



CMCE Bi-weekly Update (6 July 2018)

I. ACTIVE PRIORITIES

Brexit			
CMCE priorities	Status / latest developments	Next steps	CMCE action
Transitional arrangements	There were no significant developments in the last two weeks.	<p>11 July - Vote on the draft resolution of Brian Hayes in the ECON Committee</p> <p>24 September – Vote in the European Parliament plenary on the resolution of Brian Hayes</p> <p>October – Deadline for a compromise on the Withdrawal Agreement</p>	
MiFID II			
CMCE priorities	Status / latest developments	CMCE action	
AA exemption Position limits Reporting Physical forwards	There were no significant developments in the last two weeks.	A subgroup is being created under the CMCE MiFID Working Group to discuss certain physical forward contracts and their classification under MiFID II. Example contracts will be circulated to the MiFID WG and a first call will be scheduled soon.	

EMIR REFIT			
CMCE priorities	Status / latest developments	Next steps	CMCE action
Reporting Risk mitigation for uncleared trades Calculation of NFCs positions	<p>Ahead of the first trilogue on EMIR Refit, which took place on 4 July, the advisory team circulated an updated CMCE position paper on EMIR Refit to key MEPs, the Austrian Presidency and the Commission.</p> <p>Discussions at the first trilogue meeting focused on the clearing obligation, while reporting was not discussed despite the intention to do so. We understand that following a discussion on the collateral requirement for uncleared trades, the Council / Commission position will prevail, as there was no support for the Parliament suggestion that NFCs could only post collateral in asset classes where they are required to clear.</p> <p>On the annual calculation of positions against the clearing threshold for NFCs, the Council was not in favour of the EP's suggestion of basing the calculation on a 12-month period, so the calculation based on April/May/June is likely to prevail.</p> <p>To prepare for the first trilogue, the Council working group had a preparatory meeting on 28 June. At the meeting, the Commission explained that it is strongly against any exemptions from margin requirements, as it would reduce the possibility to register and measure risks. This justification received support from Germany and Sweden. Member states including Germany welcome the EP proposal to exempt non-risky transactions. While Denmark and the Netherlands strongly support the Council text, Poland, the UK, France and Portugal stated that they could be flexible on the time frame, but support the Council General Approach in other areas (especially the margin requirements).</p> <p>On the topic of reporting by NFCs, the Austrian Presidency explained that the EP has suggested a form of single sided reporting and some exemptions for small NFCs. The Commission explained that it has doubts regarding single sided reporting especially with the aim to assure a high standard of data quality. However, the Commission criticised the EP proposal on third countries which it called unclear. They added that they would rather support the Council text in this respect. France and Portugal said that they could possibly support the EP text on giving the NFC the option to report OTC derivative trades to a trade repository,</p>	September 27 – Next trilogue	

	<p>On intra-group transactions, the Austrian Presidency explained that the EP has proposed a broader exemption for intragroup transactions, and that the EP text does not define intragroup transactions. The Commission will ask for the EP to clarify the definition and is open to discussing the points contained in the EP's text on this matter, but prefers the Council text overall. The Commission's text received support from France, Poland, the UK, Sweden, Portugal and the Netherlands.</p> <p>On ETD reporting, the Austrian Presidency said that they have not identified any major differences. The Commission commented that they strongly support the Council text which makes CCPs solely responsible for the reporting of ETD transactions, and they will seek clarification from the EP in that regard. This received support from the UK, Italy, the Netherlands and France.</p> <p>The Austrian Presidency is hoping to close this file in two trilogues, with a third session dedicated only to pension schemes, which is the most problematic issue for the co-legislators in this file. The next trilogue is scheduled for 27 September.</p>		
--	---	--	--

