

EVIA & LEBA Monthly Compliance Meeting









0830 Wednesday 08th September 2021

[Virtual Meeting via MS Teams - Click here to join the meeting](#)


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Phone Conference ID: 520 155 074# [[Find a local number](#)]

a. Matters arising

- i. Member Comments
- ii. PFOF
- iii. CP21/25 on [FCA proposing changes to streamline decision-making](#); RDC: Streamlining the Issuing of Statutory Notices: – see below and attached. Comments and views welcome
 1. *Consultation paper proposing to move some decisions from our Regulatory Decisions Committee (RDC) to our Authorisations, Supervision and Enforcement Divisions, including:*
 2. intervening to impose a requirement on a firm, or to vary its permissions
 3. making a final decision in relation to a firm's application for authorisation
 4. making a final decision to cancel a firm's permissions
- iv.  [LEBA response to the ACER letter: Compliance of broker organised market places with the reporting obligation under Article 8 of REMIT \[20Aug2021\].pdf](#)
- v.  [RISK; Interdealer brokers say they may continue to show US dollar Libor swap prices even after regulators have called for screens to go dark in October; Ben St. Clair; 09 Aug 2021.pdf](#)
 1. *Risk article on SEFs intent to provide Libor services ... two SEFs anonymously quoted (from the three available!) – also Risk on the FX class actions mentioned*
- vi. [EU AML Legislative Proposals](#)
 1.  [Market abuse regulation - A&O paper on the first five years and the outlook; 05Aig2021.pdf](#)
- vii.  [EVIA; Diversity and Inclusion in the UK Financial Sector - The FCA and other UK Regulators' Proposals.pdf](#)
 1.  [BOE WP; gender-age-and-nationality-diversity-in-uk-banks.pdf](#)
- viii.  [CPMI work programme for 2021-22; 05Aug2021.pdf](#)
- ix.  [US banks and brokers set stage for shift to one-day equities settlement.pdf](#)
 1.  [How Could T+1 Fail; TABB; 10Aug2021.pdf](#)

b. Regulatory milestones coming up in September.

- i.  [EVIA & LEBA Compliance Advisory: Regulatory Activities & Initiatives Grid; 0830 Wednesday 08th September 2021.docx](#)
- ii. International regulatory bodies – consultations closing
 - 6 September 2021: [International Organization of Securities Commissions' consultation on ESG ratings and data products providers.](#)
 - 10 September 2021: [Basel Committee on Banking Supervision consultation on prudential treatment of crypto-asset exposures.](#)
- iii. EU legislation and guidelines entering into force
 - 2 September 2021: [Five Delegated Regulations supplementing the Benchmarks Regulation come into force.](#)
 - 30 September 2021: [European Central Bank recommendation repealing recommendation to banks on dividend distributions comes into effect.](#)
- iv. EU consultations closing

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- 2 September 2021: [ESMA consultation on clearing and derivative trading obligations under EMIR and MiFIR in light of benchmark transition.](#)
- 3 September 2021: [Implementing Decision on the equivalence of certain third countries for the purposes of the treatment of exposures in accordance with the CRR.](#)
- 8 September 2021: [European Commission consultation on improving transparency and efficiency in secondary markets for non-performing loans.](#)
- 20 September 2021: [ESMA public consultations on CCP recovery regime.](#)
- 24 September 2021: [European Commission call for feedback by the Platform on Sustainable Finance on preliminary recommendations for technical screening criteria for the EU taxonomy.](#)
- 28 September 2021: [EBA consultation reviewing its guidelines on common procedures and methodologies for the supervisory review and evaluation process.](#)
- 30 September 2021: [ESMA consultation on EMIR reporting guidelines.](#)
- v. **UK legislation and regulatory rules coming into force**
 - 6 September 2021: [FCA opening the application window for the sustainability cohort.](#)
- vi. **UK consultations closing**
 - 7 September 2021: [Bank of England discussion paper on new forms of digital money.](#)
 - 10 September 2021: [FCA consultations on enhancing climate-related disclosures.](#)
 - 14 September 2021: [FCA consultation on Primary Markets Effectiveness Review.](#)
 - 17 September 2021: [FCA consultation on proposed changes to decision-making procedure.](#)
 - 17 September 2021: [FCA third consultation on investment firm prudential regime.](#)
 - 23 September 2021: [HM Treasury consultation on access to cash.](#)
 - 24 September 2021: [HM Treasury consultation on Wholesale Markets Review.](#)
 - 30 September 2021: [PRA, FCA and Bank of England Discussion Paper on diversity and inclusion in the financial sector.](#)

c. Latest FCA Policy Development updates:

