

UK DEVELOPMENTS

FMSB Releases Draft Standard for Compensating Trade Errors

On March 20, the Fixed Income, Commodities and Currency Markets Standards Board (FMSB) published a draft of its transparency standard on Secondary Market Trading Error Compensation, setting out expected behaviors for the payment of compensation for trading errors.

The transparency standard proposes three methods, subject to these complying with applicable local law, for paying compensation in the event of a trading error (e.g., following a miscommunication between investor and a firm or as a result of timing issues):

1. by direct payment to the compensated party's account;
2. by reducing/increasing net brokerage; or
3. by another means which does not create a false market or a misleading impression of value or liquidity of a financial instrument.

The transparency standard also includes steps to follow where a material compensation payment is required, identified in accordance with policies and procedures that firms should put in place.

The transparency standard's proposals expressly direct firms away from paying compensation using wash trades (a trade where "a purchase and sale of the same financial instrument occurs with different financial terms"), on the basis that such trades can create an artificial impression of market volume or price.

The transparency standard is open to consultation until June 20, with the final version of the transparency standard likely published shortly thereafter.

The transparency standard is available to read [here](#).

UK Government Launches Fintech Sector Strategy

On March 22, the UK government held its second annual International Fintech Conference. The Conference forms part of the UK's plans to maintain its world leading position in technology-enabled innovation in financial services (FinTech).

The Conference follows the launch of the European Commission's FinTech Action Plan, further details of which are available in the *Corporate & Financial Weekly Digest* [edition of March 9, 2018](#).

At the Conference, the UK government announced a number of initiatives to foster FinTech. Key highlights include:

1. launching a "cryptoassets task force," consisting of HM Treasury, the Bank of England and the UK Financial Conduct Authority (FCA), to assess the risks and benefits relating to cryptoassets and future regulation;

2. investigating the use of machine-readable rules to automate regulatory compliance, termed “robo-regulation;”
3. creating a new “FinTech bridge” with Australia; and
4. establishing regional envoys for different parts of the United Kingdom to ensure that the benefits of FinTech are felt nationwide.

In addition, the FCA has published an enhanced cooperation agreement that forms part of the broader FinTech bridge, enhancing and superseding the terms of the cooperation agreement entered into between the FCA and the Australian Securities and Investments Commission (ASIC) in March 2016.

The UK government’s Fintech Sector Strategy document, published at the Conference, is available [here](#).

The UK government’s news release summarizing its FinTech strategy and the Conference agenda is [here](#).

The enhanced cooperation agreement between the FCA and ASIC is available [here](#).

BREXIT/EU DEVELOPMENTS

UK Government and EC Publish Draft UK/EU Withdrawal Agreement

On March 19, the UK government and the European Commission (EC) published a draft withdrawal agreement (Latest Draft Agreement) which includes the legal text agreed by negotiators on the transition period following the UK’s withdrawal from the European Union (EU).

The Latest Draft Agreement is very similar to the EC’s previous draft of the withdrawal agreement of March 15, 2018 (Previous Draft Agreement), which was reported in the *Corporate & Financial Weekly Digest* [edition of March 2, 2018](#). Further to the Previous Draft Agreement, the UK government has now agreed that the transition period following Brexit will end on December 31, 2020. The transition period is now described as “a transition or implementation period,” adding the UK government’s preferred term for the period. Various elements of the text are highlighted in green—indicating that both sides agree, or in yellow—indicating that the legal principles are agreed. Additional text remains in white—indicating that discussions are ongoing.

Part Four of the Latest Draft Agreement, also known as the “Transition Part,” is very similar to that of the Previous Draft Agreement and is highlighted in green, indicating that this part has been agreed and will only be subject to technical legal revisions in the coming weeks.

The Latest Draft Agreement clarifies the steps that the UK can take towards entering into new international agreements during the transition period. The Previous Draft Agreement stated that the UK “may not become bound by” new international agreements entered into in its own capacity in areas of exclusive EU competence during the transition period unless authorized by the EU. However, the agreed text of the Latest Draft Agreement provides that the UK “may negotiate, sign and ratify international agreements” entered into in its own capacity in areas of exclusive EU competence during the transition period—as long as “those agreements do not enter into force or apply during the transition period” unless authorized by the EU.

