European Leveraged Finance Association

ELFA Legal & Regulatory Update
27/07/2020 – 31/07/2020

Key Highlights:

- This Legal & Regulatory Update covers the week commencing **27/07/2020**.
- PRA releases statement on dividend payments and share buybacks beyond 2020.
- FRC publishes its second annual enforcement review.
- ESMA preparing new RTS to further postpone CSDR settlement discipline.
- ESMA and EBA launch consultation to revise joint guidelines for assessing suitability of members of management body and key function holders.
- ESMA makes new bond liquidity data available.
- EIOPA releases statement on Solvency II supervisory reporting in context of COVID-19.
- EIOPA identifies options for shared resilience solutions for pandemic risk.
- EIOPA launches its Solvency II Single Rulebook.
- EBA calls on financial institutions to finalise preparations for end of transitional arrangements between EU and UK.
- EBA sees first impact of COVID-19 materialising in EU banks' Q1 data and publishes thematic note on leveraged finance.
- ECB extends recommendation not to pay dividends until January 2021 and clarifies timeline to restore buffers.
- CBI publishes regulatory service standards performance report H1 2020.
- AMF releases study on liquidity management tools and their implementation in French funds.
- CSSF releases information on global situation of undertakings for collective investment at end of June 2020.
- FSB publishes peer review on macroprudential policy framework and tools in Germany.
- ICMA publishes joint association letter on digital future for financial markets.
- Federal Reserve Board announces an extension of its lending facilities.
- 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)

27 July 2020: PRA publishes supervisory statement on its approach to supervising liquidity and funding risks

The Prudential Regulation Authority (PRA) published Supervisory Statement 24/15, which is relevant to UK banks, building societies and PRA UK-designated investment firms; third-country firms that are banks or designated investment firms; and European Economic Area (EEA) credit institutions that have a branch in the United Kingdom. The statement sets out the PRA's approach to supervising liquidity and funding risks, and covers its expectations in relation to:

- the Internal Liquidity Adequacy Assessment Process;
- the Liquidity Supervisory Review and Evaluation Process;
- drawing down Liquid Asset Buffers;
- collateral placed at the Bank of England; and
- daily reporting under stress.

27 July 2020: PRA publishes supervisory statement on recovery planning

The PRA published Supervisory Statement 9/17, which sets out the PRA's expectations on the content of recovery plans and group recovery plans (jointly referred to as 'recovery plans'). The SS is relevant to UK banks, building societies, PRA-designated investment firms and qualifying parent undertakings ('firms') to which the Recovery Planning Part of the PRA Rulebook applies.

28 July 2020: PRA releases statement on dividend payments and share buybacks beyond 2020

The PRA released a statement that confirms that the PRA will undertake its assessment of firms' distribution plans beyond the end of 2020, in Quarter 4 2020. In this statement, the PRA notes the European Central Bank's

(ECB's) announcement on dividend payments and share buybacks (discussed below). The PRA explained that In its statement on Tuesday 31 March 'PRA statement on deposit takers' approach to dividend payments, share buybacks and cash bonuses in response to Covid-19', the PRA welcomed the decisions by the boards of the large UK banks to suspend dividends and buybacks on ordinary shares until the end of 2020, and set out its expectation that banks would not pay cash bonuses to senior staff. The PRA regards distributions as an important and necessary part of the functioning of the banking system, but these decisions were a sensible precautionary step given the unique role of banks in supporting the wider economy through the period of economic disruption. Therefore, the PRA announced in this statement that it will undertake its assessment of firms' distribution plans beyond the end of 2020 in Quarter 4 2020. The assessment will be based on the current and projected capital positions of the banks and will take into account the level of uncertainty on the future path of the economy, market conditions, and capital trajectories prevailing at that time.

28 July 2020: PRA releases statement on EBA's Guidelines on reporting and disclosure of exposures subject to measures applied in response to Covid-19 outbreak

The PRA released a statement that provides guidance to all PRA-regulated firms on the EBA Guidelines on Covid-19 disclosures and publishes PRA disclosure templates. On Tuesday 2 June 2020 the European Banking Authority (EBA) published its Guidelines on reporting and disclosure of exposures subject to measure applied in response to the COVID-19 crisis ('the EBA Guidelines'), intended to address gaps in reporting data and public information by credit institutions in the context of Covid-19. This statement sets out the PRA's overall expectations on how the EBA Guidelines are to be applied, taking into account the previous 'Statement by the PRA on implementation of the EBA Guidelines to address gaps in reporting data and public information in the context of Covid-19' published on Wednesday 24 June 2020, and the subsequent update on Friday 10 July 2020.

The PRA does not consider it necessary to extend the supervisory reporting elements of the Guidelines to UK credit institutions, therefore UK credit institutions are not expected to prepare or transmit to the PRA the reporting templates contained within the Guidelines on Covid-19 reporting and disclosure. The PRA considers that there is substantial benefit to its objectives through market discipline and disclosure-users from public information on the effects of the measures that UK firms have taken in response to Covid-19. The PRA is exercising the options available in the EBA Guidelines to ensure that the disclosures are implemented in a proportionate manner, including by (i) waiving the application of the disclosure templates for firms that are not identified as global systemically important institutions (G-SIIs) or other systemically important institutions (O-SIIs), and (ii) applying the disclosure templates at the highest level of consolidation in their jurisdiction.

