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European Leveraged Finance Association

ELFA *Briefings*

ELFA Legal & Regulatory Update
20/07/2020 – 24/07/2020

Key Highlights:

- This Legal & Regulatory Update covers the week commencing **20/07/2020**.
- FRC completes its first thematic review of company reporting since onset of Covid-19 pandemic.
- FRC proposes amendments to UK accounting standards on "Going Concern" and "COVID-19-related Rent Concessions".
- ESMA recommends supervisory coordination on accounting for COVID-19-related rent concessions.
- EBA is looking into ways to reduce reporting costs.
- ESAs notify European Commission about outcome of review of PRIIPs key information document.
- ECB announces public consultation on publication of compounded €STR rates.
- European Commission adopts Capital Markets Recovery Package, including targeted adjustments to Prospectus Regulation, MiFID II and securitisation rules.
- European Commission addresses risks of LIBOR cessation.
- CBI publishes its SME Market Report for 2020.
- AMF makes proposals for European Commission's renewed sustainable finance strategy.
- CSSF publishes Luxembourg's first ML / FT risk analysis on specialised professionals of financial sector providing corporate services (trust and company service provider activities).
- FSB publishes stocktake of financial authorities' experience in including climate-related risks in financial stability monitoring.
- ICMA publishes its first weekly collection and aggregation of data following entry into application of SFTR.
- AFME publishes ESG guidelines for European high yield market.
- 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)

20 – 24 July 2020: Speeches, Letters & Publications
During the week, the Bank of England (BoE) released the following speeches & other publications that might be of interest to our readers:

- BoE, PRA and FCA consult on proposed changes to their joint complaints scheme
- PRA consults on proposal to allow certain firms to benefit from Simplified Obligations for recovery planning
- PRA consults on its proposed approach to supervising new and growing, non-systemic UK banks
- Responses to Occasional Consultation Paper 3/20 – Chapter 8: Securitisation: Updates to Significant Risk Transfer
- Bank of England Weekly Report 22 July 2020
- Enforcement Decision Making Committee: 2019/20 Report
- Minutes of the Wholesale Distribution Steering Group - June 2020
- Minutes of the RTGS renewal programme external advisory body - June 2020
- Minutes of the Meeting of the Court of Directors held on 19 May 2020
- Minutes of the Working Group on Sterling Risk-Free Reference Rates - May 2020
- How does the Prudential Regulation Authority check that insurance firms are ensuring their models continue to produce appropriate capital requirements? – Bank Overground
- What sources of credit do UK companies rely on? – Bank Overground
- From lockdown to recovery - the economic effects of COVID-19, Speech by Jonathan Haskel
- Protecting economic muscle: Finance and the Covid crisis, Speech by Alex Brazier
- Climbing mountains safely, Speech by Sarah Breeden

Financial Conduct Authority (FCA)

24 July 2020: FCA releases statement on updated guidance for insurance and premium finance firms

The Financial Conduct Authority (FCA) announced proposals to extend a series of temporary measures to help customers who hold insurance and premium finance products and who may be in temporary financial difficulties because of coronavirus (Covid-19). The original measures came into force on Monday 18 May 2020 and the FCA committed to reviewing them after 3 months. The FCA is now proposing to extend the guidance for a further 3 months, until 31 October 2020 although certain, and specific parts will continue beyond that date. The FCA is also proposing to set out more clearly our expectations on how firms should treat customers still in financial difficulty at the end of a payment deferral.

20 – 24 July 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 consults on delay to the implementation of the European Single Electronic Format
- Dear CEO letter - Inappropriate use of title transfer collateral arrangements (TTCAs) and regulatory permissions for financing transactions
- Intergenerational differences: summary of responses and next steps

Financial Reporting Council (FRC)

22 July 2020: FRC completes its first thematic review of company reporting since onset of Covid-19 pandemic

The Financial Reporting Council (FRC) has completed its first thematic review of company reporting since the onset of Covid-19 pandemic. The review found that although companies provided sufficient information to enable a user to understand the impact Covid-19 had on their performance, position and future prospects, some - particularly interim reports - would have benefited from more extensive disclosure. Building on the guidance contained in the joint regulators statement (published on 26 March), this review of a sample of March interim and annual reports and accounts includes guidance and better practice examples for companies currently preparing their annual and interim accounts.

The FRC reminds companies that they should:

- explain the significant judgements and estimates made in preparing their accounts and provide meaningful sensitivity analysis or details of a range of possible outcomes to support any disclosed estimation uncertainty;
- describe any significant judgements made in determining whether there is a material uncertainty about their ability to continue as a going concern;
- ensure that assumptions used in determining whether the company is a going concern are compatible with assumptions used in other areas of the financial statements;
- apply the requirements of IAS 1 to any exceptional or similar items, with income statement sub-totals comprising only items recognised and measured in accordance with IFRS;
- apply existing accounting policies for exceptional and other similar items to Covid-19 related income and expenditure consistently and should not split income and expenses between Covid-19 and non Covid-19 financial statement captions arbitrarily; and
- prepare interim reports that provide sufficient information to explain the impact that Covid-19 has had on their performance, position and future prospects.

23 July 2020: FRC proposes amendments to UK accounting standards

The FRC has published two Exposure Drafts proposing amendments to UK and Ireland accounting standards. Both reflect topical issues.

FRED 75 Draft amendments to FRS 104 – Going concern proposes to:

- clarify the requirement to assess the going concern basis of accounting; and
- require the disclosure of any related material uncertainties,

when preparing interim financial statements in accordance with FRS 104.

FRED 76 Draft amendments to FRS 102 and FRS 105 – COVID-19-related rent concessions proposes explicit requirements for accounting for temporary rent concessions for operating leases occurring as a direct consequence of the COVID-19 pandemic, and within a limited timeframe. They shall be recognised over the period the concession is intended to compensate, reflecting the economic substance of the concessions and their temporary nature.