The Latest Draft Agreement is available [here](#).

The Previous Draft Agreement is available [here](#).

ESMA Publishes Speech on Supervisory Convergence, Transaction Cost Transparency and Pan-European Regulators

Steven Maijor, Chair of the European Securities and Markets Authority (ESMA) spoke on March 20, regarding ESMA’s work during the past year. In his speech, Mr. Maijor commented on ESMA’s work in relation to:

1. supervisory convergence to limit the scope for regulatory arbitrage in light of the United Kingdom’s upcoming withdrawal from the European Union and UK-based firms re-locating into the remaining EU member states—in particular, the steps to prevent firms from using “letterbox entities” (entities without the

- necessary substance to meet regulatory requirements) to comply with the requirement to locate within an EU member state and ESMA’s creation of the Supervisory Coordination Network;
2. the changes to cost transparency focusing on the revised Markets in Financial Instruments Directive (MiFID II), the related Regulation and the Regulation on key information documents for packaged retail and insurance-based investment products or “PRIIPs;” and
 3. the review of the Pan-European European Supervisory Authorities (ESAs) and the potential expansion of ESMA’s supervisory convergence to promote the EU project for a Capital Markets Union.

The speech is available [here](#).

For additional coverage on financial and regulatory news, visit [Bridging the Week](#), authored by Katten’s [Gary DeWaal](#).

For more information, contact:

FINANCIAL SERVICES

Janet M. Angstadt	+1.312.902.5494	janet.angstadt@kattenlaw.com
Henry Bregstein	+1.212.940.6615	henry.bregstein@kattenlaw.com
Kimberly L. Broder	+1.212.940.6342	kimberly.broder@kattenlaw.com
Wendy E. Cohen	+1.212.940.3846	wendy.cohen@kattenlaw.com
Guy C. Dempsey Jr.	+1.212.940.8593	guy.dempsey@kattenlaw.com
Gary DeWaal	+1.212.940.6558	gary.dewaal@kattenlaw.com
Kevin M. Foley	+1.312.902.5372	kevin.foley@kattenlaw.com
Jack P. Governale	+1.212.940.8525	jack.governale@kattenlaw.com
Arthur W. Hahn	+1.312.902.5241	arthur.hahn@kattenlaw.com
Christian B. Hennion	+1.312.902.5521	christian.hennion@kattenlaw.com
Carolyn H. Jackson	+44.20.7776.7625	carolyn.jackson@kattenlaw.co.uk
Fred M. Santo	+1.212.940.8720	fred.santo@kattenlaw.com
Christopher T. Shannon	+1.312.902.5322	chris.shannon@kattenlaw.com
Robert Weiss	+1.212.940.8584	robert.weiss@kattenlaw.com
Lance A. Zinman	+1.312.902.5212	lance.zinman@kattenlaw.com
Krassimira Zourkova	+1.312.902.5334	krassimira.zourkova@kattenlaw.com

BREXIT/EU/UK DEVELOPMENTS

John Ahern	+44.20.7770.5253	john.ahern@kattenlaw.co.uk
David A. Brennand	+44.20.7776.7643	david.brennand@kattenlaw.co.uk
Carolyn H. Jackson	+44.20.7776.7625	carolyn.jackson@kattenlaw.co.uk
Neil Robson	+44.20.7776.7666	neil.robson@kattenlaw.co.uk
Nathaniel Lalone	+44.20.7776.7629	nathaniel.lalone@kattenlaw.co.uk

.....
 * Click [here](#) to access the *Corporate & Financial Weekly Digest* archive.

Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.
 ©2018 Katten Muchin Rosenman LLP. All rights reserved.



Katten Muchin Rosenman LLP www.kattenlaw.com

AUSTIN | CENTURY CITY | CHARLOTTE | CHICAGO | DALLAS | HOUSTON | IRVING | LONDON | LOS ANGELES | NEW YORK | ORANGE COUNTY | SAN FRANCISCO BAY AREA | SHANGHAI | WASHINGTON, DC

Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at kattenlaw.com/disclaimer.