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Briefing note

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BRRD: EU Commission adopts RTS on MREL

The EU Commission has adopted draft regulatory technical standards (RTS) on assessment criteria relating to the methodology for setting the minimum requirement for own funds and eligible liabilities (MREL) under the Bank Recovery and Resolution Directive (BRRD).

The draft RTS are intended to provide resolution authorities with detailed guidance for setting MREL requirements for banks, while enabling authorities to exercise discretion on the minimum level and composition of MREL as appropriate for each bank. Authorities will be required to determine sufficient MREL to ensure that an institution under resolution can, through the write down or conversion into equity of capital instruments and eligible liabilities, absorb losses and be recapitalised sufficiently to restore its Common Tier 1 ratio to a level sufficient to comply with conditions for authorisation under the Capital Requirements Directive (CRD 4) and BRRD, as well as continuing business and maintaining market confidence.

The draft RTS are subject to a three month objection period by the EU Council and Parliament and will enter into force on the twentieth day following publication in the Official Journal.

Under Article 45 of the BRRD the EU Commission is also mandated to carry out an MREL review by the end of 2016, which is expected to include a proposal to introduce the international total loss absorbency capacity (TLAC) standard into EU law before its entry into force in 2019.

BRRD: EU Commission adopts RTS on valuation of liabilities arising from derivatives

The EU Commission has adopted draft RTS on methodologies and principles on the valuation of liabilities arising from derivatives under the BRRD.

The draft RTS specify parameters to be taken into account by resolution authorities, including:

- appropriate methodologies for determining the value of classes of derivatives, including transactions subject to netting arrangements;
- principles for establishing the relevant point in time at which the value of a derivative position should be established; and
- methodologies for comparing the destruction in value that would arise from the close-out and bail-in of derivatives with the amount of losses that would be borne by derivatives in a bail-in.

The RTS will enter into force on the twentieth day following their publication in the Official Journal.

MiFID2: EU Commission adopts RTS on admission, suspension and removal of financial instruments from trading, material markets and halts in trading, and trading obligation for derivatives

The EU Commission has adopted two Delegated Regulations under the Markets in Financial Instruments Directive (MiFID2) setting out RTS on the admission of financial instruments to trading on regulated markets and the suspension and removal of financial instruments from trading.

The draft RTS on admission to trading lay down:

- criteria for transferable securities to be considered freely negotiable and for transferable securities, units and shares in collective investment undertakings and derivatives to be traded in a fair, orderly and efficient manner;
- confirmation of the eligibility for admission to trading on regulated markets of emission allowances; and

- requirements for regulated markets to publish policies regarding the verification of an issuer's compliance with their obligations on disclosure and establish arrangements for participants to access information that has been made public.

The draft RTS on the suspension and removal of financial instruments from trading specify rules for regulated market operators and investment firms or market operators operating a multilateral trading facility (MTF) or organised trading facility (OTF) to suspend or remove a derivative from trading in circumstances where the derivative is related or referenced to another financial instrument that has been suspended or removed from trading. The Delegated Regulation does not apply to derivatives for which the price or value is dependent on multiple price inputs, such as those related to an index or basket of financial instruments.

Both Delegated Regulations will enter into force on the twentieth day after publication in the Official Journal.

The Commission has also adopted draft RTS on the determination of a material market in terms of liquidity in relation to notifications of a temporary halt in trading under MiFID2. The RTS provide clarification on which regulated markets should be considered material in terms of liquidity for a specific financial instrument so that those markets have in place appropriate systems and procedures for notifying competent authorities of trading halts. The standard is also applicable under the transparency rules for equity instruments.

Finally, the Commission has adopted draft RTS on criteria for determining whether derivatives subject to the clearing obligation should be subject to the trading obligation under MiFIR. The RTS provide for the determination of a class of derivatives or relevant subset thereof which is sufficiently liquid to be subject to the trading obligation by setting out the criteria with respect to the average frequency of trades, the average size of trades, the number and type of active market participants and the average size of spreads indicating the level of third-party buying and selling interest.