Both comment periods end on 1 September 2020. The proposals in FRED 75 are expected to apply to interim periods beginning on or after 1 January 2021, and the proposals in FRED 76 are expected to apply to accounting periods beginning on or after 1 January 2020. In both cases early application will be permitted.

20 – 24 July 2020: Speeches, Letters & Other Publications

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

- Financial Reporting Lab 2020 newsletter - Issue 2
- FRC announces key Executive Director appointments
- COVID-19 Survey Infographic Jul 2020 - What do investors want from corporate reporting?
- Joint event on the General Presentation and Disclosures Exposure Draft

European Securities and Markets Authority (ESMA)

21 July 2020: ESMA recommends supervisory coordination on accounting for COVID-19-related rent concessions

The European Securities and Markets Authority (ESMA) has issued a public statement recommending coordination of supervisory action with regards to issuers' accounting for COVID-19-related rent concessions. ESMA acknowledges that, due to the COVID-19 pandemic, issuers encounter difficulties in accounting for the large volumes of lease modifications which have been granted in many jurisdictions. In order to address such difficulties, the International Accounting Standards Board (IASB) issued in May 2020 an amendment to IFRS 16 providing a practical relief for lessees.

Provided that the European Parliament and the Council do not object to the endorsement of the IFRS 16 amendment, ESMA recommends that National Competent Authorities do not prioritise supervisory actions on the application of the lease modification requirements contained in IFRS 16 as currently endorsed by the EU to COVID-19-related lease modifications which would fall within the scope of the IFRS 16 amendment. This coordination of supervisory actions applies exceptionally for financial periods ending on or before 31 July 2020 and as long as issuers account for those transactions on the basis of the IFRS 16 amendment.

23 July 2020: ESMA publishes MiFID / MiFIR Annual Review Report

ESMA has published its MiFID II / MiFIR Annual Review Report under Commission Delegated Regulation (EU) 2017/583 (RTS 2). The report lays down the thresholds for the liquidity criterion 'average daily number of trades' for bonds, as well as the trade percentiles. In the report, ESMA is suggesting to the European Commission to move to the next stage for:

- the criterion 'average daily number of trades' used for the quarterly liquidity assessment of bonds; and
- the trade percentiles that determine the pre-trade sizes specific to the financial instrument for bonds.

These measures are designed to increase the transparency available to market participants in the bond market. Furthermore, ESMA does not recommend moving to the next stage for the trade percentiles that determine the pre-trade sizes specific to the financial instrument for other non-equity financial instruments. ESMA considers such move premature since the first annual transparency calculation for these non-equity instruments will only be published this year.

European Insurance and Occupational Pensions Authority (EIOPA)

21 July 2020: EIOPA publishes Supervisory Statement on Solvency II recognition of schemes based on reinsurance with regard to COVID-19 and credit insurance

The European Insurance and Occupational Pensions Authority (EIOPA) published a Supervisory Statement on the Solvency II recognition of schemes based on reinsurance with regard to COVID-19 and credit insurance. The statement provides EIOPA's view on the exceptional supervisory treatment– for Solvency II purposes – of schemes based on reinsurance implemented by Member States in the extraordinary context of the European Commission 'Temporary Framework for state aid measures to support the economy in the current COVID-19 outbreak' adopted on 19 March 2020. EIOPA has identified significant differences in the way that national schemes in the area of credit insurance are implemented through the Temporary Framework. Therefore, to ensure a level playing field and consistent treatment of schemes with the same economic consequences as reinsurance, EIOPA outlines in its statement a number of supervisory recommendations for national competent authorities. Through this statement, EIOPA aims to support supervisory convergence. The statement should not serve as a basis for the application of the Solvency II rules beyond the scope and validity of the Temporary Framework.

European Banking Authority (EBA)

21 July 2020: EBA publishes overview of public guarantee schemes issued in response to Covid-19 pandemic

The European Banking Authority (EBA) published a list of the public guarantee schemes issued in response to the COVID-19 pandemic. This publication, which complements the information included in the EBA Report on the implementation of selected COVID-19 policies, aims at providing transparency to the public on the existence of public guarantees, as well as responding to the European Commission's request for a stock-take of such guarantees. This list provides an overview of the 47 public guarantee schemes, of which 43 are from EU Member States and 4 from EEA members, which, to the EBA's knowledge, have been issued in response to the COVID-19 pandemic. The list includes factual information about the guarantor, the region or district covered by the scheme. In addition, the list clarifies whether the scheme is targeted to new lending or to existing exposures, the type of obligors or exposures covered by the scheme, as well as the level of coverage of exposures by the guarantee. A link to additional documentation for each scheme is also provided. This list is part of the EBA's wider effort to monitor the implementation of COVID-19 policies as well as the application of existing policies under these exceptional circumstances.

22 July 2020: EBA consults on Guidelines specifying the conditions for substitution approach in context of "tri-party transactions" for large exposures purposes

The EBA launched a consultation detailing on the three conditions institutions should comply with when they decide to make use of the alternative treatment with regard to tri-party repurchase agreements facilitated by a tri-party agent. The consultation runs until 22 October 2020. The Guidelines specify the conditions and frequency for determining, monitoring and revising the limits that the institution would instruct the tri-party agent to observe. The Guidelines will apply from June 2021.

22 July 2020: EBA consults on draft technical standards on default probabilities and loss given default for default risk model under internal approach for market risk

The EBA launched a consultation on draft Regulatory Technical Standards (RTS) on default probabilities (PDs) and losses given default (LGDs) for default risk model for institutions using the new Internal Model Approach (IMA) under the Fundamental Review of the Trading Book (FRTB). These draft RTS are part of the deliverables included in the roadmap for the new market and counterparty credit risk approaches published on 27 June 2019. The consultation runs until 22 October 2020. These draft RTS clarify the requirements to be met for the estimation of PDs and LGDs under the default risk model. In particular, the draft RTS specify that any internal methodology used to calculate PDs and LGDs under the default risk model should meet all requirements applied for the Internal ratings-based (IRB) approach. In addition, these RTS specify the requirements that external sources are to fulfil for their use under the default risk model, thus reflecting similar qualitative requirements as those applicable to an internal methodology.

