

## BROKER-DEALER

### **FINRA Conducts Review of Waiver and Rebate Systems and Procedures with Respect to Mutual Fund ROR Purchases**

The Financial Industry Regulatory Authority (FINRA) announced that it is conducting a review of firms' systems and procedures for providing waivers and rebates to customers through Rights of Reinstatement (ROR) on mutual fund purchases. The ROR generally allows customers to redeem mutual fund shares and reinvest the proceeds in the same fund or another fund in the same fund family with a waiver or rebate of sale fees within a certain period of time.

As part of FINRA's review process, firms that receive an information request will be required to respond to a series of questions.

Additional information and FINRA's information request questions are available [here](#).

## CFTC

### **CFTC Issues Order of Registration to ICE Futures Abu Dhabi Limited to Permit Trading by Direct Access from the United States**

On November 6, the Commodity Futures Trading Commission (CFTC) announced that it had issued an Order of Registration to ICE Futures Abu Dhabi Limited (IFAD), a Foreign Board of Trade (FBOT) incorporated in the Abu Dhabi Global Market and located in Abu Dhabi, United Arab Emirates. Under the order, IFAD's members and other US participants will be permitted to enter orders directly into IFAD's trade matching system. IFAD satisfied CFTC requirements for FBOT registration by demonstrating that:

- it possesses the attributes of an established, organized exchange; and
- it is subject to comprehensive oversight by its home country regulator whose supervision is comparable to that which the CFTC applies in its oversight of designated contract markets.

IFAD expects to begin trading the Murban crude oil futures contract on March 29, 2021.

A copy of the CFTC's release is available [here](#).

## BANKING

### **OCC Issues Semiannual Risk Perspective**

The National Risk Committee (NRC) of the Office of the Comptroller of the Currency (OCC) published its Semiannual Risk Perspective Fall 2020 on November 9. The semiannual report included numerous findings with respect to the health of the nation's national banks and federal savings banks, including the following:

- economic activity has rebounded in Q3 but significant ongoing financial risk remains. Fiscal and monetary stimulus helped to “mitigate some of the initial economic effects of the pandemic that affected financial markets in the first half of 2020”;
- residential housing has been “resilient” and national average single-family home prices continue to appreciate;
- banks are generally strong because of high capital ratios and ample liquidity but profitability is stressed because of low interest rates and increased loss provisions;
- credit risk has increased. Challenges are present in most commercial lending sectors. The level of assets that have been designated as “special mention” and “classified” has increased;
- in anticipation of LIBOR cessation at the end of 2021, banks should “continue to apply sound risk management principles” to ensure the transition to a new benchmark is successful; and
- consumers are moving to remote card payments with greater speed. In 2018, the amount of remote card payments nearly matched in-person payments. In addition, there has been some migration of consumer payments to non-banks. Banks need to adapt to this and ensure they have proper risk management and controls in place for these activities.

More information is available [here](#).

## UK DEVELOPMENTS

### **FCA Creates Webpage on Brexit From EEA Regulators**

On November 6, the UK’s Financial Conduct Authority (FCA) created a webpage providing links to dedicated Brexit websites hosted by financial regulators in European Economic Area member states (the Webpage). The FCA commits to updating the Webpage when further information is available and states the list is not exhaustive.

The Webpage is available [here](#).

### **HM Treasury Announced Equivalence Decisions for EEA and EU Member States**

On November 9, the Chancellor of the UK’s HM Treasury announced its intention to provide equivalence decisions to European Economic Area (EEA) States and Member States of the European Union (EU) that will come into effect at the end of the Brexit transition period (the Announcement).

The equivalence decisions are intended to deliver a range of benefits, including supporting well-regulated open markets, facilitating effective pooling and management of risk, and supporting UK and EEA clients’ access to financial services and market liquidity.

With the exception of the Central Counterparties (Equivalence) Regulations 2020 (SI 2020/1244), the equivalence decisions will be made by directions under the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 (SI 2019/541).

The decisions will grant equivalence to specific provisions under EU legislation including:

- The Benchmarks Regulation ((EU) 2016/1011);
- The Capital Requirements Regulation (575/2013);
- The Credit Rating Agencies Regulation (1060/2009); and
- The Regulation on over the counter (OTC) derivatives, central counterparties (CCPs) and trade repositories (648/2012) (UK EMIR).

The UK’s Financial Conduct Authority and the Bank of England have published statements in response to the Announcement.

The Announcement is available [here](#).

## EU DEVELOPMENTS

### **ESMA Publishes Draft Guidelines on MiFIR and MiFID II Market Data Obligations**

On November 6, the European Securities and Markets Authority (ESMA) published a consultation paper on draft guidelines on obligations regarding market data under the Markets in Financial Instruments Regulation (MiFIR) and Markets in Financial Instruments Directive (MiFID II) (the Consultation Paper).

In the Consultation Paper, ESMA proposes guidelines with the aim to ensure common and consistent application of certain provisions, including providing market data on a reasonable commercial basis and providing market data free of charge 15 minutes after publication under MiFIR and MiFID II. The basis of the Consultation Paper originates from a previous report published by ESMA in December 2019.

The deadline for comments on the Consultation Paper is January 11, 2021. ESMA intends to publish its final review report and final guidelines in the second quarter of 2021.

The Consultation Paper is available [here](#).

### **ESMA Updates Annex to Opinion Determining Third-Country Trading Venues Under MiFIR**

On November 6, the European Securities and Markets Authority (ESMA) updated its guidance on the Annex to its opinion determining transparency for third-country trading venues under the Markets in Financial Instruments Regulation (MiFIR) (the Guidance).

The Guidance updates how market identifier codes should be completed where they are not populated (see the [October 30, 2020 edition of Corporate & Finance Weekly Digest](#) for the previous update).

The Guidance is available [here](#).

### **ESMA Published Decision on MiFIR Assessments of Third-Country Trading Venues**

On November 9, the European Securities and Markets Authority (ESMA) published a decision of its board of supervisors (held on November 5) on the delegation to the ESMA chair of the assessment of third-country trading venues (TCTVs) under Articles 20 and 21 of the Markets in Financial Instruments Regulation (MiFIR) (the Decision).

In the Decision, the board of supervisors delegates the responsibility for non-controversial negative assessments of TCTVs to the ESMA chair. The delegation should be implemented in accordance to the criteria described in the ESMA opinion on July 28 and the conditions set out in this Decision.

This Decision repeals and replaces a previous ESMA decision published on September 26, 2018.

The Decision is available [here](#).

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

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UK DEVELOPMENTS

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

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