- i. [Third consultation on new prudential regime for UK investment firms](#)
 1.  [dear-chair-remuneration-committee.pdf](#)
 2.  [UK's IFPR for MiFID IFs – FCA publishes new Remuneration Code.pdf](#)
- ii. [The risks of token regulation](#)
 1.  [FCA publishes first supervisory notice against Binance; 30Aug2021.pdf](#)
 2.  [UK's FCA says it is 'not capable' of supervising crypto exchange Binance.pdf](#)
- iii. The UK's FCA has published a report on enforcements over 2020/2021 compared to previous periods. The report, which can be found [here](#), shows a slight decline in fines and notices over the past year.
- iv.  [FCA proposing changes to streamline decision-making.pdf](#)
- v.  [FCA publish CP21_27; Quarterly Consultation Paper No. 33.pdf](#)
- vi.  [FCA roie-direction; 05Aug2021.pdf](#)

d. UK Government

- i.  [Treasury Committee reports on Future Regulatory Framework of Financial Services; July 2021.pdf](#)

- a. [!\[\]\(aca6fcc8bd95e8255b9ea1b1d08ef300_img.jpg\) HMT; Overseas Framework Summary of Responses.pdf](#)
- ii. [!\[\]\(0083087c61cec498ac803a4aec5bb1bd_img.jpg\) HM treasury's proposals for wholesale market reform.pdf](#)
- a. ISDA - UK Policy: Wholesale Markets Review – second draft response & planner
- b. [!\[\]\(2e94242fda9f31152eb2b29146bfce46_img.jpg\) ISDA response to HMT's WMR Second draft - 24 August 2021 2.pdf](#)
- iii. [!\[\]\(680c68b4e62fe5ec9774c1168e904fbf_img.jpg\) london-rmb-business-quarterly-issue-10-aug2021 \(1\).pdf](#)
- iv. [!\[\]\(0012cbbec5c5a1cf6c111135ad58ebc0_img.jpg\) sec-fca-boe-mou-2021.pdf](#)
- v. Both the HMT Team and Mairead McGuinness are meeting in the [Eurofi Financial Forum 2021 Ljubljana](#) - 8, 9 & 10 September 2021 – so that may be the first opportunity for any FS_MOU to resurface as none has over the summer

e. IFPR – IFR (Op Risk and Resilience)

- i. [!\[\]\(79de0df6c6ddd2d4eb74f1cc5f48ec50_img.jpg\) UK's IFPR for MiFID IFs – FCA publishes new Remuneration Code.pdf](#)
- ii. [!\[\]\(d4c9768318b38eff1042b07478e20b4c_img.jpg\) FCA Third consultation on new prudential regime for UK investment firms; cp21-26; 05Aug2021.pdf](#)
- iii. FCA [PS21/9: Implementation of Investment Firms Prudential Regime](#)

f. Conduct / Enforcement/ PFOF

- i. [!\[\]\(e492b5d52ab457a7a3c2826c4091dfee_img.jpg\) AMF confirmed it had fined Tullett Prebon €5 million after finding they had manipulated the price on the Euro Stoxx 50 Futures .pdf](#)
1. [!\[\]\(1d9440fab1f214291ce1c26a75f9c2cd_img.jpg\) AMF Notice: Issued fines totalling EUR37 million to Amundi and Tullett Prebon following an investigation into supposed market manipulation in 2014 and 2015..pdf](#)
- ii. ICE Futures Europe has suspended a trader for two years and fined him £100,000 for pre arranged trading. The notice can be found [here](#). The fine was later lifted due to inability to pay.
- iii. ICE Futures Europe has fined a selection of firms £5,000 each for failing to maintain proper administrative information. The notice can be found [here](#).
- iv. The CME has fined the Mercantile Exchange of Vietnam for enabling customer wash trades. The notice can be found [here](#). More information on this and related fines can be found on the DCM Blog [here](#) (30 July entry).
- v. The CFTC has fined a firm \$1.5m for exceeding the CFTC's position limits for soybean meal futures contracts traded on CBOT and for failing to comply with reporting and recordkeeping obligations regarding its cash positions in grain. The CFTC press release can be found [here](#) and the order [here](#).
- vi. A judge has ruled that four traders formerly of JP Morgan must face charges in relation to the case involving spoofing in precious metals futures which involved a fine of \$920m (see [here](#)).
1. An article on the Reuters web site about the ruling can be found [here](#). Two other traders have been convicted by a jury of wire fraud in relation to spoofing in precious metals futures.
2. The decision can be found [here](#).
- vii. FERC announced [here](#) that a hearing would be convened to determine if Total Gas & Power North America, Inc. broke market manipulation rules in Natural Gas on several occasions. The hearing is to take place within 45 days.
- viii. Cysec, the National Competent Authority of Cyprus, has fined a firm €40,000 for a breach of MAR. The fine is for "improper monitoring" under Article 16(2), which requires that firms "

maintain effective arrangements and procedures to detect and report suspicious orders and transactions". The decision in English can be found [here](#).