22 July 2020: EBA is looking into ways to reduce reporting costs

As part of its drive for more proportionate regulatory and supervisory framework, the EBA is looking for ways to optimise supervisory reporting requirements and reduce reporting costs for institutions, especially smaller ones. To fulfil this mandate the EBA launched a questionnaire addressed to all European banks and a call for case studies to collect evidence on reporting costs as well as industry views on ways to reduce such costs and make the supervisory reporting more efficient. The EBA expects the responses to the questionnaires and case studies in October 2020. The questionnaire addressed to all EEA credit institutions and the call for fact-finding case studies are essential elements in the EBA work of assessing the cost of compliance with the supervisory reporting requirements. The final report to be developed by the EBA following the analysis of the industry responses will include recommendations on how to reduce reporting costs for the banking industry as a whole and, in particular, for small and non-complex institutions by looking at both technological improvements and reducing some reporting requirements, where the costs outweigh the benefits.

23 July 2020: EBA consults on technical standards specifying the determination of indirect exposures arising from (credit) derivative contracts underlying a debt or equity instrument for large exposures purposes

The EBA launched a consultation on draft regulatory technical standards (RTS) specifying how institutions should determine exposures arising from derivative and credit derivative contracts not entered directly into with a client but whose underlying debt or equity instrument was issued by a client. These draft RTS will ensure appropriate levels of consistency through different pieces of the regulatory framework for the calculation of exposures for large exposure purposes. The consultation runs until 23 October 2020. The draft RTS propose a methodology for the calculation of indirect exposures for different categories of derivative contracts and credit derivative contracts with a single underlying debt or equity instrument, namely: options on debt and equity instruments, credit derivative contracts, and other derivatives having as underlying a debt or equity instrument. In addition, the draft RTS provide a separate methodology for the calculation of exposures stemming from contracts with multiple underlying reference names. The proposed methodologies are expected to be easy to implement and applicable by all institutions in a standardised manner.

23 July 2020: EBA publishes Guidelines on a pragmatic and flexible approach to 2020 supervisory review and evaluation process in light of COVID-19 pandemic

The EBA published Guidelines that make available to competent authorities a special procedure for the supervisory review and evaluation process (SREP) for the year 2020. The new Guidelines identify how flexibility and pragmatism could be exercised in relation to the SREP framework in the context of this pandemic. The risk-driven approach put forward by these Guidelines builds on the existing requirements of the Capital Requirements Directive (CRD) and the SREP Guidelines and adapts them to the exceptional circumstances of the COVID-19 pandemic, while ensuring the exercise of supervisory judgement to the greatest possible extent. These Guidelines, are addressed to competent authorities and elaborate on the key aspects of SREP for the year 2020: (i) focus of the pragmatic SREP; (ii) overall SREP assessment and scoring; (iii) supervisory measures; and (i) conduct of the SREP in cross-border contexts.

24 July 2020: EBA consults on technical standards on impracticability of contractual recognition of bail-in

The EBA launched a public consultation on draft Regulatory Technical Standards (RTS) and draft Implementing Technical Standards (ITS) on the impracticability of contractual recognition of write-down and conversion powers and related notifications as laid down in the Bank Recovery and Resolution Directive (BRRD). These standards aim at promoting the effective application of resolution powers to banks and banking groups and to foster convergence of practices between relevant authorities and institutions across the EU. The consultation runs until 24 October 2020. The draft RTS define (i) the conditions under which it would be legally or otherwise impracticable for an institution or entity to include the contractual term for the recognition of the bail-in; (ii) the conditions and (iii) the reasonable timeframe for the resolution authority to require the inclusion of the contractual term for the bail-in recognition. The draft ITS specify uniform formats and templates for the notification to resolution authorities of contracts meeting the conditions of impracticability defined in the draft RTS.

24 July 2020: EBA consults on technical standards on reporting of MREL decisions

The EBA launched a public consultation on its draft Implementing Technical Standards (ITS) specifying uniform reporting templates, instructions and methodology for the identification and transmission, by resolution authorities to the EBA, of information on minimum requirements for own funds and eligible liabilities (MREL). This reporting between resolution authorities and the EBA aims to ensure that the EBA has all the necessary information to understand how MREL is set within member states. The consultation runs until 24 October 2020.

24 July 2020: EBA consults on estimation of Pillar 2 and combined buffer requirements for the purpose of setting MREL

The EBA launched a public consultation on its draft Regulatory Technical Standards (RTS) specifying the methodology to be used by resolution authorities to estimate the Pillar 2 (P2R) and combined buffer requirements (CBR) at resolution group level for the purpose of setting the minimum requirement for own funds and eligible liabilities requirement (MREL) under the Bank Recovery and Resolution Directive (BRRD). In particular, the EBA proposes a pragmatic approach aiming to create a framework to improve accuracy in setting the MREL requirement, without requiring subconsolidation at resolution level and without blurring the lines of responsibilities between competent and resolution authorities in the capital setting process. The estimation of P2R and CBR is necessary for setting MREL when the resolution group perimeter differs significantly from the prudential perimeter at the level of which own fund requirements have been set by the competent authority. The consultation runs until 24 October 2020.

