BREXIT, MMFs AND BEPS

Brexit remains the cause of uncertainty, but the UK now has a new prime minister, and the mire of regulation is becoming clearer. Although seemingly counterproductive (see www.bbc.com/news/uk-politics-eu-referendum-36678222 as to how difficult the technicalities can become), EU politicians are beginning to understand what they need to address in order to enable an orderly exit. The ACT will be taking the lead to ensure that regulators and policymakers understand the real economy requirements so that growth can be delivered post-Brexit. Also, as part of our remit is to provide informed and unbiased technical advice, we will continue to produce resources and give support to our members and the wider financial community. (See www.treasurers.org/brexit)

We are also finalising our response on UK base erosion and profit shifting, and

{ IN DEPTH }

Work continues on EU regulations

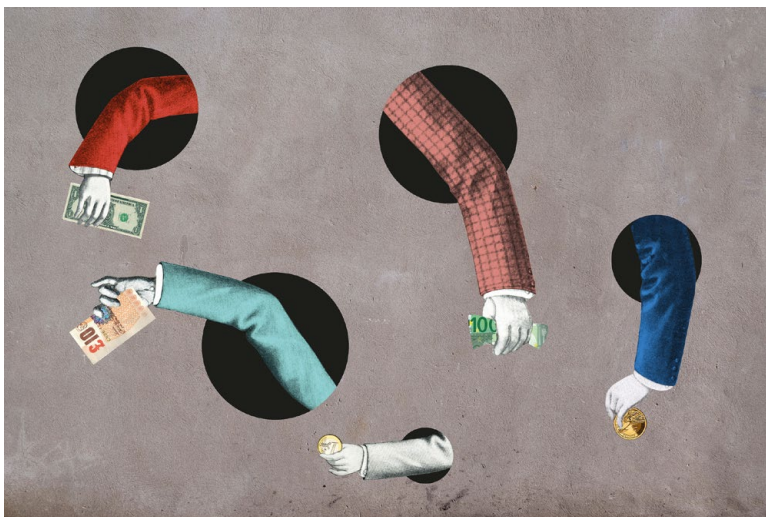
It is tempting to focus on the Brexit process, but there are other regulations that continue their progress through the EU institutions and require our attention.

Securitisation

This leg of the EU Capital Markets Union (CMU) will affect members engaged in arranging and packaging debt for sale. Long popular with credit cards and vehicle loans, the expectation was that the practice of securitisation would continue with one substantial change, which was that the selling promoter would be required to retain 10% of the debt in order to avoid the pre-2008 problem of risk being completely transferred to debt investors, who are too removed from the underlying trade that gives rise to the debt.

At the time of writing, we are monitoring the progress of regulations through a trialogue: the discussion between the Council of Ministers, the Commission and the Parliament to hammer out a final form of wording following each delivering its preferred form.

Any input from members on the effect these proposed securitisation changes would have on their business would be appreciated, and will be fed into the debate.



IKON IMAGES

MMFs: EU and US

The EU money market fund (MMF) regulations are also entering into their trialogue.

We expect this process to continue into autumn 2016 under the Slovak Presidency, and indications are that we are heading for variable net asset value (VNAV) and low volatility net asset value (LVNAV) funds with redemption gates and fees, and external credit ratings.

Members using MMFs in the EU will need to consider that this formalises the possibility of redemption gates being used to stop runs on funds, and of redemption fees to repair fund losses, as well as variable fund values in the normal ebb and flow of markets. These events are less likely following the slew of regulation post-2008, but these controls on redemption will be there to be used in the event of material movements in the values of financial assets. Fund managers cannot rely on fund promoters to top up losses as occurred early in the global financial crisis before those promoters realised the depth of their own balance-sheet problems.

We have the recent temporary closing of open-ended property funds to illustrate the problem. There can be a point of liquidity collapse and uncertainty in any market, at which time fund managers need to react to consider the benefit of all investors.

Additionally, the proposed five-year sunset clause for LVNAV funds has been downgraded to 'review after five years'. The EU changes are expected to be phased in over two to three years. The US is implementing a similar VNAV/LVNAV structure and this becomes effective from 20 October 2016.

VNAVs are intrinsic to MMFs and whether documented or not, redeeming less than 100% was always a risk. Gates will make redemption uncertain as to timing as well as value.