MiFID2: ITS on information to be provided on functioning of multilateral and organised trading facilities published in Official Journal

EU Commission Implementing Regulation No 2016/824 setting out implementing technical standards (ITS) with regard to the content and format of the description of the functioning of MTFs and OTFs under MiFID2 has been published in the Official Journal. The ITS specify:

- the information 'relevant operators' (investment firms or market operators operating an MTF or OTF) should provide to their competent authority on the MTFs or OTFs;
- the information relevant operators should provide when there has been a material change to information previously submitted;
- the format the description of the functioning of the MTFs or OTFs should take; and
- that the competent authority should notify ESMA of the authorisation of a relevant operator as an MTF or an OTF.

The Implementing Regulation will enter into force on 15 June 2016.

EMIR: Delegated Regulation on margin period of risk for client accounts published in Official Journal

EU Commission Delegated Regulation No 2016/822 setting out amended RTS on margin period of risk (MPOR) for client accounts under the European Market Infrastructure Regulation (EMIR) has been published in the Official Journal. The RTS, which amend Delegated Regulation No 153/2013 setting out RTS in relation to requirements for central counterparties (CCPs), will allow EU-based CCPs to margin on a one-day, rather than the current two-day, MPOR basis. The revision of the RTS follows the US equivalence decision by the EU Commission and is intended to help create a level playing field for EU and US CCPs.

The Delegated Regulation will enter into force on 15 June 2016.

CRR: Delegated Regulation on formats and date for disclosure of values used to identify G-SIIs published in Official Journal

EU Commission Delegated Regulation No 2016/818 amending Implementing Regulation No 1030/2014 laying down ITS with regard to the uniform formats and date for the disclosure of the values used to identify global systemically important institutions (G-SIIs) according to the Capital Requirements Regulation (CRR) has been published in the Official Journal.

The Regulation will enter into force on 26 May 2016.

EU Commission consults on proportionality in market risk capital framework and NSFR

The EU Commission has launched two consultations under the Capital Requirements Directive (CRD 4) and Regulation

(CRR). The first covers proportionality in the market risk framework and the review of the original exposure method. It seeks feedback on the proposed options for implementing the principle of proportionality in the upcoming market risk capital framework and the plan to replace the current standardised approach for counterparty credit risk (SA-CCR) with the new SA-CCR.

The second consultation covers further considerations for the implementations of the Net Stable Funding Ratio (NSFR) and discusses specific issues that could be raised by the implementation of the NSFR at EU level.

Comments are due by 24 June 2016.

Prospectuses: EU Council Presidency publishes compromise proposal

The Presidency of the EU Council has published a compromise text on the proposal for a Regulation on the prospectus to be published when securities are offered to the public or admitted to trading.

Benchmarks Regulation: ESMA consults on draft technical advice

The European Securities and Markets Authority (ESMA) has published a consultation paper on its draft technical advice under the Benchmarks Regulation. The consultation seeks feedback on the proposed regulatory framework for benchmarks, including the following areas:

- the definition of benchmarks;
- the measurement of the use of critical and significant benchmarks;
- criteria for the identification of critical benchmarks;
- endorsement of a benchmark/family of benchmarks provided in a third country; and
- transitional provisions.

Comments are due by 30 June 2016. ESMA intends to submit the final technical advice to the EU Commission in October 2016. ESMA plans to hold a separate consultation on the draft technical standards for the Benchmarks Regulation in the second half of 2016.

ESMA issues draft RTS on indirect clearing arrangements under EMIR and MiFIR

ESMA has issued two final draft RTS on indirect clearing under MiFIR and EMIR respectively. The draft RTS clarify provisions of indirect clearing arrangements for OTC and exchange-traded derivatives and are intended to ensure consistency and that an appropriate level of protection for indirect clients exists. In particular, the draft RTS include provisions on default management, choice of account structures to be offered to indirect clients, and long chains.

ESMA has sent its draft RTS for endorsement to the EU Commission, which has three months to accept or reject them. This is followed by a non-objection period by the EU Parliament and Council.

MAR: ESMA publishes note on reporting obligation for exchanges and MTFs from 3 July 2016

ESMA has published a note on reference data submission under Article 4(1) of the Market Abuse Regulation (MAR) from 3 July 2016.

