

EVIA & LEBA Monthly Compliance Meeting

0830 Wednesday 06th October 2021

[Virtual Meeting via MS Teams - Click here to join the meeting](#)
[+44 20 4526 6312.520155074#](#)

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

a. Matters arising

- i. [EVIA & LEBA Compliance Advisory; Regulatory Activities & Initiatives Grid; 0830 Wednesday 06th October 2021.pdf](#)
- ii. [Notes on the call with FCA on the scope and application of the MRT regime to non-SNI IFs and TVs; 04th October 2021.pdf](#)
- iii. [EVIA reply to FCA Dear CEO Letter of 24th July 2020; Inappropriate use of 'TTCAs' & regulatory permissions for financing transactions.pdf](#)
- iv. [Staff Advisory on Swap Execution Facility Registration Requirement; 29Sep2021; 21-19.pdf](#)
 1. [enfsymphonyorder092921.pdf](#)
- v. [Spotlight-Review-'Hybrid-working-in-FICC-markets--Future-risk-management-frameworks-.pdf](#)
- vi. [EVIA response to HMT Wholesale Markets Review Final.pdf](#)
 1. [AFME on WMR Q17; that regulatory or industry guidance about how venues should operate and what they should communicate during an outage would be useful.pdf](#)
- vii. [esma70-156-4572_mifid_ii_final_report_on_algorithmic_trading.pdf](#)
- viii. [CSDR; ESMA publishes letter to EU Commission recommending delay to buy-in rules.pdf](#)
- ix. [Verena Ross to chair the European Securities and Markets Authority; 22 September 2021.docx](#)
- x. [LSE's CurveGlobal Markets to close in Jan.pdf](#)
- xi. [MAS revises notice on recommendations relating to investment products;.pdf](#)
- xii. Enforcement Actions bumped in September

b. Latest FCA Policy Development updates:

- i. [EVIA Notes from TACC meeting 28 September 9-10.30am.pdf](#)
- ii. [FCA Derivatives Trading Obligation Register; Sept 2021.pdf](#)
- iii. [pimfa-demands-fca-end-policy-deluge-calls-for-brexif-ifpr-delay.pdf](#)
- iv. [FCA Regulation Roundup September 2021 – update on SMR and AR applications and switching off fsa gov uk redirects.pdf](#)
- v. [Seizing opportunity – challenges and priorities for the FCA](#)
- vi. [FCA's proposals for a new listing regime](#)
- vii. [FCA to move faster to remove unused firm permissions](#)
- viii. [PRA & FCA; Dear Senior Management Function letter; 2021 CBEST thematic findings](#)






c. UK Government

- i. [!\[\]\(815df092dd722ee9268ef8e6d0193e3a_img.jpg\) EVIA response to HMT Wholesale Markets Review Final.pdf](#)
- ii. [!\[\]\(c72edb9626cad660f3a9f5fb0f22a68c_img.jpg\) Note of EVIA Call with HMT on Next Steps for FRF and WMR for the UK Wholesale Markets Framework; 1600 -1630 Tuesday 21st September 2021.pdf](#)
- iii. [!\[\]\(0c564128c6342bd2f601e97f4518828a_img.jpg\) Notes on APPG meeting with John Glen MP, Economic Secretary to the Treasury.pdf](#)
 - a. [!\[\]\(5cb79a1c9acdf5d94bce345803852578_img.jpg\) Letter from Lord Frost to Sir Iain Duncan Smith on the Taskforce on Innovation Growth and Regulatory Reform.pdf](#)
 - b. [!\[\]\(cc23775bf31a648cde5902baa397f9aa_img.jpg\) UK Treasury Committee response to the report on the Future Regulatory Framework of Financial Services; 20 September 2021.pdf](#)
 - c. [!\[\]\(0f607256894bb1ede5f4e367e10faa26_img.jpg\) Government Response to the HMT Report Future Framework for Regulation of Financial Service.pdf](#)
- iv. [!\[\]\(b5a96c12e7c148f5f0a1e79e6e3ae06f_img.jpg\) Brexit impact on trading location; Global OTC IRS markets – Q2 review; OSSTRA; Kirston Winters; 1 September 2021.pdf](#)
- v. [!\[\]\(b1ec1765ecac1504c3ad80161aa698d7_img.jpg\) Financial industry urges Brussels to extend access to UK clearing houses; Banks and asset managers warn of 'major' market disruption when licence expires next year.pdf](#)

d. IFPR – IFR (Op Risk and Resilience)





