US exempts forex swaps from derivatives rules

Miller: transparent, liquid and efficient

The US Treasury is proposing to exclude foreign exchange swaps and forwards from the sweeping new rules that will apply to other derivatives and which would have included a requirement for them to be traded on exchanges.

The decision follows lobbying from banks, dealers and non-financial groups, which all argued that forex swaps should not be subjected to the same treatment as other derivatives. They also claimed that pushing through the new regime would substantially add to costs in a sector of the market where profits are already meagre.

The Treasury was won around to the argument that the forex swaps are "markedly different" from other derivatives. It described them as "highly transparent, liquid and efficient" and added that it was satisfied that existing procedures in the market already mitigated risk and helped ensure stability.

"Congress recognised that the foreign exchange swaps and forwards market already reflects many of the Dodd-Frank Act's goals, including high levels of price transparency, effective risk management and electronic trading," said Mary Miller, assistant secretary at the Treasury. "We think this narrow slice should be exempted," she added, noting that the markets had continued to operate normally during the financial crisis.

According to the Treasury, the majority of forex swaps and forward contracts mature in a week or less, and no more than 2% take more than one year to mature.

Fraud hits European businesses hardest

The impact of fraud on businesses in Europe is "significantly higher" than in any other world region, according to the Association of Certified Fraud Examiners (ACFE).

Its recent study, "Report to the Nations on Occupational Fraud and Abuse: European Edition", examined 157 European cases of occupational fraud and estimated the median loss at €420,780. Typically a fraud lasted for 18 months before being detected.

Asset misappropriation accounted for the most common type of occupational fraud, occurring in 78% of cases. Much less frequent was fraudulent financial statements, although these caused the highest median loss recorded by the study, at $16.4m.

ACFE's study also found that 40% of all frauds were discovered after a tip-off, well ahead of internal audit (17% of cases) and management review (16%), which ranked second and third respectively.

Survey respondents estimated that the typical European organisation lost 5% of its annual revenue to occupational fraud. SMEs are disproportionately affected, with the median loss for companies with fewer than 100 employees at €613,638 compared with €231,429 for larger businesses with a workforce of 10,000 or more.

The study cases showed that a fraud perpetrator was aged 43 on average and usually male (82% of cases). Managers accounted for 50% of all cases and individuals with a university or postgraduate degree for 55%. Six departments – accounting, executive/upper management, operations, sales, purchasing and finance – accounted for 73% of all perpetrators. More than four in five were first-timers, who had never been charged or convicted of any previous offence. ■

Conference spectacular

Over 1,000 treasurers and bankers and others associated with the treasury profession gathered at the ACT Annual Conference in Liverpool last month. The usual packed agenda included a busy conference programme, a bustling treasury exhibition and a gala dinner held in the spectacular setting of the nave of Liverpool Cathedral. For more on the conference, see page 16.

How much risk will the board swallow?

Guidance for organisations on risk management has come in a consultation paper issued by the Institute of Risk Management (IRM).

The paper's main author, IRM deputy chairman Richard Anderson, said: "Risk appetite is still a new and evolving subject, particularly outside the world of financial services. It remains a complex area, however, and our document is by no means the last word on the subject, so we look forward to receiving feedback from as wide an audience as possible."

Anderson: feedback

He added that effective risk management was not confined to putting risk management processes in place across an organisation, and was ultimately driven by the board of directors. They need to maintain a clear view of the risks faced by the business and match these risks against their capacity for taking and controlling them – a duty that has recently been highlighted by the new UK corporate governance code.

"The ability to understand, articulate and communicate an appetite for risk in a practical and understandable way is extremely important," said Anderson.

Four overriding principles were used in developing the IRM approach:

- Excessive simplicity, while superficially attractive, can lead to dangers. It is far better to acknowledge complexity and deal with it rather than ignore it.
- Risk appetite needs to be measurable.
- There will be a range of appetites for different risks and these will vary over time: the temporal aspect of risk appetite is a key attribute to this whole development.
- An organisation's approach will depend on its risk management maturity.

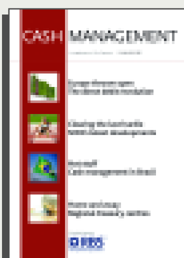
Since risk appetite and tolerance cannot be set without an understanding of the control culture of the organisation, the IRM model considers both the "propensity to take risk" and the "propensity to exercise control". The model promotes the idea that the strategic level is proportionately more about risk taking than exercising control, while at the operational level the proportions are broadly reversed.

Although the consultation period was due to close at the end of May, the full paper Risk Appetite and Risk Tolerance is still available at **http://bit.ly/mxPAmN** ■

THE FIVE DIMENSIONS OF CONTROL

Strategy	People	Detail	Tasks	Drivers
Likelihood	Individuals	Specific	Information	Managers
			Planning	Regulators
Impact	Organisation	General	Action	Cultures

THE ELEMENTS OF CONTROL



CMS regulation special

Enclosed with the June issue of The Treasurer is the latest issue of the Cash Management supplement. One of the key themes that emerged from the ACT Annual Conference was the need to refocus on the impact of emerging regulation and this issue of CMS looks at the opportunities of SEPA for corporates. Plus, two leading treasurers talk about how they handle cash management in their global companies.

Inflation fears dog European pension funds

Concern is growing within the European pension fund sector over the potential impact of inflation shocks on their portfolios, according to Mercer.

The consultancy's latest annual European asset allocation survey of more than 1,000 funds with assets of over €550bn found that 80% were more worried now about inflation than they were a year ago, and 38% were planning immediate action to protect their assets against any shocks.

In all, 18% intended to increase their allocation to inflation-linked bonds, 5% were allocating to inflation-sensitive assets and 3% to inflation swaps. Another 12% had explored other options, such as introducing processes to exploit opportunities that arose, either through the use of discretionary management or a series of triggers that, if hit, increased their allocation to inflation bonds or swaps.

An analysis of asset allocation in the UK and Ireland revealed there was still a major allocation to equities, although at 47% the UK allocation was down from 50% last year and showed a 20% decrease since the survey began in 2003.

Tom Geraghty, Mercer's head of investment consulting for Europe, Middle East and Africa, said: "The last 12 months have been characterised by a general sense of unease and rapid swings from optimism to fear and back again. The use of loose monetary policies and quantitative easing has created the ideal environment for the re-emergence of inflation, which is a cause for worry for many pension funds.

"Protection, through acquiring inflation hedging assets such as inflation bonds and swaps, looks to be expensive and there is a risk such investments provide 'insurance' for events that never actually happen.

"Pension funds also need to understand the extent to which their liabilities are affected by higher inflation. In some cases, inflation caps may mean that higher inflation is less negative for pension schemes than might be expected."

The survey also found that, on average, 22% of European funds and 11% of UK funds planned to increase their allocation to emerging market debt.

Trade receivables securitisation the 'great survivor'

Trade receivables securitisation is "one of the great survivors" of the financial markets crisis, a research report has claimed, based on growth in the field among Europe's top 40 banks. Although volumes dropped during 2008 and 2009, there has subsequently been a gradual revival and more than three in four foresee steady growth in the sector during the years ahead.

The report, A Receivable Advantage, issued by services group Demica concluded that the banks regarded invoice-based finance, and invoice securitisation in particular, as an essential tool in the structuring or restructuring of corporate finance programmes, with 64% of those surveyed rating it as "very important".

The report added that respondents viewed trade receivables securitisation as "an especially attractive tool" for sub-investment grade companies as it gave them better funding rates than relationship lending. Most also believed that trade receivables securitisation presented a safer, more secured way of allocating capital, while still enabling them to continue to provide funding through revolving bank facilities.

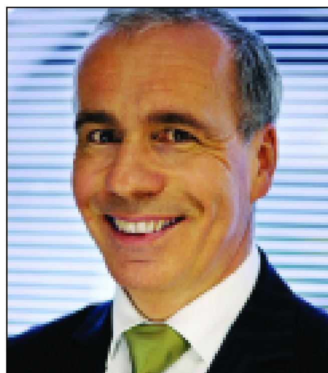
At least 25% of the bankers reported a sharp rise in the number of sub-investment grade securitisations in the past 18 months and most felt that the German Mittelstand (small businesses) and other unrated European enterprises offered a large market potential for further trade receivables securitisations.

"In the aftermath of the financial crisis, companies are now much more aware of the advantages and necessity in accessing liquidity outside the straightforward vanilla bank market," said Phillip Kerle, Demica's CEO. "It is therefore of vital importance that firms explore a broader funding strategy which allows them to gain access to different funding channels."

Kerr: look beyond the vanilla bank market

'Alarming gap' opens up on pension changes

More than two-thirds of British employers have yet to begin preparing for the changes to UK pension schemes that are to be introduced in 2012, a survey suggests.



Morahan: affordability is the key

The third annual survey of defined contribution (DC) pensions in the UK by actuarial consultancy Punter Southall covered 243 companies, including 25 from the FTSE 250, across a range of sectors. The firm said that all respondents were aware of the introduction of automatic enrolment to pension schemes, which will be rolled out from next year, but that 69% had taken no action and only 30% were confident that their current scheme would be compliant with the new requirements.

Three-quarters of the companies surveyed intended to use their current pension scheme to comply with employer duties, but one in three had not yet considered the impact of the removal of the default retirement age.

More encouragingly, more than half of the firms regarded the impact of the changes as positive.

Punter Southall principal Alan Morahan said that the findings revealed an "alarming gap" between awareness of the changes and preparation by employers. It was also clear that many were aware that changes needed to be made to their existing schemes to comply with the new regime.

Morahan added that the survey revealed the importance of affordability as a driving factor in DC pension provision: "As the financial screws tighten for both employers and employees, it seems likely that cost will become an increasingly important factor, and that growing numbers of employees may consider opting out of DC funds.

"However, inertia is also highlighted as a reason why people don't join pension schemes. So while auto-enrolment is expected to counteract that, without appropriate member engagement strategies it may not be sufficient." ■

New FX rules still not enough

Clients of foreign exchange brokers providing payment services should ensure that firms are authorised by the Financial Services Authority and not just registered, according to one of the market's larger providers, HiFX.

The group said registration by the FSA, which must take place from 30 April, placed relatively few obligations on firms. It added that the collapse of Crown Currency Exchange last October, which went into administration owing customers more than £16m, had put the issue of how FX companies protected their clients' money under the spotlight.

While the implementation of the Payment Services Directive in November 2009, whose transitional period is now complete, goes some way in addressing the problem it is inadequate in several respects, according to HiFX.

The group pointed out that a registered firm was required neither to operate segregated client accounts nor hold a defined level of capital. And directors and officers are not subject to the FSA's "fit and proper" test.

As authorised firms are subject to a higher level of regulatory scrutiny, HiFX recommended that clients checked the following when selecting an FX broker:

- The broker is authorised by the FSA rather than simply registered.
- Client money is held in a segregated client trust account when it is not in transit, or lodged with a counterparty.
- Full up-to-date accounts are shown on the broker's website.
- It is audited by a reputable firm.
- There is professional indemnity insurance in place to protect customers against staff fraud.
- It has access to SWIFT.
- It works with other reputable businesses and has major names among its corporate clients. ■