27 – 31 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:

- PRA consults on expectations for the work of external auditors on the matching adjustment
- PRA consults on implementing elements of the Capital Requirements Directive (CRD V)
- PRA releases statement on supervising building societies' treasury and lending activities
- Banking supervisory disclosures: rules and guidance, options and discretions, SREP, and aggregate statistical data
- Bank of England Weekly Report 29 July 2020
- Capital Issuance - June 2020
- Asset Purchase Facility Quarterly Report - 2020 Q2
- Effective interest rates - June 2020
- Money and Credit - June 2020
- Credit union annual statistics - 2019
- UK Finance webinar - Non-systemic UK banks: The Prudential Regulation Authority's approach to new and growing banks

Financial Conduct Authority (FCA)

27 – 31 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 launches enhanced Financial Services Register to protect consumers
- FCA to ban motor finance discretionary commission models
- FCA releases Statement on mortgage prisoners and consultation on intra-group switching and maturing interest-only and part-and-part mortgages
- FCA releases new guidance to help firms do more for vulnerable consumers
- FCA sets out views on Employer Salary Advance Schemes

Financial Reporting Council (FRC)

28 July 2020: FRC revises actuarial standard for Funeral Plan Trusts

The Financial Reporting Council (FRC) has issued a revision to its Technical Actuarial Standard for work supporting Funeral Plan Trusts (TAS 400). The revised standard has been updated to reflect new requirements introduced by the Funeral Planning Authority (FPA) following a consultation in February. There are two associated reasons for making this change now; authorisation and supervision of Funeral Plan Trusts is scheduled to move from the FPA to the Financial Conduct Authority (FCA) in the near to medium future; and the FPA has introduced new requirements in their rules to include a new Asset Adequacy Report. This has been reflected in TAS 400.

Once the transition to the FCA is completed the FRC will conduct a further review to see whether TAS 400 is still needed as a separate TAS, and if it is, what further changes are needed. The FRC is currently reviewing the TASs to ensure they remain fit for purpose. The current TASs were introduced in July 2017 and a five year cycle is adopted between updates or revisions. In the current environment the FRC intends for its next full review to take effect by July 2023. This is slightly longer than normal as a result of the current pandemic.

31 July 2020: FRC publishes its second annual enforcement review

The FRC has published its second Annual Enforcement Review (AER). The report highlights driving audit quality improvements through securing cultural change by those responsible as a key priority for the Enforcement Division with a greater use of constructive engagement and the wider deployment of tailored non-financial sanctions in cases where enforcement action has been required. The report reveals that timeliness remains a key priority for the Division and that increased resourcing in the Division, which grew by 14% over the course of the year, is beginning to have a real impact with material improvements recorded against the FRC's published two-year KPI. The review also offers a detailed analysis of concluded cases over the last six years to identify recurring themes. The overwhelming majority of cases have involved a failure to exercise professional scepticism and a failure to obtain sufficient audit evidence, matters that go to the heart of strong audit.

27 – 31 July 2020: Speeches, Letters & Other Publications

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

- FRC Supervision Division Restructuring and Appointments

European Securities and Markets Authority (ESMA)

28 July 2020: ESMA preparing new RTS to further postpone CSDR settlement discipline

The European Securities and Markets Authority (ESMA) announced that it is working on a proposal to possibly delay the entry into force of the CSDR settlement discipline regime until 1 February 2022. This is due to the impact of the COVID-19 pandemic on the implementation of regulatory projects and IT deliveries by CSDs and came as a request from the European Commission. This measure would be additional to the delay foreseen in the ESMA Final Report on RTS on postponing the date of entry into force of the Commission Delegated Regulation (EU) 2018/1229 (RTS on settlement discipline) until 1 February 2021. This has been endorsed by the European Commission on 8 May 2020 and it is subject to the non-objection of the European Parliament and of the Council until 8 August 2020. ESMA aims to publish the final report on further postponing the date of entry into force of the RTS on settlement discipline by September. Following the endorsement of the RTS by the European Commission, the Commission Delegated Regulation will then be subject to the non-objection of the European Parliament and of the Council.

28 July 2020: ESMA updates transparency opinions for 3rd country venues

ESMA has updated the list of third-country venues (TCTV) in the context of the opinion on post-trade transparency under MiFIR, following new requests from the industry. Following the publication of the opinion and the list of third-country venues in June 2020, ESMA has received requests from market participants to assess more venues against the criteria set out in the opinion. The review is now finalised and ESMA is publishing:

- an updated annex to the opinion related to post-trade transparency, with the list of venues with a positive or partially positive assessment; and
- additional guidance on the implementation of the list of TCTV venues.

28 July 2020: ESMA submits opinion to European Parliament on 2018 discharge process

ESMA submitted an Opinion on the European Parliament's (EP) observations made in the 2018 discharge process. The Opinion sheds light on concrete actions taken by ESMA, including in relation to supervisory fees for credit ratings agencies and trade repositories, establishing the Proportionality Committee, on investigating dividend arbitrage trading schemes. In its Opinion, ESMA welcomes the decision of the EP to grant ESMA's Executive Director discharge in respect of the implementation of ESMA's budget for the financial year 2018.