- i. [!\[\]\(c6a8736a601a632e2c96605cf66055ed_img.jpg\) BaFin publishes guidance notice on suspension of trading on non-exchanges in resolution.pdf](#)
- ii. [Commission adopts Delegated Regulations setting out RTS on prudential requirements under IFR; On 28 September 2021, the European Commission adopted the following Delegated Regulations containing RTS relating IFR](#)
 - a. [Commission Delegated Regulation \(EU\) of 24.9.2021 supplementing the IFR with regard to RTS specifying the amount of total margin for the calculation of the K-factor "clear margin given".](#)
 - b. [Commission Delegated Regulation \(EU\) of 24.9.2021 supplementing the IFR with regard to RTS specifying the notion of segregated accounts to ensure client money's protection in the event of an investment firm's failure.](#)
 - c. [Commission Delegated Regulation \(EU\) of 22.9.2021 supplementing the IFR with regard to RTS specifying the methods for measuring the K-factors referred to in Article 15 of that Regulation.](#)
 - d. The Council of the EU and the European Parliament will now scrutinise the Delegated Regulations. If neither object, they will enter into force 20 days after their publication in the Official Journal of the European Union.

e. Conduct / Enforcement/ PFOF

-
- i.  [The Evolving Line Between Legal and Illegal Trading and Sales Practices in the Market Intermediary and Customer Relationship; Legal and market considerations for broker-dealers and customers.pdf](#)
 - ii.  [ESMA fines UnaVista trade repository €238,500 for EMIR data failures; 24Sept2021.docx](#)
 - iii.  [FCA issues warning notice to 3 traders for spoofing; 10Sept2021.pdf](#)
 - iv.  [29 Sep 2021; Currenex case may herald focus on e-FX's 'Wild West' days & Currenex class action faces hurdles, say legal experts.pdf](#)
 - v.  [an FX class action decision worth millions; Six banks accused of manipulation may see 40% reduction in damages if UK lawsuit proceeds along 'opt-out' route.pdf](#)
 - vi. It has been announced by Bundesnetzagentur, the National Regulatory Authority of Germany, that two fines have been levied on market participants for breaches of REMIT Article 5. The announcement in English can be found [here](#) and in German [here](#). Further information in German is available [here](#).
 1. The fines of 200,000 EUR and 175,000 EUR were levied for improper activity in the short term electricity market on three days in 2019. The market participants were accused of selling electricity in the intra day market with no intention of delivery where the intra day price was high and the balancing price lower. This caused imbalances in the market.
 - vii. [CFTC Imposes A \\$1.25 Million Penalty against Kraken for Offering Illegal Off-Exchange Digital Asset Trading and Failing to Register as Required , 8433-21](#)
 - viii. [CFTC Orders Interactive Brokers LLC to Pay a \\$1.75 Million Penalty for Supervision Failures, 8432-21](#)
 - ix. [CFTC Imposes \\$650,000 Penalty Against Refinitiv US SEF LLC for Swap Reporting Failures , 8430-21](#)
 1. The order specifically finds that from at least February 2016 through August 2020 Refinitiv failed to report certain primary economic terms for at least 320,000 swap transactions, as required under Sections 2(a)(13)(G) and 4r(a)(1) of the Commodity Exchange Act and CFTC Regulation 45.3.
 2. According to the order, rather than designing its reporting systems to meet Part 45 requirements, Refinitiv designed its reporting systems to meet the specifications of its Swap Data Repository, which identified certain fields required by Part 45 of the CFTC Regulations as optional.
 3. As a result, according to the order, during the relevant period, Refinitiv failed to report certain swap creation data for hundreds of thousands of trades. The missing swap creation data included Part 45 primary economic terms such as the financial entity status and the U.S. person indicator for each counterparty.
 4. On multiple occasions, Refinitiv knew, or had reason to suspect, that it was not complying with Part 45 reporting requirements, but failed to detect and remedy its noncompliance. For example, Refinitiv acknowledged in its 2013 annual Chief Compliance Officer Report, required by CFTC regulations, that Refinitiv: (1) had failed to report whether and to what extent swaps were collateralized, another Part 45 primary economic term; (2) had reason to suspect that its reporting systems were failing to report other required swap data; and (3) would undertake a compliance review of its reporting systems to address those suspicions.
 5. This compliance review of its reporting systems was completed 10 months later during Refinitiv's application for full registration and failed to detect

