UNCERTAIN TIMES

As treasurers, we are working in uncertain times and these seem to be the key theme in many of the articles below. There is uncertainty around the outcome of the Ukraine/Russia conflict and the associated sanctions (see In Depth article). There is also uncertainty around which financial products and services we will want to (and be able to) transact with UK ring-fenced banks. Finally, there is uncertainty over how FX benchmarks will be calculated going forward.

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{ IN DEPTH }

EU EXPANDS RUSSIAN SANCTIONS

On 11 September 2014, the president of the European Council, Herman Van Rompuy, announced further EU restrictive measures against Russia, which came into force the following day.

The new sanctions are set out in Council Regulation 960/2014, which amends regulation 833/2014, which had been in effect since 1 August. The biggest impact is likely to be on Russian businesses – mainly state-owned banks, the defence sector and state-controlled oil companies (the gas and nuclear sectors are excluded) – with trade and access to capital markets restricted.

Article 5 of regulation 833/2014 outlined the controls relating to transferable securities and money-market instruments issued by listed state-owned Russian banks. It also applied to their non-EU subsidiaries where they hold a majority share in them, or entities that are acting on their behalf, or at their direction. The article prohibited the direct or indirect purchase, sale, provision of brokering, or assistance in the issuance of, or dealing with, transferable securities and money-market instruments with a maturity exceeding 90 days issued after 1 August 2014.

Getty Images

European Council president Herman Van Rompuy

Article 5 of regulation 960/2014 replaces the above and is largely the same – except the prohibition now applies to transferable securities and money-market instruments that have a maturity exceeding 30 days and that were issued after 12 September 2014.

Additionally, the updated regulation prohibits EU institutions from either directly or indirectly making, or being part of, any arrangement to make new loans or credit with a maturity exceeding 30 days to the entities that are subject to the above capital market restrictions. Loans are considered new loans if they are drawn after 12 September. Hence they would include further drawdowns after this date under pre-existing loan agreements.

Entities subject to the capital markets sanctions are listed in annexes III, V and VI of the regulation. Among them are the large Russian banks with state participation, including Gazprombank, Rosselkhozbank, Sberbank, Vnesheconombank and VTB Bank, as well as state oil companies with revenue of more than 1 trillion rubles, comprising Gazprom Neft, Rosneft and Transneft. These sanctions also apply to their non-EU subsidiaries, where they own more than 50% of them (either directly or indirectly), and to entities acting on their behalf or at their discretion.

Financial services not referred to in Article 5 are not covered by these sanctions. These include deposit services, payment services, insurance services and derivatives that are used for hedging purposes in the energy market.

A consolidated list of persons, groups and entities subject to EU financial sanctions can be found at www.eeas.europa.eu/cfsp/sanctions/consol-list/index_en.htm

If your company has any dealings with Russian corporates, banks or their subsidiaries, then you should check that your due diligence is in order if you haven't already done so.

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The report sets out a number of recommendations for reform in the FX markets

{ INTERNATIONAL }

FSB PUBLISHES FX RATE BENCHMARKS REPORT

FX benchmarks are used for a variety of purposes, but most notably for valuing, transferring and rebalancing multi-currency asset portfolios. On 30 September, the Financial Standards Board (FSB) published the final version of its report on FX rate benchmarks, entitled *Foreign Exchange Benchmarks*. This followed its interim report published in July, which was primarily for wider public consultation.

The FSB's report identifies two FX benchmarks that have pre-eminence in the global market. The WM/Reuters 4pm London fix rate is noted as the dominant benchmark, which is used not only in FX, but also in the construction of multi-currency equity, bond and credit indices. The second benchmark consists of the euro FX reference rates set by the European Central Bank (ECB) at 2.15pm CET.

The report sets out a number of recommendations for reform in the FX markets. For example, it recommends that the fixing window be widened from its current width of one minute and, for less liquid currencies, the window be wider than for the major currencies. The FSB hasn't set the appropriate width itself, but instead recommended that the width of the window be determined by WM in consultation with market participants. Other recommendations include more detailed codes of conduct for currency trading and the proposal that banks should establish and enforce their internal guidelines and procedures for collecting and executing fixing orders.

A copy of the FSB report can be found at www.financialstabilityboard.org/publications/r_140930.pdf

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

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

ACT past webinar: get your working capital strategy up to date

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

{ WATCH THIS SPACE }

PRA SETS BANKS RING-FENCING DEADLINE

The Bank of England's Prudential Regulation Authority (PRA) has given UK banks a deadline of 6 January 2015 to provide details on how they plan to ring-fence their retail operations from their investment banking arms. Details must be provided on the legal structure, governance and arrangements to ensure continuity of services and facilities to ring-fenced banks. The ring fence applies to banking groups with core deposits greater than £25bn. These banks have been working on their plans since ring-fencing was announced three years ago, but it appears they are still seeking clarity as to whether some products, such as derivatives, can be included in the ring-fenced bank. A deadline of 1 January 2019 has been set for the ring-fencing to be operational, which coincides with Basel III implementation dates.

The Bank of England has estimated that there will be a one-off cost of £390m for the banking industry to implement ring-fencing, with annual costs of up to £50m. The PRA is also consulting on changes to enhance depositor and insurance policyholder protection.

{ TECHNICAL ROUND-UP }

MIGRATION, MARGIN AND MMFs

China's currency, the renminbi, could potentially enter the International Monetary Fund's (IMF's) Special Drawing Rights (SDR) composite when the IMF undertakes a review of widening the SDR in 2015. SDR are additional FX reserve assets, which are used to supplement the official reserves of its member countries and may be exchanged for four freely usable currencies – euros, the Japanese yen, British sterling or US dollars.

All of the London International Financial Futures and Options Exchange's derivative contracts will be migrated to ICE Futures Europe under a phased approach that began in September 2014. This will impact reporting of transactions under the European Market Infrastructure Regulation, since the contracts' market identifier codes will change once contracts have been migrated. Further details are available on the ICE website.

The OTC Derivatives Regulators Group, which is made up of authorities that regulate OTC markets in countries including the EU and US, has issued a report to the G20 on progress made in resolving cross-border implementation issues. In particular, it has focused on potential gaps and duplications in the treatment of branches and affiliates; and the treatment of organised trading platforms. The report can be found at www.cftc.gov/ucm/groups/public/@newsroom/documents/file/oia_odrgreportg20_0914.pdf

Not only has the EONIA's move into the negative been a headache for money market funds trying to eke out a positive return, it has also raised the issue of whether parties posting variation margin must also pay interest to their counterparties.

The Prudential Regulation Authority has published an updated web page outlining its approach to whistle-blowing. Refer to www.bankofengland.co.uk/pra/pages/contactpra/whistleblowing.aspx

Money Market Fund (MMF) regulation will be considered at the European Parliament's plenary session on 25 March 2015. This follows the postponement of a vote by the previous Economic and Monetary Affairs Committee earlier this year until a new European Parliament was elected. Proposed regulations include the imposition of a 3% capital buffer for MMFs.