ELFA Legal & Regulatory Update
29/06/2020 – 03/07/2020

Key Highlights:

- This Legal & Regulatory Update covers the week commencing 29/06/2020.
- BoE releases statement on its commitment to combatting climate change.
- FCA announces extension of Senior Managers & Certification Regime (SM&CR) implementation periods for solo-regulated firms.
- Climate Financial Risk Forum (CFRF) publishes its guide to help financial industry address climate-related financial risks.
- FRC concludes that audit firms are implementing additional measures to enhance evaluation of going concern assessments.
- TPR updates corporate plan to address COVID challenges.
- ESMA responds to European Commission consultation on digital finance strategy.
- EBA publishes final guidelines on treatment of structural FX positions.
- ESRB releases July 2020 risk dashboard (Issue 32).
- ECB welcomes initiative to launch new European payment solution.
- CBI states firms must enhance measures to protect consumers when selling complex investment products.
- AMF draws attention to changes in risks of money laundering and terrorist financing in particular context of worldwide health crisis.
- FSB gives statement on impact of COVID-19 on global benchmark reform.
- ICMA expands scope of Bond Market Transparency Directory.
- Federal Reserve Board releases new term sheet for primary market corporate credit facility.
- 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)

30 June 2020: PRA releases statement on Capital Requirements Regulation (CRR) 'Quick Fix' package

The Prudential Regulation Authority (PRA) released a statement setting out its views on some of the CRR 'Quick Fix' requirements, including some guidance for firms. This statement sets out the PRA's initial views on the following measures included in the package:

- transitional arrangements for capital impact of IFRS 9 Expected Credit Loss (ECL) accounting;
- acceleration of the date of application of certain CRR II measures that had been due to apply from Monday 28 June 2021: a revised small and medium-sized enterprises (SME) support factor;an infrastructure support factor; and non-deduction of certain software assets from Common Equity Tier 1 (CET1) capital; and
- discretion to apply a temporary prudential filter to certain unrealised gains or losses measured at fair value through other comprehensive income.

30 June 2020: PRA consults on its proposed approach to the publication of Solvency II technical information after end of transition period

The PRA released a consultation paper (CP), which sets out the approach that it proposes to take to the publication of Solvency II technical information (TI) after the end of the transition period (TP). The proposals included in this CP, which would apply at the end of the TP, are as follows:

- the PRA's published TI would be derived by adopting the same technical methodologies embodied within the European Insurance and Occupational Pensions Authority's (EIOPA's) TI as at the end of the TP, with some limited

exceptions. The exceptions are set out in a draft Statement of Policy (SoP), and are generally items that the PRA must change as a result of the UK's changed legal status of having withdrawn from the EU, and the resulting alterations in information flows between the PRA and EIOPA. These changes would also contribute to the TI being relevant and credible for UK firms;
- the criteria that the PRA would use to determine the PRA relevant currencies to publish, which would be based on the relative materiality of technical provisions denominated in each currency, and the currencies for which firms have volatility adjustment (VA) or matching adjustment (MA) authorisation;
- the PRA's approach to determining VA reference portfolios (which would inform the calculation of the VA), in light of the loss of sharing of regulatory returns data between the PRA and EIOPA; and
- the publication of TI on the PRA website, and, where there is a deviation in the future from EIOPA's technical methodology, a PRA publication that describes this deviation.

This CP is relevant to all UK Solvency II firms, including in respect of the Solvency II groups provisions, to the Society of Lloyd's and its managing agents. Non-Directive firms are out of the scope of this CP. The proposed implementation date for the proposals in this CP would be at the end of the TP, which is expected to be 11pm on Thursday 31 December 2020. Responses are requested by Wednesday 30 September 2020.

30 June 2020: Bank of International Settlements selects BoE to host an Innovation Hub Centre

The Bank of England (BoE) has been selected to host a centre of the Bank of International Settlements (BIS) Innovation Hub. This UK centre will support the global central banking and finance community through the development of digital public goods - addressing issues of critical importance for the global financial system. The decision to establish this centre is a reflection on the UK's position as a world leader in innovation and technology in finance, with global leadership evident across the private, government and regulatory sectors.

01 July 2020: BoE releases statement on its commitment to combatting climate change

The BoE released a statement setting out its position on climate change in relation to the recent Covid crisis. The BoE explained that it has a strong commitment to the goals of combatting the adverse effects of climate change, and in particular the net zero target. The Covid 19 crisis has not changed that commitment. But, the crisis has required hard decisions to be taken on competing priorities. The BoE explained that its lending to companies as part of the emergency response to Covid 19 has not incorporated a test based on climate considerations. The BoE confirmed that this was deliberate, because in such a grave emergency affecting this country the BoE has focused on the immediate priority of supporting the jobs and livelihoods of the people of this country. The BoE believes that its duty to the people of this country requires such a difficult choice to be made, but it will not change the BoE's commitment to the goals of countering climate change. Likewise, when the pressure on resources abates, the BoE will turn to important issues such as the benchmark for its corporate bond portfolio.

01 July 2020: PRA publishes its Regulatory Digest - June 2020

The PRA released its Regulatory Digest for the month of June 2020. The PRA Regulatory Digest is for people working in the UK financial services industry and highlights key regulatory news and publications delivered for the month.

29 June – 03 July 2020: Speeches, Letters & Other Publications

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

- Letter from Sam Woods 'Managing climate-related financial risk – thematic feedback from the PRA's review of firms' SS3/19 plans and clarifications of expectations'
- Monthly Decision Maker Panel data - June 2020
- Bank of England Weekly Report 1 July 2020
- UK International Reserves - June 2020
- Money and Credit - May 2020
- Effective interest rates - May 2020
- Why are more borrowers choosing long-term fixed-rate mortgage products?
- Modelling fire sale contagion across banks and non-banks, Staff Working Paper
- Understanding pay gaps, Staff Working Paper
- Remarks by Jonathan Haskel on Covid-19 and monetary policy
- Leading the change: climate action in the financial sector, Speech by Sarah Breeden
- Observed macroeconomic tail risk and asset prices: new long term evidence, Keynote speech by Gertjan Vlieghe

- [The second quarter, Speech by Andy Haldane]
- [7th Asset Pricing Workshop]
- [Andrew Bailey and Sarah Breeden: Climate Financial Risk Forum launch Webinar]
- [A decade of Dodd-Frank – Panel 5 "What has Dodd-Frank meant globally?", Webinar]
- [One Bank Flagship Seminar, Prue Leith]
- [Jon Cunliffe: In-conversation at the Institute of International Finance Summit, 'Central Banking in the age of COVID-19']

Financial Conduct Authority (FCA)

22 June 2020: FCA announces extension of Senior Managers & Certification Regime (SM&CR) implementation periods for solo-regulated firms

The FCA announced that the Treasury has agreed to delay, from 9 December 2020 until 31 March 2021, the deadline for solo-regulated firms to have undertaken the first assessment of the fitness and propriety of their Certified Persons. This will give firms significantly affected by the coronavirus pandemic time to make the changes they need.

To ensure SM&CR deadlines remain consistent, and to provide extra time for firms that need it, the FCA intends to consult on extending the deadline for the following requirements:

- the date the Conduct Rules come into force;
- the deadline for submission of information about Directory Persons to the Register; and
- references in the FCA's rules to the deadline for assessing Certified Persons as fit and proper (which has been agreed by the Treasury)

In order to give regulated firms certainty, the FCA intends to consult alongside parliamentary process, to allow the FCA to finalise its policy as soon as possible. The Certification Regime and reporting of Directory Persons do not apply to benchmark administrators, so the FCA does not intend to move the deadline for benchmark administrators. Therefore, benchmark administrators have until December 2021 to train non-Senior Manager staff in the Conduct Rules. The FCA does not think that the coronavirus pandemic will prevent effective implementation of Conduct Rules training in these firms, and so the FCA is not considering extending this deadline.

01 July 2020: FCA confirms further support for consumer credit customers

The FCA has confirmed the support users of certain consumer credit products will receive if they are still experiencing temporary payment difficulties due to coronavirus (Covid-19). The measures outline the options firms will provide credit card and other revolving credit (store card and catalogue credit) and personal loan customers who are coming to the end of a payment freeze and for customers who have agreed an arranged interest-free overdraft of up to £500. Customers yet to request a payment freeze or an arranged interest-free overdraft of up to £500, will have until 31 October 2020 to apply for one. When implementing this guidance, firms should be particularly aware of the needs of their vulnerable customers and should consider how they engage with them. Firms should also help customers understand the types of debt help and money guidance that are available and encourage them to access the resources that can help them.

03 July 2020: FCA announces proposals to further support motor finance and high cost credit customers

The FCA announced proposals which would provide continued support for users of motor finance and high cost credit products, who continue to face payment difficulties due to coronavirus (Covid-19). The proposals outline the options firms will provide motor finance, buy-now pay-later (BNPL), rent-to-own (RTO) and pawnbroking customers who are coming to the end of a payment freeze, as well as those who are yet to request one. For customers yet to request a payment freeze, the time to apply for one would be extended until 31 October 2020. For motor finance, BNPL, RTO and pawnbroking customers that have already taken up support, and who are still experiencing payment difficulties, firms would continue to offer support with options including a further payment deferral or reducing payments to an amount the customer can afford for a further 3 months.

The proposals include:

- at the end of a first payment freeze, firms should contact their customers to find out if they can resume payments;
- anyone who continues to need help gets help - for customers still facing temporary payment difficulties as a result of coronavirus;
- extending the time the scheme is available to people who may be impacted at a later date;

- the ban on repossessions should continue until 31 October 2020; and
- Where a customer needs further temporary support to bridge the crisis, any payment freezes or partial payment freezes offered under this guidance should not have a negative impact on credit files.

29 June – 03 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:

- Approved Persons Regime (APR) and coronavirus: FCA's expectations
- FCA gives update on banks' overdraft pricing decisions and plans to support consumers
- FCA research reveals 1.1million spike in cryptoasset buyers
- FCA's policy development update - 3 July 2020
- FCA regulated fees and levies 2020/21
- FCA statement on Wirecard
- Identifying and managing access to cash during Covid-19
- High Court finds against illegal pension introducers, Avacade and others
- FCA publishes Decision Notice against former Worldspreads CEO for market misconduct
- Business interruption insurance test case: FCA's Reply to all the Defendants' Defences
- Building a financial regulatory system suitable for the UK in the new era, Speech by Nausicaa Delfas

Climate Financial Risk Forum (CFRF)

29 June 2020: Climate Financial Risk Forum (CFRF) publishes its guide to help financial industry address climate-related financial risks

The Climate Financial Risk Forum (CFRF) has published a guide written by industry for industry to help firms approach and address climate-related financial risks. The guide, the first of its kind, provides practical recommendations to firms of all sizes on disclosure of climate-related financial risks; effective risk management; scenario analysis, and opportunities for innovation in the interest of consumers. The objective of the guide is to help firms understand the risks that arise from climate change, and to provide support on how to integrate these risks into their strategy and decision-making processes. Each chapter within the guide provides practical tools, experience, knowledge and case studies, which firms can use as they develop their strategies, processes and approaches.

The key areas are:

- Risk management: by appropriately embedding climate-related financial risk into its governance and risk management processes, a firm can make informed business decisions and improve their resilience;
- Scenario analysis: by appropriately modelling and considering a range of possible scenarios, a firm can better understand and manage future risks, whilst capturing opportunities to support the transition to a net-zero carbon economy;
- Disclosures: by making effective climate-related financial disclosures, a firm can improve transparency thereby helping the market appropriately assess the true future value of assets; and
- Innovation: by developing novel products, services, policies and approaches, a firm can adapt its business to respond to the potential impacts of climate change, benefit consumers and deliver the change required to meet climate goals.

Addressing climate-related financial risk is an ongoing process and this guide could assist firms in doing this. The guide complements wider work from both regulators in this space. This includes the PRA's supervisory expectations for banks' and insurers' approaches to managing financial risks from climate change as well as the FCA's proposals to improve issuers' climate risk disclosures through applying the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD).

Financial Reporting Council (FRC)

02 July 2020: FRC concludes that audit firms are implementing additional measures to enhance evaluation of going concern assessments

Audit firms have introduced a range of additional measures to enhance their evaluation of companies' going concern assessments, since the start of the Covid-19 emergency, according to a review initiated and undertaken by the Financial Reporting Council (FRC). The FRC's review covered the going concern policies and procedures of the seven largest UK audit firms required in accordance with ISA (UK) 570. The review found that the additional policies and procedures introduced were appropriate and reasonably consistent across the firms. Audit firms have increased the extent of required consultations and central guidance for audit teams, and have had regular communications with them, to ensure consistency in the audit of going concern. These additional measures also increased the level of challenge to company boards and management about their key assumptions, stress testing and disclosures in the financial statements. The FRC's review also includes areas of good practice which will be relevant for all audit firms undertaking going concern assessments. The FRC will review a sample of completed audits as the next stage of the review, to assess how the revised going concern policies and procedures are being applied in practice and will report on this later this year.

29 June – 03 July 2020: Speeches, Letters & Other Publications

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

- Blog: London Climate Action Week
  Hannah Armitage of the FRC's Financial Reporting Lab updates on work being undertaken by the FRC to address the climate challenge
- Blog: Investors set out reporting expectations in times of crisis
  Blog post by Phil Phitz-Gerald of the FRC Lab, setting out reporting expectations investors expect to see in times of crisis
- Publication Policy - Updated July 2020 - Audit Enforcement Procedure
- Publication Policy regarding decisions under the Accountancy and Actuarial Schemes – Updated July 2020

The Pensions Regulator (TPR)

29 June 2020: TPR updates Corporate Plan to address COVID challenges

The Pensions Regulator (TPR) published its new Corporate Plan. Protecting savers and driving up standards in workplace pensions remains at the heart of this plan. The plan for 2020-21 sets out TPR's priorities for the year ahead and has been adjusted to reflect the realities of how the pensions landscape has changed because of the pandemic. However, it also demonstrates TPR's ongoing commitment to tightening its regulatory grip through its clear, quick, and tough approach and highlights the importance of working with key government and regulatory partners.

As well as supporting the delivery of benefits through changes driven by the pandemic, the plan outlines TPR's continued commitment to protecting savers across all types of schemes through regulatory interventions and scheme supervision. Regulatory initiatives, paused due to COVID-19, will restart at the appropriate time. The plan also confirms TPR's determination to maintain the fight against pension scams by empowering savers and taking action against fraudsters, working with Project Bloom partner agencies. TPR will also continue to support defined benefit schemes to achieve their long-term funding strategy and ensure those staff eligible are automatically enrolled into a workplace pension and receive the contributions they are legally entitled to. Finally, the plan highlights TPR's ongoing priority to improve governance by providing clarity and promoting the high standards of trusteeship and administration expected.

European Securities and Markets Authority (ESMA)

29 June 2020: ESMA responds to European Commission consultation on the Digital Finance Strategy

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has submitted a response to the European Commission's (EC) consultation on a new digital finance strategy for the European Union (EU). ESMA welcomes the EC consultation noting that it builds on the 2018 FinTech Action Plan that set a number of deliverables for the ESAs, all of which were completed. ESMA believes that certain specific initiatives would support this goal, such as developing Digital Financial Identities, that are usable and recognised throughout the EU, based around the existing ISO 17442 global standard of the Legal Entity Identifier (LEI). ESMA's response also outlines several conditions needed for a well-regulated data-driven financial sector, including appropriate skills, data standardisation and data security.

03 July 2020: ESMA publishes its Newsletter - Nº15

ESMA has published its Newsletter - Nº15. This month, ESMA has published its 2019 Annual Report, released an important video on cost and performance and approved the new Securities and Markets Stakeholder Group (SMSG). In this edition, ESMA also takes a closer look at our full list of ESMA staff webinars and catch up on publications from June.

European Insurance and Occupational Pensions Authority (EIOPA)

29 June 2020: EIOPA responds to European Commission's Digital Finance Strategy consultation

The European Insurance and Occupational Pensions Authority (EIOPA) responded to the consultation of European Commission on a new digital finance strategy for Europe. In its response EIOPA highlights that a sound approach to financial innovation should strike a balance between enhancing financial innovation and ensuring well-functioning consumer protection and financial stability frameworks. A level playing field and technological neutrality are crucial.

02 July 2020: EIOPA announces start of Balance Sheet Review of Romanian insurance sector in second half of 2020

EIOPA, together with the Financial Supervisory Authority of Romania (ASF), announced the start of the Balance Sheet Review of the Romanian insurance sector in the second semester of 2020. The exercise was previously postponed in view of the special circumstances generated by the COVID-19 pandemic. The new cut-off date for the balance sheet data is 30 June 2020 and the exercise is expected to be launched in the second half of the year 2020. The governance of the exercise, the follow-up measures and the use of independent consultant/auditors will remain unchanged, while necessary adjustments to the timeline will be ensured. The Balance Sheet Review independent assessment remains a priority in order to enhance transparency of the Romanian insurance undertakings' solvency and financial position.

03 July 2020: EIOPA publishes monthly technical information for Solvency II Relevant Risk Free Interest Rate Term Structures – end June 2020

EIOPA published technical information on the relevant risk free interest rate term structures (RFR) with reference to the end of June 2020. RFR information has been calculated for the first time Using Refinitiv as the main market data source applying the content of the Technical Documentation published on 1 October 2019 and based on RFR coding released on 8 October 2019.

03 July 2020: EIOPA publishes monthly update of symmetric adjustment of equity capital charge for Solvency II – end June 2020

EIOPA published technical information on the symmetric adjustment of the equity capital charge for Solvency II with reference to the end of June 2020. The symmetric adjustment is regulated mainly in Article 106 of Directive 2009/138/EC (Solvency II Directive); Article 172 of the of the Delegated Regulation of Solvency II as well as in EIOPA's Final report on ITS on the equity index for the symmetric adjustment of the equity capital charge.

29 June – 03 July 2020: Speeches, Letters & Other Publications

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

- Innovation for the benefit of consumers: Opening remarks by Gabriel Bernardino at the European Forum for Innovation Facilitators (EFIF)
- Cross-Border Cooperation Platform on Gefion Insurance A/S - The Danish Financial Supervisory Authority has withdrawn Gefion's license

European Banking Authority (EBA)

29 June 2020: EBA supports European Commission's proposal for new digital finance strategy for Europe

The European Banking Authority (EBA) published its response to the European Commission's consultation on a new Digital Finance Strategy for Europe. The EBA explained that it is committed to securing technology neutrality in regulatory and supervisory approaches and strongly supports the Commission's initiative towards a new Digital Finance Strategy. The EBA identified in its response a wide range of possible EU-level actions to support the scaling of innovative technology cross-border whilst ensuring high standards of consumer protection and financial sector resilience. The EBA announced that it looks forward to the publication of the Digital Finance Strategy and stands ready to play its role in optimising the EU Single Market for digital finance.

01 July 2020: EBA publishes final Guidelines on treatment of structural FX positions

The EBA published its final Guidelines on the treatment of structural FX positions. The aim of these Guidelines is to establish a harmonised framework for the application of the structural FX waiver, which will allow its consistent application going forward. The Guidelines will be applicable from 1 January 2022, one year later than originally envisaged to ensure that institutions have time to prepare for the introduction of the requirements. The structural FX provision, as laid down in Article 352(2) of the Capital Requirements Regulation (CRR), allows Competent Authorities to authorise, on an ad hoc basis, the exclusion of FX-risk positions deliberately taken by firms to hedge against the adverse effect of exchange rates on capital ratios from the calculation of the net open currency positions where those positions are of a structural nature. Considering that the application of the waiver can have a significant impact on capital requirements, these Guidelines identify objective criteria to assist Competent Authorities in their assessment of the structural nature of a foreign-exchange position and to understand whether such position has been deliberately taken for hedging the capital ratio. The Guidelines have been developed considering also changes to the market risk framework introduced in the CRR2 and the new structural FX treatment envisaged in the Fundamental Review of the Trading Book (FRTB) standards. As a result, these Guidelines have been designed in a way that institutions will not be required to ask for a new permission once they will switch to the FRTB framework for computing the own funds requirements for market risk.

European Systemic Risk Board (ESRB)

02 July 2020: ESRB General Board publishes overview of meeting held 25 June 2020 and releases Risk Dashboard, July 2020 (Issue 32)

At its meeting on 25 June 2020, the General Board of the European Systemic Risk Board (ESRB) again focused on the consequences of the coronavirus (COVID-19) pandemic for the EU's economy and the financial system. With this in mind, the General Board discussed the channels through which the COVID-19 pandemic could severely affect the EU financial system and its capacity to provide financial services to the real economy. The ESRB also released its latest risk dashboard. The dashboard is a set of quantitative and qualitative indicators of systemic risk in the EU financial system.

European Central Bank (ECB)

01 July 2020: ECB launches public consultation on its supervisory approach to consolidation

The European Central Bank (ECB) published a guide for consultation that aims to clarify its supervisory approach to consolidation projects involving euro area banks. The ECB will make use of its supervisory tools in order to facilitate sustainable consolidation projects. Such projects must be based on a credible business and integration plan, improve the sustainability of the business model, and respect high standards of governance and risk management.

The ECB will:

- not penalise credible integration plans with higher capital requirements. The starting point for capital will be the weighted average of the two banks' Pillar 2 capital requirements and Pillar 2 guidance prior to consolidation;
- look to the use of badwill by banks for risk reduction and value-added investments; and
- accept the temporary use of existing internal models, subject to a strong roll-out plan.

The ECB encourages parties envisaging consolidation to engage with it early on in the process. This will allow the ECB to give preliminary feedback on such projects. With the publication of this guide, the ECB aims to clarify how supervisors use their powers with respect to consolidation projects – as announced by Andrea Enria during his January 2020 press conference – and invites comments from interested parties. Greater transparency is intended to make supervisory actions more predictable and avoid misperceptions of supervisory expectations. The consultation on the guide ends at midnight CET on 1 October 2020.

02 July 2020: ECB welcomes initiative to launch new European payment solution

The ECB announced that it welcomes the decision by 16 European banks to launch the European Payments Initiative. This initiative aims to create a unified payment solution for consumers and merchants across Europe, encompassing a payment card and a digital wallet and covering in-store, online and person-to-person payments as well as cash withdrawals.

29 June – 03 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 Survey of Monetary Analysts (SMA), July 2020
- Virtually everywhere? Digitalisation and the euro area and EU economies, Occasional Paper Series
- ECB-BASIR: a primer on the macroeconomic implications of the Covid-19 pandemic, Working Paper Series
- Bank contagion in general equilibrium, Working Paper Series

- Rethinking capital regulation: the case for a dividend prudential target, Working Paper Series
- Forecasting macroeconomic risk in real time: Great and Covid-19 Recessions, Working Paper Series
- Macroeconomic effects of tariffs shocks: the role of the effective lower bound and the labour market, Working Paper Series
- Drivers of European public debt management, Working Paper Series
- Financial intermediation and technology: What's old, what's new?
- What's up with the Phillips Curve?
- The use of the Eurosystem's monetary policy instruments and its monetary policy implementation framework between the first quarter of 2018 and the fourth quarter of 2019, Occasional Paper Series
- The ECB's monetary policy during the coronavirus crisis – necessary, suitable and proportionate, Speech by Isabel Schnabel
- The price of uncertainty and uncertainty about prices: monetary policy in the post-COVID-19 economy, Keynote speech by Fabio Panetta
- In the spirit of European cooperation, Introductory remarks by Yves Mersch
- Letter from Andrea Enria, Chair of the Supervisory Board, to Mr Zanni, Ms Donato, Mr Grant and Mr Rinaldi, MEPs, on banking supervision

European Commission (EC)

29 June – 03 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 publishes report on the impact of the Interchange Fees Regulation
- Commission expands Temporary Framework to further support micro, small and start-up companies and incentivise private investments
- Boosting the EU's green recovery: Commission invests €1 billion in innovative clean technology projects
- Commission takes further action to ensure a well-functioning Single Market for professionals
- Single Market Scoreboard 2020: Member States need to do more to ensure the good functioning of the EU Single Market
- Investment Plan for Europe exceeds €500 billion investment target ahead of time
- Anti-Money Laundering: Commission decides to refer Austria, Belgium and the Netherlands to the Court of Justice of the EU for failing to fully implement EU anti-money laundering rules
- European Commission revamps its 'Have Your Say' portal

Central Bank of Ireland (CBI)

29 June 2020: CBI states firms must enhance measures to protect consumers when selling complex investment products

The Central Bank of Ireland (CBI) has published the findings of a Thematic Inspection of investment firms' compliance with their legal requirements to determine whether a product is appropriate for their customers. The main findings of the inspection are:

- several firms failed to provide evidence that they are paying sufficient attention to the application of the appropriateness requirements, instead placing undue reliance upon standardised questionnaires and 'box-ticking' to demonstrate compliance;
- in many cases, firms' practical application of the requirements was undermined by weak processes, systems, and controls; resulting in errors and assessments proceeding with incomplete information;
- many firms are relying on a blanket approach for gathering client information that fails to consider the significant differences in risk and complexity that occurs between investment products. Firms need to improve the quality of information collected;
- in many cases, it was not clear how firms reached the appropriateness decision; and
- the review found evidence of inadequate and weak warnings issued where products were found to be inappropriate for clients, including the use of vague, ambiguous language. The appropriateness warning should not be viewed by firms as a disclaimer which overrides the legal obligations of firms to act in the best interests of the consumer.

In response, the CBI announced that it is engaging directly with those firms where issues have arisen. The CBI has also sent a letter to all MiFID firms, detailing the findings of the inspection together with recommendations to enhance their compliance arrangements, where relevant.

03 July 2020: CBI publishes its third Quarterly Bulletin of 2020

The CBI has published its third Quarterly Bulletin of 2020, which focuses on the impact of the Covid-19 pandemic and the potential impact of a disruptive Brexit. Key highlights include:

- real time data for the Irish economy points to a trough in activity being reached in April, with activity now above this low point;
- however, economic activity remains significantly below levels seen prior to the pandemic; and
- there has been a variation in the economic impact across different regions, with a greater impact seen in areas where sectors such as tourism and hospitality are more important.

29 June – 03 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:

- Making the case for macroprudential tools for the market-based finance sector: lessons from COVID-19 – Remarks by Governor Gabriel Makhlouf

Autorité des Marchés Financiers (AMF) of France

03 July 2020: AMF draws attention to changes in risks of money laundering and terrorist financing in particular context of worldwide health crisis

The Autorité des Marchés Financiers (AMF) released a statement drawing the attention of portfolio asset management companies, financial investment advisors, crowdfunding advisors and digital asset service providers to changes in the risks of money laundering and terrorist financing in the particular context of the worldwide health crisis. The Financial Action Task Force (FATF) and TRACFIN are publishing two instructive analysis. Using a risk-based approach, professionals are called upon to adjust their systems and step up their vigilance in an adapted manner.

03 July 2020: AMF publishes its Markets and Risk Outlook 2020

The AMF published its Markets and Risk Outlook 2020, which provides an assessment of trends and vulnerabilities in the context of the COVID-19 crisis. It focuses more specifically on the functioning of markets, financial stability and the financing of the economy. According to the report, while markets and infrastructures functioned effectively through the health crisis, the imbalances that were already present at the outset have been accentuated and geopolitical tensions remain. Aside from the many challenges of financing the post-Covid 19 economic recovery, which constitutes an economic vulnerability in its own right, the Outlook highlights growing risks for financial stability, with the possibility of a new market correction and the weakened solvency of numerous companies.

Commission de Surveillance du Secteur Financie (CSSF)

29 June – 03 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:

- Newsletter No 233 June 2020
- CSSF Regulation N° 20-02 on the equivalence of certain third countries with respect to supervision and authorisation rules for the purpose of providing investment services or performing investment activities and ancillary services by third-country firms
- Interview with Jean-Pierre Faber, Director of the CSSF, on the technological innovations launched by the CSSF to meet the expectations of its stakeholders

Financial Stability Board (FSB)

01 July 2020: FSB gives statement on impact of COVID-19 on global benchmark reform

The Financial Stability Board (FSB) discussed the impact of COVID-19 on global benchmark transition. The FSB's Official Sector Steering Group (OSSG) is monitoring the developments closely and recognises that some aspects of firms' transition plans are likely to be temporarily disrupted or delayed, while others can continue. The FSB maintains its view that financial and non-financial sector firms across all jurisdictions should continue their efforts in making wider use of risk-free rates in order to reduce reliance on IBORs where appropriate and in particular to remove remaining dependencies on LIBOR by the end of 2021. The FSB explained that the relevant national working groups are co-ordinating changes to intermediate milestones in their benchmark transition programmes, where appropriate, to ensure global coordination. According to the FSB, financial and other firms should continue to ensure that their transition programmes enable them to transition to LIBOR alternatives before end-2021.

01 July 2020: FSB concludes its too-big-to-fail evaluation

The FSB has set out its conclusions from its evaluation of the effects of too-big-to-fail reforms. The report finds that too-big-to-fail reforms (TBTF) made banks more resilient and resolvable, but gaps need to be addressed. Moreover, the FSB has published a report for public consultation, which provides an evaluation of TBTF reforms for systemically important banks. These reforms were endorsed by the G20 in the aftermath of the 2008 global financial crisis and have been implemented in FSB jurisdictions over the past decade. The evaluation examines the extent to which the reforms are reducing the systemic and moral hazard risks associated with systemically important banks, as well as their broader effects on the financial system.

The reforms being evaluated include:

I. standards for additional loss absorbency through capital surcharges and total loss-absorbing capacity requirements;
II. recommendations for enhanced supervision and heightened supervisory expectations; and
III. policies to put in place effective resolution regimes and resolution planning to improve the resolvability of banks.

The FSB has also published a technical appendix to the evaluation, which provides the detailed empirical evidence for the conclusions reached. Estimates of the social costs and benefits of the TBTF reforms and a Resolution Reform Index were also published. Responses to the public consultation should be sent to fsb@fsb.org by 30 September 2020 with "TBTF consultation" in the subject line.

International Capital Market Association (ICMA)

30 June 2020: ICMA ERCC publishes second update to its SFTR recommendations

The ERCC published a further update to the ICMA Recommendations for Reporting under SFTR. The document was initially published on 24 February, followed by a first comprehensive update on 22 April. This third public version published includes a number of updates resulting from the ongoing discussions in the ERCC's SFTR Task Force. Importantly, it also incorporates the latest guidance received from ESMA on 25 May in response to some outstanding ICMA queries on the final SFTR Guidelines (initially submitted to ESMA in late January). On the two key topics, the reporting of settlement fails and bilateral variation margining, ESMA decided unfortunately not to follow the ICMA proposals which were based on an established industry consensus and reflected in the previous recommendations. Aligning to the latest guidance therefore required extensive changes to some of the recommendations. While the current version of the Recommendations is in line with ESMA's latest response, it is worth noting that ICMA has followed up with ESMA separately to reiterate its concerns with the guidance and to ask ESMA to reconsider.

The ICMA Recommendations for Reporting under SFTR aim to help members interpret the regulatory reporting framework specified by ESMA and set out complementary best practice recommendations to provide additional clarity and address ambiguities in the official guidance. The recommendations are complemented by additional best practice documents developed by ICMA, including a set of SFTR sample reports and an overview of lifecycle event reporting for repos. Both documents have also been updated to reflect the changes to the recommendations.

30 June 2020: ICMA expands scope of Bond Market Transparency Directory

ICMA has expanded its Bond Market Transparency Directory to include pre-trade reporting obligations, in addition to post-trade obligations across multiple jurisdictions from Europe, the Americas and Asia-Pacific. The purpose of the mapping is to provide a consolidated view to compare both regulatory rules and best practice guidance on bond trade reporting transparency regimes, as well as details on reporting fields and exceptions. This is a non-exhaustive overview and is intended to be a living document with periodic reviews.

02 July 2020: ICMA publishes updated FinTech Mapping Directory

ICMA has updated its mapping directory of technology solutions for repo and cash bond operations. The directory now lists a total of 159 solutions, compared to 130 solutions last year and 87 solutions when it was first launched in November 2017. It is divided into 10 categories comprising collateral management, corporate actions, exposure agreement, intraday liquidity monitoring and reporting, matching, confirmation & allocation, reconciliations but also ancillary areas such as static data and SSI, workflow and communication and KYC onboarding.

There has been a marked increase in the number of solutions listed, though only a minority represent new entrants or firms not previously listed. The majority of new solutions originate from known providers extending their services across other market segments. The review shows an increased focus on matching, confirmation & allocation (5 additions), collateral lifecycle management (4 additions), and exposure agreements and reconciliation services (3 additions each). Ancillary categories such as workflow & communication have also seen an increase in diverse tools to manage operational and legal processes (6 additions). To make the directory more user friendly, the latest revision includes a brief 'At a glance' tab which provides an overview of listed solutions and helps filter each category. The mapping directory does not constitute an exhaustive list of providers in the market.

29 June – 03 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:

- Transition to risk-free rates: an official sector panel discussion from ICMA
  In this panel discussion held on 25 June, the official sector panellists discuss three main issues during the panel: first, progress on the transition to risk-free rates so far, despite the market impact of the coronavirus pandemic; second, remaining challenges to complete implementation of the transition in time, including legacy issues; and third, the importance of international coordination, how this works and what it involves
- COVID-19: Impact and Outlook for Covered Bonds
  Sabrina Miehs, Covered Bond Analyst at Helaba, Thomas Cohrs, Head of FIG and SSA Origination, Syndicate & Sales at Helaba, and Daniel Rauch, Portfolio Manager & Head of Covered Bonds Research at Union Investment, review the impact of the COVID-19 crisis on covered bonds, take stock of central bank related measures and explore the potential role of covered bonds in (re) funding local economies after the pandemic
- The impact of COVID-19 on the debt capital markets in South Africa, Webinar

Other Updates

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

29 June 2020: Federal Reserve Board releases new term sheet for the Primary Market Corporate Credit Facility

The Federal Reserve Board released a new term sheet for the Primary Market Corporate Credit Facility, adding pricing and other information. As detailed in the FAQs, pricing will be issuer-specific and informed by market conditions. Prices will also be subject to minimum and maximum spreads over comparable maturity Treasury securities. By standing ready to provide credit to qualifying issuers of corporate bonds in periods of stress, the PMCCF serves as a funding backstop, supporting market liquidity and the availability of credit for large employers. The Primary Market and Secondary Market Corporate Credit Facilities were established with the approval of the Treasury Secretary and with $75 billion in equity provided by the Treasury Department from the CARES Act.

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

- McLaren averts court battle after striking deal with bondholders
  "UK sports car maker McLaren has reached a detente with its bondholders, calling off a legal battle with its lenders after receiving a financial lifeline from a Bahraini bank"

- FCA probes H2O over Windhorst bonds
  "The UK's financial regulator is probing H2O Asset Management's sale of illiquid bonds and stocks back to controversial German financier Lars Windhorst, adding to the heightened scrutiny of transactions in obscure securities at a former star of the European investment industry"

- H2O sticks to its guns despite €1bn investor redemptions
  "Investors have pulled around €1bn out of poorly-performing H2O Asset Management funds this year, but the firm still believes some of its bets that soured during the pandemic will come good"

- BP agrees $5bn sale of petrochemicals business to Ineos
  "BP has agreed to sell its petrochemicals business to Ineos for $5bn, as chief executive Bernard Looney accelerates his efforts to sharpen the focus and strengthen the finances of the global energy company"

- Fund managers face scrutiny over use of FX benchmarks
  "A top central banker has warned that fund managers trading currencies could be in breach of their duty to clients, if they use rates set by daily benchmarks and fail to shop around for a better deal"

- UK long-term government bond yields sink below Japan's
  "The UK's 30-year government bond yield has dropped below the equivalent borrowing cost for Japan for the first time, despite a huge expansion in gilt issuance to tackle the coronavirus crisis"

- UK borrowing plans suggest public finances are weaker than expected
  "Britain's cash-strapped government announced on Monday that it needed to borrow another £50bn in August to meet its financing needs, suggesting public finances are weaker than expected"

- German finance minister moves to resolve court stand-off with ECB
  "Germany's finance minister says the European Central Bank has fulfilled the requirements of a controversial ruling last month by the German constitutional court that cast the bank's flagship bond-buying programme into doubt"

- EU debt plan makes sense and is worth backing
  "A genuine eurozone sovereign bond market may be closer than we think. To fund the recovery from Covid-19, the European Commission will go directly to the markets over the next two years to raise €750bn. This will create a huge, long-term, triple A-rated debt security for institutional investors — boosting European capital markets and the euro itself"

- Grieg Seafood takes aim at Cargill through $105m green bond
  "Norway's Grieg Seafood has issued bonds worth NKr1bn ($105m) with an unusual condition: that the proceeds do not find their way to Cargill, the US grains trader that has been accused of failing to protect rainforests in the Amazon"

- [Wirecard bonds set to join infamous 'no coupon' club]
“Wirecard's bonds are set to join the ranks of an exclusive, if notorious, club: those that did not even manage to make their first interest payment”

- Did ESG investors pass the Wirecard test?
“Environmental, social and governance (ESG) screening is increasingly seen as a way for investors to avoid scandals that cost companies billions of dollars — but just how well does it work?”

- After Wirecard: is it time to audit the auditors?
“Rattled by the failure of an independent probe by KPMG to verify transactions underpinning “the lion's share” of its reported profits between 2016 and 2018, and unable to publish its results due to issues eventually raised by its longstanding auditors EY, Wirecard finally capitulated”

- Thyssenkrupp backers improve €7.6bn debt terms after lenders balk
“The private equity groups behind the acquisition of Thyssenkrupp Elevators, Europe's biggest leveraged buyout in a decade, have backed down in a stand-off with bond and loan investors, agreeing to tighten terms of the deal in lenders' favour”

- Dividend cuts prompt investors to rummage in junk for income
“A steady erosion of stock market dividends is driving investors into Europe's high-yield debt market, according to a report from Bank of America that predicts another strong quarter of fundraising for low-rated issuers”

- Building a greener future stretches Axa's alternatives chief
“Ms Scemama says it is “too early to know what the end picture” will be for the office market as demand is correlated with economic growth but she is confident interest in more environmentally friendly zero carbon buildings will remain strong”

- Can BNP Paribas become Europe's JPMorgan?
“The French lender stepped up in recent months when several US banks balked at lending money to European businesses that were reeling from the impact of the coronavirus pandemic”

- Ukraine scraps bond sale after central bank governor quits
“Ukraine has cancelled a bond sale hours after the country's central bank chief Yakiv Smolii announced his resignation due to “systematic political pressure” that he said threatened the institution's independence”

- Fed's Bullard says risk of financial crisis remains
“A senior Federal Reserve official has warned that a wave of business failures owing to the pandemic could still trigger a financial crisis, as he justified the central bank's continuing efforts to prop up capital markets”

- Fed minutes reveal more debate on capping bond yields
“Bond managers positioned for the Federal Reserve to revive a radical policy targeting bond yields were left disappointed on Wednesday, after minutes from the US central bank's most recent meeting showed officials were still debating the benefits of so-called yield curve control”

- Fed moves closer to offering interest rate guidance
“Federal Reserve officials moved closer to offering detailed guidance on the path of interest rates and asset purchases last month as they discussed reinforcing their policy tools in response to the recession triggered by the coronavirus pandemic”

- Junk bond funds see biggest withdrawals since March
“Investors pulled the most amount of money out of US junk bond funds last week since the depths of the coronavirus-induced sell-off, as investor appetite for lower-rated debt shows signs of waning”

- [US companies file for bankruptcy at fastest pace since 2013]
  "Bankruptcy filings in the US are running at the fastest pace since 2013 as companies buckle under strain unleashed by the coronavirus pandemic"

- [Wall Street banks net record fees for pandemic fundraisings]
  "Investment banking fees soared to a record $57bn in the first six months of the year, boosted by a series of lucrative debt sales as companies grabbed cash to tide them through the coronavirus crisis"

- ['Large demand gap' looms for US government bonds]
  "A gulf is growing between the amount of US government debt to be issued by the Treasury department this year and what the Federal Reserve is planning to buy"

- [US seeks Warhol and Monet art in latest 1MDB forfeiture request]
  "Now US prosecutors have turned their attention to art by Andy Warhol and Claude Monet as they continue their four-year-long pursuit of luxury assets bought with $4.5bn allegedly misappropriated from Malaysia's 1MDB development fund"

- [Investors are too complacent about emerging market risks]
  "Much has been written on the disconnect between markets and the US real economy. But there's a much bigger one in emerging markets. Many of them are floating on a tide of liquidity, and investors are seemingly oblivious to what may happen when it goes out"

- [Rise in Covid-19 bond issuance fans fears over 'social washing']
  "Analysts in the sustainable investment sector say the market needs to be on alert for "social washing", where issuers claim that proceeds will go towards worthy causes but the money ends up elsewhere"

- [Why private capital will benefit from the crisis]
  "Some trends are so powerful that even a global recession triggered by a pandemic does very little to change their course. The huge shift of investor money from mainstream public markets to more opaque corners of the financial system is only likely to accelerate in the coming decade"

- [World Bank ditches second round of pandemic bonds]
  "The World Bank has shelved plans for a second sale of pandemic bonds after the first drew criticism for being too slow to pay out aid to poor nations suffering from the coronavirus outbreak"

- [Soho House to roll out global expansion despite pandemic crisis]
  "The chief executive of Soho House, the private members' club group, had committed to a five-year strategy that includes an extensive refurbishment programme, five new sites a year, and a revamped app"

- [Petra Diamonds hoists for sale sign as debt payment looms]
  "Petra Diamonds, owner of the South African mine famous for producing two of the diamonds in the British crown jewels, has put itself up for sale as it battles to service its debts"

Thomson Reuters

- Britain's debt agency chief says don't rule out UK green bonds
  "The head of Britain's debt management agency said on Wednesday that a discussion on UK green bonds was taking place and just because the country has not yet issued such a bond yet didn't mean it would not happen"

- BoE to review climate impact of corporate bond-buying after COVID crisis
  "Bank of England Governor Andrew Bailey said the British central bank would look at introducing climate change considerations when deciding which corporate bonds it buys once the coronavirus crisis has eased"

- Eyes in the sky: Investors reach for new tools to gauge climate change risk
  "A small but growing network of asset managers, academics, start-up entrepreneurs and campaigners are working to harness an armada of recently deployed satellites to better predict the economic impact of global warming"

- Convertible bond issues surge in coronavirus-hit market
  "The volume of convertible bond sales has reached its highest levels since 2007 this year as companies rush to raise cash to see them through the economic impact of COVID-19"

- BoE's Haskel sees worrying signs of rise in unemployment
  "Bank of England interest rate-setter Jonathan Haskel said there was a risk that Britain's economy would be harder hit by the coronavirus crisis than the central bank has predicted and there were worrying signs of rising unemployment"

- UK bumps up mammoth bond sales drive to 275 billion pounds
  "Britain plans to sell a record 275 billion pounds ($340 billion) of government debt between April and August to pay for its huge spending response to the coronavirus pandemic, more than double its borrowing in the whole previous financial year"

- ECB's Lane signals policy pause as markets stabilize
  "European Central Bank chief economist Philip Lane signalled a pause in policy action, arguing that a rebound is underway, markets have stabilized but that many months will be needed before there is clarity over the shape of the recovery"

- ECB stimulus plan meets court requirements: German finance minister
  "The European Central Bank (ECB) has met the principle of proportionality with its flagship stimulus programme, Germany's finance minister and lawmakers said, ending a legal conflict that threatened to undermine central bank policy"

- Bundesbank must decide on ECB bond purchases: top court judge
  "The decision on whether Germany should pull out of the European Central Bank's bond-buying programme lies with the Bundesbank, a judge in Germany's highest court said in remarks published"

- Wirecard debt that facilitated SoftBank investment put up for auction
  "Convertible bonds that were part of a complex transaction that allowed Japan's SoftBank Group (9984.T) to buy a stake in now-collapsed payments company Wirecard and then de-risk the transaction have been put up for sale in an auction"

- Investors pile into €10.3bn financing for TKE buyout
  "A €10.3bn loan and bond financing backing the buyout of ThyssenKrupp Elevator raised over €20bn in investor orders, enabling arrangers to optimise the capital structure, tighten pricing and stay within the flex to make full fees, allaying any fears over selling such a large deal during the Covid-19 pandemic"

- Masmovil buyers secure first leveraged loan since COVID-19 crisis
“The private equity consortium behind the mooted acquisition of Spanish telecoms firm Masmovil (MASM.MC) has secured a 2 billion euro ($2.3 billion) loan towards that deal, helping revive a leveraged loan market that has taken a beating this year”

- Commerzbank fined 650,000 euros for deals with defunct Cypriot bank
“Cyprus’s securities regulator on Friday imposed a 650,000 euro ($730,800) fine on Germany’s Commerzbank (CBKG.DE) for its role in transactions carried out by a local bank that collapsed during the country’s 2013 financial crisis”

- Airline SAS agrees $1.5 billion financial boost with investors
“Scandinavian airline SAS (SAS.ST) has agreed a 14.25 billion Swedish crown ($1.5 billion) plan with top shareholders including Sweden and Denmark to shore up its finances against the collapse in air travel during the COVID-19 pandemic”

- Fed balance sheet shrinks further, and still no Main Street loans
“The U.S. Federal Reserve’s massive stash of bonds and other assets slipped for a third straight week to its smallest size since mid-May, data released by the central bank on Thursday showed”

- Fed opens primary market corporate bond facility
“The U.S. Federal Reserve on Monday kicked off a long-awaited program to buy newly minted corporate bonds directly from companies, launching the last of the several programs created to stabilize financial markets rocked by the coronavirus”

- U.S. Fed buys $22.7 billion of mortgage bonds, sells none
“In a move to help the housing market begun in October 2011, the U.S. central bank has been using funds from principal payments on the agency debt and agency mortgage-backed securities, or MBS, it holds to reinvest in agency MBS”

- NY Fed’s Williams says full recovery will likely take years
“The U.S. economy is showing signs of a turnaround as businesses reopen, but the pace of the recovery is being slowed by large-scale virus outbreaks in some states and it could be years before the economy is back at full strength, New York Federal Reserve Bank President John Williams said”

- Mnuchin sees support for crisis loans to hotels, restaurants
“Up to $140 billion in loans for small business could be refocused to support restaurants, hotels and other industries hit hardest by the coronavirus pandemic, U.S. Treasury Secretary Steven Mnuchin said”

- U.S. loan issuance plummets in second quarter as market takes stock of new normal
“Issuance across the U.S. syndicated loan market plummeted in the second quarter as the asset class navigated a slow recovery from the novel coronavirus that left borrowers scrambling for cash to keep their businesses alive while economies around the world gradually reopen”

- AVI-SPL’s US$370m loan finalized with steepest discount in four years
“AVI-SPL needed two tries and the steepest discount in four years to syndicate a US$370m leveraged loan to an investor base concerned about the health of an audiovisual company reliant on businesses shut out of buildings amid the coronavirus”

- Money market funds see largest redemptions since December 19: BofA
“Money market funds saw their largest redemptions since December 2019 in the week to Wednesday, BofA said in a report on Friday, while $7.1 billion was pulled out of equity funds”

- Global Markets: COVID recovery vs COVID reality
  “World shares stalled near a four-month high on Friday and the industrial bellwether metal copper scuffed its longest weekly winning streak in nearly three years, as nagging coronavirus nerves tempered the recent recovery run”

- SoftBank to repurchase $1.9 billion of corporate bonds
  “Japan’s SoftBank Group Corp (9984.T) said on Monday it will repurchase up to 200 billion yen ($1.9 billion) of its domestic unsecured corporate bonds from June 30 to July 17, part of its plan to pay down debt”

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. Autorité des Marchés Financiers (AMF) of France
11. CSSF
12. FINMA
13. CBI
14. ICMA
15. IOSCO
16. FSB