The note relates to the legislative measures to postpone the application of MIFID2 and MiFIR, in particular the Regulation to amend MiFIR which will also postpone to 3 January 2018 the date of application of requirements set out under MAR Articles 4(2) and 4(3). The date of application for the requirement under MAR Article 4(1) on notification of the financial instruments reference data will remain 3 July 2016 but, in light of the new data formats and IT systems being unavailable in the majority of Member States and ESMA, the communication sets out ESMA's expectations for the operators of trading venues in relation to Article 4(1) of MAR from 3 July 2016.

In particular, ESMA sets out its expectation for trading venue operators that are currently required to comply with Article 11 of the MiFID1 Implementing Regulation (1287/2006) to continue to comply with those requirements until respective IT systems have been developed and their availability has been communicated by competent authorities and ESMA. ESMA intends to provide further communications on the IT systems later in 2016.

EBA publishes guidelines on stress tests for deposit guarantee schemes

The European Banking Authority (EBA) has published final guidelines on stress tests for deposit guarantee schemes (DGSs). The guidelines provide a methodology for the planning, running and reporting on stress tests conducted by DGSs to assess their resilience to various types of scenarios in times of banking stress.

The guidelines provide basic methodological principles for all stress tests run by DGSs in the EU, including the various stages to be completed, the scenarios simulated and the areas and indicators to be measured. Additionally, they establish a small core of harmonised priority tests to be run by DGSs and reported to the EBA, with the EBA aiming to run a comparable EU-wide peer review in 2020.

In line with the Deposit Guarantee Schemes Directive, the first stress test should take place by 3 July 2017.

Foreign Exchange Working Group issues first phase of global code of conduct for currency markets

The Bank for International Settlements Foreign Exchange Working Group (FXWG) has published the first phase of the Global Code of Conduct for the Foreign Exchange Market and principles for adherence to the new standards. This first phase sets out principles for all wholesale foreign exchange market participants in relation to ethics, trade execution, information sharing, confirmation and settlement.

The complete Code and the adherence mechanisms, which are intended to promote the integrity and effective functioning of foreign exchange markets, will be released in May 2017.

Shadow banking: FSB publishes thematic review on implementation of policy framework

The Financial Stability Board (FSB) has published a peer review of progress made by FSB jurisdictions implementing its policy framework for the oversight and regulation of shadow banking entities.

The policy framework sets out principles that authorities should adhere to in their oversight of non-bank financial entities posing financial stability risks from shadow banking. The peer review reports on the steps undertaken by the FSB in 2015 to enhance its assessment of non-bank financial entities and activities that may give rise to financial stability risks.

The review concludes that more work is needed to ensure that jurisdictions can comprehensively assess and respond to potential shadow banking risks posed by non-bank financial entities.

The main findings include:

- reviews of the regulatory perimeter in most jurisdiction appear to be ad hoc and undertaken in response to concerns arising about a particular activity or entity type;
- it is unclear whether disclosure requirements for non-bank financial entities and reports published by authorities (such as financial stability reviews) enable market participants to adequately assess shadow banking risks posed by these entities, with few jurisdictions planning reviews that could enhance those disclosures; and
- data from existing reporting and disclosure arrangements for non-bank financial entities were not usually designed for collecting shadow banking-specific information, so they may not be adequate or sufficiently granular to assess related risks.

The review makes a number of recommendations to FSB jurisdictions to fully implement the policy framework, including:

- establishing a systematic process involving all relevant domestic authorities to assess the shadow banking risks posed by non-bank financial entities or activities;
- addressing data gaps to better assess the potential financial stability risks posed by non-bank financial entities or activities;
- removing impediments to cooperation and information-sharing between authorities, including on a cross-border basis; and
- reviewing and enhancing public disclosure by non-bank financial entities as necessary to help market participants understand the shadow banking risks posed by such entities.

The FSB will continue monitoring jurisdictions' implementation of the policy framework and conduct follow-up work to support the recommendations made in the peer review.

Financial Policy Committee sets out framework for systemic risk buffer

The Financial Policy Committee (FPC) has published its framework for the systemic risk buffer (SRB) for ring-fenced banks and large building societies. This follows the FPC's January 2016 consultation and the legislative package implementing the recommendations of the Independent Commission on Banking in the UK.

The SRB is one of the elements of the overall capital framework for UK banks and building societies as set out by the FPC in its publication 'The framework of capital requirements for UK banks', which was published alongside the December 2015 Financial Stability Report.

