

# SPHERE OF INFLUENCE

The torrent of regulation since the financial crisis has spurred more treasurers on to become advocates for their profession.

Sally Percy finds out what they do and how they do it

➤ Influencing and advocacy work has been one of the ACT's priorities since the founding of the professional body in 1979. Throughout the decades, its aim has remained the same: to ensure the voice of the 'real economy' is heard in discussions around financial policies and regulations.

One of the ACT's earliest successes was persuading the government to establish a sterling commercial paper market in the 1980s. In more recent years, it has been active in influencing policy in a range of areas, including base erosion and profit shifting (BEPS), Basel III, the European Market Infrastructure Regulation (EMIR), the *Fair and Effective Markets Review*, the *Wheatley Review of Libor*, money market fund (MMF) regulation, payment processes and the proposed bank ring fencing arrangements.

This level of activity is only possible because the ACT's policy and technical team constantly monitors the external environment and the media to find out which regulatory developments in the UK and EU may impact on treasurers. The task has become considerably more challenging since a wave of regulation swept over the financial services sector in the wake of the financial crisis. As a result, the ACT has often found itself confined to a firefighting role.

"Because of the pressure of regulation post 2008, we've tended to be reactive," explains Stephen Baseby, associate policy and technical director at the ACT. "Now we're trying to get into the debate as soon as an issue arises." Taking Brexit as an example, he adds: "We know politicians are working out what they want to do. So we want to talk to them now."

## Pleasing most people most of the time

As a membership organisation, the ACT acts on behalf of its membership. So it needs input and support from its members if it is to succeed in influencing any debate.

Of course, it's not always appropriate for every treasurer to comment on every topic.

While the impact of the Basel III framework on bank capital and liquidity ratios may affect all treasuries to some degree, a consultation by the UK Payment Systems Regulator may only

be of interest to treasuries that handle substantial numbers of payments and receipts. "We have to be quite specific each time as to who we are trying to influence and which part of our membership we are representing," says Baseby.

Treasurers are very busy people who have a lot on their plates, so why is it important that they spend time trying to influence policy? "No one else is going to think about how regulation is going to affect treasurers



from the point of view of treasurers, particularly when the impact is indirect,” observes John Grout, who served as the ACT’s policy and technical director between 2002 and 2015.

The case for a treasurer to get involved in influencing is a strong one, argues James Harvey, assistant treasurer at engine manufacturer Rolls-Royce. “A huge amount of financial regulation impacts corporate treasuries. Most of it is well intentioned, but it can have unintended – or intended – consequences. It is important that corporates express their views as early as possible in the development of the regulation so that they can be considered before it’s too late and positions become ingrained.”

One regulatory development that particularly galvanised the treasury community was the adoption of EMIR in 2012. In addition to new reporting and clearing requirements, EMIR originally required corporates, as well as financial services companies, to post collateral against their derivative positions. Thanks to lobbying by the ACT and others, this requirement was later dropped for most non-financial corporates.

John Jackson, group treasurer at utility company Severn Trent, helped the ACT with its advocacy work on EMIR while he was working for his previous employer, engineering company The Weir Group. “The Weir Group had very sizeable FX requirements,” explains Jackson. “And the initial EMIR proposals would have had a very significant impact on our ability to enter into derivatives contracts. We would have had to put a significant lump of cash behind our derivatives, which would have had a liquidity impact and could have led to sizeable risk if there were significant market moves that meant more cash being called. We managed to get that requirement pushed back.”

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### Stronger together

Since many regulatory initiatives are global, a UK voice, however loud, is inevitably only one of many voices being heard or not heard. So the ACT combats this challenge by joining forces with other treasury associations. For many years, it has worked closely with the European Association of Corporate Treasurers (EACT) to influence European legislation and it has a constructive relationship with the National Association of Corporate Treasurers (NACT) in the US.

The ACT also links

up with non-treasury professional bodies and trade associations.

It worked with the Chartered Institute of Taxation on BEPS and it also liaises with the Confederation of British Industry on issues of mutual concern. On certain topics, it may find some natural alignment with financial services trade organisations, which tend to be well financed and influential.

“Banks understand the importance of lobbying and use their trade

associations at every opportunity,” says Sarah Boyce, associate policy and technical director at the ACT.

Harvey emphasises how treasurers can work with peers from across Europe to present a common corporate front to regulators. “We work with the ACT, EACT and a number of other large corporates from around Europe to try and ensure that corporates have a voice,” he explains.

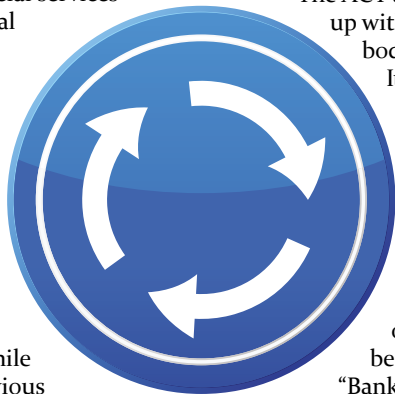
“This generally involves analysing the text of developing pieces of regulation to try and spot areas of concern, discussing these issues to develop a common understanding of the problem, responding to consultation processes and raising our concerns with the relevant parties. If you’ve got a large group of corporates from across Europe saying the same thing, then your arguments, statements and positions have a lot more weight.”

### REFLECTING TREASURERS’ VIEWS

**The ACT consults its policy and technical committee as to which regulatory areas should be a strategic priority. This committee includes ACT members as well as consultants, lawyers and tax specialists.**

**It also has a treasurers’ forum, which is a group of more than 100 treasurers from organisations of different sizes, who have agreed to answer email questions. The ACT may invite treasurers from this group to go to private meetings with the Bank of England or another regulator for discussions on a particular subject.**

**When it is responding to a consultation, the ACT will come up with a view based on the opinions of its members who are affected by a particular development. In its response, it will look to demonstrate how a particular policy will impact on the economy more broadly, not just on large corporates.**



## Treasurers can work with peers from across Europe to present a common corporate front to regulators

The need for corporates to put forward a united front is particularly important in Europe. This is because the EU tends to take a consumer-oriented approach when drawing up legislation. “You have to turn everything round to their level of thinking,” says Baseby. “You have to say, ‘Your consumers are paying this and that. This is how we change that.’” UK legislators, on the other hand, are more inclined to take a broader view of an issue and have more sympathy for corporates. While the ACT will remain a member of the EACT, Brexit will potentially weaken the ACT’s influence in Europe. “We will be more able to influence UK legislation and less able to make ourselves heard on the world stage,” says Baseby.

### Advocacy across the pond

In the US, the NACT has been active in influencing policy and its chairman, Tom Deas, has personally testified to Congress several times. By connecting with other like-minded business advocacy organisations through the Coalition for Derivatives End Users, the NACT has scored two notable victories with regard to the Dodd-Frank Act. The first was getting corporate end users exempted from having to post cash to margin for the daily mark-to-market of their derivative positions. The second was securing an exemption from clearing requirements for corporate swap end users’ treasury centres.

The battle against excessive regulation continues, however. Currently, the NACT is opposing new actions by US banking regulators that require banks to hold higher capital for derivatives trades with end users. Deas says the proposals “negate the benefits of the exemption from margining, since they have the same economic effect as if the end user had to post margin and increase the cost of doing the trade”.

Treasurers are also getting headaches from additional regulations affecting US money market mutual funds. “Particularly onerous

is the requirement being implemented that prime funds, investing in non-government securities, post a daily variable net asset value instead of a fixed net asset value,” explains Deas. “This is causing treasurers major problems because they have to modify their treasury systems to keep track of gains and losses on each redemption for tax compliance.”

### Definition of success

While the ACT can boast many successes in its advocacy work, it’s not always allowed to talk about them. “I can’t tell you most of the policy successes because they’re things we headed off, which didn’t happen,” says Grout. “But I can tell you that treasurers would be much less happy.” He does, however, cite the foundation of the UK commercial paper market, the amendments to the 1986 Financial Services Act, the introduction of UK withholding tax rules for privately placed bonds, work done during the financial crisis, the Libor review and EMIR as examples of the ACT’s success.

“Very rarely does the ACT set out to overturn government policy on something because we would never succeed in that,” he explains, “but very often we nudged them away from things that were really terrible and had to settle for things that were simply unacceptable.”

“We would probably say that the greatest success has been the outcome, so far, of EMIR,” says Baseby, “and the fact that we persisted with arguments against dual-sided reporting, which are beginning to have some effect.”

Another important win is how advocacy work has helped to raise the profile of treasury both within the regulatory and the business communities. “The Bank of England will phone us up and ask us about things,” says Boyce. “We’ve worked hard to make sure they see us as a resource.”

Harvey confirms that regulation ranks highly on Rolls-Royce’s strategic agenda. “It’s been discussed at board level,” he says. “It’s definitely on the CFO’s list of key things we need to keep on top of. From a treasury perspective, it’s been one of the priorities since 2009.”

Acknowledging the achievements of the ACT, Deas remarks: “The ACT is very dedicated to the treasury profession and it has a staff of very knowledgeable people. It has the resources and capacity to speak



## WHAT TO DO IF YOU WANT TO INFLUENCE

- Express your interest to the ACT's policy and technical team via Stephen Baseby ([sbaseby@treasurers.org](mailto:sbaseby@treasurers.org)) and Sarah Boyce ([sboyce@treasurers.org](mailto:sboyce@treasurers.org)).
- Read widely and use social media to follow key journalists. You can also keep up to date by reading *The Treasurer* and the EACT's monthly report on regulatory issues, which is available on the ACT website ([www.treasurers.org/node/9894](http://www.treasurers.org/node/9894)).
- If you are invited to attend a private meeting with regulators, make sure you know your facts and understand how the proposed changes in legislation will impact the economy more broadly (not just your own business).
- Join the ACT's treasurers' forum.
- Remember that a meeting with regulators can be an opportunity for less senior members of the treasury team to raise their profile and get experience of the influencing process.
- Maintain relationships with the key regulatory contacts you make. They may be useful in future.



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directly on behalf of treasurers. We very much value the NACT's close working relationship with the ACT."

### Future challenges

Keeping on top of regulation is an ongoing battle that won't be made any easier by Brexit. As Baseby points out, Brexit will require the UK to rewrite every trade agreement it has with different countries, with the result that new import duties could affect supplies of raw materials and increase the cost of doing business.

He also predicts that there could be a divergence of regulation along interventionist, protectionist lines – in contrast to the convergence of regulation that has marked the past few decades. "The risk is that regulation could become more of a distraction to business and affect the real economy," he notes.

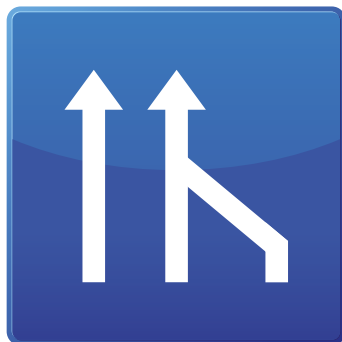
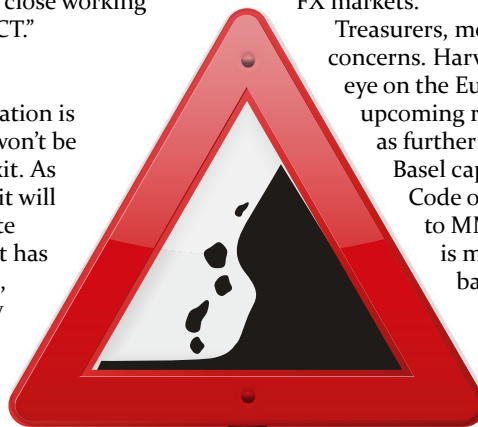
Boyce highlights that the rise of protectionism in

the US and China presents risks, along with the global low interest rate economy and volatility seen in both the commodities and FX markets.

Treasurers, meanwhile, have their own concerns. Harvey will be keeping an eye on the European Commission's upcoming review of EMIR, as well as further amendments to the Basel capital rules, the Global FX Code of Conduct and changes to MMF regulation. Jackson is monitoring MiFID II and banking rules.

If treasurers are concerned about the threats posed by the external environment, influencing work

presents them with a great opportunity to make a difference. As Boyce puts it: "We're all advocates now." ♡



**Sally Percy** is a business and finance journalist and former editor of *The Treasurer*