31 July 2020: ESMA withdraws registration of NEX Abide Trade Repository AB

ESMA has withdrawn the trade repository (TR) registration of NEX Abide Trade Repository AB (NATR). NATR has been registered as a TR since 24 November 2017. The withdrawal decision follows the official notification to ESMA by NATR of its intention to renounce its registration as a TR under the conditions set out in Article 71(1)(a) of EMIR.

31 July 2020: ESMA and EBA launch consultation to revise joint guidelines for assessing suitability of members of management body and key function holders

ESMA and the European Banking Authority (EBA) have launched a public consultation on their revised joint Guidelines. This review reflects the amendments introduced by the fifth Capital Requirements Directive (CRD V) and the Investment Firms Directive (IFD) in relation to the assessment of the suitability of members of the management body. The consultation runs until 31 October 2020.

The draft joint Guidelines clarify that the knowledge, experience and skill requirements are important aspects in the fit and proper assessment of members of the management body and key function holders as they contribute to identifying, managing and mitigating money laundering and financing of terrorism risks. These draft joint Guidelines also clarify that being a member of affiliated companies or affiliated entities does not in itself represent an obstacle for a member of the management body to acting with independence of mind. The Guidelines further specify that a gender-balanced composition of the management body is of particular importance. Institutions should respect the principle of equal opportunities for any gender and take measures to improve a more gender-balanced composition of staff in management positions. The draft joint Guidelines also take into account the recovery and resolution framework introduced by the Bank Recovery and Resolution Directive (BRRD) and provide further guidance in this regard. As part of early intervention measures and during resolution, the suitability of newly appointed members of the management body and of the management body collectively is relevant and requires an assessment. Finally, the draft joint Guidelines consider the new legislative framework for investment firms adopted in 2019 for the identification of the investment firms subject to the various guidelines.

31 July 2020: ESMA makes new bond liquidity data available

ESMA has made available new data for bonds subject to the pre- and post-trade requirements of the Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR) through its data register. ESMA published the latest quarterly liquidity assessment for bonds available for trading on EU trading venues. For this period, there are currently 569 liquid bonds subject to MiFID II transparency requirements.

31 July 2020: ESMA publishes data for systematic internaliser calculations for equity, equity-like instruments, bonds and other non-equity instruments

ESMA has published data for the systematic internaliser quarterly calculations for equity, equity-like instruments, bonds and, for the first time, for other non-equity instruments under the Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR). The scope of assessed bonds decreased for this publication as a result of a change in reporting practice from a trading venue in the UK whose effects where already visible in the previous bond liquidity assessment. This change does not affect the quality of the calculations on the bonds that are published. The results for equity and equity-like instruments and bonds are published only for instruments for which trading venues submitted data for at least 95% of all trading days over the 6-month observation period. The data publications also incorporate OTC trading to the extent it has been reported to ESMA. The publication includes data for instruments traded or available for trading during the reference period considered.

European Insurance and Occupational Pensions Authority (EIOPA)

27 July 2020: EIOPA releases statement on Solvency II supervisory reporting in context of COVID-19

Following the European Insurance and Occupational Pensions Authority's (EIOPA) recommendations of 20 March 2020 on annual and quarterly reporting and publication deadlines, EIOPA released a statement explaining that it considers that insurance and reinsurance undertakings should now be in condition to comply with the deadlines provided in the Solvency II framework. EIOPA explains that, against this background, insurance and reinsurance undertakings are expected to report in the Solvency II solo quarterly Own Funds template (S.23.01) with a reference date between 30 June and 31 December 2020, a calculation (if it is available as of reference date) or at least an estimation of the Solvency Capital Requirement at the end of each quarter reference date instead of the last calculated one as indicated in the Instructions of the Implementing Technical Standards. EIOPA also urges competent authorities to submit the information received quarterly to EIOPA no later than 2 weeks upon receipt to allow EIOPA to monitor the situation in a timely manner.

27 July 2020: EIOPA identifies options for shared resilience solutions for pandemic risk

EIOPA published its Issues Paper highlighting options for developing shared resilience solutions for pandemic risk. The paper recognises that private insurance solutions alone will not be sufficient to protect society against the financial consequences of future pandemics. Solutions will require both public and private sector involvement, and build on the following four key elements:

- proper risk assessment;
- risk prevention and adaptation measures;
- appropriate product design; and
- risk transfer

In developing this paper, EIOPA consulted the insurance and reinsurance industry, as well as commercial insurance buyers and insurance brokers and distributors.

30 July 2020: EIOPA outlines key financial stability risks of European insurance and pensions sector

EIOPA published its July 2020 Financial Stability Report of the (re)insurance and occupational pensions sectors in the European Economic Area. This Financial Stability Report also includes two thematic articles, focusing on i) The EU sustainable finance taxonomy from the perspective of the insurance and reinsurance sector and ii) The impact of EIOPA statement on insurers' dividends: Evidence from equity market.