g. AML / KYC/ Reg Tech

- i. **JMLSG Update**
- ii. **FCA TADIG Q4 in October**
- iii. [FMLC-Response-to-Law-Commission-Call-for-Evidence-on-Digital-Assets; 30July2021.pdf](#)
 - a. [AFME Response to Law Commission Call for Evidence on Digital Assets FINAL.pdf](#)
 - b. [FMLC Minutes of July 2021 meeting – FMI DLT developments.pdf](#)
 - c. [Digital-Assets-The-Limits-of-the-Concept-of-Possession-13-08-21.pdf](#)
- iv. [GFMA; Considerations for Developing Central Bank Digital Currencies \(CBDCs\).pdf](#)
- v. [Market abuse regulation - A&O paper on the first five years and the outlook; 05Aig2021.pdf](#)
- vi. [EU and UK move towards the "travel rule" implementation for crypto-assets:](#)
 - a. *On 20 July 2021 the European Commission (the Commission) published a proposed [Regulation on transfer of funds and certain crypto-assets](#).*
- vii. [Refinitiv Global Risk & Compliance Report 2021; The Impact Of The Pandemic, Compliance Gaps And How Technology Is Reshaping Risk; 10Aug2021.pdf](#)

h. ESG Topics, D&I & Disclosures

- i. [Global warming will hit 1.5C by 2040, warns IPCC report.pdf](#)
 1. [The new IPCC 6th Assessment Report \(AR6\).pdf](#)
- ii. [Deloitte's on the ongoing debate about best to reflect climate risk in the bank capital framework.pdf](#)
- iii. [Fit for 55; EU rolls out largest ever legislative package in pursuit of climate goals; 15July2021.pdf](#)

i. Energy & ACER

- i. [LEBA; Energy Markets anti-abuse activities of interest over the month; 24 Aug 2021.pdf](#)
 - a. The incidents in question occurred from March 2019 to September 2020. In September 2020, Ofgem published [this](#) open letter stating around the setting of such "dynamic parameters" (also see [here](#)). The letter followed a fine of 37.2 million GBP levied in April 2020 (see [here](#)). A settlement of 6M GBP was reached with another market participant in December 2020 for a similar allegation (see [here](#)).
 - b. [ESB Independent Generation Trading Limited and Carrington Power Limited agree to pay £6 million for breaching wholesale energy market regulations](#)
- ii. Ofgem has opened a consultation on changes to REMIT Penalties Statement and REMIT Procedural Guidelines, which can be found [here](#). It covers changes to the procedural

guidelines relating to matters such as how and by whom breaches of REMIT are investigated, as well as how penalties are derived, with changes to, for example the “settlement windows” of fines.

- iii. Ofgem announced a settlement of 6 million pounds for an alleged inadvertent infringement of REMIT Article 5 relating to the Carrington asset owned by ESB Independent Generation Trading Limited. The notice can be found [here](#). The settlement relates to the Stability Export Limit (SEL) value submitted to the operator and the allegation that it did not reflect “the expected true operating characteristics of the Balancing Mechanism Unit.”
- iv. [LEBA & Trayport Energy volumes July 2021.pdf](#)
- v. [CMA backs move to slash returns for energy network investors; UK competition regulator upholds Ofgem’s price control regime despite appeals from operators.pdf](#)
- vi. [NordStream2 Update; 22nd Aug 2021.pdf - German court rejects Nord Stream 2 AG application for derogation from Third Energy Package](#)
 - a. A German court has ruled that the Nord Stream 2 gas pipeline due to open between Russia and Germany is subject to EU regulations relating to unbundling. This could have several impacts and a subsequent effect on wholesale gas prices. This article on the Reuters web site looks further at the ruling.
- i. [UK flagship Hydrogen Strategy paper was unveiled by BEIS on 18 August.pdf](#)