Coming on the heels of the effect of CRD IV for the EU on bank deposits, members will need to think carefully as how best to manage surplus funds, and how to ensure that board-driven treasury policies recognise the risk of holding cash relative to the risk of being able to borrow when required.

This is, of course, of little comfort to members whose employers have a structural, or even a regulatory requirement, to hold cash imposed on them.

For the Brexiteers, consider that the UK is unlikely to stray too far from the EU and US models, as the UK endeavours to negotiate new treaties and retain equivalence with the major financial centres.

we monitor the development of EU money market funds (MMFs) legislation as we approach implementation of new US MMF rules on 20 October. Finally, we are following the regulatory developments in pooling and netting, particularly those emerging in the US.

If you have views you'd like to share with us in response to any of these subjects or have your own submission on these or other topics, please email us at technical@treasurers.org

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

The policy and technical team has written various blogs this month at blogs.treasurers.org

{ INTERNATIONAL }

FOREX VOLATILITY TO CONTINUE?

The Brexit vote was a shock for so many. The GBP movement was not as great as had been predicted by the gloomier pundits, but the changes have settled at just under 1.2 EUR:GBP, and around 1.30 US:GBP at time of writing. Now begins the hard work of understanding just where in your networks of suppliers and customers, and their suppliers and customers, the impact will be felt.

Perhaps now is the time to focus on the world beyond GBP. Attention is turning to the US election as the Republican delegates endorse Trump as their candidate, and Governor Yellen endeavours to manage rate-rise expectations. A surf of the internet shows calls for a stronger US dollar on the back of expected rate rises, but the effect of a Trump victory must remain a known unknown until 8 November, when the US votes and the winner starts the process of forming a government to take over in January.

In Europe we continue to have: an acting prime minister in Spain; Italian prime minister Matteo Renzi about to throw himself into the uncertainty of an Italian referendum on reform; and French politicians, and at least one non-politician in Emmanuel Macron, manoeuvring to run for president. Separatist movements abound, including Scotland, which may prefer to get into the EU as England, Wales and Northern Ireland depart.

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Now is the time to get close to your business models to try and work out where that foreign exposure could emerge.

{ WATCH THIS SPACE }

Where does corporate tax go after BEPS?

Base erosion and profit shifting (BEPS) is beginning to be introduced among the G20 members.

The UK government is to adopt a cap on interest deductions at 30% of EBITDA and seeks responses on the post-2016 Budget drafting; the ACT responded by the 4 August deadline to the consultation paper circulated in May (see www.gov.uk/government/consultations/tax-deductibility-of-corporate-interest-expense), which foresees implementation in 2017.

The US is approaching BEPS through rules on the use of inversions: the ability of US multinationals to change their tax domicile by declaring it to be in another country where the business has activity.

Meanwhile, the thinkers behind the development of tax systems are considering the next step. Corporation tax is a small part of the government's tax take, often acknowledged as double taxation, but socially difficult to retreat from in Western societies, where individuals see corporates as separate 'things' in their society and not simply as the agent between employees and investors.

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The next big idea being aired is an extension of tax based on sales. This is attractive to nations that have material external current account deficits: they are homes to sales unsupported by the taxing opportunities of production.

Perhaps we should not be surprised that EU governments are taking an interest in the extension of country-by-country reporting by business, which would lay the foundation for such a change.

{ TECHNICAL ROUND-UP }

Market Abuse Regulation (MAR)

The new regulations came into force on 3 July 2016 and extend to debt issued on multilateral trading facilities, as well as those listed on regulated markets. (See www.the-fca.org.uk/markets/market-abuse/regulation)

MAR impacts on corporate debt issuers, who are required to ensure that all inside information is disclosed to the public as soon as possible. Failure to comply exposes members to civil offences.

Correspondent banking

Through correspondent banking relationships, banks can access financial services in different jurisdictions and provide cross-border payment services, so supporting international trade. In view of the importance of correspondent banking, the Band for International Settlements Committee on Payments and Market Infrastructures has issued a report on correspondent banking. (See www.bis.org/cpmi/publ/d147.pdf)

The report provides some basic definitions, outlines the main types of correspondent banking arrangement and summarises recent developments. It then develops recommendations on measures including KYC; the use of the legal entity identifier in correspondent banking; and information-sharing initiatives.