The SRB framework sets out:

- the criteria for assessing systemic importance;
- a proxy for measuring and scoring those criteria;
- a threshold at which firms are considered to be systemically important for this purpose; and
- the calibration of the SRB for those firms exceeding the threshold.

The SRB will be applied to individual institutions by the Prudential Regulation Authority (PRA) and will be introduced at the same time as ring-fencing comes into force in 2019.

FCA consults on proposed wind-down planning guidance

The Financial Conduct Authority (FCA) has launched a consultation (GC16/5) on its proposed wind-down planning guidance. The guidance, published in a non-binding 'approach document', is intended to clarify what wind-down planning should involve and to assist any solo-regulated firm that undertakes wind-down planning.

The approach document defines wind-down planning as the process a firm undertakes to consider how its regulated business could be closed down in an orderly manner, including under stressed conditions, with minimal negative impact on its clients, counterparties and the wider markets. It includes:

- identifying actions to be taken and resources needed to wind down business, especially in resource-stressed circumstances; and
- evaluating the risks of such actions and considering how to mitigate them.

Amongst other things the document also covers:

- a timeline of the wind-down period with considerations and a list of involved persons at each stage;
- how to establish a risk management framework;
- assessing impact, what needs to be done and what resources are needed during the wind-down period; and
- cancellation of part 4A permission (permission to carry on regulated activities under the Financial Services and Markets Act (FSMA)).

Comments on the proposed guidance are due by 22 July 2016.

MAR: FCA publishes statement on closed periods and preliminary results

The FCA has published a statement on rules relating to closed periods and preliminary results under the Market Abuse Regulation (MAR). The statement notes that, pending clarification from the EU Commission and ESMA, where a company publishes preliminary results the closed period will end on publication of those results.

FCA publishes policy statement on high-cost short-term consumer credit

The FCA has published a policy statement (PS16/15) summarising its response to feedback received on its October 2015 consultation (CP15/33) on high-cost short-term credit (HCSTC) and setting out the final rules.

CP15/33 sought feedback on the FCA's response to the recommendations made by Competition and Markets Authority (CMA) regarding payday lending and on proposed new rules and guidance for price comparison websites (PCWs) comparing HCSTC. These rules, which apply to any firms that own or operate websites displaying terms relating to HCSTC products and that define themselves as, or give the impression that they are, a price comparison service, included:

- that the prominence or order in which products are displayed on PCWs must not be affected by any commercial relationships of the PCW;
- that PCWs must have search functionality that allows users to search by amount and duration of the loan;
- that PCWs must return relevant results based on the search criteria and display HSCTC products in ascending order of price by the total amount payable;
- that additional financial promotions, for example sponsored links, must not appear within the rankings and must be clearly distinguishable; and
- that PCWs must list in one place the brand names of lenders compared on the website.

CP15/33 also discussed the FCA's response to the CMA's recommendations on lead generators and credit brokers, improved 'shopping around', the use of real-time data sharing and improved disclosure of the costs of borrowing.

Respondents to the consultation were supportive of the FCA's proposed approach and it has only made minor amendments to ensure the proposals are not misinterpreted. The final rules and guidance, set out in Appendix 1 of the policy statement, will be incorporated into the Consumer Credit sourcebook and come into force on 1 December 2016.

Mortgage Credit Directive: Legislative decree on implementation published in Official Gazette

Legislative Decree n. 72/2016 of 21 April 2016 on the implementation of the Mortgage Credit Directive (2014/17/EU) has been published in the Official Gazette n. 117. Legislative Decree n. 72/2016 implements the Mortgage Credit Directive in Italy and introduces certain

amendments to the licensing regime applicable to loan brokers, by extending the licensing requirements to pure loan advice (even when actual brokerage does not take place).

Legislative Decree n. 72/2016 will come into force on 4 June 2016.

CNMV issues communication on implementation of ESMA guidelines for assessment of knowledge and competence

The Spanish Securities Exchange Commission (CNMV) has notified ESMA of its intention to implement ESMA's guidelines for the assessment of knowledge and competence, which will apply from 3 January 2018. Accordingly, the CNMV will discuss with the relevant sector the measures to be carried out for the implementation of ESMA's guidelines.