31 July 2020: EIOPA launches its Solvency II Single Rulebook

EIOPA launched its first Single Rulebook. The Single Rulebook is an online tool focused on Solvency II that further promotes the consistent implementation of the regulatory framework for insurance supervision. The main benefit of the Single Rulebook is that enables the navigation across different legal acts such as the Directive, Delegated and Implementing Regulation, as well as EIOPA Guidelines, Recommendations, Opinions and Supervisory Standards. This aim of this tool is to improve the understanding of the applicable rules, and at the same time to promote the European internal market. In the near future, EIOPA plans to expand the scope of the Single Rulebook by adding Questions and Answers submitted via EIOPA's dedicated Q&A process.

European Banking Authority (EBA)

27 July 2020: EBA consults on technical standards on indirect subscription of MREL instruments within groups

The European Banking Authority (EBA) launched a public consultation on its draft Regulatory Technical Standards (RTS) specifying the methods to avoid that instruments indirectly subscribed by the resolution entity for the purpose of meeting the minimum requirement for own funds and eligible liabilities (MREL), applicable to entities that are not themselves resolution entities, hamper the smooth implementation of the resolution strategy. These patterns of indirect subscription are also known as "daisy chains of internal MREL". The consultation runs until 23 October 2020.

29 July 2020: EBA calls on financial institutions to finalise preparations for end of transitional arrangements between EU and UK

The EBA released a statement recalling the importance of adequate preparations by financial institutions for the end of the transition period between the EU and UK. The EBA calls on the institutions to finalise the full execution of their contingency plans in accordance with the conditions agreed with the relevant competent authorities and ensure adequate communication to concerned EU customers. According to the EBA, financial institutions wishing to operate in the EU and offer services to their EU customers should ensure they have obtained the necessary authorisations and effectively establish themselves before the end of the transition period. Furthermore, financial institutions affected by the UK withdrawal from the EU, should provide adequate information to their EU customers regarding the availability of services after the end of the transition period.

30 July 2020: EBA provides update on 2021 EU-wide stress test timeline, sample and potential future changes to its framework

The Board of Supervisors (BoS) of the European Banking Authority (EBA) announced that it has agreed on the tentative timeline and sample of the 2021 EU-wide stress test. The exercise is expected to be launched at the end of January 2021 and its results to be published at the end of July 2021. The 2021 EU-wide stress test will be carried out at the highest level of consolidation on a sample of 51 banks, of which 39 from the Euro Area, covering broadly 70% of the banking sector in the euro area, each non-Eurozone Member States and Norway

30 July 2020: EBA sees first impact of COVID-19 materialising in EU banks' Q1 data and publishes thematic note on leveraged finance

The EBA published its quarterly Risk Dashboard together with the results of the Risk Assessment Questionnaire (RAQ). The updated data shows that the impact of COVID-19 was mainly reflected in a contraction of banks' capital ratios and profitability, the cost of risk increased, whereas non-performing loans (NPL) ratios remained stable, confirming that the impact of the pandemic on asset quality can be delayed. The EBA also published a thematic note on leveraged finance, which highlights that the expansion of this market segment in recent years has come along with a significant easing of credit standards.

31 July 2020: EBA launches consultation to revise its Guidelines on internal governance

The EBA launched a public consultation to revise its Guidelines on internal governance This review takes into account the amendments introduced by the fifth Capital Requirements Directive (CRD V) and the Investment Firms Directive (IFD) in relation to credit institutions' sound and effective governance arrangements. The consultation runs until 31 October 2020. These Guidelines clarify that identifying, managing and mitigating money laundering and financing of terrorism risk is part of sound internal governance arrangements and credit institutions' risk management framework. These draft Guidelines further specify and reinforce the framework regarding loans to members of the management body and their related parties. Those loans may constitute a specific source of actual or potential conflict of interest and, therefore, specific requirements have been explicitly included in the Directive 2013/36/EU (CRD). In the same way, other transactions with members of the management body and their related parties have the potential to create conflicts of interest and, therefore, the EBA is providing guidance on how to properly manage them. Finally, in line with the requirement to have a gender-neutral remuneration policy, the consultation paper contains new guidance on the code of conduct to ensure that credit institutions take all necessary measures to avoid discrimination and guarantee equal opportunities to staff of all genders.

European Central Bank (ECB)

28 July 2020: ECB publishes aggregate results of its vulnerability analysis of banks directly supervised within Single Supervisory Mechanism

The European Central Bank (ECB) published the aggregate results of its vulnerability analysis of banks directly supervised within the Single Supervisory Mechanism. The exercise assessed how the economic shock caused by the coronavirus (COVID-19) outbreak would impact 86 euro area banks and aimed to identify potential vulnerabilities within the banking sector over a three-year horizon. Overall, the results show that the euro area banking sector can withstand the pandemic-induced stress. Considering the extraordinary current circumstances and in order to avoid subjecting banks to additional operational burden, the ECB used already available data for this exercise, including regular supervisory reporting.