European Supervisory Authorities (ESAs)

21 July 2020: ESAs notify European Commission about outcome of review of PRIIPs key information document

The European Supervisory Authorities (ESAs) have informed the European Commission of the outcome of the review conducted by the ESAs of the key information document (KID) for packaged retail and insurance-based investment products (PRIIPs). The aims of this review have been to address the main regulatory issues that have been identified since the implementation of the KID, in particular regarding the information on performance and costs, and to allow the appropriate application of the KID by UCITS. This follows the ESAs' consultation paper published on 16 October 2019 on draft regulatory technical standards (RTS) to amend the technical rules on the presentation, content, review and revision of KID (Delegated Regulation (EU) 2017/653).

European Central Bank (ECB)

23 July 2020: ECB publishes good practices for banks to prepare for benchmark rate reforms

The ECB published the results of its industry-wide assessment of banks' preparedness for the benchmark interest rate reforms. While banks are generally well aware of the complexity of the reforms and the challenges involved, their level of preparation leaves room for improvement, according to the survey. Banks are also generally behind schedule in implementing risk mitigation measures. The assessment of the survey results, which was conducted by ECB Banking Supervision, also revealed that banks had focused more on the transition from the euro overnight index average (EONIA) to the euro short-term rate (€STR) than on the risks associated with the reform of the euro interbank offered rate (EURIBOR). This is despite the fact that EURIBOR is currently the most frequently used benchmark rate for contracts in the euro area.

To assist banks in their preparation, ECB Banking Supervision is publishing good practices outlining how banks can best structure their benchmark-rate related governance, identify benchmark-rate related risks, and create action plans and documentation in relation to the reforms.

23 July 2020: ECB and Magyar Nemzeti Bank set up repo line to provide euro liquidity

The European Central Bank (ECB) and the Magyar Nemzeti Bank (MNB) have agreed to set up a repo line arrangement to provide euro liquidity to Hungarian financial institutions to address possible euro liquidity needs in the presence of market dysfunctions due to the COVID-19 shock. Under a repo line, the ECB provides euro liquidity to a non-euro area central bank in exchange for adequate euro-denominated collateral. Under the repo line, the MNB will be able to borrow up to €4 billion from the ECB. The maximum maturity of each drawing will be three months. The repo arrangement will remain in place until the end of June 2021, unless an extension is decided.

24 July 2020: ECB announces public consultation on publication of compounded €STR rates

The ECB is considering the publication of compounded term rates based on the euro short-term rate (€STR) and solicits views of the public on this matter by launching a public consultation. The publication would take place on a daily basis shortly after the €STR publication. Published maturities could range from one week up to one year. A daily index, making it possible to compute compounded rates over non-standard periods, is also envisaged as part of the publication. The public consultation, which asks for the public's views on specific characteristics of the compounded rate, has been launched and will expire on 11 September 2020 at 18:00 CET. Interested stakeholders are invited to respond using the template provided by the ECB. An anonymised summary of all the views expressed will be published following the solicitation period.

20 – 24 July 2020: Speeches, Letters & Other Publications

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

- ECB publishes supervisory banking statistics for the first quarter of 2020
- Annual report on the outcome of the SREP IT Risk Questionnaire – Feedback to the industry
- Firms' expectations on access to finance at the early stages of the Covid-19 pandemic, Working Paper Series
- Determinants of the credit cycle: a flow analysis of the extensive margin, Working Paper Series

- What is the tipping point? Low rates and financial stability, Working Paper Series
- Inflation volatility in small and large advanced open economies, Working Paper Series
- Has regulatory capital made banks safer? Skin in the game vs moral hazard, Working Paper Series
- Economic consequences of high public debt: evidence from three large scale DSGE models, Working Paper Series
- Understanding household wealth: linking macro and micro data to produce distributional financial accounts, Statistics Paper Series
- How do financial markets react to monetary policy signals? – Research Bulletin
- ESS-ESCB Quality assessment report on statistics underlying the Macroeconomic Imbalance Procedure
- Letter from the ECB President to Mr Luis Garicano, MEP, on the investor base of euro area bonds
- Building the Financial System of the 21st Century, Speech by Luis de Guindos
- Supervisory approach to consolidation, Presentation by Edouard Fernandez-Bollo, Member of the Supervisory Board of the ECB, at an online debate organised by the Florence School of Banking & Finance
- Europe's response to the crisis, ECB Blog by Christine Lagarde, President of the ECB

European Commission (EC)

24 July 2020: EC addresses risks of LIBOR cessation

The European Commission (EC) has proposed to amend EU rules on financial benchmarks. The aim of this proposal is to ensure that when a widely used benchmark is phased out – as is now the case - it does not cause disruptions to the economy and harm financial stability in the EU. If a critical benchmark ceases to be published, thousands of contracts existing at the date of cessation can be disrupted and could, ultimately, threaten financial stability.

The Commission is therefore proposing amendments to the Benchmark Regulation that will empower it to designate a replacement benchmark that covers all references to a widely used reference rate that is phased out, such as LIBOR, when this is necessary to avoid disruption of the financial markets in the EU. For example, the Commission could replace any reference to LIBOR with a reference to a suitable replacement rate. In selecting this replacement rate, the Commission will take into account recommendations made by the relevant industry working groups, such as the US Alternative Reference Rates Committee for the LIBOR or the Working Group on Euro Risk-Free Rates for the EURIBOR. The statutory replacement rate will only be available for financial contracts that reference, for example LIBOR, at the time this benchmark ceases to be published. As the statutory replacement will be a matter of law, contractual conflicts on this issue will be avoided. At the same time, market participants are encouraged to agree on a permanent replacement rate for all new contracts whenever feasible.

Finally, the Commission is also proposing an adjustment to the Benchmark Regulation that will allow EU users to continue using currency benchmarks provided outside the EU, thereby allowing EU companies covering the risk of foreign currency fluctuations in their exporting and foreign investment activities.