j. MiFID2.2/ MiFIR/ EMIR/ SFTR / CSDR



- i. [CPMI work programme for 2021-22; 05Aug2021.pdf](#)
- ii. [MiFID Review timeline - the year ahead 2021.pdf](#)
- iii. TVTIC -> [ESMA RTS2 Proposals for PreTrade Transparency Information; Aug2021.pdf](#)
- iv. [esma70-156-4263_guidelines_mifid_ii_mifir_obligations_on_market_data.pdf](#)
- v. [ISDA is expanding its SwapsInfo analysis to included IRD trading activity reported in Europe.pdf](#)
- vi. [ESMA; third-country ccps recognised under emir; 20Aug2021 Update.pdf](#)
- vii. ESMA has announced that there will be a hearing related to the consultation currently open(see [here](#)) around EMIR reporting on the 20th September. More details can be found [here](#). The consultation is around aspects of EMIR reporting in the EU that are part of a large change to reporting likely to be rolled out in 2023.
- viii. [list of market makers and primary dealers; 11Aug2021.pdf](#)
- ix. ESMA held 2 round tables in August to gather views on the CCP Brexit Access issue. FOA and AFME attended and they were anodyne. I’m meeting with Phil Whitehurst tomorrow to gather more feedback.

k. Benchmarks and LiBOR Topics





- i. [RISK; Interdealer brokers say they may continue to show US dollar Libor swap prices even after regulators have called for screens to go dark in October; Ben St. Clair; 09 Aug 2021.pdf](#)
- ii. [LIBOR transition industry and Market update; August 01st - August 15th 2021.pdf](#)
- iii. [The Working Group on £RFR Newsletter. August-2021.pdf](#)

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- iv.  [esma81-459-6_chair_letter_to_ec_on_eonia_designation.pdf](#)
 - v.  [Q&A on the Benchmarks Regulation \(BMR\) ; 01Aug2021; esma70-145-114_gas_on_bmr.pdf](#)



i. FX and Money Markets

- i.  [RISK; Six banks accused of manipulation may see 40% reduction in damages if UK lawsuit proceeds along 'opt-out' route. Rebekah Tunstead; 02 Sep 2021.pdf](#)
- ii.  [Results of the Semi-Annual FX Turnover Surveys in April 2021; table-of-participants-and-tables-1-4.pdf](#)

m. US, No-Action, Interpretative Letters, Other Written Communications, and Advisories

- i. [CFTC's Energy and Environmental Markets Advisory Committee to Meet September 15;](#)
 - a. Meeting to discuss how the derivatives markets can facilitate the transition to a low-carbon economy, including the status of carbon reduction through cap-and-trade and other carbon trading market mechanisms.
 - b. The discussion at the June 3rd meeting included a proposal to form an EEMAC subcommittee to provide a report to the EEMAC on guiding principles for the design of the derivatives and underlying cash markets for environmental products, such as carbon allowances and offsets, that are used to address greenhouse gas emissions.
 - c. At this meeting, the EEMAC will further discuss this proposal and vote whether to recommend that the Commission approve the formation of a subcommittee.
 - d. Full details, including agenda, [here](#)
- ii.  [sec-fca-boe-mou-2021.pdf](#)
- iii. [U.S. Securities and Exchange Commission and the European Central Bank Sign Memorandum of Understanding Regarding Cooperation with Respect to Security-Based Swap Entities](#)
- iv.  [CFTC Staff Letter 21-17; 4 New UK MTFs & OTFs; 31Aug2021.pdf](#)
- v.  [CFTC NAL 21-18; Time-Limited No-Action Position for Bank Swap Dealers from certain Financial Reporting Requirements.pdf](#)
- vi.  [FINRA-SEC-July-2021.pdf](#)
- vii. [SEC Issues Whistleblower Awards Totaling More Than \\$4 Million & SEC Awards \\$3.5 Million to Whistleblowers in Two Enforcement Actions & SEC Issues Nearly \\$6 Million in Whistleblower Awards & SEC Issues Whistleblower Awards Totaling \\$2.6 Million](#)

n. Regulatory Roadmap, Calendar and Weekly Roundups for June

- i.  [Weekly update on Key Regulatory Topics; Week 30; 26th July 2021 to 31st July 2021.pdf](#)
- ii.  [Weekly update on Key Regulatory Topics; Week 31; 02nd August 2021 to 07th August 2021.pdf](#)

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- iii.  [Weekly update on Key Regulatory Topics; Week 33; 16th August 2021 to 21st August 2021.pdf](#)
 - iv.  [Weekly update on Key Regulatory Topics \(Week 34; 23rd August 2021 to 28th August 2021\).pdf](#)
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