Polish Financial Supervision Authority approves guidelines on provision of brokerage services on OTC derivatives market

The Polish Financial Supervision Authority (PFSA) has approved guidelines on the provision of brokerage services on the OTC derivatives market. The guidelines are addressed to investment firms and banks carrying out activities corresponding to brokerage activities.

They are intended to strengthen the protection of retail investors and ensure the appropriate provision and advertising of brokerage services, transparency of the terms on which the services are provided, knowledge of the actual risk associated with investments on the forex market and eliminate imbalances in the rights and obligations of the parties to an agreement.

Furthermore, the PFSA's guidelines relate, among other things, to the internal organisation of an entity providing services and take into account issues such as the proper management of conflicts of interests, selection and training of appropriate personnel dedicated to serving customers and regulation of relationships with third parties that solicit customers for those entities.

The PFSA expects the market to implement the guidelines by no later than 30 September 2016.

Polish Financial Supervision Authority adopts amendment to Recommendation C on risk exposure management

The PFSA has adopted an amendment to Recommendation C on risk exposure management. The new wording of the Recommendation supplements and develops issues concerning risk exposure management in banks that have only partially been regulated by provisions in force.

Recommendation C on risk exposure management covers the following areas:

- the duties of the management board and supervisory board;
- the terms of identifying, measuring or estimating the risk exposure and tools supporting the risk exposure management process;
- the terms of combating and limiting risk exposure;
- monitoring and reporting on risk exposure;
- internal control system; and
- management of risk arising from interactions between exposures of the same type and various types of risks.

The PFSA expects Recommendation C to be implemented by 1 January 2017.

CBRC strengthens supervision of commissioned sales business by commercial banks

The China Banking Regulatory Commission (CBRC) has issued the 'Circular on Regulating the Commissioned Sales Business of Commercial Banks', aiming to set full-scale requirements on commercial banks' sales of products commissioned by cooperating institutions. The following key regulatory points under the circular are worth noting:

- apart from government bonds and physical precious metal, commercial banks are only permitted to sell financial products issued by those financial institutions with relevant licenses granted by the CBRC, the China Securities Regulatory Commission (CSRC) or the China Insurance Regulatory Commission (CIRC);
- the headquarter of a commercial bank shall internally manage the commissioned sales business in a centralised and unified manner, while exercising comprehensive management, including name list, due diligence, assessment and approval, of its cooperating institutions;
- the conclusion of the sales agency agreement and approval of products to be sold shall be within the scope of the bank's headquarter – alternatively, a provincial-level branch may do so only if it is authorised by and has filed for records with its headquarter;
- the commercial bank shall conduct risk ratings on cooperating institutions' products to be sold, and ensure that targeted clients have well-matched

capabilities of risk bearing pursuant to the bank's rating of its clients; and

- a risk segregation system with respect to accounts, funds and accounting shall be set up by the commercial bank between its proprietary business and commissioned.

Indonesian Government issues new negative list

The Indonesian Government has issued Presidential Regulation No. 44 of 2016 setting out the list of sectors to which foreign investment restrictions apply (commonly known as the Negative List). The 2016 Negative List is part of President Jokowi's Economic Stimulus Package that was announced in February with the aim of boosting foreign and domestic investment activities in Indonesia.

The 2016 Negative List came into effect on 18 May 2016 but was only made available to the public on 24 May 2016.

The 2016 Negative List relaxes restrictions on foreign investments, including in the following sectors:

- distributorships (that are not affiliated with manufacturers), warehousing and air transport services, which are now 67% open to foreign investment (previously limited to 33%);
- distribution of medical devices, which is now 49% open (previously limited to 33%); and
- the crumb rubber industry, which is now 100% open to foreign investment, but with certain conditions (previously closed).

The new Negative List excludes certain sectors that previously had foreign investment limitations, such as the film industry, toll road operation and the pharmaceutical raw material industry.

HKMA issues circular on cybersecurity fortification initiative

The Hong Kong Monetary Authority (HKMA) has issued a circular on its Cybersecurity Fortification Initiative (CFI), setting out its supervisory expectations regarding the adoption and implementation of the CFI by authorised institutions.