24 July 2020: EC adopts Capital Markets Recovery Package, including targeted adjustments to Prospectus Regulation, MiFID II and securitisation rules

The EC adopted a Capital Markets Recovery Package, as part of the Commission's overall coronavirus recovery strategy. The measures aim to make it easier for capital markets to support European businesses to recover from the crisis. The package proposes targeted changes to capital market rules, which will encourage greater investments in the economy, allow for the rapid re-capitalisation of companies and increase banks' capacity to finance the recovery. The package contains targeted adjustments to the Prospectus Regulation, MiFID II and securitisation rules. All of the amendments are at the heart of the Capital Markets Union project aimed at better integrating national capital markets and ensuring equal access to investments and funding opportunities across the EU.

Targeted amendments to the prospectus regime

- The Commission is proposing to create an "EU Recovery Prospectus" – a type of short-form prospectus – for companies that have a track record in the public market. This temporary prospectus would be easy to produce for companies, easy to read for investors, and easy to scrutinise for national competent authorities. It would cut down the length of prospectuses from hundreds of pages to just 30 pages. This will help companies to raise capital – such as shares - instead of going deeper into debt.
- A second set of targeted amendments to the Prospectus Regulation aims at facilitating fundraising by banks that play an essential role in financing the recovery of the real economy.

Targeted amendments to the MiFID II requirements for European firms

The Commission is proposing to make some targeted amendments to MiFID II requirements, in order to reduce some of the administrative burdens that experienced investors face in their business-to-business relationships.

- The Commission has opened a public consultation on amendments to the MiFID II delegated directive to increase the research coverage regime for small and mid-cap issuers and for bonds. In particular, SMEs need a good level of investment research to give them enough visibility to attract new investors.
- The Commission is also proposing to amend the MiFID rules affecting energy derivatives markets. This is intended to help the development of euro-denominated energy markets.

Targeted amendments to securitisation rules

The Commission is proposing a package of measures amending the Securitisation Regulation and the Capital Requirements Regulation. The aim of these changes is to facilitate the use of securitisation in Europe's recovery by enabling banks to expand their lending and to free their balance sheets of non-performing exposures. It is helpful to let banks transfer some of the risk of SME (small and medium-sized enterprises) loans to the markets so that they can keep lending to SMEs.

- In particular, the Commission proposes creating a specific framework for simple, transparent and standardised on-balance-sheet securitisation that would benefit from a prudential treatment reflecting the actual riskiness of these instruments.
- In addition, the Commission proposes to remove existing regulatory obstacles to the securitisation of non-performing exposures. This can help banks offload non-performing exposures that can be expected to grow because of the coronavirus crisis.

Central Bank of Ireland (CBI)

21 July 2020: CBI publishes its SME Market Report for 2020

The Central Bank of Ireland (CBI) published its SME Market Report for 2020 with a special focus on the challenges to firms posed by Covid-19. The Report aims to provide a timely monitor of developments in the provision of credit to Irish Small and Medium Enterprises (SMEs) by financial intermediaries.

The report finds that:

- the shock to firms' turnover has been large (21 per cent of firms report turnover is 75 per cent lower), but differs by sector;
- firms with the most constrained revenue have reduced their non-personnel costs the most, those reporting revenue declines of over 50 per cent have reduced non-personnel costs by 43 per cent. But 39 per cent of firms have not reduced costs, increasing to 60 per cent where revenues declined 10-49 per cent;
- the Accommodation & Food sector have reduced non-personnel costs the most – 49 per cent of firms in this sector have reduced non-personnel costs by more than 50 per cent;
- survey evidence suggests 39 per cent of firms have unpaid invoices, amounting to around 20 per cent of 2019 revenue for the typical firm, which may pressure cash flow or amplify shocks upon company failure;
- as many as 42 per cent of firms report changing or deferring payments to manage cash flow, increasing to 91 per cent of firms in the Accommodation & Food sector;
- following increases in small non-financial corporation (NFC) non-revolving loans early in the year, compared to 2019, lending has since declined;
- as of May, 72 per cent of SMEs reported no change in access to finance and 6 per cent of SMEs reported a decrease;
- smaller firms lack a bank lending relationship, particularly micro firms (36 per cent), which can help inform lenders credit assessments and support the firm's access to finance;
- greater SME indebtedness in the Accommodation & Food sector (20 per cent exceeding half of turnover) may limit capacity to borrow more, but 44 per in this sector do not hold any debt, while 57 per cent of all firms do not hold any debt; and
- some of the sectors with the largest amount of outstanding bank debt (Accommodation & Food and Wholesale & Retail) are more exposed to the shock from Covid-19.

Autorité des Marchés Financiers (AMF) of France

21 July 2020: AMF publishes summary of its SPOT inspections on Record-keeping

As part of its monitoring of the implementation of regulatory requirements on Markets in Financial Instruments, the Autorité des Marchés Financiers (AMF) conducted a series of five short thematic inspections between November 2019 and February 2020, a few weeks before the outbreak of the COVID-19 health crisis. These inspections focused on the recording and retaining of telephone conversations and electronic communications for the years 2018 and 2019.

On the whole, the AMF observed a good level of operational implementation of the regulatory provisions. For example, it was able to quickly access the recordings that it had selected and the demonstrations it attended confirmed the effectiveness of the tools in place. All the service providers inspected had correctly identified and defined the scope of their activities that require the recording of conversations and communications. The AMF also observed that the procedures in place were relatively operational. However, the AMF observed a low using of these recordings by the service providers. Regarding the process for identifying and managing incidents, the AMF's inspections showed that incident monitoring could be rather inconsistent and was not efficient enough.

24 July 2020: AMF makes proposals for European Commission's renewed sustainable finance strategy

In the context of the European Green Deal and with a view to defining a renewed sustainable finance strategy by the end of 2020, the European Commission launched a consultation that ended on 15 July. For the AMF, promoting the transition towards sustainable finance is a priority that it has included in its #Supervision 2022 strategy.

In the consultation, the AMF made the following proposals:

- define a regulatory and supervisory framework for providers of environmental, social and governance (ESG) data and services that should be proportionate and suited to the different models and levels of risk. The AMF proposes that this supervision be entrusted to ESMA;
- define minimum standards for investment funds marketed as "sustainable" to prevent the risks of greenwashing, since the current framework only imposes transparency;
- create a European label to cover ESG funds, in addition to the future EU Eco-label and to respond to the multiplication of domestic labels; and
- reinforce green bonds' transparency with clearer rules for issuers concerning the information to be included in the prospectus.

20 – 24 July 2020: Speeches, Letters & Other Publications

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

- Why it is necessary to read the Key Investor Information Document (KIID) carefully in the event of a dispute about the fees charged on UCITS
- Sustainable finance progress to date and missing pieces: views from the regulator

Commission de Surveillance du Secteur Financie (CSSF)

20 July 2020: CSSF publishes Luxembourg's first ML/FT risk analysis on specialised professionals of financial sector providing corporate services (trust and company service provider activities)

The Commission de Surveillance du Secteur Financier (CSSF) published Luxembourg's first ML/FT risk analysis on specialised professionals of the financial sector providing corporate services (trust and company service provider activities). This sub-sector risk assessment takes a closer look not only at ML/FT inherent risks, but also at risk-mitigating factors applied by specialised professionals of the financial sector (Specialised PFS) and the CSSF, as well as their impact on inherent risk and the resulting residual risk level. The CSSF expects Specialised PFS to reflect the findings and conclusions from this sub-sector risk assessment into their frameworks to ensure they remain appropriate to effectively mitigate ML/FT risks. Other CSSF supervised entities should also consider and use the findings and conclusions from this sub-sector risk assessment as appropriate in case they provide trust and company service providers services.

20 – 24 July 2020: Speeches, Letters & Other Publications

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

- CSSF Regulation N° 20-04 of 15 July 2020 - on the definition of essential services according to the Law of 28 May 2019 transposing Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the European Union

- Circular CSSF 20/747 - technical arrangements relating to the application of the Law of 25 March 2020 establishing a central electronic data retrieval system related to IBAN accounts and safe-deposit boxes held by credit institutions in Luxembourg
- Circular CSSF 20/748 - adoption of the guidelines of the European Banking Authority on reporting and disclosure of exposures subject to measures applied in response to the COVID-19 crisis (EBA/GL/2020/07)
- Transmission instructions for reporting under Article 37 of the Money Market Funds Regulation

Financial Stability Board (FSB)

22 July 2020: FSB publishes stocktake of financial authorities' experience in including climate-related risks in financial stability monitoring

The Financial Stability Board (FSB) published a stocktake of financial authorities' experience in including climate-related risks in financial stability monitoring. It draws on information provided by FSB member national authorities, international bodies and a workshop with the private sector. The stocktake finds that financial authorities vary in terms of whether – and to what degree – they consider climate-related risks as part of their financial stability monitoring. Around three-quarters of survey respondents consider, or are planning to consider, climate-related risks as part of their financial stability monitoring. Most focus on the implications of changes in asset prices and credit quality.

According to the FSB, a minority of authorities also consider the implications for underwriting, legal, liability and operational risks. Authorities also consider the implications of these risks for financial institutions. Consideration of climate-related credit and market risks faced by banks and insurers appears more advanced than that of other risks, or of risks faced by other types of financial institutions. Some financial authorities have quantified – or have work underway to quantify – climate-related risks. Such work is hindered by a lack of consistent data on financial exposures to climate risks and difficulties translating climate change outcomes into changes in those exposures. No approach to quantification provides a holistic assessment of climate-related risks to the global financial system. In some jurisdictions, climate-related risks are being integrated into microprudential supervision of banks and insurance firms (including via requirements for firms' stress testing and disclosure). However, such work is generally at an early stage. Some authorities report having set out – or being in the process of setting out – their expectations as to firms' disclosure of climate-related risks. In some cases such expectations explicitly refer to the recommendations of the FSB's Task Force on Climate-related Financial Disclosures.

The FSB will conduct further work by October 2020 to assess the channels through which physical and transition risks could impact the financial system and how they might interact. Particular focus will be given to the potential amplification mechanisms and cross-border effects, and to prioritising channels that could materialise in the short-to-medium term. The FSB will also consider the scope for work to assess available data through which climate-related risks can be monitored, as well as any data gaps. This work will build upon, and be coordinated with, that taking place in other relevant international fora.

20 – 24 July 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:

- Bloomberg investor briefing on the FSB's too-big-to-fail evaluation
- Toronto Centre technical webinar: Evaluation of too-big-to-fail reforms

International Capital Market Association (ICMA)

22 July 2020: ICMA publishes its first weekly collection and aggregation of data following entry into application of SFTR

ICMA announced that, in the first week of reporting under the Securities Financing Transactions Regulation (SFTR), firms reported 1,435,727 SFTs with a cash value of EUR 14.3 trillion and collateral value of EUR 17.8 trillion. Repo (both repurchase transactions and buy/sell-backs) accounted for 398,006 transactions (27.7% of the total), a total cash value of EUR 13.5 trillion (94.7%) and collateral value of EUR 17.5 trillion (98.4%). Since 13 July, EU-incorporated and located banks and investment firms, as well as CCPs and CSDs, have had an obligation to report all new SFTs and subsequent life-cycle events to authorised trade repositories (TRs), who are responsible for validating the reports, reconciling the data and making the results available to regulators. All TRs authorised under SFTR - currently these are DTCC, Regis-TR, UnaVista and KDPW - are required to publish, every Tuesday, a set of summary statistics for the previous week.

ICMA will be collecting, aggregating and tabulating this data each week, and will provide regular detailed analysis in the form of charts and commentary, which will contribute to enhanced transparency of the repo market. The SFTR data will also be used to enrich other ICMA publications on repo, such as the twice-yearly European repo survey, which will continue. However, it is important to note that, as not all aspects of SFTR have been finalised, the quality and consistency of the reported data is expected to gradually improve over time.

20 – 24 July 2020: ICMA Podcasts and Other Publications

During the week, ICMA released the following podcasts & other 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 and investor positioning, in light of the adoption of the EU recovery fund, increasing COVID-19 daily cases in the US and its effect on the economic recovery

Other Updates

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

22 July 2020: AFME publishes ESG guidelines for European high yield market

The Association for Financial Markets in Europe (AFME) has published a set of ESG guidelines for the European high yield market. The guidelines are intended to provide guidance on sustainable finance considerations for issuers and investors when leading or otherwise participating in offerings of non-investment grade notes (known as "high yield bonds"). The guidelines make recommendations for considerations and practices to encourage transparency and consistency in disclosure, as well as recommendations for due diligence practices related to such transactions. They are intended to assist the market by providing a framework for assessing relevant ESG factors, including

- disclosure and diligence considerations;
- impact of ESG factors on an issuer's strategy and business model; and
- exposure of an issuer to ESG risks, both at issuer and stakeholder level including sponsors and shareholders.

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

- Who's on top in the first sustainable finance league table?
  "The rankings cover a breadth of different sectors, listing the top banks and deals across debt and equity capital markets, syndicated loans and mergers and acquisitions"

- Corporate climate initiatives regain pre-pandemic steam
  "a flurry of climate announcements have again started filling our inboxes, showing companies still feel the pressure to clean up their operations and images"

- New FCA chief apportions blame for pension and mini-bond scandals
  "The incoming head of the UK's financial regulator has suggested that government mistakes contributed to recent pension and mini-bond mis-selling scandals — and vowed to make the protection of vulnerable consumers a priority when he takes up his post in October"

- Pubs group Stonegate taps investors for high-yielding bonds
  "Stonegate, which runs the Yates and Slug and Lettuce chains, sold £1.2bn of bonds on Friday to finance its takeover of the UK's largest pubs operator Ei Group, taking advantage of bars reopening and a broad resurgence in corporate credit markets"

- Chilango puts sale on the menu as it prepares administration
  "Chilango, the London-focused Mexican restaurant chain, is to put itself up for sale as part of an administration process as a result of the pandemic crisis"

- Bold tech bets transform Baillie Gifford into UK's fastest-growing fund group
  "Baillie Gifford has transformed itself in less than 20 years from a little-known Edinburgh-based investment boutique into the UK's fastest-growing asset manager with a reputation for making bold bets on tech stocks, Chinese equities and innovative private companies"

- Moody's says Lloyds' ethnic diversity plan is 'credit positive'
  "Moody's has described Lloyds Banking Group's programme to promote more black employees to senior roles as "credit positive", marking the first time that the rating agency has explicitly linked a company's stability to ethnic diversity measures"

- EU recovery fund deal revives hopes for eurozone banking union
  "The EU's new €750bn recovery fund will revitalise long-stalled efforts to complete the eurozone's banking union, according to central bankers who predict it will be a vital step towards the creation of a common deposit insurance scheme"

- EU rescue package: borrowing to prevent a north-south split
  "How effectively the reforms are policed at the EU level remains to be seen. Capitalising on the opportunities presented by the recovery package will present a defining test not only to the member states, but to the commission itself"

- Recovery fund marks 'breakthrough' for EU debt ratings, says S&P
  "The fund should improve the credit ratings of member states by establishing a joint response to the crisis, and the massive increase in debt issuance by the EU to fund the initiative will bolster the euro's status as a reserve currency by creating a new set of large liquid bonds for central banks to buy, the rating agency said"

- Investors hail Brussels as a new force in bond markets
  "Investors say the coming explosion in debt issuance by Brussels could help create a new pricing benchmark across the region, while bolstering the euro's role as a reserve currency"

- Investors cheer euro's prospects after 'milestone' EU deal
  "The EU's agreement to launch a recovery fund to ease the effects of the pandemic has paved the way for investors to end a longstanding preference for US assets, according to analysts, boosting the euro at a time when the dollar is hobbled by political and economic risks"

- Investors take stock of Europe's 'monumental' Covid deal
  "The key for investors is that the deal addresses a taboo of the EU: the notion that its members should pool their risk by borrowing jointly in bond markets, rather than going it alone"

- Banks across Europe braced for more heavy loan-loss charges
  "Europe's biggest banks are set to unveil another huge round of provisions for loan losses, as they take stock of the damage wrought by Covid-19 around the globe"

- Crowdfunding picks up slack for green tech start-ups in Europe
  "The transition to clean energy is dominated by big companies and large-scale public projects aimed at delivering low-carbon power at scale. Yet many individual citizens are keen to do their part in achieving climate targets by backing and installing small-scale renewable kit"

- Germany to beef up financial regulation after Wirecard scandal
  "The German finance ministry has unveiled a sweeping reform of financial regulation in the country in the wake of the Wirecard scandal, as pressure mounts on the authorities over their failure to properly police the disgraced payments company"

- Deutsche Bank clients repay Covid-19 related loans earlier than expected
  "Deutsche Bank said its corporate clients were repaying loans taken out to cope with the coronavirus crisis quicker than expected, leaving the bank's balance sheet in a better position than analysts had expected"

- Fed regulator is fed up with hedge funds' behaviour
  "The note sent on July 14 by the Federal Reserve's vice-chair Randal Quarles to other central bank governors and finance ministers reads like one of those anodyne diplomatic demarches that trade hands just before a major war"