Refinitiv's ongoing reporting failures. As a result, Refinitiv took steps to address its reporting failures only after they were reported to Refinitiv by two of its clients, and reporting failures continued until August 2020. However, Refinitiv then self-reported the ongoing violations to the CFTC.

f. AML / KYC/ Reg Tech

- i. JMLSG Update
- ii. FCA TADIG Meeting Next Week – Operational Resilience theme
- iii.  [OPBAS publishes report on progress and themes from 2020_21.pdf](#)
 - a. The professional body anti-money laundering supervisors of the accountancy and legal sectors (PBSs) have improved in recent years to achieve a level of compliance with the technical requirements of the Money Laundering Regulations (MLRs).
 - b. However, as set out in its [latest report](#), OPBAS continues to find differing levels of achievement and some significant weaknesses. OPBAS expects PBSs to continue investing and improving, focusing their supervisory efforts to have the greatest impact on the prevention of money laundering, and working with other authorities to make the UK an inhospitable place for criminals.
- iv.  [PRA & FCA; Dear Senior Management Function letter; 2021 CBEST thematic findings.pdf](#)
 - a. CBEST is a framework for intelligence-led penetration testing which focuses on an organisation's security controls and capabilities when faced with a simulated cyber-attack. The simulated attacks used in testing are tailored to the threat and vulnerability profile of each organisation and represent an evidence-based and robust testing approach.
 - b. The letter sets out the results of the latest CBEST assessment so that the relevant SMF holder may ensure that their firm is able to benefit from the identification of the weaknesses found and thereby address potential similar weakness in their firm.
 - c. The relevant SMF holder should also raise awareness in their senior executive team and use the letter to inform the work of their firm's risk and internal audit functions.
- v.  [UK Finance paper 'Navigating the path to respectability; Making sense of the financial crime risk posed by cryptoassets and how to manage it appropriately'.pdf](#)
- vi.  [Broker-Dealer Alert; Filing Suspicious Activity Reports Could Get Harder; September 20 2021; Chris Kentouris.pdf](#)
- vii. BIS; [Ellipse: regulatory reporting and data analytics platform](#) - An integrated regulatory data and analytics platform
- viii. [BOE Letter to Central Securities Depositories \(CSDs\) in relation to material outsourcing to the public cloud](#)

h. ESG Topics, D&I & Disclosures

-
- i. [!\[\]\(ce77bba2916ff045bdb9f4584b191293_img.jpg\) SEC publishes sample letter regarding climate change disclosures.pdf](#)
 - ii. [!\[\]\(b31d4eff00ee94d2cc889725763ab186_img.jpg\) ERCC publishes summary report following market consultation on the role of repo in green and sustainable finance; 20Sept2021.pdf](#)
 - iii. [A regulatory perspective: measuring and assessing culture, now and in the future, the role of purpose and the importance of D&I - Sheldon Mills, Executive Director, Consumers and Competition](#)
 1. Culture remains central to how we supervise the firms we regulate. The importance of an authentic, embedded purpose, visible leadership and an inclusive environment where staff feel safe to speak up is paramount.
 2. Hybrid working brings opportunities and challenges. Firms need to find approaches that give due regard to safeguarding their purpose and values, the wellbeing of staff and effective oversight.
 3. Diversity and Inclusion is an aspect of culture where the investment management sector has considerable ground to make up. We welcome the initiatives led by the IA but lasting change will only come from firms looking at their own culture and taking action.
 4. Firms in the investment management sector have a huge sphere of influence on ESG, both to improve their own ESG performance and to drive positive change through their investments. We look to firms in the sector to be effective stewards.

