IN BRIEF

▸ **Ratings in the structured finance markets** seem to be under review by countless authorities. In response to the International Organization of Securities Commissions (IOSCO) review, the ACT is supporting the idea of clearly distinguishing between corporate ratings and structured finance ratings: in responding to issues in other sectors, it is important not to weaken the corporate ratings sector. We would not want any tightening of the IOSCO code on conflicts of interest to prevent agencies giving rating advisory services to corporates.

▸ The Fitch ratings agency is considering three **complementary rating scales for structured finance**. Fitch sees a role for loss-given default ratings similar to the recovery ratings it introduced for corporate finance in 2005; transition/stability ratings to capture the potential for rating migration; and collateral ratings to assess the quality of underlying assets, independent of all or most of the extra structural features that determine a traditional structured finance rating.

▸ **The competitiveness of the UK business tax regime** will be the focus of a new working group being set up by the Chancellor of the Exchequer. Responding to business concerns about the competitiveness of the UK as a base for operations, the group will discuss ways in which the tax system can provide the long-term certainty that multinational companies need.

▸ The House of Commons Treasury Committee has launched a new enquiry into **offshore financial centres** in the context of financial stability and the impact on worldwide financial markets, the transparency of complex financial instruments, tax transparency, the extent and effect of double taxation treaty abuse, and the impact on UK tax revenue and policy. The committee is at the stage of seeking evidence.

▸ The Bank of England has published a **financial stability report** setting out the reasons why the repricing of credit risk and deleveraging are so protracted, why market-based estimates of the costs of the crisis are likely to overstate ultimate losses, prospects for financial stability, and measures to contain the length and costs of the crisis and to prevent its recurrence. The report is based on a thorough analysis and masses of market data highly relevant to treasurers.

INTRODUCTION

By Martin O'Donovan
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These days the problem with facts and information is that there is too much available. We hope through these pages to provide a filtered digest of recent news, particularly trying to think ahead as to what developments or thinking by the authorities may be affect the corporate treasurer.

From time to time the ACT takes the opportunity to delve into more depth on a topic. This month, for example, Technical Update outlines the new ACT briefing on the UK's Faster Payments Service. while on page 40, there is a briefing on contingency planning for a downturn.

While we cannot make any promises, we would welcome thoughts on other topics where there may be some point in preparing an ACT briefing, rather than having each member do their own independent research or consideration of the issues.

Payment information in near real time

The ACT has issued a briefing note explaining the basic features of the Faster Payments Service (FPS) being rolled out in the UK starting from 27 May 2008, although different banks will be implementing it to their own timetables.

The FPS uses an entirely new infrastructure which will process payment information in near real time. The system is provided by Immediate Payments, which is owned by VocaLink (the infrastructure provider for BACS and Link).

A particular focus of FPS is to give customers, who currently suffer float time on electronic payments, the ability to make instant payments – for example, through internet banking transfers.

BACS operates on a two-day cycle and although both the debit and credit occur on the same day many customers lose two days in float time since their bank funds the payment early in order to avoid settlement risk. Under the new system, payments to a current account held with another FPS member should be available to the payee within two hours; often it will take place in a matter of seconds.

There are three types of payment instructions: single immediate payments and diarised payments, both of which will operate 24 hours a day and seven days a week, and standing orders, which will be paid only on business days. There will initially be a £10,000 transaction limit on immediate and diarised payments, and £100,000 on standing orders. If all goes well, the intention is to raise these limits.

For single immediate payments, the beneficiary bank must acknowledge receipt within a 15-second real-time transfer window, indicating that the payment will be applied to the beneficiary account. Customers can therefore seek virtually real-time feedback on whether the payment has successfully reached the beneficiary account. Payments will only be made if there are funds available to meet them, and will be irrevocable.

In phase II, expected in 2009, companies will be able to submit files of multiple payments but initially the FPS is limited to single payment instructions, so it will presumably have limited take-up from corporates. The BACS system will continue to be available.

Even if companies are not early users of the FPS, they will become recipients of inward payments. As a result, internal accounting systems will need reviewing to ensure they can cope with rapid updating. If payments are coming in on a real-time basis, your customers' expectations will be that the company reacts equally quickly. This could be critical in sensitive situations such as collection of overdue amounts or bad debt recoveries.

Payments cannot be recalled by the payer, so there will be certainty on receipts, but because there is not a two-day cycle there will be no advance warning of expected receipts at the start of day, making cash forecasting and position balancing that much more difficult.

Receipts via standing order could be received two days earlier than in the past, as the payer's bank will typically be driven by the debit date and making a change to this date would be a major task.

On the payments side it might be asked why faster payments are needed for regular creditor payments; after all, the current BACS setup simply means that a company must organise its approval and processing timescales to finish two days prior to an invoice due date. That said, for business-critical payments it will provide a real alternative to CHAPS and give better feedback from the beneficiary confirming payment.

As FPS is rolled out, the remaining critical feature will be cost, but that will be a commercial matter for each bank to decide.

The full briefing note is available at http://tinyurl.com/6axenj ■

FSA gets tough on market abuse

The ACT has provided its input to HM Treasury on its review of one element of the market abuse regime: trading when in possession of "relevant information not generally available" (RINGA).

When the UK regime was revised to cater for the Market Abuse Directive in 2005 the ACT was influential in maintaining the UK's higher standards, gaining an extension of the old rules that will expire this year. The EU norm, based on the directive, prohibits dealing when in the possession of inside information, but this is defined to cover information that is, among other things, precise.

The ACT is once again arguing that it cannot be right to deal when in possession of RINGA, which is defined to take in less definite information: for example, the fact that a company's board is considering a major reorganisation or change of strategy but which has not yet been officially approved so as to become precise.

Insider trading tends to distort the market and increases market volatility. Put another way, investors aware they may lose out to others trading on RINGA will seek a higher return to compensate. This will push up the cost of capital to the detriment of the issuer. The ACT is recommending a continuation of the RINGA rules.

The FSA is committed to getting tough on market abuse and insider trading and is known to favour the retention of RINGA. A particular concern is so-called informed price movements prior to announcements of mergers and acquisitions. For 2007 such movements were identified in connection with 29% of takeover announcements, as compared to a statistical level of 10% that would be expected in the absence of insider trading.

A major focus for the FSA will be on tightening controls over confidential information within regulated firms but this extends to the issuer side too. An FSA-supported industry practitioner group will shortly be publishing a document aimed at non-regulated firms, entitled *Principles of Good Practice for the Handling of Inside Information*.

As well as prevention, the FSA will create a "credible deterrence" through a three-pronged enforcement approach, namely:

- sending tough messages about wrongful behaviour;
- imposing sanctions severe enough to deter; and
- undertaking enough cases to have a demonstration effect. ■

S&P rates enterprise risk management

Standard & Poor's will start building an analysis of an issuer's enterprise risk management (ERM) into its rating assessments for non-financial companies. ERM will be included in discussions with rated companies from later this year and will focus on the risk management culture and on strategic risk management. In most cases it will defer looking at risks that are completely new or extremely rare, adverse events, and risk control processes. S&P will defer formally scoring a company's risk management until it has conducted sufficient reviews to permit reliable benchmarking.

This cautious approach addresses the concerns raised by the ACT over the transferability of S&P's experience on risk management to non-financials. S&P said it would make judgements on a sector by sector basis and apply appropriate weightings, and would avoid a box-ticking approach.

Importantly, the S&P report says risk management is:

- not a way to eliminate all risks, nor a guarantee that a business will avoid losses;
- not a crammed-together collection of long-standing and disparate practices;
- not a rigid set of rules;
- not limited to compliance and disclosure requirements;
- not exactly the same for all firms in all sectors, nor from one year to the next;
- not a replacement for internal controls of fraud and malfeasance; nor
- a passing fad.

http://www. WEBSITE WATCH

At many City presentations, and indeed ACT events, you find yourself in some amazing oak-panelled hall, with suits of armour or other examples of some traditional craft on display.

The Wheelwrights website has a brief history of the City's guilds and livery companies: some financial institutions are obviously capable of weathering all the financial storms and surviving for centuries. Visit: **http://tinyurl.com/6esyda**

IN BRIEF

SEPA issues that need to be addressed by corporates have been flagged by Gertrude Tumpel-Gugerell, a member of the European Central Bank's (ECB) executive board. She told corporates to plan ahead and actively prepare themselves for SEPA, in particular by migrating their databases, which still contain national account numbers, to international bank account numbers (IBANs). She also advised corporates to contact banks to be able to evaluate the benefits that SEPA could bring to their organisation. Several initiatives are under way, focusing on corporate-to-bank connectivity and a standardised way of transmitting remittance information with the payment.

Corporate restructurings are the topic of the latest FSA capital markets bulletin. The report covers how the debt restructuring landscape has changed and the challenges that workouts pose to participants and institutions that manage the workouts. As a financial regulator, FSA focuses on the market effects and the impact on financial firms but there are important messages too for the corporate borrower side. These include the effect of raised turnover in the secondary market as debt becomes distressed, bringing new and specialist parties to the renegotiation table; the INSOL principles that have largely taken over from the Bank of England's London Approach; reduced leadership from traditional banks; and added complexity from derivatives. Specifically for borrowers, FSA warns on the considerable demands there can be for information, notably cash forecasts. No company wants to get to this point but some awareness of the issues is sensible planning.

A European Commission report on the **convergence of third country GAAPs to IFRS** proposes that US GAAP should be viewed as being equivalent to IFRS, that by June 2008 Japanese GAAP should be viewed as equivalent to IFRS, and that the exemption should continue for third country issuers using the national GAAP of China, Canada and South Korea. This is in the context of preparation of financial statements, and historical financial information in a prospectus. The Commission continues to work to ensure that all EU issuers can benefit from the SEC rule change which ended the reconciliation from IFRS to US GAAP required for US listing.