

## CFTC

### **CFTC Publishes Request for Input on LabCFTC Prize Competitions**

On April 25, the Commodity Futures Trading Commission published in the *Federal Register* a Request for Input about potential prize competitions designed to further various CFTC initiatives, including LabCFTC. (For a complete discussion of LabCFTC, please refer to the May 19, 2017 edition of [Corporate & Financial Weekly Digest](#).)

Under the Science Prize Competition Act, the CFTC has the authority to award competition prizes to stimulate innovations that have the potential to advance the CFTC's mission. The CFTC is requesting feedback on potential competition topics as well as on the structure and administration of its prize competitions, including issues related to competition eligibility requirements and judge selection criteria. Competition topics initially identified by the CFTC include enhancing market transparency and oversight, systemic risk analysis and improving accessibility to CFTC regulations. Comments must be received by the CFTC on or before July 24.

A copy of the *Federal Register* release is available [here](#).

## BREXIT/UK DEVELOPMENTS

### **US and UK Announce New Financial Regulatory Working Group**

On April 19, HM Treasury and the US Treasury Department published a joint statement announcing the formation of a US-UK Financial Regulatory Working Group (Working Group). The joint statement explains that Brexit provides an opportunity for the Working Group to formalize existing US-UK regulatory cooperation.

The Working Group will include staff from the respective treasury departments together with those from applicable US and UK financial regulatory authorities. It will aim to promote: (1) financial stability; (2) investor protection; (3) fair, orderly and efficient markets; and (4) capital formation, in the United Kingdom and United States.

To further financial regulatory cooperation, the Working Group's operational objective combines:

- improving transparency;
- reducing uncertainty;
- identifying potential cross-border implementation issues;
- aiming to avoid regulatory arbitrage; and
- increasing compatibility, where appropriate, of respective national laws and regulations.

As explained in the joint statement, both treasury departments anticipate that the Working Group will meet twice a year, with additional ad hoc technical meetings and calls taking place as needed. Bilateral contacts outside of the Working Group, in relation to ongoing US-UK financial regulatory cooperation, will continue as appropriate.

The joint statement, as published by HM Treasury, is available [here](#).

## FCA Adds New Interactive Tools to Asset Management Authorization Hub

On April 20, the UK Financial Conduct Authority (FCA) updated its asset management authorization hub (Hub), which launched on October 16, 2017, as detailed in the *Corporate & Financial Weekly Digest* [edition of October 20, 2017](#). The updated Hub includes a number of new interactive tools, complementing existing ones, to support firms through the regulatory process.

The FCA's changes include the introduction of interactive diagrams in relation to:

- the different EU legislation and regulatory regimes relevant for firms undertaking individual versus collective portfolio management, available [here](#);
- the different authorization options under the Alternative Investment Fund Managers Directive (AIFMD), available [here](#); and
- the different fund structuring options (standalone, master-feeder and umbrella), available [here](#).

In addition, the FCA has published a new webpage to help businesses identify the key regulatory requirements that determine their prudential category, available [here](#).

Finally, the FCA has updated its webpage entitled "Submitting your application" to list the relevant forms for authorization and relevant statutory time frames for the FCA to decide on an application—in both cases, these depend on the firm type.

The FCA's updated "Submitting your application" webpage is available [here](#).

## EU DEVELOPMENTS

### European Commission Proposes New Directive to Protect EU Whistleblowers

On April 23, the European Commission (EC) adopted a package of measures, including a draft Directive and an Impact Assessment, to protect whistleblowers who report breaches of EU law.

The definition of a "whistleblower" under the proposed new Directive would encompass any person who has "privileged access to information about breaches that can cause serious harm to the public interest and who may suffer retaliation if they report" (i.e., not just employees, but also self-employed people, contractors, unpaid trainees and even job applicants).

The EC considers the protection currently offered to whistleblowers across the EU to be fragmented and insufficient. Therefore, the proposed new Directive will set minimum and harmonized standards guaranteeing protection for whistleblowers who report breaches of a broad range of EU laws, including those covering financial services, environmental protection, consumer protection, product and transport safety, data protection and privacy, as well as competition law and corporate tax (including value added tax) rules.

The proposed new Directive would require EU member states to establish safe channels for reporting both within a whistleblower's organization, as well as to public authorities, separate from the usual public complaints systems of those public authorities. It would protect whistleblowers against dismissal, demotion and other forms of retaliation and require training public authorities on handling whistleblowing reports.

Under the proposed new Directive, whistleblowers would even be able to disclose information directly to the public or media, without losing the protection from retaliation, if other reporting channels did not function. They also would be protected in judicial proceedings, through an exemption from liability for disclosing information related to the whistleblowing.

The proposed new Directive will be adopted using the ordinary legislative procedure (i.e., the European Parliament and the Council of the EU both need to adopt the final text of the proposed Directive before it is published in the *Official Journal of the European Union* and implemented). The EC has invited the public to provide feedback on the proposed new Directive by the June 20 deadline via its "Have your say" webpage.

The EC's "Have your say" webpage and package of new measures to protect whistleblowers, including the proposed new Directive, is available [here](#).

### **ECON-AFCO Publish Draft Report on Granting ECB Power to Compel CCPs to Locate in the Eurozone**

On April 19 the European Parliament's Economic and Monetary Affairs Committee (ECON) and Committee on Constitutional Affairs (AFCO) published a draft report (dated April 13) concerning a proposal for an amendment of the Statute of the European System of Central Banks and the European Central Bank (ECB) (the Statute), enhancing the ECB's powers over central counterparties (CCPs).

In the 2015 case of *UK v ECB*, the European General Court ruled that the current provision of the Statute was not to be construed as granting the ECB regulatory powers over CCPs. In particular, the provision did not permit the ECB to force CCPs clearing euro-denominated products to locate in the Eurozone (for further detail of this decision, see the *Corporate & Financial Weekly Digest* [edition of March 6, 2015](#), and subsequent commentary from the EU Commissioner, in the [edition of July 22, 2016](#)). The proposal amends the same provision to grant the ECB the power that the General Court concluded the ECB did not have.

The draft report's rapporteurs, Gabriel Mato and Danuta Maria Hübner MEPs, welcome the proposal, subject to the following:

- given other EU institutions have legislative power in relation to CCPs—including the co-legislators—any acts adopted by the ECB under the proposal, once implemented, must respect the legal framework imposed by these other institutions; and
- the recitals of the amending act should include an non-exhaustive and open-ended (so as to allow subsequent changes based on experience) list of the regulatory powers exercisable by the ECB over CCPs under the relevant provision of the statute, including all requirements allowing monetary policy concerns to be addressed.

The ECON-AFCO draft report on the proposal is available [here](#).

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BREXIT/UK/EU DEVELOPMENTS

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

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