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Financial markets in brief – new regulation and publications

There have been many developments in national and European financial markets regulation during the past month. These developments include an extension of the scope of the bankers' oath. Also, the Ministry of Finance has proposed new rules for crowdfunding platforms. In addition, supervisory authorities have published a large number of consultation documents, draft rules and other information since the last edition of In context.

Dutch regulation

Scope of the bankers' oath extended

The group of employees of banks and insurance companies subject to the “fit and proper test” was expanded on 1 April 2015. The same applies to the group of persons required to take the banker's oath. For an overview of the amendments we refer to our [article](#) in the December In context.

Those meeting the criteria and currently employed by or subject to the responsibility of a financial undertaking must take the oath no later than 1 April 2016. Detailed rules concerning the format and content of the oath and promise are laid down in a [regulation](#).

Also, bank employees who are required to take the banking oath are now subject to disciplinary rules. Regulations concerning the procedure can be found on the [website](#) of the *Stichting Tucht recht Banken*.

New rules on crowdfunding platforms proposed

The Ministry of Finance is currently holding a [consultation](#) on the draft Financial Markets Amendment Decree 2016. The main proposals include:

- Crowd funding platforms will be exempted from the ban on commissions under certain conditions.
- Crowd funding platforms will have to comply with the general rules regarding sound and ethical operation in the Financial Markets Supervision Act. Currently, crowdfunding platforms only have to comply with the rules applicable to companies attracting repayable funds. According to the AFM, this regime needs to be strengthened.
- Financial service providers will no longer be allowed to receive or pay commission for mediation or advice provided in connection with claims on premium pension institutions.
- A ban will be introduced on commissions for offering life insurance paying out in

participation rights in investment institutions or UCITs.

Financial Markets Amendment Bill 2016

Last year, the Ministry of Finance held a consultation on the Financial Markets Amendment Bill 2016. Proposals covered by the draft bill include:

- The AFM and the Dutch Central Bank will be granted power to suspend board members and supervisory board members if their suitability is in doubt.
- Investors in derivatives will be protected against bankruptcy of their intermediary.
- Intervention measures will be applicable to parent companies of insurance companies.
- Claims from third parties on a distressed institution can be expropriated in the case of intervention.
- Provisions on the cross-border transport of valuables will be included in the Act on the prevention of money laundering and terrorism financing.
- The AFM and DNB will be granted power to withdraw the licence of institutions that do not pay the levies for financial supervision.

Implementation of the UCITS Directive

The Dutch Ministry of Finance is currently holding a consultation on the implementation of the UCITS Directive. The main elements of the draft proposal are:

- the remuneration policy of UCITS and their management companies
- the tasks and liability of the depositary.

The proposals will be included in the Financial Markets Supervision Act.

The consultation runs until 29 April. The Ministry of Finance will hold a separate consultation on other new rules relating to UCITS, such as the powers of the supervisors. This is expected to coincide with the consultation on the new market abuse rules.

Dutch government holds general discussions on the future of the financial sector

In a committee debate on the future of the financial sector, the following topics were discussed:

- The Ministry of Finance and the AFM will investigate whether the costs of issues by SMEs can be reduced by using standard prospectuses.
- The Ministry of Finance is considering an amendment of the ban on commissions for investment firms. Amendments, if any, should take effect on 1 January 2016.
- The Dutch government has informed the European Commission that the Netherlands would prefer to maintain a smaller deposit guarantee fund than prescribed by the new European standard. The fund should contain 0.5% of the covered deposits on Dutch bank accounts instead of 0.8%. The European Commission has not yet responded to the request.

European and international supervisors

Pan-European Corporate Private Placement Guide

The International Capital Market Association (ICMA) has published a [guide](#) containing best practices for Pan-European private placement transactions. The European Commission supports the initiative.

European Securities and Markets Authority - publications

- [Report on enforcement and regulatory activities of accounting enforcers in 2014](#)
- [Centralised data projects for MiFIR and EMIR](#)
- [Updated list of authorised CCP and Public Register](#)
- [Update of the EMIR Q&A](#)
- [Consultation on disclosure requirements for private and bilateral Structured Finance Instruments](#)
- [Consultation on draft guidelines on complex debt instruments and structured deposits](#)
- [Guidelines on periodic reporting for \(registered\) CRAs](#)
- [Updated Q&As on the Key Investor Information Document](#)
- [Updated Q&As on the application of the AIFMD](#)

European Banking Authority - publications

- [Recommendation on equivalence of non-EUR authorities for participation in supervisory colleges](#)
- [Consultation on exposures to shadow banking](#)
- [Update to the risk dashboard for the EU banking sector](#)
- [Opinion on lending-based crowdfunding](#)
- [Consultation on Business Reorganisation Plans under Directive 2014/59/EU \(BRDD\)](#)
- [Advice on resolution procedures for EU banks](#)
- [Guidelines on standardised fee terminology for payment accounts in the EU](#)
- [Consultation on the credit quality steps for ECAs credit assessments](#)

European Central Bank - publications

- [Regulation \(EU\) 2015/534 on reporting of supervisory financial information](#)
- [ECB Annual Report on supervisory activities 2015](#)

Basel Committee on Banking Supervision - publications

- [Margin requirements for non-centrally cleared derivatives](#)

International Organization of Securities Commissions - publications

- [Review of stress testing by central counterparties](#)
- [Code of conduct fundamentals for credit rating agencies](#)
- [Consultation on business continuity plans for trading venues and intermediaries](#)

International publications

Journal of International Banking Law and Regulation

- [Striking the Correct Balance Between Imposing a Suspension of Close-out Netting Rights](#)

While Preserving Legal Certainty and Market Integrity in View of the Bank Recovery and Resolution Directive / Gerry G. Kounadis - 2014/59 - JIBLR 2015, vol. 30, issue 4

- Product Governance / Dr Bernd M. Geier and Laura Druckenbrodt - JIBLR 2015, vol 30, issue 4
- A Primer on Financing Trade in Islamic Law: Definitions, Sources, and Instruments / Bashar H. Malkawi - JIBLR 2015, vol. 30, issue 3