28 July 2020: ECB extends recommendation not to pay dividends until January 2021 and clarifies timeline to restore buffers

The ECB extended its recommendation to banks on dividend distributions and share buy-backs until 1 January 2021 and asked banks to be extremely moderate with regard to variable remuneration. It also clarified that it will give enough time for banks to replenish their capital and liquidity buffers in order not to act pro-cyclically. This updated recommendation on dividend distributions remains temporary and exceptional and is aimed at preserving banks' capacity to absorb losses and support the economy in this environment of exceptional uncertainty. This uncertainty makes it difficult for banks to accurately forecast their capital positions. As demonstrated by the vulnerability analysis the level of capital in the system could decline significantly if a severe scenario were to materialise. The ECB will review whether this stance remains necessary in the fourth quarter of 2020, taking into account the economic environment, the stability of the financial system and the reliability of capital planning. Once the uncertainty requiring this temporary and exceptional recommendation subsides, banks with sustainable capital positions may consider resuming dividend payments. This will also apply when they are operating below the Pillar 2 Guidance (P2G) capital level. As a precondition banks' projected capital trajectories must demonstrate that their capital positions are sustainable in the medium term.

29 July 2020: ECB announces organisational changes to strengthen banking supervision

The ECB announced changes to the organisational structure of its supervisory arm to ensure continued effective and efficient supervision of banks in the euro area and beyond. The organisational changes will include the creation of two additional business areas in the ECB's banking supervision arm – bringing the total to seven – and the redistribution of tasks across business areas. Bank-specific supervision will be organised according to banks' business models and will be supported by teams of risk or subject matter experts. Activities such as supervisory strategy and risk, on-site supervision, and governance and operations will have dedicated business areas. The changes will be headcount-neutral and cost-neutral. The changes are expected to be completed in the fourth quarter of 2020.

27 – 31 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:

- Euro area economic and financial developments by institutional sector: first quarter of 2020
- Euro area pension fund statistics: first quarter of 2020
- Economic Bulletin Issue 5, 2020
- Drivers of firms' loan demand in the euro area – what has changed during the COVID-19 pandemic?, Published as part of the Economic Bulletin Issue 5, 2020
- The impact of the ECB's monetary policy measures taken in response to the COVID-19 crisis, Published as part of the Economic Bulletin Issue 5, 2020
- A preliminary assessment of the impact of the COVID-19 pandemic on the euro area labour market, Published as part of the Economic Bulletin Issue 5, 2020
- Liquidity distribution and settlement in TARGET2, Published as part of the Economic Bulletin Issue 5, 2020
- US dollar funding tensions and central bank swap lines during the COVID-19 crisis, Published as part of the Economic Bulletin Issue 5, 2020
- The great trade collapse of 2020 and the amplification role of global value chains, Published as part of the Economic Bulletin Issue 5, 2020
- Consumption of durable goods in the euro area, Published as part of the Economic Bulletin Issue 5, 2020
- Euro area equity markets and shifting expectations for an economic recovery, Published as part of the Economic Bulletin Issue 5, 2020
- Recent developments in euro area food prices, Published as part of the Economic Bulletin Issue 5, 2020
- The IMF's financial surveillance in Europe – experiences with FSAPs and their links with Article IV consultations, Occasional Paper Series
- The coronavirus crisis and ECB Banking Supervision: taking stock and looking ahead, Blog by Andrea Enria

European Commission (EC)

27 – 31 July 2020: Speeches, Letters & Other Publications

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

- Commission launches call for innovative response and recovery partnerships between EU regions
- Commission approves €840 million German guarantee scheme to protect consumers and support the travel industry in the context of the coronavirus outbreak
- Commission approves €10 billion Spanish fund to provide debt and capital support to companies affected by the coronavirus outbreak
- Commission approves €6 billion Italian schemes to support SMEs affected by coronavirus outbreak
- Commission clears Alstom's acquisition of Bombardier, subject to conditions

Central Bank of Ireland (CBI)

30 July 2020: CBI publishes regulatory service standards performance report H1 2020

The Central Bank of Ireland (CBI) published the Regulatory Service Standards Performance Report for the first half of 2020. The Central Bank has set challenging standards for managing applications for authorisation for financial services firms and for assessing those who want to work in a regulatory sector under the Fitness and Probity regime. This report sets out the Central Bank's performance against these standards. The report finds that the Central Bank Service met or exceeded the standards in all 34 of the applicable targets with over 5,500 applications and submissions assessed. The types of applications and submissions assessed included applications from funds and management companies, applications for the clearance of investment managers, debt and equity prospectuses, applications from retail intermediaries and payment firms, and numerous other activities.

27 – 31 July 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:

- "Issues affecting the functioning of the Insurance sector remain. A continued lack of diversity and inclusion is one of them. Progress is too slow." – Deputy Governor, Ed Sibley

Autorité des Marchés Financiers (AMF) of France

30 July 2020: AMF releases study on liquidity management tools and their implementation in French funds

The Autorité des Marchés Financiers (AMF) released a study on liquidity management tools and their implementation in French funds. The released study, the product of combined work by the AMF & the Banque de France, first describes the different tools authorized under the existing regulatory framework in France. Secondly, the study checks which tools are actually available to fund managers, thanks to an original textual analysis computer program which was run, scanning about 9,800 prospectuses.

Among the main conclusions, it appears that, as at 31/12/2019:

- 71 % of prospectuses (representing a total net asset of 82% of French funds) indicated the possibility to suspend redemptions;
- 14 % of French funds (in terms of total net assets) mentioned at least one of the three main liquidity management tools in their prospectus: anti-dilution levies concerned less than 2% of French funds total net assets, while gates concerned 9% and swing pricing 6%)
- prospectuses of UCITS mentioned these LMTs more often than those of AIFs;
- anti-dilution levies were mentioned more by equity funds (7% of the total net assets) than by other types of funds;
- gates are introduced more often in funds that are considered less liquid, (e.g. real estate funds where these concern 19% of the total net assets); and
- swing pricing is particularly indicated in bond funds' prospectuses (19% of total net assets).

27 – 31 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:

- Sustainable finance and collective investment management: the AMF publishes an update of its investor information policy
- Disclosure Regulation: The AMF provides a number of key insights on the ongoing consultation of the European Supervisory Authorities
- Ban on short selling: who was supposed to apply it and to which securities?

Commission de Surveillance du Secteur Financie (CSSF)

29 July 2020: CSSF releases information on global situation of undertakings for collective investment at end of June 2020

The Commission de Surveillance du Secteur Financier (CSSF) released information on the global situation of undertakings for collective investment at the end of June 2020. According to the CSSF, as at 30 June 2020, the total net assets of undertakings for collective investment, comprising UCIs subject to the 2010 Law, specialized investment funds and SICARs, amounted to EUR 4.585,196 billion compared to EUR 4.483,233 billion as at 31 May 2020, i.e. an increase of 2,27% over one month. Over the last twelve months, the volume of net assets rose by 3,94%. The Luxembourg UCI industry thus registered a positive variation amounting to EUR 101,963 billion in June. This increase represents the sum of positive net capital investments of EUR 36,447 billion (+0,81%) and of the positive development of financial markets amounting to EUR 65,516 billion (+1,46%).

27 – 31 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 Newsletter n° 234, July 2020
- Circular CSSF 20/749 - Amendment of Circular CSSF 20/741 on the adoption of the Guidelines of the European Banking Authority on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis (EBA/GL/2020/02) following the amendment of EBA/GL/2020/02 by EBA/GL/2020/08.
- Circular letter - CSSF recommendation on restriction of distributions during the COVID-19 pandemic
- CSSF Updated COVID19 FAQ - CSSF recommendation on restriction of distributions during the COVID-19 pandemic (update of question 13)

Financial Stability Board (FSB)

29 July 2020: FSB publishes peer review on macroprudential policy framework and tools in Germany

The Financial Stability Board (FSB) published its Peer Review of Germany. The review examines progress with data collection for macroprudential analysis and the availability and use of macroprudential tools in Germany; and how the authorities assess and manage risks to financial stability from non-bank financial intermediation (NBFI). The review finds that Germany's macroprudential framework is well established and operationalised through the Financial Stability Committee (FSC).

However, the review concludes that further steps can be taken to strengthen the macroprudential framework by:

- enhancing data collection for macroprudential analysis, in particular on residential real estate loans, NBFI and interconnectedness;
- strengthening the FSC's public communication and its analysis of non-bank and emerging risks; and
- extending the policy toolkit to include income-based instruments for residential real estate financing and providing guidance on the use of liquidity risk management and pricing tools for investment funds, particularly in stressed market conditions.

The peer review report includes recommendations to the German authorities in order to address these issues.

International Capital Market Association (ICMA)

29 July 2020: ICMA publishes joint association letter on digital future for financial markets

ICMA along with ISDA, ISLA, LBMA, UK Finance, Association of German Banks (BdB), AFMA and International Islamic Financial Market, have jointly submitted a letter to policy-makers asserting their commitment to defining and promoting the development of a digital future for financial markets. The letter sets out a series of principles and objectives across three core areas – standardization, digitization and distribution – in order to increase efficiencies, reduce complexity and lower costs.

Other Updates

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

28 July 2020: Federal Reserve Board announces an extension of its lending facilities

The Federal Reserve Board announced an extension through December 31 of its lending facilities that were scheduled to expire on or around September 30. The three-month extension will facilitate planning by potential facility participants and provide certainty that the facilities will continue to be available to help the economy recover from the COVID-19 pandemic. The extensions apply to the Primary Dealer Credit Facility, the Money Market Mutual Fund Liquidity Facility, the

Primary Market Corporate Credit Facility, the Secondary Market Corporate Credit Facility, the Term Asset-Backed Securities Loan Facility, the Paycheck Protection Program Liquidity Facility, and the Main Street Lending Program. The Municipal Liquidity Facility is already set to expire on December 31, with the Commercial Paper Funding Facility set to expire on March 17, 2021.

29 July 2020: Federal Reserve Board announces extensions of U.S. dollar liquidity swap lines and repurchase agreement facility for foreign and international monetary authorities

The Federal Reserve announced the extensions of its temporary U.S. dollar liquidity swap lines and the temporary repurchase agreement facility for foreign and international monetary authorities (FIMA repo facility) through March 31, 2021. The extensions of the facilities will help sustain recent improvements in global U.S. dollar funding markets by maintaining these important liquidity backstops. In addition, the FIMA repo facility will help support the smooth functioning of the U.S. Treasury market by providing an alternative temporary source of U.S. dollars other than sales of securities in the open market.

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 pension scheme pledges £5.5bn for green strategies
  "Nest plans to invest £5.5bn into environmentally friendly strategies in a drive by the UK government-backed workplace pension scheme to decarbonise its £12bn investment portfolio and tackle global warming"

- City Bulletin: Lloyds puts aside £3.8bn as economic gloom builds
  "Lloyds Banking Group racked up another £2.4bn in impairment charges in the second quarter of the year as the UK high street bank cut its outlook for the British economy. Combined with a 16 per cent decline in net income and a smaller trading surplus, the charges dragged the bank to a £600m loss for the first half of the year. Lloyds' impairment charges follow a week of provisions for bad loans by European banks"

- City Bulletin: British Airways' owner strengthens finances with €2.75bn capital raise
  "British Airways owner IAG has announced plans for a capital raising of up to €2.75bn to strengthen its finances as the impact of the pandemic rips through the aviation industry"

- LSE considers selling Italian assets to secure Refinitiv deal
  "The London Stock Exchange Group has begun discussions to sell some or all of its Italian assets in an effort to secure regulators' approval for its blockbuster $27bn purchase of data and trading group Refinitiv"

- Next proves one of the great survivors with lockdown sales
  "Next has long since proved its retail survival creds, pivoting online far more successfully than ageing rival M&S"

- Why did so many ESG funds back Boohoo?
  "That exceptional rating — which placed Boohoo among the top 15 per cent of its peers based on ESG metrics — as well as the decision by so-called sustainable funds to invest in the retailer has come under fire in recent weeks after the Sunday Times claimed garment workers at a Leicester factory making clothes for one of Boohoo's brands were paid below the minimum wage and suffered poor working conditions"

- Letter: Boohoo shows up failures of ESG asset managers
  "Basic data such as employment tribunal findings and company online reviews on recruitment sites can be far more insightful than current ESG metrics. Boohoo is potentially the tip of a much bigger iceberg"

- Cash from abandoned bank accounts boosts UK social investment
  "An organisation set up by the UK government to use money in abandoned bank accounts to catalyse funding for non-profit groups has been a major force behind a seven-fold increase in the country's social investment market, according to the first independent review of its performance"

- European regulators delay new rules on failed trades
  "European markets regulators are planning a year's delay to a new rule imposing penalties on trades that fail to settle on time, after market participants said the coronavirus pandemic had made it impossible to hit next February's deadline"

- EU fund managers back fee changes to Mifid II trading rules
  "European fund managers have welcomed plans from Brussels to exempt them from paying a fee for research on bonds and small companies"

- S&P lifts outlook on EU credit rating
  "Standard & Poor's has raised the outlook on the EU's credit rating to positive, citing the central role to be played by Brussels in the bloc's recovery efforts from the coronavirus crisis"

- State equity support runs risk of moral hazard
"One of the arguments deployed by advocates of the EU's landmark €750bn recovery package agreed last week was that some governments, particularly in Europe's highly indebted south, had less fiscal leeway to support their businesses and workers than others. This could create severe competitive distortions in the single market and accentuate economic divergence in the eurozone, imperilling the stability of the single currency"

- Deutsche Bank quarterly loss tempered by surge in bond trading
"Deutsche Bank has increased its forecast for revenue this year after it posted the strongest surge in fixed-income trading revenue in almost eight years, more than offsetting €761m of coronavirus-related loan loss provisions"

- BNP Paribas beats expectations as investment banking revenues rise
"A surge in fixed income trading revenues and lower-than-forecast provisions for bad loans at BNP Paribas helped the French bank beat analysts' profit expectations in the second quarter"

- Fed plans for 'the worst' as it waits for Congress to act
"The Federal Reserve took little action at its meeting this week, but sent plenty of dovish signals to investors — highlighting its worries about the impact of coronavirus on a US recovery, its hopes that Congress will renew fiscal stimulus, and its willingness to add monetary support"

- Gold price hits record high as investors' Covid-19 fears escalate
"Gold raced to a record high on Monday as the US's deepening Covid-19 crisis sent the US dollar tumbling further and encouraged anxious investors to choose the precious metal as the place to park their cash"

- Hope will not save US commercial properties
"In reality, there is no Hope Act. The bill may have more than a 100 co-sponsors, but it has no Senate counterpart. It seems very unlikely that $400bn or $500bn of federal money will go into propping up commercial property values"

- US investors demand data in fight against racial discrimination
"But some large shareholders are trying to compel companies to provide diversity data of their own volition"

- Retail investors open to alternatives in the hunt for higher yields
"Retail investors in the US are turning to hedge funds and private equity to boost returns, as persistently low interest rates and a crowded equities market have cramped the performance of stocks and bonds"

- Desperate hunt for yield forces investors to take 'extreme risk'
"The hunt for yield is getting harder than ever for fixed-income investors. Roughly 86 per cent of the $60tn global bond market tracked by ICE Data Services traded with yields no higher than 2 per cent — a record proportion — with more than 60 per cent of the market yielding less than 1 per cent as of June 30"

- Cash-rich companies halve corporate bond issuance in July
"Global corporate bond issuance is on course for its slowest month of the year, slumping by half from June, as companies flush with cash from a recent borrowing binge take stock of the fast-evolving coronavirus crisis"

- ESG investors wake up to biodiversity risk
"Companies and investors are becoming increasingly concerned about the significant financial risks stemming from biodiversity loss and the destruction of natural ecosystems"

- Petropavlovsk warns of results delay after PwC rejects auditor role
"Petropavlovsk, the Russia-focused gold producer hit by a bitter power struggle among leading investors, has warned of a delay to half-year results because of problems appointing an auditor"

- Singapore's GIC reports lowest returns since global financial crisis
"GIC has posted its lowest rate of return since the global financial crisis as the Singapore sovereign wealth fund braces for deeper geopolitical and market uncertainties due to the coronavirus pandemic"

Thomson Reuters

- Bank of England to keep policy on hold as COVID prognosis murky
  “Britain’s central bank will shed more light next week on how fast it expects the economy to rebound from the financial damage wrought by COVID-19, but is unlikely to add to the 100 billion pounds ($131 billion) of stimulus it announced in June”

- EU banking watchdog sounds warning note on leveraged loans
  “Some banks in the European Union hold large exposures of increasingly risky leveraged loans that could be hard to offload if investor appetite were to vanish due to the pandemic, the bloc’s banking watchdog said”

- ECB has to maintain ‘safety net’ until June 2021, Lagarde says
  “The European Central Bank has to maintain the “safety net” of its massive bond purchases at least until June 2021 to help underpin the economy, the ECB’s President Christine Lagarde said on Friday, reaffirming the bank’s policy stance”

- ECB extends dividend ban, capital relief for euro zone banks
  “The European Central Bank extended on Tuesday a recommendation to euro zone banks not to pay dividends until the end of the year and allowed them to eat into their capital and liquidity buffers for even longer, to help them cope with the economic fallout of the coronavirus pandemic”

- BlackRock conflicts managed ‘extremely carefully,’ Fed’s Powell says
  “Any potential conflicts that may arise from having investment giant BlackRock Inc (BLK.N) buy corporate bonds and commercial mortgages on behalf of the Federal Reserve are being managed “extremely carefully,” Fed Chair Jerome Powell said”

- JPMorgan’s development finance arm structures first deal
  “JPMorgan’s (JPM.N)’s development finance institution has structured its first deal, a $250 million five-year green bond for a power firm in Georgia, as it targets $100 billion for development projects annually, executives say”

- Credit Suisse earmarks more than $300 billion for sustainable finance
  “Credit Suisse (CSGN.S) plans to provide at least 300 billion Swiss francs ($328.41 billion) in sustainable financing over the next decade in areas such as renewable energy and Green Bonds”

- Top fund firms oppose planned U.S. roadblock to green retirement funds
  “Top asset managers including Vanguard Group, State Street Corp and Franklin Resources have urged the Trump administration to reconsider proposed investment rules that would make it harder for retirement plans to use socially focused funds like those that invest in renewable energy”

- World Bank’s IFC launches $4 billion medical supply financing platform
  “The World Bank Group’s private sector arm said on Wednesday it was launching a $4 billion financing platform aimed at boosting the production and supply of critical healthcare products in developing countries to help fight the coronavirus pandemic”

- BNP Paribas issues Australia’s first climate-linked bond
  “BNP Paribas issued Australia’s first green bond linked to the performance of an index tracking companies tipped to benefit from the country’s transition into a low-carbon economy, aiming to bridge a gap in sustainable investment products”

- SoftBank advances share buyback with approval of $9.6 billion tranche
  “SoftBank Group said on Friday it has approved a 1 trillion yen ($9.6 billion) share repurchase, the final tranche of a record 2.5 trillion buyback that has helped propel its share price to two decade highs”

- Hong Kong moves to create regional hub for insurance-linked securities
  “Hong Kong is on track to soon join the UK and Singapore as newly minted hubs for insurance-linked securities. This is a field long dominated by offshore jurisdictions such as Bermuda”

- Argentina creditors seek global support for bond clause changes
  "A group of Argentina's creditors has contacted the Institute of International Finance and other global bodies for support to amend legal clauses in its sovereign bond restructuring, a spokesman for the organisation said"

- Ecuador extends $17.4 bln debt restructuring to Aug 3
  "Ecuador will extend the deadline for creditors to vote on its $17.4 billion debt restructuring plan to Monday following a lawsuit by a small group of bondholders, the finance ministry said"

- Global funds favour bonds over stocks on surging coronavirus infections: Reuters poll
  "Global funds recommended cutting equity holdings in July to the lowest in four years and suggested keeping bond allocations unchanged from June, amid worries the coronavirus pandemic is hobbling a nascent economy recovery, a Reuters poll of showed"

- How the coronavirus is crushing credit ratings
  "The crippling effects of the coronavirus crisis have crushed government and corporate finances and sent debt soaring. As the charts below show, it is also crunching their credit ratings and causing a spike in defaults"

- Insurers walk tightrope of risky corporate credit
  "Normally among the most conservative of investors, insurers facing shrinking returns and big future payouts are delving increasingly into riskier corporate debt, potentially exposing themselves to defaults and more regulatory scrutiny"

- A trading tool that's transforming the $10 trillion-plus corporate bond market
  "The innovation, known as portfolio trading, involves bundling several bonds into a single package to trade. Once unwieldy and time-consuming, tech innovation is rapidly turning it mainstream"

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: