## IN BRIEF

A new **UK listing regime** will be introduced by the FSA on 6 April 2010. Two types of listing will be available to UK and overseas companies: premium and standard.

Broadly speaking, a premium listing will be the same as the current primary listing and demand compliance with rules in excess of the EU minimum.

A standard listing will broadly replicate the existing lighter-touch secondary listing regime. Both will be admitted to the official list and tradable on the main market of the London Stock Exchange. The standard listing, with its free float requirement and need for an EU-compliant prospectus will still be more onerous than AIM or Plus, but may be seen as an alternative to an AIM listing.

The UK's **"super-equivalent" market abuse provisions on RINGA** (Relevant Information Not Generally Available) have been extended until 31 December 2011 rather than terminating on 31 December 2009 under a sunset clause. Section 118 of the Financial Services and Markets Act 2000 makes it an offence to deal in securities when in possession of RINGA. The definition of RINGA is wider than "inside Information" and takes in information that is not sufficiently precise to qualify as inside information, such as key management proposals that have not yet approved by the board.

Under **Standard and Poor's Banking Industry Country Risk Assessments** (BICRA), the UK has dropped from group 2 to group 3, reflecting the weak economic environment, high leverage in the UK economy and the banking system's increased dependence on state support programmes. By way of reminder, credit rating agencies may publish an overall assessment of the willingness and ability of governments to support "their" banks. Taken together with the home country's sovereign credit rating (for which "own currency" and "foreign currency" ratings are usually available), this can help in establishing limits for overall exposure to a country's banks as well as the limit for any single bank. BICRA allocates countries to groups numbered 1 (strongest) to 10 (weakest). Ratings agency Fitch publishes similar systemic risk indicators in its Bank Systemic Risk report, while Moody's publishes a separate banking system outlook for each country which it takes into account in the overall rating of a bank.

## INTRODUCTION

By Martin O'Donovan
*ACT Assistant Director, Policy and Technical*

**The last issue was a combined December/January edition, so some of this month's news is not that recent. Still, given the overall pace at which changes to regulation, standards and guidance evolve, this should make little difference to its relevance. Indeed, we welcome the fact that the various authorities take time to consider their actions and allow for a period of public consultation. On the vexed topic of over-the-counter derivatives, this means that the European Commission, we believe, fully understands treasurers' concerns. The fact that 160 companies have now signed a letter on the subject will send a powerful message to the European Parliament when it comes to debate the issue.**

# Anxious corporates await new legislation on OTC derivatives

Companies across Europe remain concerned that legislation on over-the-counter (OTC) derivatives may require compulsory margining even on bilateral deals. Providing cash collateral on the mark-to-market values of derivatives would demand substantial extra borrowing facilities and be a drain on corporate liquidity (see The Treasurer, Dec/Jan 2010, pages 36-38).

More than 160 companies from across Europe have co-signed a letter from the European Association of Corporate Treasurers (EACT) to the EU commissioners to urge them to reconsider the proposals to regulate the derivatives market.

EACT chairman Richard Raeburn said: "The extent of concern across Europe over the current proposals is reflected in the number and range of companies that were keen to add their names to our letter to the EU."

The ACT has been working through the EACT to explain the potentially negative impact of bringing non-financial companies within the scope of the proposals. The signs are that the European Commission understands the issues and is keen to avoid any unintended damage to the European economy. A full impact assessment will be an important part of the Commission's decision-making process.

At the December 2009 Ecofin (Economic and Financial Affairs) meeting, the European Council of Ministers concluded that there was a need for a comprehensive policy on OTC derivatives but that it should take account of the differences in specific market participants.

"Any future policy option should ensure that non-financial institutions can continue managing the risks inherent to their business, without incurring disproportionate costs," it said.

That recognition of the needs of companies was also apparent in a December report from HM Treasury and the FSA entitled "Reforming OTC Derivative Markets: A UK perspective".

The report accepted that non-financial companies would "find it difficult to manage the unpredictable liquidity burden" from margining, but nonetheless concluded that it was right for all participants to bear the cost of managing the risk. Non-margined transactions can therefore be expected to carry higher capital charges than at present.

The need for much higher risk weightings on OTC derivatives for bank capital adequacy purposes is also apparent in the Basel Committee's "Strengthening the Resilience of the Banking Sector" consultation. ■

**Which banks can send Faster Payments?**

The UK Faster Payments Service is a great payment system capable of near-real-time transfers. However, even now, 20 months from launch, take-up by individual banks is patchy, with various constraints and limits in force. Chaps Co lists the various banks' offerings and provides a sort-code checker for the reach of the service, along with the value limits imposed by the banks.
**http://tinyurl.com/yf3p2kk**

# FRC pushes reforms to Combined Code

The FRC has published its proposals to reform the Combined Code, which is to be renamed the UK Corporate Governance Code. The code will apply to all UK premium-listed companies; banks and financial institutions will also be subject to the Walker Review recommendations.

The FRC accepts that the code's comply or explain basis is all too often taken as a requirement whereas it would prefer companies to feel they had more flexibility to depart from the specifics if that would help them observe its more high-level principles. This was a point made by the ACT in the consultations, and the FRC is changing the tone of the code to encourage this.

For example, where companies believe the requirement for 50% of independent directors conflicts with the main principle of achieving the right mix of skills, experience and objectivity in the composition of the board, they should act accordingly and provide an explanation.

The FRC is also consulting on whether there should be an annual re-election of all the directors or just the chairman.

On salaries the Walker Review recommends that the remuneration committee set policy on an organisation-wide basis whereas the code's requirement remains unchanged as just covering senior management. However, the code does propose aligning performance-related pay more clearly with the long-term interests of the company, including arrangements for reclaiming variable components in certain circumstances.

The FRC does not propose to extend all the Walker risk recommendations to non-financial listed companies. But it does propose to make the board's responsibility for risk more explicit in the code through a new principle and provision. It also proposes during 2010 to carry out a limited review of the Turnbull Guidance on internal control including the reporting of risk. The FRC believes a short description of a company's business model and overall financial strategy, linked to the disclosure on risk and uncertainties in the business review, would help investors better appreciate those risks and uncertainties. ■

## Accounting for operating leases

The International Accounting Standards Board (IASB) is expected to release an exposure draft of a new lease accounting standard in the second quarter of 2010. In March 2009 the IASB and the FASB co-published a discussion paper that proposed bringing operating leases onto the balance sheet in much the same way as finance leases. Since then the IASB has been refining its views.

The lessee's initial and subsequent measurement of its obligation to pay rentals will create a right-of-use asset, taking the discounted value of the rentals using the lessee's incremental borrowing rate. This can be the interest rate implicit in the lease if it can be readily determined. Subsequent measurement of the lessee's obligation to pay rentals would be at amortised cost using the effective interest method, with no revisions for any changes in the lessee's incremental borrowing rate. The cost will be shown as amortisation and not as rental expense.

A complication arises when the contract grants the lessee the right to extend or terminate the lease so that there is uncertainty about the lease term. The IASB decided that one of the possible lease terms would be selected and the accounting based on that term. The recognised lease term would be the longest possible lease term that would be more likely than not to occur. The lease term would be reassessed at each reporting date, but the IASB has yet to decide whether the incremental borrowing rate would be reassessed when there are changes in the expected lease term.

The IASB tentatively decided that in the case of contingent rental arrangements the obligation would be measured using an expected outcome technique. The final requirements would clarify that not every possible scenario would need to be taken into account when measuring the obligation. The IASB also tentatively decided that lessees should account for residual value guarantees in the same way as for contingent rental arrangements.

**See A Changed World, p36**

## IN BRIEF

‣ A new source of **corporate credit ratings** is available from Morningstar. The company is drawing on its experience in producing equity research to produce five-year forecasts which are then used to provide an insight into creditworthiness. The forecasts work on four key quantitative and qualitative factors: business risk, cashflow cushion, solvency score and distance to default. In December it launched ratings on 100 US companies using letter designations from AAA down through BBB to levels C and D.

‣ **The Association for Financial Markets in Europe** (AFME) is a new trade body formed in November 2009 when the London Investment Banking Association (LIBA) and the European operations of the Securities Industry and Financial Markets Association (SIFMA) joined forces. Former SIFMA affiliates the European High Yield Association and the European Primary Dealers Association will be integrated into AFME's business-policy divisions. AFME represents a broad array of global and European participants in the wholesale financial markets, and its 197 members comprise key global and regional banks, brokers, law firms and a number of other financial institutions.

‣ The UK Payments Council has announced that the **closure of central cheque clearing** is to take place under a managed programme, with a target date of 31 October 2018 but subject to personal and business cheque users having suitable alternatives easily available to them. A final decision will not be made until 2016. During the period 2014 to 2016 companies will need to be considering their changing system needs, particularly if new payment methods have become widespread by then.

‣ **The oversight of payment systems** became a statutory responsibility of the Bank of England from 1 January 2010. The oversight has been based on 10 internationally agreed core principles published by the BIS Committee on Payment and Settlement Systems (CPSS), including requirements for systems to have clearly defined procedures for the management of credit risks and liquidity risks, for timely completion of daily settlements, and for effective governance. To this the Bank has added a further four principles mainly around the need for the payment system to manage its business risks so that users can rely on the continuity of its services.