GLOBAL REGULATION

The global nature of the treasury profession was more than evident last month when the ACT hosted the annual meeting of the International Group of Treasury Associations. It was also lovely to meet a number of treasurers who were visiting from overseas at the ACT's Annual Dinner. While the Fair and Effective Markets Review discussed below may be UK-based, it will also consider the impact of global regulation on the fairness and effectiveness of the financial markets.

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{ IN DEPTH }

REGULATORS EXAMINE EFFECTIVENESS OF THE MARKETS

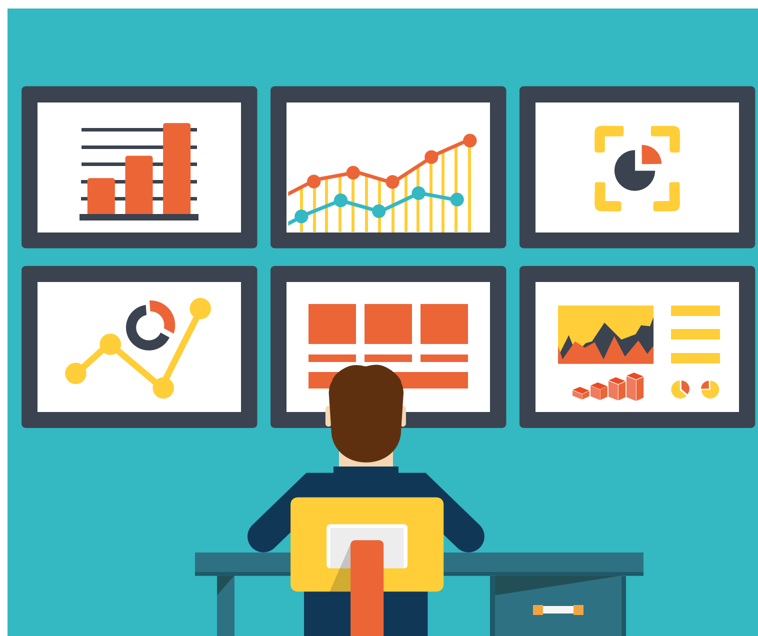
HM Treasury, the Bank of England and the Financial Conduct Authority have recently issued a consultation document in the UK as part of their Fair and Effective Markets Review (FEMR).

The purpose of the FEMR consultation is to seek views on the fairness and effectiveness of the fixed income, currencies and commodities (FICC) markets, and on how to improve that fairness and effectiveness.

More specifically, the consultation aims to identify areas of potential deficiency in these markets, evaluate the extent to which current reforms will address these deficiencies and propose ways to fill any gaps.

The FICC markets are vast in size and play a crucial role in almost every major financial transaction in the world, not least in the UK where a significant portion of these markets is based.

A framework has been established for evaluating the fairness and effectiveness of the FICC markets. This consists of six potential sources of vulnerability that are considered most critical. Three are structural: market microstructure; competition and market discipline; and benchmarks. The remaining three relate to conduct: standards of market practice; responsibilities, governance and incentives; and surveillance and penalties.



As the review does not intend to replicate work done elsewhere, feedback is also being sought as to what extent regulatory initiatives that have taken place since the financial crisis are likely to address perceived deficiencies in fairness and effectiveness. These include reforms to prudential and conduct regulation in the EU, US and elsewhere. Examples are reforms in the design and regulation of benchmarks, including Libor. Work already undertaken on benchmarks includes:

- A report for HM Treasury, published in August 2014, which recommends the extension of the UK regulatory framework to cover a range of major benchmarks;
- The 2012 Wheatley Review;
- The 2013 International Organization of Securities Commissions report, entitled *Principles for Financial Benchmarks*; and
- The recent Financial Standards Board report on FX benchmarks.

The European Commission has also proposed its own new legislation, which will regulate the provision of financial benchmarks at EU level, once negotiations with the European Parliament and the Council of the European Union are completed. Taken together, these initiatives set the direction for the longer-term international frameworks for managing the risks associated with benchmarks. In due course, the European legislation will replace the UK regulatory framework. Hence the review is focusing on whether there are further industry-level measures or regulatory actions at the international level that might be necessary to complete the package of reforms.

The ACT believes the outcome of this review is important to treasurers because it will not only influence international thinking, it will also set the financial-market agenda for the period ahead.

The ACT's policy and technical team intends to issue a response to the consultation. We welcome any comments from corporates at technical@treasurers.org. The consultation closes on 30 January 2015. See www.bankofengland.co.uk/publications/pages/news/2014/140.aspx

The FICC markets play a crucial role in almost every major financial transaction

These cuts were aimed at encouraging banks to lend to businesses rather than hold on to money

{ INTERNATIONAL }

ECB CHARGES NEGATIVE INTEREST

The European Central Bank (ECB) is charging commercial banks for short-term deposits. As part of its measures to stimulate the eurozone economy, the ECB cut its deposit rate (the rate that banks receive for funds parked at the central bank) from zero to -0.1% in June 2014. In September, this was further reduced to -0.2%. These cuts were aimed at encouraging banks to lend to businesses rather than hold on to money. As a result, some banks are now passing on negative interest rates to the short-term deposits of their large corporate customers.

Desktop research at the time of writing indicates that a German bank, Deutsche Skatbank, a division of VR-Bank Altenburger Land, has started charging retail and business customers with more than €500,000 on deposit a negative interest rate of 0.25%. Rabobank, from the Netherlands, also appears to be charging negative rates on large corporate short-term deposits.

The knock-on impact is wide and euro-denominated money market funds (MMFs) have seen their returns eroded. Rating agency Moody's believes that euro MMFs could hit negative yields soon. In October, it published a report entitled *Negative yields alone will not trigger downgrades of euro money funds*. As the title states, its report maintains that negative yields alone will not trigger MMF rating downgrades. But fund managers may add credit or duration risk to generate positive yield, which may, in turn, negatively impact on MMF credit ratings.

View the following technical updates and policy submissions at www.treasurers.org/technical and www.treasurers.org/events/webinars

ACT response to IASB on macro hedge accounting

EACT monthly report on European regulatory initiatives and the issues relevant to corporate treasurers

ACT past webinar: A holistic review of your currency risk

A reminder of *The Treasurer's Wiki*: www.treasurers.org/wiki

{ WATCH THIS SPACE }

PLANS FOR FAILED BANKS ARE UNVEILED

The Bank of England has published its approach to resolving a failed bank, building society or investment firm. One of the Bank's remits is to maintain financial stability, including protecting and enhancing the resilience of the UK financial system. Resolution is the process by which the authorities can intervene to manage the failure of a firm. The aim is to ensure that taxpayers do not bear the cost of failure, as happened when some banks were recapitalised in the last financial crisis.

The first part of the report outlines the framework for resolution and describes the aims of resolution and key features of the UK's resolution regime. The second part sets out the approach the Bank would take to resolve a failed firm and the arrangements for safeguarding the rights of depositors, clients, counterparties and creditors. Three key stages of resolution are described. The 'stabilisation' phase is when the Bank must decide the most appropriate method of providing the bank's critical economic functions. This may be through transferring some of its business to a third party or through bail-in to recapitalise the failed bank. The 'restructuring' phase seeks to address the causes of failure and restore confidence.

The third phase is 'exit from resolution', whereby the Bank's involvement comes to an end. Either the bank is put into insolvency, wound down, bought by a new owner or restructured.

The above approach sets out the UK's resolution regime that will apply when the EU's Bank Recovery and Resolution Directive comes into force on 1 January 2015. A copy of *The Bank of England's approach to resolution* can be found at www.bankofengland.co.uk/financialstability/Documents/resolution/apr231014.pdf

{ TECHNICAL ROUND-UP }

CCPs, CONSULTATIONS AND COMPROMISE

On 30 October, the European Commission announced its first equivalence decisions regarding the regulatory regimes of central counterparties in Australia, Hong Kong, Japan and Singapore. These jurisdictions will be able to obtain recognition in the EU and thus be used by market participants to clear standardised OTC derivatives for the purposes of the European Markets Infrastructure Regulation (EMIR).

The European Association of Corporate Treasurers has written a letter to the European Securities and Markets Authority, highlighting the difficulty corporates will have in implementing recent changes to EMIR reporting. Trade repositories have imposed a deadline of 1 December 2014 to modify 30 reporting fields, with a requirement to agree on a new process for providing unique trade identifiers and empty fields, etc. See www.treasurers.org/node/10638

The UK government has issued a progress report on its implementation of the recommendations contained in the Kay Review. Professor Kay's review of investment in UK equity markets and long-termism was published in July 2012. It set out 17 recommendations aimed at ensuring the UK equity markets support long-term corporate performance. The progress report details the next steps, including the development of an investor forum. A copy of the progress report can be found at http://tinyurl.com/lle5msb

ICE Benchmark Administration, the new administrator of Libor, has issued a consultation on its proposed enhancements to the Libor creation process. See http://tiny.cc/0cf8nx. Changes include setting a more prescriptive calculation methodology and only using expert judgement as a fallback of last resort. Comments close on 19 December. The ACT will respond and welcomes comments from corporates at technical@treasurers.org

The financial transaction tax is fast becoming a reality due to the 11 participating countries moving closer to a compromise on the levy. The agreed scope will look at shares first and then potentially move on to tax derivatives. Technical experts have until the end of the year to define which products could be taxed, and at what rate, in order for the relevant EU ministers to continue their deliberations.