i. Energy & ACER

- i. [!\[\]\(9a53fe79a03d38d8322f7a2c5a875b36_img.jpg\) Draft Agenda REMIT Forum. Plenary session 25.10.2021.pdf](#)
- ii. [FMSB on Metals Conduct; !\[\]\(01f19d40f03100aa8a158c4891453b0d_img.jpg\) v0.14 Spotlight Review 01Oct21.pdf](#)
- iii. [!\[\]\(e08cd99387e13601e6c12f535030ab90_img.jpg\) FMSB_Metals_Group_Key_Issues_Summary_\(Final\).pdf](#)
- iv. [!\[\]\(e3c5fe615c12e7c56b62fb195faeae4a_img.jpg\) LEBA_Energy_Analysis_August_2021.pdf](#)
- v. [!\[\]\(6aec4d00b96dc4cf314c28b4f6a2f794_img.jpg\) LEBA response to RO Energy Law - Consultation Government Emergency Ordinance \[Romanian Language\].pdf](#)
- vi. [!\[\]\(db4fca45ba492d982942ae181ae25056_img.jpg\) US vows to 'stand up' to alleged gas market manipulation in Europe; Increase in prices raises 'serious concerns' on supply and security, says energy secretary Jennifer Granholm Jennifer Granholm.pdf](#)
- vii. [!\[\]\(b4e236ae5d411cc2ae5909119861eea0_img.jpg\) UK energy groups in emergency talks with government over natural gas crisis; Concern grows that four more suppliers could go out of business as power prices hit record highs.pdf](#)
- viii. Gas benchmarks reached new highs in September, as the global gas market is entering a period of unprecedented tightness. *in Europe, TTF averaged at \$21.6/mmbtu, highest level on record and up by 40% compared to August. this has been driven by strong storage injections, low wind and tighter supply, as Russian flows to the EU dropped by over 10% yoy.*
 - a. in Asia, JKM followed a similar path, with prices averaging at a record of \$23/mmbtu, on strong competition with TTF. China's LNG imports were up by almost 20%, probably driven by restocking needs ahead of the winter season. oil-indexed LNG is now less than half of the spot.
 - b. in the US, Henry climbed above \$5/mmbtu, to reach its highest September level since 2008. this is despite declining domestic demand, and increasing

production. strong growth in LNG exports and the damage from Ida, as well as low stocks are driving up gas prices. stronger pipeline imports from Canada (up by 30% yoy) supported AECO, which climbed close to \$3/mmbtu.

Natural gas price benchmarks –September 2021 (\$/mmbtu)



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

- i. [ESMA24-433-133 - EVIA response to the Survey on DTO.docx](#)
- ii. [Speech by Natasha Cazenave on ESMA's priorities for derivatives; 28 September 2021.docx](#)
- iii. [esma70-156-4572_mifid_ii_final_report_on_algorithmic_trading.pdf](#)
- iv. [esma70-872942901-35_gas_transparency_issues\[03oct2021\].pdf](#)
- v. [EVIA note on Joint Trades dialogue with EC on Settlement Discipline under CSDR.pdf](#)
 1. [CSDR; ESMA publishes letter to EU Commission recommending delay to buy-in rules.pdf](#)
- vi. [ESMA EMIR Refit Reporting TS Slides; 1400 Monday 20th Sept 2021.docx](#)
- vii. [jc_2021_34 - jc_work_programme_2022.pdf](#)
- viii. [ERCC paper on the first year of SFTR public data on repo; 29September 2021.pdf](#)
- ix. [Uncleared Margin Rules Phase Six; Five Step SCOPE Approach; Chris Kentouris; FinOps Report; September 21, 2021.pdf](#)
- x. [US fund filings show CME taking bite out of LCH swaps share; RISK from SEC Filings; 08Sep2021.pdf](#)
- xi. [CoalitionIndex1H21.pdf](#)

k. Benchmarks and LiBOR Topics

- i. [LIBOR transition industry and market update; A large parachute from FCA, Regulators & CSRs; Knives Out, and A \(different\) SOFR; 06 October 2021.pdf](#)
- ii. [EVIA note; Lots more on Libor Transition in the Last Week of September.pdf](#)
- iii. [LIBOR Transition; Market update; September 1-15.pdf](#)
- iv. [ClarusFT; Live Blog; RFR First In Cross Currency Swaps; Chris Barnes September 21, 2021.pdf](#)

