PREPARING FOR 2018

As 2017 draws to a close, we begin to look ahead to the new year and suggest a number of topics that might be on your agenda for 2018. There's not much new to say on Brexit and potential Libor replacement at this stage, but please keep revisiting the technical pages of our website where we post updates: www.treasurers.org/technical

We hope you enjoy the festive break – one thing's for certain, 2018 won't be quiet.

Michelle Price (left) and Sarah Boyce (right) are the ACT's associate policy and technical directors, and are always pleased to hear from you, whether with questions or with comments on areas of particular concern or interest to you. You can reach them at technical@treasurers.org

{ IN DEPTH }

Six things to plan for in 2018

As we head rapidly towards the end of the year, we offer some thoughts for issues that may not be front of mind, but which, nevertheless, you may want to consider as we enter the year ahead:

- **Rising interest rates**
  The period of very low interest rates may be coming to an end. Now is the time to make sure your teams appreciate the potential impact of operating in a higher interest rate environment, something many of them will not have experienced. As well as checking covenant triggers, the organisation's fixed/floating mix and interest rate policy should all be reviewed with the prospect of higher rates firmly in mind.

- **Leases**
  The new lease accounting standard IFRS 16 comes into effect on 1 January 2019. Lessees will now have to account for virtually all leases, such as renting office space, on balance sheet, which will require significantly more data on their leases than before. For those with more than a handful of leases or rental contracts, this could be a big task.

- **EU money market funds (MMFs)** The revised EU MMF regulation takes effect from January 2019, but decisions about which funds to invest in going forward need to be made and investment policies reviewed and potentially revised beforehand. (See story opposite.)

- **MiFID II**
  This may be relevant to you if you:
  - Issue bonds;
  - Use commodity derivatives, emissions allowances and related derivatives;
  - Use FX forwards – although the exemptions mean that most NFC- corporates will be exempted; or
  - An NFC+.

  MiFID II is extremely confusing. Unfortunately, much of the guidance available appears contradictory, and some elements of the regulation (for example, relating to derivatives) is still not finalised. At this stage, your lawyers may be the best point of contact. (See story below.)

- **Cash management**
  Another area where regulation may impact on the treasurer's choices: changes to the availability of pooling structures and regulatory change, such as ring-fencing in the UK, both mean that 2018 will be a good time to revisit your cash management structures and ensure that they are still efficient.

- **Interest deductibility**
  The Organisation for Economic Co-operation and Development's Base Erosion and Profit Sharing (BEPS) project is gaining traction. Treasurers will need to work closely with their tax colleagues to ensure that corporate structures are funded efficiently.

And three things to keep on the radar... none of these are likely to go away any time soon:

- **Brexit** – coming up fast. We should get greater clarity during 2018 of practical implications;
- **Benchmarks** – clarity should start to emerge about the future of Libor; and
- **Technology** – whether faster payments, distributed ledgers, managing KYC or cyber fraud, technology is increasingly core to treasury activities. Treasurers need to keep up to date as both risks and opportunities evolve.

{ REGULATORY }

DOES MiFID MATTER TO ME?

The Markets in Financial Instruments Directive II (MiFID II) comes into effect from 3 January 2018. MiFID II provides the regulatory framework for firms that provide investment services or perform investment activities in respect of financial instruments. Most non-financial corporates that deal in derivatives may be able to take advantage of the 'own account' exemption. However, corporate users of commodity derivatives, emissions allowances or related derivatives; entities who apply high-frequency algorithmic trading techniques; or entities who have direct electronic access to a trading venue (except where a non-financial entity enters into transactions for hedging purposes) are not exempt from MiFID II.

It's a complicated area and we would recommend reading Slaughter and May's briefing *MiFID II: Key issues for corporate users of derivatives*, available at slaughterandmay.com

ACT resources

View briefing notes, technical updates and policy submissions at www.treasurers.org/technical. In addition, there are web pages dedicated to Brexit, Best Practice (Codes of Conduct) and Libor reform, which can be accessed from the Technical Guidance and Comment tab on the ACT's home page.

For more immediate responses to events as they occur, the policy and technical team continues to write various blogs at https://blogs.treasurers.org and we welcome guest bloggers.

If you have a topic that's keeping you up at night and would like to be a guest contributor, please get in touch at technical@treasurers.org

SEC proposes streamlining disclosure requirements

As part of its ongoing disclosure effectiveness review, the Securities and Exchange Commission (SEC) is proposing amendments to Regulation S-K, designed to simplify and streamline disclosures made by public companies and reduce compliance costs, while continuing to provide all material information to investors. See www.sec.gov/rules/proposed/2017/33-10425.pdf

Update to ACT *Borrower's Guide*

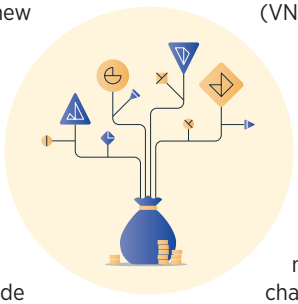
The fifth edition of the *ACT Borrower's Guide to the LMA's Investment Grade Agreements* was updated in September 2017. The guide gives a general overview of LMA terms for readers unfamiliar with LMA documentation, and a clause-by-clause commentary from the borrower's point of view. Members and students can download the latest version at www.treasurers.org/LMA-guide-2017

{ INTERNATIONAL }

EUROPE MMF reform – take action!

As reported in the September/October Technical Briefing, existing European money market funds (MMFs) have until 21 January 2019 to comply with the new European MMF regulations. While all MMFs will face change, the greatest change will be to those funds in which shares/units currently trade at a constant net asset value (CNAV). This is because Prime CNAV funds will need to convert to low volatility net asset value funds (LVNAV). The main difference between the current CNAV and the new LVNAV fund is that in order for a LVNAV fund to publish a CNAV, the net asset value must fall by no more than 20 basis points of a unit of €/£/$1. The Institutional Money Market Funds Association has produced a useful overview of the MMF reform, which is available at www.immfa.org/about-mmfs/investor-help.html

Fund managers are currently working on developing funds that comply with the new regulations, with migration expected in the latter part of 2018. At this stage, it is anticipated that the majority of corporates that currently hold Prime CNAV funds will move to LVNAV funds, although some may entertain the idea of moving to a full variable net asset value (VNAV) fund.



For corporate treasurers with CNAV funds, action needs to be taken early in 2018, as investment policies may need to be changed and auditors consulted on accounting treatment.

1. Decide which fund structure you are leaning towards (LVNAV or VNAV).
2. Speak to your fund manager(s) to understand what changes they will be making to their funds and their transition process.
3. Review your current investment policy to understand any restrictions that may need amending in order to continue investing in MMFs.
4. Obtain assurance from your auditors that the LVNAV or VNAV structure will continue to be treated as cash equivalents for accounting purposes.
5. Educate senior management and the board.
6. Update your investment policy as necessary.

{ ONE TO WATCH }

YEAR END CASH – BE PREPARED

A reminder to start talking to your banks sooner rather than later to avoid problems with depositing cash ahead of the 31 December year end. As banking regulations bite, appetite for cash can be very sketchy.

UK WHT exemption confirmed

In the UK, HM Treasury has confirmed a new interest withholding tax (WHT) exemption for Quoted Eurobond debt traded on a multilateral trading facility (MTF). The exemption is good news for UK companies seeking to raise debt capital, as it is intended to make the UK more competitive in this area and reflects concerns that the current requirement to withhold tax is a barrier to the establishment of MTFs in the UK. The exemption will take effect from 1 April 2018, subject to the Finance Bill process.

New euro overnight rate

Following hard on the heels of announcements in the UK, US and elsewhere, the European Central Bank has announced it will develop a new euro unsecured overnight interest rate by 2020. The new 'risk-free overnight rate' will be based entirely on transactions in euros and will serve as a basis for an alternative to current benchmarks. The features of the new rate and a market consultation will be published in 2018.

UK payments operator

The UK's New Payment System Operator (NPSO) is rapidly taking shape with the recent appointment of Melanie Johnson as its first chair. The NPSO was created to consolidate the three payment system operators: Bacs Payment Schemes Ltd, Faster Payments Scheme Ltd and Image Clearing System, which will replace the paper-processing system for cheques currently managed by the Cheque and Credit Clearing Company. At a recent progress update for stakeholders, the expectations of the NPSO were outlined as providing strategic leadership for the retail payments industry; developing operational resilience and security; and ensuring best practice risk management.