Market abuse regulation

The Technical Committee is monitoring developments in the market abuse regime under the new Financial Services and Markets Act. As many will be aware, the new regime is based on effects rather than intent, so individuals could be prosecuted for inadvertently giving a false or misleading impression which affects a financial market.

The FSA says that it would take into account the 'state of mind' of the alleged abuser in determining whether the behaviour was a 'failure…to observe the standard of behaviour reasonably expected of a person in [the abuser's] position in relation to the market'. Also, the FSA may not penalise anyone for market abuse if the person believed on reasonable grounds that his or her behaviour did not constitute market abuse, or he or she took all reasonable precautions and exercised all due diligence to avoid committing market abuse.

Treasurers are most likely to run up against market abuse problems in the market information area – shoddy or negligent documents or briefings (or omission to release price-sensitive information) which wrong foots the market. It seems unlikely that a treasurer operating in a professional manner would fall foul of the new rules in most financial markets. However, with sections of the corporate bond market exhibiting equity-like volatility (for example, telecoms bonds) and an increasing level of direct contact between issuers and bond investors, great care will need to be taken with the sharing of information about the company's prospects.

We believe it is vital that the FSA provides swift guidance (verbal, if necessary), particularly in the early days of the regime. It has been suggested by some commentators that different standards will apply to the commodities, interest rate and currency derivatives markets than to the securities markets, but unless the FSA gives guidance there will be no way of knowing. It has also been proposed to the FSA that produces a regular bulletin on guidance it has provided, a this would certainly be helpful in making market participa more comfortable with the new rules. ■

Basel Committee on capital adequacy

The Basel Committee is planning to issue a revise consultation paper in January 2001 for likely implementation in 2002. The head of the committee ha been quoted as saying that the new proposals will refin the standardised approach to assessing capital for credi risk (using external ratings) by adding more risk categories. It is not clear to what extent this will mitigate th problems we foresaw with the original proposals fo capital to be set aside for credit risk on corporate loans

The five-fold increase in capital required to support loan to a single-A relative to a AA-rated company wa seen as particularly unfair and we have heard that bank are already pricing loans on this basis.

The increased emphasis on internal rating systems which has been widely promoted by the banking secto and accepted by the Committee, will probably mean tha most larger banks will need to maintain lower levels o capital to cover credit risks. However, the total amount o capital in the system will probably stay the sam overall. ■

Financial instruments, pensions and accounting

We are still waiting to see the proposals for accounting for financial instruments and these might now not be forthcoming until the end of the year. Also by the year end, we expect to see a standard on accounting for pension funds requiring measurement at fair value and immediate recognition of gains and losses in the accounts of the sponsoring company.

A new standard for accounting for leases is further off and an exposure draft is not expected until mid-2001. ■

Accounting Standards Board discussio paper on share-based payment

The ASB's discussion paper has raised many issues of interest to a treasurer. The paper focuses primarily on employee share plans, particularly those based on share options. Since these options are a financial derivative, treasurers will be familiar with many of the concepts introduced by the ASB. A summary of the proposals can be found in an article by Stephen Pugh, member of the Technical Committee, in the November edition of *The Treasurer*.

The technical committee is aware that members' views on this issue are diverse. It has therefore decided n to put in a response which gives o opinion on the ASB proposals, b rather explore the issues and sugg some alternative solutions. One the key points for treasurers, f example, is the inconsistent accou ing for equity options occurring convertible bonds and bond w warrant issues. It would be sensib for the ASB to develop an approa to accounting for the equity optio occurring in employee share schem that could also be adopted for the other cases. ■

Corporate finance – share buybacks and treasury stock

There are signs that investors are increasingly seeing the occurrence of a share buyback programme as a sell signal. There have been a number of cases in recent months where shares have been bought in at high prices relative to the subsequent performance of the stock. Company managers may not always be the best judges of whether their shares are undervalued, and a share buyback provides the perfect opportunity for an institution to dump a significant holding.

When treasury stock is allowed under UK law it will be essential for treasurers to convince investors that any purchase and sale of shares in a treasury stock programme will be positive rather than negative for shareholder value. ■

LMA primary documents

The LMA syndicated loan documents have been undergoing what will become a regular annual review to ensure they are consistent with developing market practice. It is planned that an updated version will be released before the end of December. At the moment it looks as if there will be no major changes of concern to borrowers but we will, of course, keep you informed. The ACT Guide to the documents will be updated as necessary and will remain freely available on the website. ■

Hotline is prepared by Caroline Bradley, the Association's Technical Officer. For any comments or new items, please contact her at cbradley@treasurers.co.uk. Additional technical updates are available on the website: www.treasurers.org.

CPD wins Global E-Business Innovations Award 2000

The Association is delighted to announce that its leading edge knowledge service has won the Global E-Business Innovations Award for Management Education 2000. This is a prestigious award, sponsored by 3com and announced at the CBI Conference on 6 November. We were up against stiff competition, including Bloomberg, Dun & Bradstreet and Oral B.

Our appreciation goes to our CPD sponsors – Standard & Poor's, PwC and Standard Chartered Bank – for their support in this innovative venture.

Thank you to all the members who contributed to the recent CPD evaluation exercise. Feedback was extremely positive and further development work has now been commissioned on the basis of the comments received. Look out for additional 'exit' tests and user friendly improvements such as manual references in the worked solutions.

If you haven't visited the CPD knowledge service yet, try out the CPD quiz on pxx as a taster. Answers on the website – click on the 'sample questions' button on the CPD home page. With another new year approaching, why not take this opportunity to seriously consider your plans for your professional development? Visit the CPD tests and obtain a confidential score (there is no individual monitoring!). Take heart from one focus group member who described the tests as 'good fun' (believe it or not!). Use our extensive resource database to update your knowledge. ■

Catherine Gorham