Benchmarks

CMCE priorities	Status / latest developments	Next steps	CMCE action
<p>Commodity benchmarks</p> <p>Critical benchmarks</p> <p>Third country equivalence</p>	<p>On 29 June, the FCA published its final handbook notice on the EU BMR (legal instrument). The handbook serves to remove rules that are superseded by the BMR to help ensure that the FCA is able to supervise benchmark administrators, and enforce the BMR if necessary.</p> <p>In comparison to the so-called near final rules which were published in December of last year, the FCA has made some changes in the Handbook Notice, including the paring back of PRIN Principle 11 (relations with regulators) in relation to commodity benchmark firms subject to the lighter requirements in Annex II of the BMR.</p> <p>In the context of the ESA's review, the Council Working Party had a meeting on 5 July during which the Commission responded to suggestions made by member states on the amendments to the benchmarks regulation. The Council would like for ESMA to have sole responsible entity for the authorisation and supervision of EU critical benchmarks, and</p>	<p>11 July – Scrutiny of level 2 measures in the ECON Committee (tentative, subject to the adoption of the BMR Level 2 measures by the Commission)</p>	

	<p>NCA's would maintain responsibility for national critical benchmarks. The Commission set out the practical consequences of the Council's proposal in a paper prepared by DG FISMA. The Commission notes that only 3 benchmarks (EONIA, EURIBOR and LIBOR) have been designated as "critical" under the BMR. As at least two of those benchmarks (EONIA and EURIBOR) involve contributors in more than one EU country, and therefore ESMA would be "best placed to trigger the mandatory contributions requirement with respect to these benchmarks."</p> <p>The DG FISMA paper also addresses concerns regarding the endorsement of third-country benchmarks, as member states have raised concerns that a benchmark administrator authorised in the EU and also administers benchmarks in a third country would be subject to "dual supervision" in the bloc. The Commission said, however, it cannot identify an issue of "dual supervision" if ESMA were to be granted the power to approve the endorsement of a benchmark by an EU administrator, as the EU-authorized administrator is a different legal entity from the third-country administrator whose benchmarks endorsement is approved by ESMA.</p>		
--	--	--	--

II. WATCHING BRIEF

IFR		
CMCE priorities	Status / latest developments	Next steps
Commodity dealer IF regime	<p>First compromise amendments have been circulated in the Parliament on the report of Markus Ferber MEP on IFR/IFD. Several suggestions put forward by EFET and other energy associations are included, such as the suggestion to have a review of the regime 3 years after the date of application, rather than the date of entry into force. The draft compromises still contain an exemption for OTC derivatives cleared through a QCCP or a clearing bank that is a clearing member of a QCCP. The suggestion to include unencumbered cash under the list of liquid assets has also been included in the Compromise amendments.</p>	<p>Council of the EU: September – meeting of the Council Working Party on the IFR (the precise date has not yet been set).</p> <p>European Parliament: 24 September – Vote in ECON (tentative, subject to the progress of the negotiating team)</p>

	<p>However, the suggestion on Fixed Overheads Requirement (FOR), that is to include expenses for raw materials in the list of expenses that are eligible for subtraction from the FOR was not included in the Compromise amendments. The suggestion from the Greens on the inclusion of a new article on the disclosure of environmental, social and governance (ESG)-related factors and risks, which would oblige IF's to disclose such information from 2 years after entry into force of the Regulation, including information such as a description of significant concentrations of credit exposures against greenhouse gas-related assets is not included either.</p> <p>A meeting of the Council Working Group on the IFR took place on 25 June and a detailed read-out was circulated to members of the CMCE Regulatory Capital Working Group.</p>	
MAR		
CMCE priorities	Status / latest developments	Next steps
Insider dealing MM indicators	There were no significant developments this week.	
SFTR		
CMCE priorities	Status / latest developments	Next steps
Reporting Obligations	There were no significant developments in the last week.	July – expected adoption of RTS by the Commission (tentative)
Senior Managers and Certification Regime		

	<p>The FCA published its near-final rules on the Senior Managers and Certification regime.</p>	
--	--	--