- What tools can the Fed use to support the recovery?
  "Investors will this week be looking to the US Federal Reserve for clues at its monetary policy meeting about what path the central bank will take to shore up an economic recovery that appears to be weakening"

- What we have learnt so far from US second-quarter earnings
  "First, Wall Street may have been too gloomy going into the results. Second, companies seen to be prospering under the pandemic will be flogged if their numbers disappoint. And third, uncertainty over coronavirus has made it hard for businesses to say very much at all about the future"

- Investors brace for consumer debt defaults if US relief stalls
  "Analysts are warning of a surge in defaults in consumer debt in the US if Congress fails to extend the programme of increased unemployment benefits that was put in place to ease the effects of the coronavirus outbreak"

- Surge in investors chasing the premium bond jackpot
  "Investors have flocked to premium bonds since the start of the coronavirus pandemic, as they struggle to find competitive interest rates for their savings amid volatile markets"

- Climate change: asset managers join forces with the eco-warriors
  "After years of criticism over alleged inaction, BlackRock, the world's biggest asset manager, in January revealed plans to put climate change at the centre of its investment process by rolling out new ESG funds, divesting some coal holdings and taking a tough line on global warming during boardroom discussions with businesses around the world"

- [US equity fund outflows rise above $20bn for the year]
"Investors have pulled more than $20bn from US equity funds since the beginning of the year, highlighting lingering unease over re-entering the market after a sharp pandemic-linked sell-off"

- American Airlines pledges brand and slots to secure $1.2bn loan
"American Airlines pledged its brand and hard-to-get take-off and landing rights in New York and Washington to secure a $1.2bn loan, as it tries to weather the sharp downturn in travel due to the coronavirus pandemic"

- Gold price tops $1,900 on longest winning streak since 2011
"Gold was closing in on a record high on Friday, climbing above $1,900 a troy ounce as geopolitical tensions kept the haven metal on its longest winning streak since 2011"

- Race to be world's first $2tn company is still on
"Between them, Apple, Amazon and Microsoft have added more than a trillion dollars in market value since the start of 2020"

- Investors back Ukraine bond after change at top of central bank
"Investors have delivered a ringing endorsement of Ukraine's new central bank governor, queueing up to buy bonds at the country's first debt sale since the previous chief abruptly quit three weeks ago"

- Australia faces legal challenge over bonds' climate risks
"The Australian government is facing a class-action lawsuit from investors who allege it failed to disclose the material risks from climate change to its bonds, in what is thought to be the first case of its kind"

- Argentina bondholders team up on new restructuring proposal
"Argentina's biggest bondholders have put forward a new proposal to restructure $65bn in foreign debt, in the hopes of breaking an impasse with the government that has persisted for months"

- Goldman Sachs settles 1MDB case with Malaysia for $3.9bn
"Goldman Sachs has struck a $3.9bn settlement with Malaysia over losses the south-east Asian country suffered in a corruption scandal when billions of dollars were plundered from 1MDB, its state investment fund"

- Singapore's Temasek posts worst shareholder returns in 4 years
"Singapore's Temasek, one of the world's largest institutional investors, is bracing itself for further uncertainty due to coronavirus and trade tensions after it posted its weakest shareholder returns in four years"

- SoftBank exits Credit Suisse funds after circular financing review
"SoftBank has redeemed its investment in Credit Suisse funds that made big bets on the debt of start-ups backed by the Japanese technology conglomerate's Vision Fund, after the Swiss bank completed a review of the circular financing arrangement"

- Rating agencies owe the market more transparency
"Policymakers, particularly in the developing world, are concerned that spending what is needed on pandemic response could invite ratings downgrades. These in turn can lead to massive capital outflows and potentially trigger macro-financial instability and a currency crisis"

- Frédéric Janbon: 'Sustainable investing will be a major force'
"The chief executive of BNP Paribas Asset Management is resolute in his views that environmental, social and governance issues can and do play a big role in driving investment returns"

- Negative interest rates cannot save indebted economies
"Proponents of negative interest rates argue that the response to this problem is to eliminate large denomination banknotes and ensure that banks pass on the full cost of negative rates to their depositors"

Thomson Reuters

- UK borrows record 128 billion pounds in three months to June
  "British government borrowing surged to a record 128 billion pounds ($162 billion) in the first three months of the 2020/21 financial year, when COVID-19 lockdown measures were tightest, more than double the entire previous year's borrowing"

- British Airways owner to raise up to 2.5 bln euros with share issue -sources
  "British Airways owner IAG is set to issue shares at the end of the summer in a bid to raise up to 2.5 billion euros ($2.88 billion) to keep the business afloat and avoid a government bailout, several sources said"

- ECB's Schnabel says not to read too much into summer lull in bond buying
  "Investors should not read too much into lower bond purchase volumes from the European Central Bank in recent weeks as purchases could still increase later on, ECB board member Isabel Schnabel was quoted"

- EU makes world's biggest 'green recovery' pledge - but will it hit the mark?
  "Hundreds of potential projects could benefit, from low-carbon steel production in Sweden to an electric vehicle battery factory in Poland. But a lack of precise guidelines on how the money can be spent left some uneasy"

- U.S. mortgage refis surge as rates fall to historically low levels
  "U.S. mortgage refinancings are surging as historically low 30-year fixed mortgage rates attract borrowers, Bespoke Investment Group said"

- UBS to pay over $10 million to resolve SEC charges on municipal bond offerings
  "A unit of UBS has agreed to pay more than $10 million to resolve charges it circumvented the priority given to retail investors in certain municipal bond offerings, the U.S. Securities and Exchange Commission said"

- Breakingviews - Hydrogen investing is a lottery worth playing
  "Hydrogen is the energy buzzword of the moment. The chemical element could play a key role in the global push to produce carbon-free energy. That appeal is already evident in the toppy valuations of some of the industry's main participants. Yet it's still a lottery worth playing"

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: