Economic Letter looks at the labour market impact of COVID-19 in the region
- Wage subsidies and job retention – this Economic Letter looks at how wage subsidies have supported job retention in recent months
- Introductory statement by Governor Gabriel Makhlouf at the Joint Oireachtas Committee on Finance, Public Expenditure and Reform, and Taoiseach – Introductory statement
- Solving the economic crisis will be dependent on our ability to manage the health crisis as a healthy economy needs a healthy workforce, healthy consumers and a healthy community – Speech by Gabriel Makhlouf, before the Oireachtas Committee on Finance, Public Expenditure and Reform, and Taoiseach
- Remarks at the Irish Funds Annual Global Funds Conference by Director General Derville Rowland – Remarks
- Director General Derville Rowland assesses the impact of COVID-19 on the funds, asset management and wider non-bank sector – Speech by Director General Derville Rowland at the Irish Funds Conference
- Central Bank Deputy Governor Sharon Donnery connects with Network Ireland Kildare where she discussed the Irish economic outlook, the importance of SMEs to the economy and the resilience of businesses – Webinar

Autorité des Marchés Financiers (AMF) of France

At the time of writing this report, the Autorité des Marchés Financiers' (AMF) website was undergoing a maintenance operation, which rendered it inaccessible. We will include updates from this week in our next Legal and Regulatory Update.

Commission de Surveillance du Secteur Financie (CSSF)

19 – 23 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 publishes Circular CSSF 20/753 – this Circular amends Circular CSSF 07/301, as amended by Circulars CSSF 08/338, CSSF 09/403, CSSF 11/506 and CSSF 13/568 on the implementation of the Internal Capital and Liquidity Adequacy Assessment Process (ICAAP and ILAAP) and of circular CSSF 11/506 on principles of a sound stress testing programme
- CSSF calls on the entities under its supervision to use telework – CSSF explained that it is essential that the entities under its supervision contribute to prevent the propagation of the virus, while ensuring business continuity
- CSSF publishes documentary and book to mark 75th anniversary of the financial supervision in Luxembourg
- Interview with Claude Marx, Director General of the CSSF – marking the 75th anniversary of financial supervision in Luxembourg, Claude Marx reflected on the past and present of the financial centre, as well as on current events

Swiss Financial Market Supervisory Authority (FINMA)

19 – 23 October 2020: Speeches, Letters & Other Publications

During the week, the Swiss Financial Market Supervisory Authority (FINMA) released the following speeches, letters and publications that might be of interest to our readers:

- FINMA reassesses disgorgement of profits in BSI case – FINMA has reassessed the disgorgement of profits in the 1MDB enforcement case against BSI. In addition, FINMA has concluded all proceedings against individuals in connection with this case. In two cases it issued industry bans

Basel Committee on Banking Supervision (BCBS)

19 – 23 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:

- BCBS participates in the 21st International Conference of Banking Supervisors (ICBS) – the ICBS was held on 19-22 October 2020. Approximately 450 senior banking supervisors and central bankers representing close to 100 countries took part. Delegates discussed a wide range of issues related to the future of banking supervision in a changing world. The discussions covered the digitalisation of finance and the evolution of banking models, operational resilience, climate-related financial risks and remote working arrangements. Participants also exchanged views on the challenges for central banks and bank supervisors in advanced and emerging market economies during the Covid-19 pandemic, as well as adapting to the changing operating environment for central banks and supervisors
- Covid-19 and banking supervision: where do we go from here? – Keynote speech by Pablo Hernández de Cos, Chair of the Basel Committee on Banking Supervision and Governor of the Bank of Spain, at the 21st International Conference of Banking Supervisors (ICBS)

Financial Stability Board (FSB)

19 October 2020: FSB encourages use of cyber incident response and recovery toolkit

The Financial Stability Board (FSB) published a toolkit of effective practices for financial institutions' cyber incident response and recovery. The FSB encourages authorities and organisations to use the toolkit to enhance their cyber incident response and recovery activities. The toolkit includes 49 practices for effective cyber incident response and recovery across seven components: (i) governance, (ii) planning and preparation, (iii) analysis, (iv) mitigation, (v) restoration and recovery, (vi) coordination and communication, and (vii) improvement. The final toolkit draws on the feedback from a public consultation process, including four virtual outreach meetings. The report was delivered to G20 Finance Ministers and Central Bank Governors for their October meeting.

19 – 23 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:

- The Financial Stability Board's Roadmap for Addressing NBFI Vulnerabilities – speaking at the SIFMA Annual Meeting, FSB Chair Randal K. Quarles gives update on the FSB's holistic review of the COVID Event on financial markets in March

International Capital Market Association (ICMA)

19 – 23 October 2020: Speeches, Letters & Other Publications

During the week, the International Capital Market Association (ICMA) released the following speeches, letters and publications that might be of interest to our readers:

- COVID-19: ICMA Asset Management & Investors Council market update – Robert Parker, Chair of ICMA's Asset Management and Investors Council, reviews the market events of the last two weeks, in light of the increase in global coronavirus cases, the upcoming US presidential election and investor positioning

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

- UK banks raise rates to stifle home loan boom
  "Banks are turning away mortgage business by increasing interest rates on many new home loans, as they struggle to cope with surging demand for borrowing in a buoyant post-lockdown housing market"

- Banks look to debt collectors to recover bounce back loans
  "Banks have asked specialist debt collectors to help lead the recovery of tens of billions of pounds of government-backed small business loans, as they prepare for an expected wave of defaults and fraud cases"

- FCA says 12m in UK set to be left struggling with debt
  "The UK financial regulator is urging borrowers affected by coronavirus lockdowns to seek support from their banks, as its figures show 12m Britons are likely to struggle with bills or loan repayments"

- City Bulletin: Johnson to warn business 'time running out' for Brexit preparations
  "Prime Minister Boris Johnson is due to warn business leaders time is running out to prepare for the end of the transition period"

- UK businesses being set up at record rate, register says
  "Businesses are being set up in the UK at a record rate, according to the government's register of national corporate activity, as criminals attempting Covid-related fraud establish companies alongside entrepreneurs creating new ventures"

- Furlough fraudsters stole as much as £3bn, says spending watchdog
  "More than £3bn might have been stolen in furlough money by criminal gangs and fraudulent employers, according to estimates used by parliament's spending watchdog in a report into the government's flagship jobs protection scheme"

- Barclays recovers as bad debt charges fall
  "Barclays reported a big drop in provisions for bad loans in the third quarter as the initial economic shock from coronavirus subsided, while revenue at its trading arm continued to surge in turbulent markets, driving better than expected profits"

- Permira-backed debt collector Lowell pays up in £1.6bn junk bond sale
  "A private equity-backed debt collector has sold one of the UK's biggest junk bonds this year, but was forced to offer an elevated interest rate to compensate investors for funding a sector that had to suspend activities during the Covid-19 crisis. Leeds-based Lowell Group sold £1.6bn worth of junk bonds as part of a refinancing plan that included a £600m equity injection by its owner Permira"

- Petra debt restructuring hands control to bondholders
  "Petra Diamonds has struck a deal to restructure some of its $650m of debt by converting a large portion into equity, as the miner battles with a severe downturn in the global diamond market. The London-listed group said current shareholders would be left with just 9 per cent of shares in the company under the terms of the arrangement, which will about halve its debt load"

- Mystery deepens on H2O bond trading
  "H2O Asset Management has reported hundreds of millions of euros in new illiquid bond trades with a small wealth management firm that denies any involvement in the transactions"

- Amigo told not to pay dividends or bonuses without regulator approval
  "Amigo Loans has been told it cannot make any dividend or bonus payments without the UK regulator's permission in the latest blow to the subprime borrowing business following months of management upheaval"

- [Half-term cancellations push UK travel operators to brink]
“UK travel operators are warning of further job losses and bankruptcies, after a surge in cancellations of half-term holidays has left them scrambling for cash”

- [Don’t fly away: BA owner’s tough ask to investors with shares at lows]
“Davy analyst Stephen Furlong reckons the company is burning through about €750m a month and has access to enough cash to cover it for another 12 to 16 months. It is more squeezed than Ryanair but not as squeezed as easyJet”

- [UK regional airline Flybe could return to skies early next year]
“Flybe, the UK regional airline that went bankrupt in March, could be flying again early next year after being bought by a former shareholder. The carrier, which collapsed after loan talks with the government fell through as the coronavirus hit passenger numbers, has been sold to a company run by secretive hedge fund executive Lucien Farrell”

- [Buying Asda: how petrol station billionaires plan to pull off the deal]
“But the public elation hid private turmoil. Last week, Deloitte abruptly resigned from auditing EG Group, the acquisitive and highly-leveraged petrol stations business run by the brothers and their backers, because of concerns over its governance and internal controls”

- [IHG warns of uneven recovery as virus infections rise]
“InterContinental Hotels Group, the owner of the Crowne Plaza and Holiday Inn brands, said that despite a summer boost from domestic breaks, it faced an uneven recovery as coronavirus infections start to spread again”

- [Shaftesbury to raise £300m as Covid hits West End venues]
“London landlord Shaftesbury is aiming to raise almost £300m in an equity issue, as it seeks to weather the storm coronavirus has brought to its West End portfolio”

- [Co-op Bank appoints CFO Nick Slape as new chief executive]
“The Co-operative Bank has promoted chief financial officer Nick Slape to become its sixth chief executive in nine years, tasking him with completing the turnround plan started by his predecessor Andrew Bester”

- [Auditors can cut free but Boohoo needs a credible successor to PwC]
“PwC’s decision to put on seven-league boots and quit auditing Boohoo’s accounts after seven years is not grandstanding. It is a rational look at the fees it is earning from the fast-fashion retailer — £225,000 for audit and £389,000 including other services — and the risks of continuing to work with a business under the spotlight”

- [EU enjoys ‘outrageous demand’ for first Covid-related bond]
“The EU met with huge demand for an issue of new coronavirus-related bonds on Tuesday, with bankers saying the sale had received the largest ever order book in global bond markets”

- [EU hires banks to start breakthrough joint bond programme]
“The EU has hired banks to sell new 10- and 20-year bonds this week, the start of a borrowing spree that is expected to transform Brussels into a major player in bond markets. The sale will be the first under the SURE programme, a scheme to provide up to €100bn of loans to member states to support their efforts to keep workers in their jobs during the Covid-19 crisis”

- [Is Brussels green bond washing?]
“But in a new paper from the Hertie School/Delors Centre published on Monday, authors Lucas Guttenberg and Sebastian Mack warn against taking the commission’s ambitions at face value without digging into what they really mean. The pair think there’s a risk that green bonds could prove to be a ruse to smuggle in some not-very-green recovery spending if the bonds are not done right”

- [Eurozone budget deficits rise almost tenfold to counter pandemic]
“Eurozone governments plan to go deeper into the red than ever before this year, racking up budget deficits of close to €1tn as they splash out on emergency measures to counter the coronavirus crisis”

- [Eurozone business activity falls as virus restrictions choke off recovery]
“Business activity in the eurozone has slid back into decline, according to a widely-watched survey, as rising coronavirus infections and tighter curbs weigh on the bloc’s economy, increasing pressure on the European Central Bank to consider more monetary stimulus”

- [Will the ECB signal a step up in bond buying is on the horizon?]
“Most economists predict the ECB will expand its bond-buying plans by as much as €500bn in December, when Morgan Stanley analysts also expect it to extend a programme of ultra-cheap loans for banks at rates as low as minus 1 per cent until the end of next year”

- [The EU’s fiscal progress needs a political anchor]
“When the EU agreed a large fiscal recovery package and loans to member states funded by common debt, it was rightly hailed as a triumph for a common European purpose. But these new budgetary tools also raise the political stakes of deploying them well”

- [Italy draws €90bn of orders in stellar week for eurozone debt market]
“Italy’s sale of 30-year bonds drew strong demand on Thursday, locking in near-record low borrowing costs, in the latest sign of investors’ clamour for any eurozone debt offering extra yield above German Bunds”

- [KPMG was engaged as auditor to group 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 engaged as the auditor* to a suspicious vehicle that investigators believe may have been used to siphon off the payments group’s funds”

- [UBS pledges to boost payouts as pandemic impact diminishes]
“UBS has set aside $2.5bn to return to shareholders next year after a surge in quarterly earnings despite the coronavirus pandemic, marking a boost for departing chief executive Sergio Ermotti”

- [Dollar weakens as investors keep attention on US stimulus talks]
“US stocks slipped and a decline in the dollar gathered pace on Wednesday as Democrats and Republicans inched closer to agreeing a second major fiscal stimulus for the world’s largest economy”

- [American Airlines looks to raise $1bn in share sale]
“American Airlines said on Thursday it would authorise issuing up to $1bn in shares to shore up its liquidity as the pandemic weighed on revenue and profitability”

- [United throws ‘kitchen sink’ at investors to secure $3bn borrowing]
“United Airlines pledged 352 aircraft, 99 engines and a host of spare parts to investors to refinance emergency loans taken out when the pandemic struck this year, after a similar deal failed to get off the ground in May”

- [Investors opt for the ‘do nothing’ trade ahead of US election]
“As the days count down to a US presidential election that could alter the course of global markets, some investors have crafted an odd-sounding strategy for navigating the outcome: they plan to do nothing”

- [Investors bet US recovery will force long-term bond yields higher]
“Investors are running increasingly weighty bets that long-term US government bond prices are about to fall, anticipating that a Democratic win at next month’s US election and progress against Covid-19 could dent the haven assets”

- [Leveraged loans: the unbearable liteness of covenants]
“Lenders to US companies have made their beds. Now they are proving uncomfortable to lie on. So-called covenant-lite loans place heavy potential burdens on asset managers who flocked to buy the debt during ten years of loose central bank money. Rates are still low. But defaults and bankruptcies are predicted to soar”

- Asset managers in $300bn drive to build private lending funds
  "Asset managers are seeking to raise almost $300bn to plough into private lending deals with groups such as Goldman Sachs and Oaktree hoping to lure investors away from frothy public markets"

- Risky PIK deals pitched by private equity to yield-hungry investors
  "Private equity firms are testing investors' appetite for returns with new sales of payment-in-kind bonds that offer juicy interest rates but are among the riskiest deals since the Covid crisis began"

- Global bond markets have turned topsy-turvy
  "Rather than punish the profligate and push borrowing costs higher, the scale of demand from investors for sources of income has easily absorbed the corporate debt deluge"

- Can the US catch up with Europe on ESG?
  "Now, with Democratic presidential candidate Joe Biden leading in many polls and the election two weeks away, attention is turning to his strategies on climate change"

- The confusing investment path to saving the planet
  "Far from turning investors away from environmental, social and governance (ESG) investing, the crisis has heightened interest in sustainable portfolios in general. A survey this month by RBC Global Asset Management found that the pandemic had led more than a quarter of professional investors to place more importance on ESG considerations"

- Short-sellers step up scrutiny of ESG stocks
  "One of the market's current hottest areas is environmental, social and governance investing. And, like the cryptocurrency boom and cannabis stock surge, the flood of money has been followed closely by allegations of fraud"

- The fallacy of ESG investing
  "The win-win pitch is a fallacy. Sometimes investors have to choose between their values and their pocket books"

- Ethical investment remains a work in progress
  "Even when you are clear on your investment criteria, there's the huge challenge of finding a fund to match. Across open-ended funds, investment trusts and exchange traded funds, there are about 5,000 collective investment options, but little help for investors on which of them should be considered as ESG funds"

- Gold chief calls for common ESG reporting standard
  "The head of the biggest London-listed gold producer has called for common reporting standards on environmental, social and governance performance in the mining sector, saying current methods of ESG scoring are often inconsistent, inaccurate and an exercise to tick the boxes"

- Miners and banks must take responsibility for emissions
  "Traditional mining and banking business models are both challenged by the planet's climate emergency and the growing focus from consumers, investors and regulators on environmental, social and governance issues. This is a risk and an opportunity for both sectors"

- Change how boards work to achieve true diversity
  "For the past 20 years, companies have been navigating profound social and technological change, adopting new tools, adapting to new regulations and trying to create a culture in which everyone can thrive"

- The debt bubble legacy of economists Modigliani and Miller
  "Half a century ago, two starlets of economics argued that whether companies funded themselves with debt or equity was irrelevant. One legacy of that insight is becoming clearer in the wreckage of corporate failures mounting in the wake of the pandemic"

- Argentina bondholders accuse government of undermining recovery
  “Some of Argentina’s biggest bondholders have issued a sharp rebuke to the government over its handling of the country’s deteriorating economic situation, just a few months after reaching a compromise to restructure $65bn worth of debt”

- Latin America’s airlines stare out along a future of empty runways
  “Compounding the industry’s problems, few Latin American carriers have had access to state aid during the pandemic, receiving just 1 per cent of the $130bn in government bailouts offered worldwide”

- China risks cementing its structural flaws
  “There are several reasons to think this imbalance between private and public investment — and the resultant threat to long-term growth — could worsen”

- Jack Ma rails against global financial rules ahead of $30bn Ant Group IPO
  “Alibaba founder Jack Ma has blasted international financial regulations and said China needs to chart its own path, days before Ant Group launches the world’s biggest initial public offering”

- Funds worth $3tn attack South Korea and Japan groups over coal project
  “European funds with $3.4tn of assets have criticised South Korean and Japanese groups over developing a coal-fired power plant in Vietnam, underscoring mounting pressure from investors over climate change”

- Misgivings about Jho Low laid bare in Goldman 1MDB settlement
  “Documents released by US authorities show bank’s compliance department was wary of Malaysian businessman”

- Goldman subsidiary pleads guilty in 1MDB scandal
  “Goldman Sachs’ Malaysian subsidiary pleaded guilty to a bribery charge as the bank agreed a record $2.9bn global settlement with regulators over the 1MDB money-laundering scandal”

- Switzerland of the Middle East: Economic crisis threatens Oman’s neutrality
  “But the Gulf state’s ability to steer clear of regional power struggles has been put at risk by economic woes that have been exacerbated by the coronavirus pandemic and the slump in oil prices. The IMF forecasts an economic contraction of 10 per cent this year, far steeper than the Middle Eastern average”

Thomson Reuters

- UK borrowing exceeds forecasts, debt highest since 1960
  "Britain's government borrowing in the first half of the financial year was more than six times higher than before the COVID pandemic, official figures showed on Wednesday, taking public debt to its highest since 1960"

- Britain's economic recovery faltering, Bank of England to step up spending - Reuters poll
  "The Bank of England is likely to supplement its quantitative easing war chest next month to offer more support to an economy still struggling amid coronavirus restrictions on activity and fears of a no-deal Brexit, a Reuters poll found"

- Sub-zero rates' squeeze on UK bank profits may scupper lending boom
  "Negative interest rates would punch a big hole in UK banks' profits without necessarily delivering the intended lifeline to Britain's frail economy, senior bankers have warned"

- LSE expects Refinitiv deal to close in first-quarter 2021
  "The London Stock Exchange expects to close its $27 billion purchase of data analytics company Refinitiv in the first-quarter of next year, as the group reported forecast-beating third-quarter income"

- Metro Bank warns capital levels remain below regulators' expectations
  "Britain's Metro Bank reported a 2% increase in lending for the third quarter, but warned its capital levels remain below buffers expected by regulators as it grapples with the impact of the COVID-19 pandemic"

- UK fines Goldman Sachs £96.6 million in global action over 1MDB scandal
  "British regulators fined Goldman Sachs International 96.6 million pounds ($126 million) on Thursday as part of global action that will see the U.S. bank pay nearly $3 billion to settle a probe into its role in Malaysia's 1MDB corruption scandal"

- Exclusive: HSBC to cut up to 300 jobs in UK commercial banking overhaul – source
  "The cuts are part of a wider restructuring announced in February, as HSBC seeks to reduce costs globally in an environment where increasing revenues has proved difficult"

- Analysis: Is PayPal's crypto move a game-changer for bitcoin? Probably not, say experts
  "PayPal Holdings Inc's PYPL.O decision to open its network to bitcoin and its rivals was hailed by virtual coin enthusiasts as a watershed moment for cryptocurrencies and their path towards becoming a widespread means of payment"

- Manchester United fall into the red as shutdown hits revenue
  "Manchester United MANU.N slumped to a net loss of 23.2 million pounds ($30.3 million) in the last financial year as the coronavirus disrupted fixture schedules and forced soccer clubs to play matches behind closed doors"

- Most small UK factories take on debt to cope with COVID hit – survey
  "More than half of Britain's small and medium-sized manufacturers have taken on debt to cope with reduced demand and disruption to supply chains caused by the COVID-19 pandemic, a survey showed"

- Over half Europe's small firms fear for survival, survey finds
  "Over half the small and medium-sized companies which together provide jobs for two-thirds of European workers fear for their survival in the coming 12 months, according to a survey released by management consultancy McKinsey"

- EU says fossil fuel subsidies undermine its climate ambitions
  "A senior European Union official on Thursday urged member nations to stop subsiding fossil fuels responsible for greenhouse gases which are undermining the bloc's policies to tackle climate change"

- Europe must not delay cash to crisis-hit economies, Lagarde tells Le Monde
  “Europe must distribute its 750 billion euro recovery fund for the pandemic-hit economy promptly and should debate creating a permanent fiscal tool for the bloc, European Central Bank President Christine Lagarde told a French newspaper”

- Lagarde turns to civil society in ECB transformation effort
  “In the bank’s first strategy review in 17 years, the ECB is looking to redefine its inflation target. It will also look at what it can do to fight climate change, foster inclusion, reach civil society and empower women”

- ECB’s De Guindos says mergers can improve banks’ profitability
  “The European Central Bank’s vice president called on Monday for further consolidation and cost reductions by euro zone banks to improve battered profitability”

- Italy gives green light to decree for Monte dei Paschi reprivatisation: source
  “Italian Prime Minister Giuseppe Conte has given the final green light to measures needed for a clean-up of bad loans at Monte dei Paschi di Siena (MPS) BMPS.MI and the eventual sale of the state-owned bank, a government official said”

- Italy approves new stimulus package to help virus-hit economy
  “Italy has approved a new stimulus package in its 2021 budget to foster an economic rebound from the recession caused by the coronavirus crisis, a government statement said on Sunday after a late-night cabinet meeting”

- European recovery helps cushion Renault’s sales
  “Renault’s RENA.PA cost-cutting plan is on track and it should have positive cash flow from cars by the end of 2020, the French carmaker said on Friday, as sales recovered from a slump during the first wave of coronavirus lockdowns”

- Ermotti hands $1.5 billion buyback baton to Hamers after UBS profit blowout
  “UBS doubled third quarter profit and set aside $2.5 billion to return to shareholders next year, a lucrative passing of the baton from CEO Sergio Ermotti to Ralph Hamers, as the Swiss bank reaped the benefits of helping the world’s ultra-rich navigate the COVID-19 crisis”

- Swedbank shakes off pandemic slump as commissions recover
  “Swedbank SWEDa.ST on Tuesday reported a bigger-than-expected 13% rise in third-quarter net profit helped by strong trading conditions and income from cards and asset management”

- Where’s the floor? Investors left guessing as U.S., Europe money market rates sink
  “A widely-used benchmark for U.S. short-term interest rates has dropped to record lows, joining its European peers, in the latest sign that massive central bank stimulus has suppressed borrowing costs”

- U.S. banks sweat regulatory exposure from pandemic loans
  “Banks that facilitated the U.S. government’s Paycheck Protection Program at first saw the effort as a small revenue booster with a patriotic bonus, shepherding $525 billion in loans to businesses slammed by the fallout of the COVID-19 pandemic”

- Wall Street sees profit recovery for automakers, but will it last?
  “Wall Street expects U.S. automakers to report strong results for the third quarter, as a recovery in sales after this year’s initial coronavirus lockdowns tightens inventory for an industry watching cases in Europe and the United States rise”

- Investors’ bold bets on Biden win pose market risk
  “With less than two weeks to go before the U.S. presidential election, investors may be placing too much confidence in a decisive win by Democratic challenger Joe Biden as his lead in opinion polls narrows”

- Analysis: Rating agency scrutiny raises stakes for U.S. election process
  "Yet two of the three major U.S. credit agencies, Fitch Ratings and Moody's Investors Service, which give the United States their top rating of AAA and Aaa respectively, are watching the election and have said that anything other than a smooth handover or retention of power could cause concern"

- U.S. business borrowing for equipment falls 13% in September: ELFA
  "U.S. companies' borrowings for capital investments fell about 13% in September from a year earlier, the Equipment Leasing and Finance Association (ELFA) said"

- U.S. airlines lay out COVID-19 damage and renew calls for aid
  "American Airlines AAL.O and Southwest Airlines LUV.N signaled on Thursday that they would continue to hemorrhage cash into next year as revenues hover around a third of 2019's levels due to a collapse in demand from the coronavirus"

- Illinois to sell $850 million of bonds as investors brace for junk status
  "Illinois is scheduled to sell $850 million of bonds on Tuesday as investors demand fatter yields for the state's debt due to increased worries over its deep financial woes, which were exacerbated by the coronavirus pandemic"

- Yield-starved investors aid Illinois' $850 million bond sale
  "A yield-hungry U.S. municipal market brushed aside Illinois' massive fiscal challenges and snapped up $850 million of general obligations bonds the state sold"

- Former Fair CEO seeks to buy the SoftBank-backed car leasing service-sources
  "Scott Painter, the founder and former chief executive of online car leasing startup Fair, is exploring a bid to acquire the company from SoftBank Group Corp's Vision Fund and other investors, people familiar with the matter said"

- Goldman to pay $3 billion, claw back executive pay over role in 1MDB corruption scandal
  "Goldman Sachs Group Inc on Thursday said it was clawing back $174 million in executive compensation and had agreed to pay $2.9 billion over its role in Malaysia's 1MDB corruption scandal, lifting a cloud that has hung over the bank for years"

- Understanding Goldman Sachs' role in Malaysia's 1MDB mega scandal
  "Goldman has been investigated by regulators in at least 14 countries for its role in underwriting the 1MDB bond issues. The work earned the bank $600 million in fees and led to large bonuses for some of its executives, officials have said, although the bank has disputed that figure"

- Analysis: Move over bonds, FX taking over as investors' new favourite playbook
  "A dearth of action in fixed income markets is prompting bond investors to focus more on currencies to spot market trends, marking a turning point for the gigantic but generally murky foreign exchange markets"

- Analysis: Green is the color of money for funds betting on a Biden win
  "Fund managers betting that green-type stocks with environmental, social and governance (ESG) credentials will benefit from an expected win by Democrat Joe Biden in the U.S. presidential election are also looking at a swathe of other companies expected to rise along with them"

- Social bond issuance soars on back of coronavirus crisis
  "The volume of social bonds issued in 2020 has jumped eight-fold from a year ago, as interest in ethical investment rises and more governments and agencies see them as a key funding tool for specific projects"

- Graphic: Founder-led firms outpacing CEO-led ones in market recovery
  "Technology companies led by their founders have been the standout winners in share price performance and profit growth this year, beating companies led by other managers, according to a Reuters analysis"

- Canadian regulator says it will not renew special treatment of deferred loans
  "Canada's financial regulator said on Friday it has no plans to reinstate the treatment of loans deferred by banks as performing assets, even as the number of COVID-19 cases spike and some provinces shut down businesses again"

- China debt crackdown: regulators asking property developers for more details than expected
  "Chinese regulators are asking property developers to provide more details about their debts than markets had expected, as authorities look to tackle unbridled borrowing in the real estate sector, according to a document seen by Reuters"

- Hong Kong fines Goldman Sachs record $350 million over 1MDB failings
  "Hong Kong's markets watchdog on Thursday fined Goldman Sachs's Asian business $350 million for its role in Malaysia's multibillion-dollar 1MDB scandal, the largest single fine ever levied by the regulator in the Asian financial hub"

- Hit by pandemic, Japan's ANA to suffer $4.8 billion net loss this year – source
  "Japanese airline operator ANA Holdings is expected to suffer a net loss of around 500 billion yen ($4.8 billion) for the fiscal year to March after the COVID-19 pandemic battered travel demand, a source with direct knowledge said"

- Abu Dhabi's IPIC drops lawsuit against Goldman Sachs over 1MDB scandal
  "Abu Dhabi's International Petroleum Investment Co (IPIC) said on Wednesday that it was dropping a lawsuit against Goldman Sachs Group Inc to recover losses suffered from the U.S. investment bank's dealings with Malaysian state fund 1MDB"

- Etihad Airways plans transition Islamic bonds
  "Etihad Airways, wholly owned by the Abu Dhabi government, is planning to sell U.S. dollar-denominated transition sukuk, or Islamic bonds, a document issued by one of the banks leading the deal showed"

- Arab National Bank markets dollar sukuk – document
  "Saudi Arabian lender Arab National Bank 1080.SE began marketing 10-year U.S. dollar-denominated sukuk, or Islamic bonds, that are non-callable for five years, a document showed"

- Qatar Islamic Bank hires banks for dollar sukuk, document shows
  "Qatar Islamic Bank (QIB) QISB.QA has hired a group of banks to arrange an issuance of five-year U.S. dollar-denominated sukuk, or Islamic bonds, a document showed"

- Buyers of Thai distressed assets plan big purchases as debt payment holiday ends
  "A pandemic-exacerbated surge in Thai bad loans to nine-year highs and the end of a debt payment holiday are prompting buyers of distressed debt to embark on a shopping spree in Southeast Asia's second-biggest economy"

- Australia central bank considering further easing, long-dated bond buying – official
  "Australia's central bank board is considering further monetary policy easing, including expanding its bond buying programme to include longer-dated government debt, a senior official said"

- HSBC, Australia's Queensland buy 'credits' to protect Great Barrier Reef
  "Australia's Queensland state and HSBC HSBA.L said on Thursday they will make a world-first investment to protect the world-heritage listed Great Barrier Reef which is suffering from extensive coral bleaching events"

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: