5 October 2021

Legal and Regulatory Updates

27/09/2021 – 01/10/2021

Key Highlights

- This Legal & Regulatory Update covers the week commencing **27/09/2021**.
- PRA publishes its Regulatory Digest - September 2021.
- BoE productive finance working group publishes recommendations addressing the barriers to investment in less liquid assets.
- FCA publishes a CP on the proposed decisions on the use of LIBOR.
- FRC Lab calls for participants - ESG Data.
- ESA publishes its 2022 work program.
- ESMA publishes its 2022 Annual Work Program.
- ESMA publishes its opinion on how access to and use of credit ratings can be improved in the EU.
- EIOPA publishes its Annual European Insurance Overview 2021.
- EIOPA publishes its Revised Single Programming Document 2022-2024.
- EIOPA publishes a report on its approach for the implementation of IBOR transition.
- FINMA recognises adjustments to the Asset Management Association Switzerland's self-regulation as a minimum standard.
- ICMA publishes analysis of the first year of data on repo from SFTR reporting.
- ICMA publishes overview of the European commercial paper market and recommendations for future market development.
- In this update, we also cover some of the most important news on leveraged finance published by the Financial Times during the week.

Bank of England (BoE)

01 October 2021: PRA publishes its Regulatory Digest - September 2021

The Prudential Regulatory Authority (PRA) published its Regulatory Digest September 2021. 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.

27 September 2021: BoE productive finance working group publishes recommendations addressing the barriers to investment in less liquid assets

The Productive Finance Working Group has published a series of recommendations which could facilitate greater investment in longer-term, less liquid assets. The Group is industry led, co-chaired by the Governor of the Bank, the Chief Executive of the FCA, and the Economic Secretary to HM Treasury.

Appropriately managed, investment in such assets has the potential to generate better returns for investors, including those saving for retirement in defined contribution (DC) pension schemes, given their typically long-term investment horizons. These types of pension schemes are an increasingly important vehicle for saving for retirement, given their assets have increased from around £200bn in 2012 to over £500bn in 2021, and are expected to double to £1tn by 2030.

Investment in productive finance assets can also benefit the wider economy by supporting the economic recovery from Covid, facilitating the transition to a net zero economy, and supporting financial stability. Greater investment in longer-term productive UK assets, such as research and development, technology, and infrastructure can provide a boost to long-term growth and support an innovative, greener future for the UK.

However, there are a number of barriers and challenges to investment in less liquid assets and therefore these investments need to be carefully managed. The aim of the Group, convened in November 2020, was to propose solutions to such barriers, including a roadmap, timetable and set of actions.

In its report published, 'A Roadmap for Increasing Productive Finance Investment', the Group has published four recommendations, underpinned by 13 specific actions, with a focus on supporting DC pension schemes to invest and developing the long-term asset fund (LTAF) structure.

The recommendations require action from industry and the official sector and will create an environment in which DC schemes and other investors can benefit from appropriate long-term opportunities. They include:

- Shifting the focus to long-term value: DC schemes trustees, trade bodies and consultants should consider how increasing investment in less liquid assets could generate greater long-term value for their members;
- Building scale: The DC market has a high proportion of small schemes. Their lack of scale can make it challenging for them to invest in less liquid assets for a variety of reasons;
- A new approach to liquidity management: Most DC schemes currently invest predominantly in daily-dealing funds which in theory means their holdings can be sold at short notice.

Investment in less liquid assets does not present the same daily dealing opportunity. Therefore, a broader range of DC schemes should find ways to enable them to invest in less liquid assets as part of a diversified portfolio. To support that, the Group recommends industry develop guidance, in collaboration with the Bank and FCA, on good practices for liquidity management at a fund level;

- Widening investment in less liquid assets: The group recommended that the FCA consult on changing its rules for investment in illiquid assets through unit-linked funds and reviewing the LTAF distribution rules to facilitate wider distribution to appropriate retail clients.

27 September – 01 October 2021: Speeches, Letters & Other Publications

During the week, the Bank of England (BoE) released the following speeches, announcements and publications that might be of interest to our readers:

- The hard yards - speech by Andrew Bailey looks at the varying forces currently acting on the economy and what they mean for monetary policy
- Capital Issuance August 2021 – the capital issuance statistics consist of non-government primary market issuance of bonds, commercial paper and equity, representing finance raised by UK resident entities
- One year left to spend your paper £20 and £50 banknotes – the Bank of England will be withdrawing legal tender status of the paper £20 and £50 notes after 30 September 2022
- Money and Credit August 2021 – monthly Money and Credit statistical release is made up of three parts: broad money and credit, lending to individual and lending to businesses
- Minutes of the Post-Trade Task Force meeting September 2021 – the Bank of England is an observer on the Post-Trade Task Force, an industry working group that aims to catalyse reform in post-trade

Financial Conduct Authority (FCA)

29 September 2021: FCA publishes a CP on the proposed decisions on the use of LIBOR

The Financial Conduct Authority (FCA) published a consultation paper (CP) on the proposed decision on the use of LIBOR. At least for the duration of 2022, the FCA is proposing to permit legacy use of synthetic sterling and Japanese yen LIBOR in all contracts except cleared derivatives. Clearing houses plan to transition all cleared sterling, Japanese yen, Swiss franc and euro LIBOR contracts to risk-free rates by end-2021. The FCA encourages firms to respond to its consultation by 20 October and will confirm its final decision on permitted legacy use as soon as practicable after the consultation closes.

Market participants have made good progress in actively transitioning contracts in line with the Working Group on Sterling Risk-Free Reference Rates' recommended end-Q3 target. But the proposals recognise that it will not be practicable to convert all outstanding sterling and Japanese yen LIBOR contracts by year-end. The FCA and PRA will continue to monitor firms' efforts to remove any remaining dependencies on LIBOR across all asset classes, both leading up to and after end-2021. Users of LIBOR should continue to focus on active transition rather than relying on synthetic LIBOR. Synthetic LIBOR will not be published indefinitely. The FCA must review the use of its power to require publication of a ceasing benchmark at least annually (up to a maximum period of 10 years). For the 3 Japanese yen settings, the FCA does not intend to renew the requirement, and publication will therefore cease at end-2022. The FCA will also consider progressively restricting continued permission to use synthetic LIBOR in legacy contracts if this would help maintain progress towards an orderly cessation, and thereby support its objectives to protect consumers or market integrity. This may be necessary if, for example, work to reduce the stock of outstanding legacy LIBOR contracts does not continue.

Financial Reporting Council (FRC)

29 September 2021: FRC Lab calls for participants - ESG Data

The Financial reporting council (FRC) Lab is inviting companies, service and systems providers, investors and other interested parties to participate in a new project looking at how companies produce ESG data. Investors and other stakeholders are increasingly interested in disclosures on the environmental and social impact of companies' activities and their governance arrangements. As explained in the FRC's statement of intent on ESG challenges, the data and systems underlying such disclosures pose challenges. High-quality data is important for both boards' decision making as well as investors' decision making. However, the systems to produce, distribute and consume ESG data are significantly less mature than those for financial information. In this context, the Lab is starting a project about production, distribution, and consumption of ESG data. The first phase of the project will focus on the production of ESG data.

The scope of this first project phase will be determined in conjunction with participants but is expected to cover:

- what ESG data companies collect—where the FRC is particularly interested in understanding what data companies collect for internal decision-making rather than solely for external disclosure;
- what methodologies companies use to measure ESG data;
- what systems they use to collect and produce the data;
- how they get comfort on the accuracy of the data; and
- how they transform the data into useful external disclosure.

Interested participants can contact the Lab by 15th November 2021 to take part in the event. Further information on the Lab, including its publications, can be found here.

27 September – 01 October 2021: Speeches, Letters & Other Publications

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

- Joint FRC/IASB Webinar: Management Commentary – the FRC will be hosting a joint outreach event with the IASB on the 14th of October to discuss the IASB's proposals for a comprehensive, objectives-based framework for management commentary to better meet global capital market needs and to facilitate high-quality, globally consistent narrative reporting. The IASB will be represented by Board member Nick Anderson and Technical Staff members Yulia Feygina and Matt Chapman.

Mark Babington and Deepa Raval from the FRC will provide an overview of the UK context for wider corporate reporting including the Strategic Report

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European Supervisory Authorities (ESA)

01 October 2021: The European Supervisory Authorities (ESA) publishes its 2022 work program

The European Supervisory Authorities (ESA) published its 2022 work program. Through the Joint Committee of the European Supervisory Authorities (the ESAs) the three ESAs, namely the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA), liaise very closely and on a regular basis with the aim to strengthening cooperation among each other. The European Commission and the European Systemic Risk Board (ESRB) also participate in the Joint Committee. To foster cross sectoral consistency, as well as supervisory convergence, the ESAs coordinate closely in line with their institutional role. The three ESAs regularly coordinate through the Joint Committee their activities within the scope of their respective responsibilities to ensure consistency in their practices. They further exchange information and best practices among themselves and with the ESRB. In the context of the COVID-19 pandemic and its economic impact and the enduring challenges for market participants and consumers, the Joint Committee will closely monitor and assess emerging key cross-sectoral risks and vulnerabilities for the financial stability. They will also publish their bi-annual cross-sectoral Risk Reports, which will be submitted and presented to the Financial Stability Table of the Economic and Financial Committee (EFC-FST) in spring and autumn 2022. With regards to the impact of COVID-19, they will discuss potential additional regulatory and supervisory joint responses to mitigate risks, to support the financial sector's resilience and to contribute to a sustainable economic recovery. The Joint Committee will continue to take a forward-looking approach to explore and monitor potential emerging risks for financial markets participants and the financial system.

Overall, in 2022, the joint committee will continue to focus on the area of consumer and investor protection, retail financial services, retail investment products and prudential analysis of cross-sectoral developments, risks and vulnerabilities for financial stability, cybersecurity, financial conglomerates and prudential consolidation, as well as accounting and auditing.

European Securities and Markets Authority (ESMA)

30 September 2021: ESMA publishes its opinion on how access to and use of credit ratings can be improved in the EU

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has published an Opinion on how access to and use of credit ratings can be improved in the EU. In the Opinion ESMA highlights the difficulties experienced by users of credit ratings and recommends that the legislators amend the CRA Regulation or take alternative legislative action to address these.

Credit ratings are published on Credit Rating Agencies' (CRAs') websites as well as on the European Rating Platform (ERP). However, the usability of these credit ratings is severely limited as they cannot be accessed in a machine-readable format or downloaded in sufficient numbers to be used for regulatory purposes.

In practice, users mainly access and use credit ratings and related research reports through licences for data feeds and platform services offered by other companies in CRAs' groups. These companies are not currently subject to regulation and their licencing practices and the high fees charged raise both investor protection and competitiveness concerns.

Users of credit ratings have reported that the terms of the licence agreements they must enter into to use credit ratings are subject to frequent changes and that they often need to enter into additional licences in order to maintain a consistent level of data usage over time. Users also report an inability to negotiate the terms of access to data feeds and a lack of transparency in price increases.

ESMA concludes that legislative changes are needed to improve access to and use of credit ratings and highlights that these could be implemented through changes to the CRA Regulation or through the adoption of alternative legislation.

The Opinion has been prepared by ESMA of its own initiative and submitted to the EU institutions for consideration by the legislators. The Opinion is the culmination of ESMA's thematic work on Fees Charged by CRAs and Accessibility and Use of Credit Ratings. It draws on the findings of ESMA's 2018 Thematic Report, 2019 Follow-up Report and 2020 Call for Evidence.

28 September 2021: ESMA publishes its 2022 Annual Work Program

ESMA has published its 2022 Annual Work Programme (AWP), setting out its priority work areas for the next 12 months to deliver on its mission to enhance investor protection and promote stable and orderly financial markets. The 2022 AWP has been developed at a time of significant change for ESMA with its new powers and responsibilities, growth in staff numbers and senior management changes. The key areas of focus for 2022 include: the exercise of new, and existing, supervisory powers for benchmarks and data service providers (DRSPs) as well as central counterparties (CCPs); its contribution to the European Union (EU) priorities on the development of the Capital Markets Union (CMU), sustainable finance and innovation; and the convergence of supervisory and regulatory practices across the EU. In addition, it will continue to monitor the impact of the United Kingdom's withdrawal from the EU on the evolution of EU and global capital markets.

27 September – 01 October 2021: Speeches, Letters & Other Publications

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

- New Q&A Available – ESMA, the EU's securities markets regulator, has updated its Questions and Answers for EMIR implementation, SFTR data reporting and MiFID II and MiFIR transparency topics
- ESMA publishes MIFID II review report on algorithmic trading – the report concludes that no fundamental issues have emerged with respect to the MiFID II algorithmic trading regime which has overall delivered on its objectives. ESMA nevertheless makes in the report some recommendations which aim at both simplifying the regime and making it more efficient

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European Insurance and Occupational Pensions Authority (EIOPA)

01 October 2021: EIOPA publishes its Annual European Insurance Overview 2021

The European Insurance and Occupational Pensions Authority (EIOPA) published its European Insurance Overview 2021. The Annual European Insurance Overview is published by EIOPA as an extension of its statistical services in order to provide an easy-to-use and accessible overview of the European (re)insurance sector. The report is based on annually reported Solvency II information. This ensures that the data has a high coverage in all countries and is reported in a consistent manner across the EEA.

30 September 2021: EIOPA publishes its Revised Single Programming Document 2022-2024

The EIOPA published its revised single programming document 2022-2024. The Single Programming Document 2022-2024 sets out EIOPA's strategy and work programme for the coming year. EIOPA's agenda will continue to be influenced by both the COVID-19 pandemic, the macroeconomic environment and the overall European agenda. Under the twin objectives of ensuring consumer protection and safeguarding financial stability, EIOPA will continue to support the recovery, built on green and digital transitions.

Through its work, EIOPA will address the most pressing challenges affecting society, the insurance and pensions sectors, and supervisors. These include climate change, cyber risk and digitalisation, as well as addressing protection gaps. EIOPA will work with a range of stakeholders to ensure that the insurance and pension sectors can fulfil an essential role in underpinning a strong and sustainable recovery in Europe, for the benefit of citizens, business, and the economy.

30 September 2021: EIOPA publishes a report on its approach for the implementation of IBOR transition

EIOPA published a report on its approach for the implementation of IBOR transition. This report highlights EIOPA's policy approach for the implementation of Interbank Offered Rates (IBOR) transitions. EIOPA will implement the updated methodology for the calculation of the risk-free interest rates as of January 2022 for the British pound, Swiss franc and Japanese yen. In particular, the following changes will be implemented:

- GBP LIBOR curve will change to SONIA curve; the Last Liquid Point (LLP) will change from 50 to 30 years;
- CHF LIBOR curve will change to government bond curve; LLP will change from 25 to 15 years;
- JPY LIBOR curve will change to government bond curve and the LLP will remain unchanged at 30 years

To ensure a smooth transition, EIOPA will support market participants with the publication of two sets of curves ('dual run') for three consecutive months prior to the transition date.

There is no current indication the EURIBOR will cease in the near future. However, EIOPA will continue to monitor market developments closely according to the updated methodology. Separately, in relation to the euro's Credit Risk Adjustment (CRA), the overnight indexed swap (OIS) will change from EONIA to ESTER as of January 2022.

The impact of the transition of the British pound, Swiss franc and Japanese yen was estimated to be negligible for undertakings from the European Economic Area. The report includes the outcome of the information request on the potential impact of IBOR transitions and the feedback received through the consultation paper by stakeholders.

European Banking Authority (EBA)

27 September – 01 October 2021: Speeches, Letters & Other Publications

During the week, the European Banking Authority (EBA) released the following speeches, announcements, and publications that might be of interest to our readers:

- The EBA publishes its regular monitoring Report on Basel III full implementation in the EU – the EBA published its regular monitoring Report of the full implementation, of the final Basel III reforms in the EU. According to this assessment, which is carried out using the same methodology as the one applied by the Basel Committee on Banking Supervision (BCBS), the full Basel III implementation would result in an average increase of 13.7% on the current Tier 1 minimum required capital of EU banks. To comply with the new framework, EU banks would need EUR 3.1 billion of additional Tier 1 capital. The overall impact reflects the economic impact of the Covid-19 pandemic on participating banks that materialised up to December 2020, the reference date of this Report

European Central Bank (ECB)

27 September – 01 October 2021: Speeches, Letters & Other Publications

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

- Banking regulation and supervision after Brexit – Speech by Edouard Fernandez-Bollo, Member of the Supervisory Board of the ECB, at the eighth Brussels EU/UK Dinner Discussion held by the Representation of the State of Hesse to the European Union
- Written overview ahead of the exchange of views of the Chair of the Supervisory Board of the ECB with the Eurogroup on 4 October 2021 – this short note provides the Eurogroup of 4 October 2021 with an overview of the activities of ECB Banking Supervision in the areas of credit risk related to the coronavirus (COVID-19) pandemic, emerging risks, the structural transformation of the banking sector, and digitalisation and climate risk as drivers of structural business model adjustments.
- Cyber risks and the integrity of digital finance – Introductory remarks by Fabio Panetta, Member of the Executive Board of the ECB, at the sixth meeting of the Euro Cyber Resilience Board for pan-European Financial Infrastructures (ECRB)
- Lessons from an unusual crisis – Speech by Isabel Schnabel, Member of the Executive Board of the ECB, at the Federal Reserve Bank of New York conference on "Implications of Federal Reserve Actions in Response to the COVID-19 Pandemic"
- Monetary policy during an atypical recovery – Speech by Christine Lagarde, President of the ECB, at ECB Forum on Central Banking "Beyond the pandemic: the future of monetary policy"
- Hearing of the Committee on Economic and Monetary Affairs of the European Parliament – Introductory statement by Christine Lagarde, President of the ECB, at the Hearing of the Committee on Economic and Monetary Affairs of the European Parliament (by videoconference)

- Letter from the ECB President to Mr Gunnar Beck, MEP, on ECB communication – the letter highlights ECB commitment to price stability, communication and diversity.
- Monetary policy in a low interest rate environment: reversal rate and risk-taking – Working paper series - No. 2593
- The macroeconomic impact of euro area labour market reforms: evidence from a narrative panel VAR – Working paper series - No. 2592
- Tracking growth in the euro area subject to a dimensionality problem –Working paper series - No. 2591
- Letter from the ECB President to Mr Marco Zanni, Mr Francesca Donato, Mr Valentino Grant and Mr Antonio Maria Rinaldi, MEPs, on climate change
- Euro area bank interest rate statistics: August 2021
- Monetary developments in the euro area: August 2021

European Commission

27 September – 01 October 2021: Speeches, Letters & Other Publications

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

- Commission launches EU missions to tackle major challenges – The Commission launched five new EU missions, a new and innovative way to work together and improve the lives of people in Europe and beyond. EU missions aim to tackle big challenges in health, climate and the environment, and to achieve ambitious and inspiring goals in these areas
- Climate Diplomacy Weeks 2021 – From 27 September to 17 October, EU Delegations and embassies of EU Member States around the world will host events to foster dialogue and cooperation on climate change, showcase success stories and inspire further action. Events will include conferences, citizens' debates and other outreach activities, bringing together communities and a wide range of stakeholders.

The focus of this year's Climate Diplomacy Weeks is Ambition and Action, which is the central theme for EU climate diplomacy in 2021

Autorité des Marchés Financiers (AMF)

28 September 2021: The AMF publishes the results of two studies of French people's perceptions of responsible or sustainable financial products

The Autorité des Marchés Financiers (AMF) has published the results of two studies of French people's perceptions of responsible or sustainable financial products and the expectations of retail investors. These studies show an interest among private individuals, as well as a great need for education and transparency to increase awareness of and trust in this type of investment.

The first study was conducted in June 2021 by OpinionWay on a sample of 2,074 people representative of the French population. It shows that most French people are interested in sustainable development issues, including in their choice of savings, but only a minority are familiar with and actually hold this type of investment.

The main findings include the following:

- 76% of French people consider that the impact of investments on the quality of the environment (pollution, biodiversity etc.) is an important issue;
- more than one in two French people say that they take into account sustainable development issues in their retail investments;
- only 11% of respondents know exactly one of the types of solidarity, sustainable, SRI or responsible investments etc.;
- 17% of French people declare that they have at least one responsible or sustainable investment, as part of a life insurance policy, personal equity savings plan (PEA), securities account, employee savings scheme or retirement savings account;
- 72% of holders of this type of investment say they are satisfied, and 19% "very satisfied".

The general public still has very little knowledge of the ISR and Greenfin public labels, which only inspire moderate trust. Investors expressed a need for support, in particular from their banking or financial adviser. Among the main obstacles to subscription, French people mention firstly their lack of means, fear of greenwashing and a lack of information.

In a second qualitative study, conducted in June 2021 by CSA Research, a panel of 15 non-expert retail investors was questioned about the readability of marketing and pre-contractual materials for sustainable and responsible investments. It found that:

- notions of sustainable or responsible investment and SRI appear vague and concepts such as ESG or extra-financial criteria are opaque;
- the vocabulary used in prospectuses or Key Investor Information Documents (KIID) is seen as too technical and discouraging;
- savers expect concrete examples of projects and proof of the impact of these investments.

The AMF is strongly committed to the development of sustainable finance in a framework of trust, and supports market players (listed companies, asset managers, banks, institutional investors etc.) to change practices and increase transparency. The AMF also publishes educational guides for retail investors on its website and organises webinars for the general public on various investment topics, including the main notions of sustainable finance such as environmental, social, and governance (ESG) criteria and the non-financial performance of listed companies.

In 2021 the regulator decided to strengthen requirements regarding sustainable finance in its exam to check the minimum knowledge of professionals (called "AMF certification") and create a specific optional module regarding these matters. Training of professionals is an important issue to help investors to better understand the green and responsible investment offering. From August 2022, the new rules of the European Markets in Financial Instruments Directive (MiFID II) will require financial advisers to obtain their clients' ESG preferences before proposing an investment product.

27 September – 01 October 2021: Speeches, Letters & Other Publications

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

- AMF Household Savings Newsletter No. 44 – This letter is entirely dedicated to the results of the two studies conducted by the AMF on French perceptions of responsible investment products in September.

Commission de Surveillance du Secteur Financie (CSSF)

27 September – 01 October 2021: Speeches, Letters & Other Publications

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

- CSSF Newsletter No 248 September 2021 – Discover the latest publications of the CSSF and the statistics relating to the financial sector
- CSSF publishes information on the Global situation of undertakings for collective investment at the end of August 2021 – the CSSF published a press release on the global development of equity, fixed income, and diversified UCIs during the month of August 2021. In August, fixed income UCI categories registered an overall positive net capital investment
- Circular CSSF 21/783 – Application of the Guidelines of the European Securities and Market Authority on the MiFID II/MiFIR obligations on market data
- The CSSF publishes Circular CSSF 21/784 on the periodic prudential reporting of investment firms – Following the Communiqué of 2 September 2021 regarding the entry into force of the new regulatory provisions applicable to investment firms, the CSSF publishes Circular CSSF 21/784 on new reporting requirements applicable to investment firms. This circular introduces the "Reporting Handbook for Investment Firms ", the purpose of which is to combine, in one single document, the details regarding the content of the periodic prudential reporting of investment firms, consisting of the new IFR reporting and the national reporting, as well as the relevant technical specifications. This Handbook will be regularly updated
- Circular CSSF-CPDI 21/27 – Survey on the amount of covered deposits held on 30 September 2021

Swiss Financial Market Supervisory Authority (FINMA)

28 September 2021: FINMA recognises adjustments to the Asset Management Association Switzerland's self-regulation as a minimum standard

The Swiss Financial Market Supervisory Authority (FINMA) recognises the adjustments to the Asset Management Association Switzerland's self-regulation as a minimum standard. They largely reflect the new rules of the FinIA and FinSA. The adjusted self-regulation enters into force on 1 January 2022. Owing to the entry into force of the Financial Institutions Act (FinIA) and the Financial Services Act (FinSA), the Asset Management Association Switzerland (AMAS, formerly Swiss Funds & Asset Management Association, SFAMA) has adjusted its self-regulation. At the request of AMAS, FINMA has recognised the latter's revised self-regulatory norms as a minimum standard. It has applied the Ordinance to the Financial Market Supervision Act to the recognition process and conducted an interdepartmental consultation.

The revised rules of conduct and the revised guidelines concerning real estate funds, fund performance, asset valuation, money market funds and total expense ratio will enter into force on 1 January 2022. The two existing guidelines on distribution and KIID will be withdrawn following expiry of the statutory transitional periods as their content is covered by the FinSA. The existing transparency guideline has been integrated into the rules of conduct. As part of its revision, AMAS has in particular deleted the rules of conduct at the point of sale from its self-regulation as these are now included in the FinSA and apply generally. As well as minor adjustments in the areas of liquidity risk management, business continuity management and investor complaint management, the mandating of a legal entity as a valuation expert for real estate funds was incorporated.

As the industry organisation of the fund and asset management sector in Switzerland, AMAS has in recent years had various self-regulatory standards recognised by FINMA as a minimum standard. These create rules where laws and ordinances contain no provisions or merely provide the framework and in doing so contribute to ensuring legal certainty in the fund and asset management sector. As the recognition of self-regulatory standards creates binding minimum standards for an entire sector, such standards must be broadly supported.

27 September – 01 October 2021: Speeches, Letters & Other Publications

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

- SST 2021 Survey – FINMA Report on the Swiss Insurance Market provides an overview of the 2021 SST results and is based on data collected from 133 insurers It does not include insurance groups. The survey was carried out at peer-group level according to sector: life, general insurance, health, reinsurance and reinsurance captives. The survey shows breakdowns of various key indicators such as total assets or liabilities, or target capital. Unless otherwise stated, the scenario analysis only considers data of those companies where the specific scenario has an impact on the risk-bearing capital (RBC). This avoids distortion due to companies for which a given scenario has no relevance. The Fundamental Data Sheets (FDS) completed by companies are the data source for this survey. The FDS contains detailed quantitative information such as the decomposition of risk-bearing capital and target capital. All supervised insurers are requested to fill in the FDS and submit it to FINMA, regardless of whether they use a standard model or an internal model
- Approval of first Swiss crypto fund – FINMA has approved the first crypto fund according to Swiss law. The fund, which is restricted to qualified investors, invests primarily in so-called cryptoassets, that is to say in assets based on the blockchain or distributed ledger technology. The fund concerned goes by the name of the "Crypto Market Index Fund", an investment fund according to Swiss law belonging to the category "other funds for alternative investments" with particular risks. Distribution of this fund is restricted to qualified investors

Central Bank of Ireland (CBI)

27 September – 01 October 2021: Speeches, Letters & Other Publications

During the week, the Central Bank of Ireland (CBI) released the following speeches, announcements and publications that might be of interest to our readers:

- Remarks by Director General, Financial Conduct Derville Rowland at the Deloitte Global Insurance Webinar – Financial Conduct Derville Rowland discussed the position of the insurance sector in Ireland, the effect of the COVID-19 pandemic, and the Central Bank's expectations of the sector into the future. She also discussed the Central Bank's current regulatory priorities, including an emphasis on conduct, culture and customer treatment, particularly around Business Interruption Insurance and Differential Pricing. In relation to Differential Pricing, the Director General emphasised the need for boards to have strong governance and oversight of their pricing practices and understand the impact of their practices on consumers. In addition, firms should have fully embedded conduct risk management frameworks in place promoting positive behaviours in firms and fair outcomes for consumers. Looking to the future she addressed the challenges facing the sector in the years ahead, including climate change and increased digitisation. In relation to climate change and sustainability, she noted that the Central Bank has engaged with firms to make them aware of our supervisory expectations regarding Environmental, Social and Governance risks. Firms will have to adopt a range of appropriate measures to strengthen and improve their financial and operational resilience, as well as ensuring that customers are treated fairly and that consumer and investor interests are protected, she said

Basel Committee on Banking Supervision (BCBS)

27 September – 01 October 2021: Speeches, Letters & Other Publications

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

- Basel III Monitoring Report – the Basel Committee published the results of its latest Basel III monitoring exercise, based on 31 December 2020 data. The report sets out the impact of the Basel III framework including the December 2017 finalisation of the Basel III reforms and the January 2019 finalisation of the market risk framework. It includes a special feature on exemptions from the leverage ratio exposure measure due to Covid-19 and covers both Group 1 and 2 banks (see note to editors for definitions). The final Basel III minimum requirements will be implemented by 1 January 2023 and fully phased in by 1 January 2028
- Central banks and the BIS explore what a retail CBDC might look like – for central bank digital currencies (CBDC) to work effectively, public and private institutions need to cooperate to ensure integration with existing payments systems; to anticipate customers' future needs; and to support innovation while preserving public trust, privacy and stability in the broader financial system. These are the main conclusions of a new set of reports issued by seven central banks and the Bank for International Settlements (BIS) that looked into users' needs, technological design options and financial stability implications of retail or "general purpose" CBDCs. Building on an initial report outlining foundational principles for CBDCs published in 2020, the group formed by Bank of Canada, Bank of England, Bank of Japan, European Central Bank, Federal Reserve, Sveriges Riksbank, Swiss National Bank and BIS has now turned to practical policy and implementation issues. While none of these central banks has yet decided to proceed with a retail CBDC, they believe continuing to work on the topic is key, due to its wide-ranging implications.
- Multi-CBDC prototype shows potential for reducing costs and speeding up cross-border payments – A prototype of multiple Central Bank Digital Currencies (mCBDCs) developed by the Bank for International Settlements Innovation Hub and four central banks demonstrated the potential of using digital currencies and distributed ledger technology (DLT) for delivering real-time, cheaper and safer cross-border payments and settlements. The mBridge project is a cooperation between the BIS Innovation Hub Hong Kong Centre, the Hong Kong Monetary Authority; the Bank of Thailand; the Digital Currency Institute of the People's Bank of China; and the Central Bank of the United Arab Emirates. The common prototype platform for mCBDC settlements was able to complete international transfers and foreign exchange operations in seconds, as opposed to the several days normally required for any transaction to be completed using the existing network of commercial banks and operate in a 24/7 basis. The cost of such operations to users can also be reduced by up to half, according to the project's report published
- Big tech regulation: what is going on? – Several regulatory initiatives have emerged in China, the European Union and the United States to address new challenges presented by big techs. While each of these jurisdictions has focused on different policy areas, the greatest number of initiatives have been conducted in the area of competition. The initiatives generally seek to achieve a balance between addressing the different risks posed by big techs and preserving the benefits they bring in terms of market efficiency and financial inclusion. While recent initiatives constitute important steps in addressing risks posed by big techs, additional regulatory responses might be needed. These will include the development of entity-based rules to address the unique combination of risks posed by big techs. This paper reviews various regulatory initiatives developed in China, the European Union and the United States. It offers a typology of regulatory actions and focusses on five policy domains: competition, data, conduct of business, operational resilience and financial stability
- Comment letter to IASB Request for Information: Third Agenda Consultation – The Basel Committee responded to IASB request for Information – Third agenda consultation on 27th September 2021. International standards in the areas of accounting are ordinarily developed through a process in which standard setters issue exposure drafts for public comment before the standards are finalised. When such exposure drafts are of particular relevance to banking supervisors, the Basel Committee analyses the proposals and offers its views in a comment letter. The letter highlights the committees' views on IASB 's strategic direction and balance of board activities, the criteria for assessing the priority of financial reporting issues that could be added to the board's workplan, and financial reporting issues that could be added to the board's workplan

International Capital Market Association (ICMA)

28 September 2021: ICMA publishes analysis of the first year of data on repo from SFTR reporting

The International Capital Markets Association (ICMA) published an analysis of the key market features and trends in the European repo market based on the first full year of SFTR reported data.

The analysis relies on the summary statistics which authorised trade repositories (TRs) are required to provide under SFTR on a weekly basis. Since the start of reporting, ICMA has been collecting this data from the TRs, consolidating it and publishing the information in an aggregated form on the ICMA website. The first part of the report looks at the initial six months of reporting for the whole EU-28 repo market, while part two focuses on the time period between January and July 2021, distinguishing between the EU-27 and the UK market segments. This reflects the split of SFTR reporting into separate EU and UK regimes following the end of the Brexit transition period. In addition, the report also reflects on some of the remaining issues with the quality of the SFTR public data, which are highlighted in the final chapter.

ICMA will continue to work with members of the ERCC SFTR Task Force, including reporting firms, TRs and the relevant service providers, to identify and address outstanding issues with SFTR reporting, helping to improve the quality of the reported data. At the same time, they will continue aggregating and publishing

SFTR public data on a weekly basis, complemented by more detailed analysis on an ad-hoc basis, as part of our commitment to supporting an efficient and transparent repo market. Reporting under the EU's Securities Financing Transactions Regulation (SFTR) went live on 13 July 2020.

29 September 2021: ICMA publishes overview of the European commercial paper market and recommendations for future market development

ICMA published a white paper on the European commercial paper and certificates of deposits markets, detailing the structure of the markets, assessing their performance under stress during the Covid-related turmoil of March-April 2020, and outlining recommendations for future developments to market structure to enhance its resilience. There is no single pan-European market for commercial paper. The market in Europe consists rather of the multi-currency Euro Commercial Paper market, largely based in London, the NEU CP market, and multiple smaller domestic markets within Europe each with its own legal framework for issuance, market structure, participants and market dynamics. The turmoil of 2020 exposed areas where market functioning and resilience could be improved.

The paper, which has been overseen by the newly constituted ICMA Commercial Paper (and Certificates of Deposit) Committee, consisting of issuers, dealers, investors and financial market infrastructures, highlights the benefits in the creation of a more harmonised, single, multicurrency and pan-European market, consistent with the aims of the Capital Markets Union. Measures to underpin secondary market liquidity and resilience are also identified as key structural enhancements. According to the paper, dealers play a central role in the market structure for CP, intermediating between issuers and investors and are part of the fixed income trading division in investment or commercial banks. ICMA Chief Executive Bryan Pascoe said: "There is a clear opportunity for industry participants to work with central banks and other regulators towards the common goal of developing and strengthening the European short-term credit markets. ICMA looks forward to further engagement with its members and broader market stakeholders in this very important area."

27 September – 01 October 2021: Speeches, Letters & Other Publications

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

- Monthly Market update: ICMA Asset Management & Investors Council – Robert Parker, Chair of ICMA's Asset Management and Investors Council, reviews the market events of the past weeks, including the Evergrande debt situation and potential contagion risk, the Fed economic outlook and review of their monetary policy guidance, as well as the German election results
- The New Development Bank - building a sustainable future – ICMA's President Martin Scheck speaks to Leslie Maasdorp, Vice President & Chief Financial Officer of the New Development Bank, about the rationale and purpose behind the bank, its funding model and governance structure and their focus on infrastructure and sustainable development projects in the BRICS countries and other emerging economies. Leslie also discusses the NDB's overall environmental, social and sustainability goals, along with their pandemic support and sustainable bond issue
- Primary bond markets regulation post-Brexit - what's the UK planning? – the UK Government and authorities issued a flurry of consultations impacting primary bond market regulation this summer. In this podcast, ICMA's Ruari Ewing and Charlotte Bellamy discuss the consultations and ICMA members' key concerns in this area
- EU Green Bond Standard: a big leap forward, or too high a bar? – organised together with vdp and The Covered Bond Report, this event looked at the latest Commission proposals for the EU Green Bond Standard (GBS). The discussion explored the pros and cons of the label, tackling questions such as: What challenges will issuers face in meeting the standard?; Is it sufficiently flexible to keep up with the innovative nature of the green bond market?; How will issuers cope with ongoing changes to the Taxonomy and criteria to which the GBS is tied?; Will investors prioritise GBS labelled green bonds at the expense of non-labelled issuance?; Should the GBS be a priority within the vast bulk of the Commission's sustainable finance initiatives

Financial Stability Board (FSB)

27 September – 01 October 2021: Speeches, Letters & Other Publications

During the week, the Financial Stability Board (FSB) released the following speeches, announcements and publications that might be of interest to our readers:

- FSB launches new financial stability surveillance framework – The new surveillance framework will support the comprehensive, methodical, and disciplined review of vulnerabilities, helping to identify and address new and emerging risks to financial stability. The framework aims to identify vulnerabilities in a proactive and forward-looking manner. It provides a global, cross-border, and cross-sectoral perspective on current vulnerabilities that draws on the collective perspective of the FSB's broad membership. The framework embodies four key principles: focus on vulnerabilities that may have implications for global financial stability; scan vulnerabilities systematically and with a forward-looking perspective, while preserving flexibility; recognise differences among countries; and leverage the comparative advantages of the FSB while avoiding duplication of work. The framework places particular emphasis on incorporating multiple perspectives in the assessment of both current and emerging vulnerabilities. It includes a common terminology and common taxonomy of vulnerabilities, which will aid shared understanding and consensus building amongst FSB members. The FSB will regularly communicate its view on vulnerabilities through its Annual Reports.

5 October 2021

In the News

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

- Private equity trio borrow $15bn of debt for massive buyout
  "The private equity groups Blackstone, Carlyle and Hellman & Friedman raised almost $15bn of debt on Thursday across bond and loan markets as they close in on financing the largest leveraged buyout since the 2008 financial crisis. The hefty debt issuance will go towards the buyout groups' $34bn acquisition of a majority stake in family-owned Medline, one of the largest medical supply manufacturers in the US. Investors snapped up the debt, shrugging off the high leverage and weak covenants underpinning the deal and instead pointing to the strength of the underlying business, particularly after the pandemic added to demand for products such as face masks."
- Bond investors brace for change of tack by central banks
  "Many big players in today's bond markets agree with Gross that bond yields, which plumbed record lows when the Covid crisis struck last year, are likely to climb as an economic rebound from the pandemic — along with a global surge in inflation — cause central banks to curtail their programmes of asset acquisition."
- Bond fund managers stay on guard against inflationary risk
  "The primary risk, should inflation prove much more persistent than generally expected, is the Fed having to tighten monetary policy far more quickly than financial markets are currently pricing in, says Anna Stupnytska, global macroeconomist at Fidelity International."
- Bonds? Why should we bother?
  "Can that trend continue? It's hard to imagine. My pension documents from Aviva, where I have a large part of my default auto-enrolment scheme invested in bonds, alert me to the fact that "as interest rates rise, bond prices fall... this would affect the value of your investment".
- Bond buying and easy money: a timeline of central bank action
  "The ECB says it will slow bond-buying following a rebound in growth and inflation, although president Lagarde says the shift to a slower pace is not tapering."
- In charts: bonds with negative yields around the world
  "Bonds worth $14.8tn — more than a fifth (21.6 per cent) of the debt issued by governments and companies around the world — are currently trading with negative yields."
- Evergrande bonds snapped up by distressed debt investors
  "Distressed debt funds and individual investors are flocking to bonds issued by Chinese property developer Evergrande, betting that Beijing will be forced to rescue the country's most indebted company."
- The optimists still at the bull market party
  "The more highfalutin version of this view is that betting against stocks makes little sense in an environment where benchmark interest rates and, by extension, bond yields, are so painfully low."
- Feeding frenzy hits new peaks as companies rush to raise funds
  "Some $8.7tn has been raised across equity sales, bond offerings and loan deals — including loans syndicated and held by banks — at a record pace, according to the data provider Refinitiv."
- Bond sell-off is a warning to the Fed
  "The combination of extremely low and relatively stable US government bond yields has confounded many market watchers for quite a while now, also challenging traditional economic analyses. This has made the move up in yields over the past couple of weeks particularly notable, raising interesting questions for markets, policies and therefore the global economy."
- Global bond market set for worst month since early 2021
  "Bond markets have been jolted by central bank signals that interest rate rises are drawing closer, sparking the steepest price declines since a global debt slide at the start of the year."
- Reflation or stagflation
  "The Fed appears confused by the labour market: there are many signals of a labour shortage even though the unemployment rate is also elevated. The Fed is holding rates low on the belief that the economy is far from maximum employment, even though inflation is high."
- Key investments that pass my diversifier test
  "The next three diversifiers are very traditional and almost need no explanation. Long-dated US government Treasury bonds seem a reasonable safe haven asset to me, yielding 1.32 per cent. Another classic diversifier is the yen, accessed through a Wisdom Tree fund — a currency tracker that is long the Japanese yen and short UK sterling."

5 October 2021

- Poor ESG standards hold back funds' ability to do good, study suggests
  "The report is one of a string of recent studies to claim that ESG product providers focus more on looking the part than on effecting meaningful change."
- BHP/Glass Lewis: investors demand more from ESG commitments
  "For many companies, from oil and gas majors through to shampoo makers, meeting targets on carbon emissions amounts to big strategic change in what they sell and how they source."
- Goldman-owned Petershill Partners rebounds after London debut falls
  "The group, which owns minority stakes in 19 alternative asset companies with a combined $187bn of assets under management, had dropped 3 per cent by lunchtime in London."
- Traders take up derivatives tied to Libor replacement
  "Action in futures, options and swaps markets tied to the new secured overnight financing rate — Sofr — has shot up since the summer. These derivatives enable users to hedge against fluctuations in interest rates."
- Government bond yields rise as traders react to hawkish signals
  "A global bond downturn pushed US Treasury yields to their highest level in three months on Monday, as investors reacted to the prospect of tighter monetary policy by selling US and UK government debt."
- Fed official warns of 'extreme' market reaction unless debt ceiling raised
  "John Williams, the president of the Federal Reserve Bank of New York, said on Monday that the US central bank would be unable to mitigate the impact of a potential default on the government's debt."
- Treasury bill market jolted as US debt ceiling fight drags on
  "The political fight over the US debt ceiling spilled into the $22tn Treasury market for the first time on Friday, as investors dumped short-term bills that mature around the time the US could run out of cash."

Regulators and Associations Monitored

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

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