-
- v. [!\[\]\(f15d3c54be60b4fd0ce1da9fb3f67256_img.jpg\) Opening remarks from Toby Williams at AFME_IMN Global ABS on 17 September 2021.pdf](#)
 - vi. [Further arrangements for the orderly wind-down of LIBOR at end-2021](#)
 - vii. [!\[\]\(7bf135d42c40a6430c927b2fd03d7659_img.jpg\) CC Briefing; Synthetic-libor-and-uk-contractual-continuity.pdf](#)

I. FX, Cryptoassets and Money Markets

- i. [!\[\]\(b1b781be830eb908d845c527ab08d5f8_img.jpg\) UK bank derivatives exposures fall by £321bn in Q2; At £1.12 trillion, FX exposures are at their lowest levels for seven years.pdf](#)
- ii. [!\[\]\(2176a4ba510fa27404d783166e891577_img.jpg\) FX Volumes Bounce Back in September - CME, EBS ADV Bounces, NDFs Also on the Up.pdf](#)
 - 1. [!\[\]\(a3b1c8d49688274496e55f2751cb8993_img.jpg\) CLS_FX_Trade_Volume_Report_Aug2021.pdf](#)
- iii. [!\[\]\(428d7e9195be7f8a26074c24b6c91839_img.jpg\) So how seriously FX market participants take the FX Global Code over the coming year; 22 September 2021.pdf](#)
 - 1. [!\[\]\(ed97b77223b22ee5f7630fce8232c643_img.jpg\) GFXC set to tackle reject codes; Co-vice-chair Neill Penney says group will seek to bring clarity to codes assigned to rejected FX trades.pdf](#)
 - 2. [!\[\]\(09fbf882b1c74e1d905570cb87137f75_img.jpg\) Last look guidance receives mixed reviews; Some liquidity providers back GFXC guidance; others say it doesn't go far enough.pdf](#)
- iv. [!\[\]\(38a5711a91e51bcf581270eb937dfb8f_img.jpg\) Banks lure FX algo sharks into shallow waters; Sick of losing out to predatory HFTs, dealers are trying to create liquidity pools they can trust.pdf](#)
- v. [!\[\]\(77ca010aba4da5e8432b17ebfa836139_img.jpg\) The European Commercial Paper and Certificates of Deposit Market; A white paper by the ICMA Commercial Paper Committee; 29Sep2021.pdf](#)
- vi. [!\[\]\(487663b347e68df8fff3380f58dc0cc7_img.jpg\) China expands crackdown by declaring all crypto activities 'illegal'; People's Choice.pdf](#)
- vii. [!\[\]\(ba6309ee69e3329bacc81ec8acea4b7a_img.jpg\) CC Briefing; Digital-developments-in-the-capital-markets-summer-2021.pdf](#)
- viii. BIS press release: [Central banks and the BIS explore what a retail CBDC might look like](#)
 - 1. Seven central banks and the BIS take forward their work on retail central bank digital currencies and analyse policy options and practical implementation issues
 - 2. New set of reports explores how CBDCs could best meet users' future needs through developing interoperable systems that support private innovation while preserving public trust
 - 3. Extensive cooperation and dialogue will be required to develop and run a CBDC, preserving the centrality of central bank money for future systems that anchor public trust and support public welfare
- ix. [Inthanon-LionRock to mBridge: Building a multi CBDC platform for international payments; Joint report by the BIS Innovation Hub Hong Kong Centre, the Hong Kong Monetary Authority, the Bank of Thailand, the Digital Currency Institute of the People's Bank of China and the Central Bank of the United Arab Emirates.](#)

