From: Sonja Erica Väisänen
Sent: 24 January 2018 09:27
Cc: cmce@humebrophy.com
Subject: CMCE - Summary of the Regulatory Capital WG call of Friday 19 January on the IFR/IFD

Dear Member of the CMCE Regulatory Capital WG,

Please find below the summary of the call of the Regulatory Capital WG which took place on Friday 19 January and was dedicated to discussing the Commission's proposal on IFR/IFD:

- In terms of process, the Council Working Party (WP) will have a first discussion on the IFD/IFR on 25 January. The Council is not expected to reach a general approach during the first half of 2018. The European Parliament is in the early stages of treating this dossier, and has not yet appointed a rapporteur on this file. The upcoming elections for the EP in 2019 are likely to add pressure to the negotiations.
- The key points of the proposal were circulated in an email on 4 January. To summarise, the proposals include a 5-year phase in of requirements for commodity dealer IFs as regards initial capital, liquidity and disclosure requirements. Commodity dealers can also avail of a 5-year transition for capital requirements (also available to other IFs) whereby the requirement can be limited to twice the applicable initial capital requirement or to twice the fixed overheads requirement where the IF was not subject to capital requirements under CRR / CRD IV. However, after the phase-in period, all requirements would apply as to any other IFs, apart from an exemption for intra-group transactions of commodity dealers where both counterparties are included in same consolidation, the activity is for hedging purposes and the other counterparty is an NFC, for the purposes of the calculation of concentration risk for the Risk to market K-factor requirement. A review clause also foresees that the Commission is to review the application of the capital requirements regime to commodity dealer Ifs 3 years after entry into force. The definition of commodity dealer IF has also been changed in comparison to the CRR and this may be helpful.
- A member commented that there was no obvious need for immediate engagement on the proposals, given that they are likely to only apply 7 years on from now. Particularly for investment firms in the UK, the context of the Brexit negotiations blurs this further.
- One member commented that the impact on overseas jurisdictions was of interest, given that jurisdictions such as Singapore will not be adopting similar legislation anytime soon. In the context of Brexit, the UK could potentially be seen as a back door to the EU. The overseas persons exemption could be looked at in that context.
- A member commented that it would be useful for CMCE to have a better story on why commodities dealers should be given an exemption and have different regulatory treatment than other investment firms. A CMCE paper similar to the report previously commissioned by Trafigura could be a useful tool to help advance this aim. Without proper strategic messaging, it would be difficult to convince policy-makers to treat commodity dealer IFs differently. The advisory team informed that a broader discussion was ongoing with the CMCE Executive Committee on a CMCE stakeholder engagement plan for 2018 and this would be picked up in that context.
- A member commented that CMCE is the only association which brings together a sufficient number of commodity dealers that may be investment firms and NFC+s to have an interest in debating these issues.
- The way the proposal stands now, any firm which is dealing on own account is treated like any other investment firm. It could be argued that this is too high a price for providing hedging services.
- Despite the fact that the proposals may not have an immediate effect on members, the advisory team suggested that CMCE should nevertheless engage with EU level policy makers to make them understand why this regime is not adequate for commodity dealer IFs. The default assumption in the proposals is that commodity dealers are in scope, so engagement will be necessary demonstrate why there should still be differential treatment beyond the phase in foreseen. If CMCE is absent in the discussions on these proposals, it will be difficult to make up for that in a couple of years' time once the Commission starts to think of the review of the application to commodity dealers.

Next steps for CMCE:

- The advisory team will draft a letter to DG FISMA and DG Energy on CMCE's views on the proposals, for circulation to the WG for comment. Once the letter is dispatched a meeting should be sought with the DG FISMA team.
- The advisory team will pick up the discussion on a strategic messaging document in the context of its ongoing discussions with the CMCE Exco. on a CMCE stakeholder engagement programme.

Please do not hesitate to let us know should any questions arise.

Kind regards,

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