Financial Markets in brief
– new regulation and other developments
April 12, 2017

There have been many developments in national and European financial markets regulation during the past month, including the European Commission’s launch of a consumer financial services action plan. In this article, we provide a brief overview of this and other developments.

Highlighted publications

European consumer financial services action plan
The European Commission has presented an action plan to facilitate a single market for consumer financial services. These financial services include bank accounts, car insurance and money transfers. The Commission wants to focus on:

- increasing consumer trust and empowering consumers when buying financial services at home or from other member states
- reducing legal and regulatory obstacles affecting businesses seeking to expand abroad
- supporting the development of an innovative digital world

As part of this action plan, the Commission has launched a consultation on technology and its impact on the European financial services sector. It focuses on:

- technology neutrality, so that the same rules apply to traditionally-sold products and services as products sold digitally, to ensure innovation and a level playing field
- proportionality, ensuring the rules are suitable for regulated entities of different sizes, business models, and entities performing different activities
- improved integrity to safeguard transparency, privacy and security for consumers

Netherlands response to Capital Markets Union consultation
The Dutch Ministry of Finance, the Dutch Ministry of Economic Affairs, the Netherlands Authority for the Financial Markets (AFM) and the Dutch Central Bank (DNB) have published a joint reaction to the consultation on the Capital Markets Union. Although they welcome the Commission’s proposals, they propose additional actions on the disclosure of information, financial reporting, sustainability, and European oversight and supervisory convergence.

Minister of Finance letter about new legislation
The Dutch Minister of Finance has published his yearly letter to the Dutch financial supervisors AFM and DNB, in which he responds to their requests for additional legislation. The Minister will explore the feasibility of a number of their suggestions, including:

- additional regulation for automated advice
- better protection of consumers’ interests in data analysis
- a general duty of care for pension providers
- the possibility of hearing appeal cases about the suitability assessment of board members behind closed doors
- using the Dutch citizen service number (BSN) for the deposit guarantee scheme

Decree on disclosure of non-financial information in force
This ‘decrees’ entered into force on 24 March 2017. The Decree implements the EU directive on disclosure of non-financial and diversity information. The disclosure of diversity information is dealt with in a separate decree, which entered into force on 31 December 2016. Both decrees apply to annual reports for the 2017 financial year.

The decree requires public interest entities (PIEs) to include in the annual reports a non-financial statement containing information on environmental matters, social and employee-related matters, respect for human rights, and anti-corruption. This statement must include a description of the policies, outcomes and risks related to those matters. If there are no such policies, the entity has to explain their absence. The accountant will audit the non-financial statement. This audit is in line with the audit of the management report. Currently banks, insurers and reinsurers are designated as PIEs. Recently, a draft decree has been published for consultation that designates large pension funds as PIEs as well. The consultation ends on 1 May 2017.

Remaining MiFID II provisions to be implemented in Dutch legislation
The Dutch Minister of Finance has published a draft decree for consultation, implementing the remaining MiFID II provisions for investments firms. These provisions include:

- minimum criteria on knowledge and expertise required when informing or advising clients
- requirements for the product development process
- requirements for the provision of information to investors
- requirements for investor protection
- requirements for inducements

Other publications

EC

- Draft implementing regulation on the extension of transitional period for exposure to CCPs, EC, 31 March 2017
- Accelerating the capital markets union: addressing national barriers to capital flows, EC, 24 March 2017
- Public consultation on FinTech: a more competitive and innovative European financial sector, EC, 23 March 2017
- Impact assessment: Review of the appropriate prudential treatment for investment firms, EC, 22 March 2017
- Public consultation on the operation of the European Supervisory Authorities, EC, 21 March 2017
- Commission Delegated Regulation amending Delegated
Regulations as regards the deadline for compliance with clearing obligations for certain counterparties dealing with OTC derivatives, EC, 16 March 2017

Commission Delegated Regulation supplementing PRIPPs Regulation by laying down RTS with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents, EC, 8 March 2017

Overview/Planning Level 2 legislative measures in the area of financial service, EC, 8 March 2018

Report – Market developments potentially requiring the use of Article 459 CRR, EC, 8 March 2017

Briefing: “Fines for misconduct in the banking sector – what is the situation in the EU?”, EP, 29 March 2017

Briefing – Presentation of the SSM 2016 Annual Report by Danièle Nouy, Chair of the Single SSM, EP, 23 March 2017

Improving access to finance for young innovative and socially beneficial companies, EP, 22 March 2017