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

-
- i. [!\[\]\(cf5be311f7b2821912d8009884508fa2_img.jpg\) US bond lobbies warn SEC of severe disruption under rule change; Regulator's application of 50-year-old statute would have 'significant, deleterious effect', trade groups say.pdf](#)
 - a. [!\[\]\(9804e70d96ff9fe9899b264c06a33cd7_img.jpg\) BDA Letter to SEC May 2021; SEC_15c2-11_Ltr.pdf](#)
 - ii. [!\[\]\(4f49380f3d6bce047bc47b2072cc076f_img.jpg\) SEC Revives Payment for Order Flow Debate; TABB; 16Sept2021.pdf](#)
 - a. [!\[\]\(73944fd4f6fb83e4c64013731d1820cc_img.jpg\) Why US regulators should allow payment for order flow to continue; Banning practice would throw a wrench into the well-oiled machine of the most efficient markets in the world.pdf](#)
 - iii. [Statement of Commissioner Dan M. Berkovitz: Intent to Depart and join the SEC as General Counsel](#)
 - iv. **CFTC DMO director Dorothy DeWitt will step down from her role with immediate effect.**
 - a. DeWitt has led DMO since joining the agency in September 2019. Her departure comes at a time of major change at the CFTC with commissioner Dan Berkowitz stepping down later this month to take up a role as general counsel at fellow regulator the SEC. This leaves the CFTC with only two sitting commissioners instead of a full complement of five.
 - v. [CFTC Orders Cargill to Pay \\$750,000 for Swap Reporting Failures and Failure to Supervise, 8442-21](#)
 - vi. [CFTC Staff Issues Temporary No-Action Letter to Non-Bank Swap Dealers Domiciled in Japan, Mexico, United Kingdom and the European Union, 8440-21](#)
 - vii. [CFTC Staff Provides Temporary No Action Relief from Certain Financial Reporting Requirements to Bank Swap Dealers , 8422-21](#)
 - viii. [CFTC Orders Société Générale S.A. to Pay \\$1.5 Million for Mid-Market Mark, Swap Valuation Data and Supervision Failures , 8437-21](#)
 - ix. [CFTC Staff Issues Advisory to Clarify Activities that May Trigger the SEF Registration Requirement, 8436-21](#)
 - x. [CFTC Orders California Company to Pay \\$100,000 for Failing to Register as a Swap Execution Facility , 8435-21](#)
 - xi. [CFTC Charges 14 Entities for Failing to Register as FCMs or Falsely Claiming to be Registered , 8434-21](#)
 - xii. [CFTC Imposes A \\$1.25 Million Penalty against Kraken for Offering Illegal Off-Exchange Digital Asset Trading and Failing to Register as Required , 8433-21](#)
 - xiii. [CFTC Orders Interactive Brokers LLC to Pay a \\$1.75 Million Penalty for Supervision Failures, 8432-21](#)
 - xiv. [CFTC Imposes \\$650,000 Penalty Against Refinitiv US SEF LLC for Swap Reporting Failures , 8430-21](#)
 - xv. [CFTC Orders Citibank and Citigroup Global Markets Limited to Pay a \\$1 Million Penalty for Swap Data Reporting Violations, Related Supervision Failures, and Violation of a prior CFTC Order , 8428-21](#)

n. Regulatory Roadmap, Calendar and Weekly Roundups for June

- i. [!\[\]\(4e333a6106fc298d0ae6dff272a736ef_img.jpg\) Weekly update on Key Regulatory Topics: Week 39; 27th September 2021 to 01st October 2021.pdf](#)

- ii.  [Weekly update on Key Regulatory Topics; Week 38; 20th September 2021 to 25th September 2021.pdf](#)
 - iii.  [Weekly update on Key Regulatory Topics; Week 37; 13th September 2021 to 17th September 2021.pdf](#)
 - iv.  [EVIA Weekly News; Week 36; 06th September 2021 to 10th September 2021.pdf](#)
-