The CFI is intended to enhance the cyber resilience of the banking sector and is underpinned by the following three pillars:

- the Cyber Resilience Assessment Framework, which is a risk-based framework for authorised institutions to assess their own risk profiles and benchmark the level of defence and resilience that would be required to accord appropriate protection against cyber attacks. The draft framework will be issued shortly to the banking industry for consultation for a period of three months;
- the Professional Development Programme, which seeks to increase the supply of qualified professionals in cyber security. The HKMA is working with the Hong Kong Applied Science and Technology Research Institute (ASTRI) and the Hong Kong Institute of Bankers (HKIB) on the programme structure. The target launch date is end of 2016; and
- the Cyber Intelligence Sharing Platform, which provides an infrastructure for sharing intelligence on cyber attacks – the HKMA, in collaboration with the ASTRI and the Hong Kong Association of Banks (HKAB).

The HKMA has stressed that it is crucial for authorised institutions to ensure that they adopt and implement the CFI. Specifically, authorised institutions are advised to actively participate in the consultation for the cyber resilience assessment framework. Authorised institutions will be required to carry out their cyber resilience assessment using the framework, unless an equally effective framework is available.

The HKMA has noted that all banks are expected to join the Cyber Intelligence Sharing Platform. Banks should start to make the necessary preparations including system changes at an early stage.

HKMA issues revised supervisory policy manual on supervision of regulated activities of SFC-registered authorised institutions

The HKMA has issued a revised supervisory policy manual (SPM) on the supervision of regulated activities of Securities and Futures Commission (SFC)-registered authorised institutions.

The first version of the SPM module was issued in 2003 at the time of the commencement of the Securities and Futures Ordinance (SFO) and the then new securities and futures supervisory regime. The major changes in the revised version include:

- an elaboration of the HKMA's supervisory and enforcement approaches for enhanced transparency;
- an elaboration of the one-off nature of the grace period for a relevant individual who has yet to pass the local regulatory framework paper;

- highlights of the major regulatory requirements for the selling of investment products, including the HKMA's enhanced investor protection measures; and
- removal of the parts on transitional arrangements under the securities and futures supervisory regime as the transitional period under the SFO has expired.

The revision also updates and seeks to simplify the SPM to make it more coherent and concise.

Korean regulators launch test operation of omnibus account system

The Financial Services Commission (FSC), Financial Supervisory Service (FSS) and relevant agencies have launched a test operation of the 'omnibus account' with four standing proxies, two securities firms and one global financial investment company. The test run is intended to:

- engage foreign investors in devising detailed procedures; and
- prevent technical errors in electronic and settlement systems in advance of the full operation of the omnibus account system, commencing in 2017.

The test operation will be conducted in two stages:

- mock trading (25 May to September 2016) – participants will undertake a whole procedure of order, settlement and ex-post reporting through a mock trading system to check the operation process and stability of the electronic system; and
- real trading (September 2016 until the official launch scheduled in 2017) – a limited number of participants, including global investors who participated in mock trading, will conduct real trading through an omnibus account.

The FSC and FSS will gather suggestions from participants of the second stage (real trading) and amend the system before full operation commences in 2017. The regulators will also incorporate the suggestions into the detailed procedures of the omnibus account system.

In addition, the FSC has published a set of frequently asked questions (FAQs) on the test and full operation of the omnibus account system.

CFTC issues final cross-border margin rule

The Commodity Futures Trading Commission (CFTC) has adopted a final rule implementing a cross-border approach to its margin requirements for uncleared swaps. The final rule applies to CFTC-registered swap dealers and major swap participants for which there is no prudential regulator (collectively, covered swap entities or CSEs). The final rule generally requires CSEs to comply with the CFTC's margin requirements for all uncleared swaps in cross-border transactions, with a limited exclusion for certain non-US CSEs. The exclusion is not available to non-US CSEs that are consolidated with a US parent (foreign consolidated subsidiaries).

In certain circumstances, the final rule would allow CSEs to comply with comparable margin requirements in a foreign jurisdiction as an alternative means of complying with the CFTC's margin rule for uncleared swaps to the extent that the CFTC determines that the foreign jurisdiction's requirements are comparable to those of the CFTC. The final rule includes special provisions to accommodate swap activities in jurisdictions that do not have a legal framework to support custodial arrangements or that do not have netting arrangements that comply with the CFTC's margin rule.