Briefing – Hearing with Mrs Elke König, Chair of the SRB, EP, 22 March 2017

Briefing – The EU macro-prudential policy framework, EP, 17 March 2017


Briefing – Completing the Banking Union – Risk sharing initiatives and parallel risk reduction measures, EP, 10 March 2017

EBA updated Risk Dashboard confirms that elevated NPLs and low profitability are the main challenges for the EU banking sector, EBA, 3 April 2017

EBA welcomes Central Bank of Kosovo to the Memorandum of Cooperation with South Eastern European banking supervisors, EBA, 31 March 2017

EBA Report on the functioning of supervisory colleges in 2016, EBA, 22 March 2017

EBA updates list of OISIs in the EU, EBA, 15 March 2017

EBA to centralise notifications on resolution cases and use of DGS funds across the EU, EBA, 14 March 2017

Revised list of ITS validation rules, EBA, 10 March 2017

Opinion on improving decision-making for supervisory reporting, EBA, 8 March 2017

Final guidelines on LCR disclosure, EBA, 8 March 2017

ESMA updates MiFID II/MIFIR investor protection Q&As, ESMA, 4 April 2017

ESMA proposes updates to endorsement guidelines for 3rd country credit ratings, ESMA, 4 April 2017

ESMA updates Q&A on MiFIR data reporting, ESMA, 3 April 2017

ESMA updates EMIR Q&A and validation rules, ESMA, 3 April 2017

Final Report Draft RTS specifying the scope of the consolidated tape for non-equity financial instruments, ESMA, 31 March 2017

Q&A on the provision of CFDs and other speculative products to retail investors under MiFID, ESMA, 31 March 2017

Q&A on CSDR implementation, ESMA, 31 March 2017

Final Report Draft technical standards under the Benchmarks Regulation, ESMA, 30 March 2017

ESMA updates list of recognised third-country CCPs, ESMA, 30 March 2017

ESMA issues clarification on credit ratings and rating outlooks publication timelines, ESMA, 29 March 2017

ESMA publishes two sets of guidelines under CSDR, ESMA, 23 March 2017

Access by a CSD to the transaction feeds of a central counterparty (CCP) or of a trading venue, ESMA, 23 March 2017

CSD participant default rules and procedures, ESMA, 23 March 2017

CRA Guidelines on the validation and review of methodologies now available in all EU languages, ESMA, 23 March 2017

ESMA to cooperate with non-EU regulators on CCPs, ESMA, 20 March 2017

ESMA sees high market and valuation risk amid substantial political and policy uncertainty, ESMA, 20 March 2017

Updated table: Draft Technical Standards, ESMA, 13 March 2017

ESMA to cooperate with non-EU regulators on CCPs, ESMA, 20 March 2017

ESMA sees high market and valuation risk amid substantial political and policy uncertainty, ESMA, 20 March 2017

Updated table: Draft Technical Standards, ESMA, 13 March 2017

First set of CSDR Q&As, ESMA, 13 March 2017

EIOPA

Technical documentation of the methodology to derive EIOPA’s risk-free interest rate term structures, EIOPA, 31 March 2017

Q&A on Regulation, EIOPA, 31 March 2017

Solvency II: Methodology to derive the ultimate forward rate, EIOPA, 24 March 2017 (publication date)

Q&A on Regulation, EIOPA, 16 March 2017

2016 Market development report on occupational pensions and cross-border IORPs, EIOPA, 10 March 2017

Monthly Technical Information for Solvency II Relevant Risk Free Interest Rate Term Structures – end-February 2017, EIOPA, 7 March 2017

Monthly update of the symmetric adjustment of the equity capital charge for Solvency II – February 2017, EIOPA, 7 March 2017

ECB

List of supervised entities, ECB, 28 March 2017

ECB annual report on supervisory activities 2016, ECB, 23 March 2017

ECB publishes guidance to banks on tackling non-
performing loans, ECB, 20 March 2017

Official Journal EU

- Commission Delegated Regulation (EU) 2017/592 of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the criteria to establish when an activity is considered to be ancillary to the main business, OJ, 31 March 2017
- Commission Delegated Regulation (EU) 2017/390 of 11 November 2016 supplementing CSDR (EU) No 909/2014 with regard to RTS on certain prudential requirements for CSDs and designated credit institutions offering banking-type ancillary services, OJ, 31 March 2017
- Commission Delegated Regulation (EU) 2017/391 of 11 November 2016 supplementing CSDR (EU) No 909/2014 with regard to RTS further specifying the content of the reporting on internalised settlements, OJ, 31 March 2017
- Commission Implementing Regulation (EU) 2017/393 of 11 November 2016 laying down ITS with regard to the templates and procedures for the reporting and transmission of information on internalised settlements in accordance with CSDR (EU) No 909/2014, OJ, 31 March 2017
- Commission Implementing Regulation (EU) 2017/394 of 11 November 2016 laying down ITS with regard to standard forms, templates and procedures for authorisation, review and evaluation of CSDs, for the cooperation between authorities of the home Member State and the host Member State, for the consultation of authorities involved in the authorisation to provide banking-type ancillary services, for access involving CSDs, and with regard to the format of the records to be maintained by CSDs in accordance with CSDR (EU) No 909/2014, OJ, 31 March 2017
to regulatory technical standards for the maintenance, OJ, 31 March 2017


- Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits, OJ, 31 March 2017

- Commission Implementing Regulation laying down ITS with regard to common procedures, forms and templates for the consultation process between the relevant competent authorities for proposed acquisitions of qualifying holdings in credit institutions as referred to in Article 24 of CRD IV OJ, 17 March 2017

MinFin

Kamerbrief moties en toezeggingen op het terrein van de financiële markten voorjaar 2017, MinFin, 3 April 2017

Beantwoording vragen Eerste Kamer over de evaluatie van de algemene zorgplicht van financiële dienstverleners, MinFin, 31 March 2017
Nieuwe stap in strijd tegen witwassen en terrorismefinanciering, MinFin, 31 March 2017
Verslagen DNB en de AFM op grond van de Kaderwet zelfstandige bestuursorganen, MinFin, 30 March 2017
Verslag Eurogroep en Ecowraad, MinFin, 29 March 2017
Wetgevingsbrief financiële markten 2017, MinFin, 24 March 2017
Consultatiereactie mid-term review actieplan kapitaalmarktunie, MinFin, 22 March 2017
Beantwoording Kamervragen over het bericht ‘Onderzoek witwas via geldautomaat’, MinFin, 22 March 2017
Kamerbrief tegemoetkoming wettelijke rente uitkeringen depositogarantiestelsel, MinFin, 22 March 2017
Kamerbrief leidraad AFM berekening vergoeding bij vervroegd aflossing van de hypotheek, MinFin, 20 March 2017
Herstelwet financiële markten 2017, MinFin, 16 March 2017
Antwoorden Kamervragen over risico-reducerende maatregelen, MinFin, 9 March 2017
Beantwoording Kamervragen over openbaarmaking van kapitaaleisen van banken, MinFin, 7 March 2017

MinSZW
Kamerbrief bank sparen pensioen, MinSZW, 17 March 2017
Beantwoording Kamervragen over het artikel ‘Pensioenfederatie: ‘Netto pensioen is vaak loos product’, MinSZW, 16 March 2017

AFM
DNB en de AFM verbeteren proces van personentoetstingen, AFM, 30 March 2017
AFM meet consumentengedrag in de praktijk, AFM, 28 March 2017
Leidraad ‘Vergoeding voor vervroegde aflossing van de hypotheek’, AFM, 20 March 2017
Toetsrente hypotheken voor tweede kwartaal 5%, AFM, 16 March 2017
Activiteitenkalender toezicht 2017, AFM, 10 March 2017
Reactie AFM consultatie Herziening van de Wft, AFM, 28 februari 2017

DNB
DNBulletin: IMF positief over Nederlandse financiële sector, DNB, 3 April 2017
Reactie DNB op het consultatiedocument ‘Herziening van de Wft: verkenning’, DNB, 31 March 2017 (publicatiedatum)
Ingroeiopad bij parameters pensioenfondsen: groeivoeten prijs- en loonindex per 1 april 2017 – Q&A, DNB, 30 March 2017
Nieuwsbrief Banken maart 2017, DNB, 30 March 2017
Nieuwsbrief Verzekeren maart 2017, DNB, 30 March 2017
Nieuwsbrief Beleggingsonderneming maart 2017, DNB, 30 March 2017
Jaaerverslag DNB 2016, DNB, 30 March 2017
Good Practices Transactiemonitoring Trustkantoren, DNB, 29 March 2017
Nieuwsbrief Trustkantoren maart 2017, DNB, 28 March 2017
DNB handhaaft contra cycloische kapitaalbuffer op 0 procent – Maart 2017, DNB, 27 March 2017
Toetsingskader Informatiebeveiliging voor DNB onderzoek 2017 – Q&A, DNB, 23 March 2017
Consultatie regelgeving Depositogarantiestelsel (DGS), DNB, 23 March 2017
Onbenutte schaal- en efficiëntievoordelen bij kleine pensioenfondsen, DNB, 16 March 2017
DNB waarschuwt banken voor integriteitsrisico’s bij klanten die Nederlandse geld/betaalautomaten exploiteren buiten de EU, DNB, 15 March 2017
Aanvangstoetsing – beoordeling van geschiktheid ondernemingen die onder de Wft vallen, DNB, 9 March 2017
Aanvangstoetsing – Beoordeling van geschiktheid voor trustkantoren, DNB, 9 March 2017
Aanvangstoetsing – Beoordeling van geschiktheid voor pensioenfondsen, DNB, 9 March 2017
Toetsingssgesprek met DNB en AFM, DNB, 9 March 2017
Samenwerking DNB – AFM bij Europees bankentoezicht, DNB, 9 March 2017

Other
Prudential treatment of problem assets – definitions of non-performing exposures and forbearance, BIS, 4 April 2017
Proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Bilateral Agreement between the European Union and the United States of America on prudential measures regarding insurance and reinsurance, Council EU, 4 April 2017
Besluit aanwijzing organisaties van openbaar belang in de zin van de Wta, Internetconsultatie, 4 April 2017
Besluit afwikkelingsvergoedingen voor op kaarten gebaseerde betalingstransacties, Staatsblad, 3 April 2017
IOSCO approves the enhanced standard for cross-border enforcement cooperation, IOSCO, 31 March 2017
Implementatiewet registratie uiteindelijk belanghebbenden, Internetconsultatie, 31 March 2017
IIFM and ISDA publish Islamic Credit Support Deed for Variation Margin, ISDA, 30 March 2017
Pensioenfondsen werken toe naar IMVO-convenant, Pensioenfederatie, 30 March 2017
Evaluatie convenant over de dekking van arbeidsongeschiktheidspensioen in pensioenregelingen, Pensioenfederatie, 30 March 2017
Revisions to the global systemically important banks assessment framework proposed by the Basel Committee, BIS, 30 March 2017
Pillar 3 disclosure requirements – consolidated and enhanced framework, BIS, 29 March 2017
Regulatory treatment of accounting provisions – interim approach and transitional arrangements, BIS, 29 March 2017
2017

- Progress in adopting the Principles for effective risk data aggregation and risk reporting, BIS, 28 March 2017
- Position paper Verzamelwet Pensioenen 2017, Pensioenfederatie, 28 March 2017
- Follow-up Basel III implementation assessment reports, BIS, 24 March 2017
- Besluit bekendmaking niet-financiële informatie, Staatsblad, 23 March 2017
- Besluit implementatie richtlijn markten voor financiële instrumenten 2014, Internetconsultatie, 23 March 2017
- 2016 Payment Threats Trends Report, EPC, 23 March 2017
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- 2016 Payment Threats Trends Report, EPC, 23 March 2017
- Baseline III Monitoring Workbook, BIS, 23 March 2017
- Frequently asked questions on Basel III monitoring, BIS, 23 March 2017
- IAIS extends comment period for the Application Paper on Group Corporate Governance, IAIS, 23 March 2017
- Annual Survey of Investment Regulation of Pension Funds 2016, OECD, 23 March 2017
- Stakeholder Engagement Plan, IAIS, 20 March 2017
- FSB Chair sets out need for full implementation of agreed reforms and the FSB’s priorities for the G20 German Presidency, FSB, 17 March 2017
- Consultation – Guidelines Identification and management of step-in risk, BIS, 15 March 2017
- Regeling tot wijziging van de Regeling risico indicatoren bijdragen depositogarantiestelsel Wft in verband met aanpassing van risico indicatoren voor de dimensie potentiële verliezen voor het depositogarantiestelsel en liquiditeits- en financieringsprofiel, Staatscourant, 15 March 2017
- Besluit tot aanwijzing van de AFM als bevoegde autoriteit in de zin van de Benchmark Regulation, Staatscourant, 15 March 2017
- White paper on mobile payments, EPC, 14 March 2017
- FinTech Developments in the Insurance Industry, IAIS, 13 March 2017 (publication date)
- Proposed governance arrangements for the unique transaction identifier, FSB, 13 March 2017
- Consolidated Processes and Procedures for Mutual Evaluations and Follow-Up: Universal Procedures, FATF, 10 March 2017
- Aangepaste Tijdelijke wet aanpassing disconteringsvoet ingediend, Pensioenfederatie, 9 March 2017
- Examination of Liquidity of the Secondary Corporate Bond Markets, IOSCO, 7 March 2017 (publication date)
- Revision of ICPs and ComFrame, IAIS, 7 March 2017