In addition, the final rule establishes a process for requesting comparability determinations, including eligibility and submission requirements, as well as the standard of review the CFTC would apply in assessing the comparability of a foreign jurisdiction's margin requirements.

CLIFFORD CHANCE BRIEFINGS

Investments by Insurers under Solvency II

1 January 2016 saw the implementation across Europe of the Solvency II regulatory regime for insurers. Under Solvency II, the treatment of investments by insurers has changed and extensive new reporting requirements have been introduced. These changes represent potential opportunities as well as challenges for asset managers in their relations with insurer clients/investors.

This briefing discusses some of the new Solvency II requirements from an investment and a reporting perspective.

http://www.cliffordchance.com/briefings/2016/05/investments_by_insurersundersolvencyii.html

Middle East legal trends in a sustained low oil price world

When we first started talking about the crude oil price crash at the turn of 2014/2015, it was clear that this downturn was different from the last crash in late 2008.

While we cannot know how long this pricing environment will last, it is clearly having a significant impact on a range of issues in the legal field which reflect the difficult dynamics our clients face both in their day-to-day operations and from a broader strategic perspective.

This briefing sets out some of our observations on Middle East legal trends in a sustained low oil price world.

http://www.cliffordchance.com/briefings/2016/05/middle_east_legaltrendsinasustainedlowoi.html

Which Law Applies? A recent Bahraini case highlights the relevance of forum to choice of law

Market participants looking to engage in sales and trading transactions, such as swaps and repos, with emerging market counterparties rightly investigate whether the close-out and netting provisions in their contracts will be recognised and given effect in the jurisdiction of the relevant counterparty.

A recent Bahraini case is a timely reminder that, while the effectiveness of netting is certainly an important element to due diligence, it is by no means the only aspect to investigate. In particular, if the forum before which the case is likely to be heard will not recognise and apply the parties' choice of law, the claim may never get as far as close-out and netting.

This briefing discusses the case.

http://www.cliffordchance.com/briefings/2016/05/which_law_appliesarecentbahrainicas.html

Proposed refinements to UK competition law

The UK government has published a consultation on a range of proposed reforms to UK competition law. In contrast to the more fundamental reforms recently introduced in the Enterprise and Regulatory Reform Act 2013 and the Consumer Rights Act 2015, the proposed reforms are, for the most part, refinements – albeit extensive ones – to the existing competition law regime.

This briefing discusses the proposed reforms.

http://www.cliffordchance.com/briefings/2016/05/proposed_refinementstoukcompetitionlaw.html

Tax avoidance provision

This briefing discusses the Act Amending the Tax Ordinance Act and Certain Other Acts, adopted by the Parliament on 19 May 2016 and introducing, amongst other things, provisions concerning tax anti-avoidance. The Amendment also establishes a new regulatory agency, the Tax Avoidance Board, created as an authority to issue opinions on matters of tax avoidance. In addition, the Amendment extends the list of decisions which can be issued by the minister in charge of public finance to include so-called 'security opinions', which provide taxpayers with security against a relevant action being deemed an act of tax avoidance (in a form similar to current individual tax rulings).

The Amendment will come into force 30 days after publication (i.e. most likely at the end of June 2016).

http://www.cliffordchance.com/briefings/2016/05/tax_avoidance_provision.html

Reading the Tea Leaves – Expansion and Interpretations of PRC Anti-Corruption Legislation

The first half of 2016 has seen a more proactive role taken by the PRC legislative and judicial bodies to provide more guidance on anti-corruption law enforcement, following on from the Chinese government's continued effort to crack down on corruption.

On 25 February 2016, the State Council published its draft amendments to the PRC Anti-Unfair Competition Law for public comment, the first time in 23 years since its promulgation in 1993. The following month, on 16 March 2016, the National People's Congress voted 2,636 to 131 in favour of a major piece of legislation on charity and not-for-profit organisations, the PRC Charity Law.

Finally, on 18 April 2016, the Supreme People's Court and the Supreme People's Procuratorate released a joint judicial interpretation on bribery, corruption, and misappropriation of official funds.

This briefing discusses these pieces of legislation and interpretation, which represent a significant push in the Chinese government's anti-corruption drive.

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