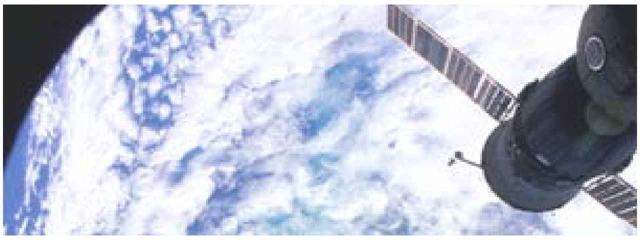
SLIB GPS

A Global Panorama of Securities



31 January 2014 | N°61

SLIB GPS is edited by SLIB in the context of its proactive regulatory watch on capital markets. This editorial brings forward the main news of the past month.

Editorial

We can truly say that, for European projects, the year 2014 started with a bang, obviously under the pressure of the electoral calendar.

As expected, the Trilogue came to an agreement on the **Directive on Criminal Sanctions for Market Abuse** (CSMAD), put to the vote at the plenary meeting of 4 February. However, the most striking development has been the Trilogue's agreement in principle on the text of the new Markets in Financial Instruments Directive known as **MiFID II**.

This agreement had been eagerly awaited especially following the long and turbulent discussions surrounding the MiFID revision since the launch of the Commission's consultation in 2010. Sensitive issues like the regulation of high-frequency trading and dark pools, the defining of OTFs (Organised Trading Facilities) and the extension of the scope of the Directive on commodities, greatly disrupted the initial calendar.

Among the various components of this proposal, for which a consensus was finally reached, we would like to mention the following three:
The measures governing high-frequency trading, obliging algorithmic traders to become regulated entities and have their algorithms tested then authorised by regulators. These measures also include the obligation to set up circuit breakers and record orders and cancellations so they can be monitored by market authorities.

The defining of a new type of trading platforms – OTFs – to ease the electronic trading of standardised derivatives and , most importantly, regulate it. Note that equities have been explicitly excluded from the scope of OTFs.

The third important point is access to CCPs, which will need to be non-discriminatory, irrespective of the trading platform used. As you can imagine, this issue gave rise to fierce resistance from the advocates of the vertical silo model wherein a stock exchange and its CCP are part of the same group.

Another issue which concerns a lot of people is that of the **Legal Entity Identifier** (LEI). The closer we get to the 12 February deadline, the more urgent it becomes for derivatives players to obtain an LEI. Indeed, the EMIR calendar has set that date as the starting point of the obligation to report derivatives transactions to approved trade repositories. And in this report, each player will have to be identified by its LEI. For certain

players, such as fund managers, the number of LEIs to be obtained can be significant as registration must be done per compartment, not per fund.
Each institution concerned will thus need to rapidly identify the legal entities under its responsibility and for which a report will need to be submitted using an LEI (EMIR, Dodd-Frank Act, etc.). It will then need to submit its request to the LOU (Local Operating Unit) of its choice, i.e. the only entity authorised to issue LEIs, which will allocate an identifier to the institution in exchange for the information required under ISO 17442.

2014 will also be the year of **FATCA**, as 1 July is the date from which all new accounts will need to be documented in accordance with FATCA. This is also the first year for which reporting will be required.
In this respect, the FATCA family is highly likely to grow.

Last April, the idea of a European FATCA was put forward by several political figures.
For its part, the UK stated that it wanted the FATCA Model 1 Intergovernmental Agreement (IGA) to become a standard in the fight against tax fraud. The idea is to establish international data exchange mechanisms that will allow financial institutions to re-use the procedures already set up for FATCA.
As if to set an example, the UK has already signed agreements of this type with the Crown Dependencies of Jersey, Guernsey and the Isle of de Man. Like for FATCA, UK financial institutions will have to collect information on their clients and identify those who are residents of one of these dependencies. The form of the annual report and its timeline would also be practically identical to that required for financial institutions under FATCA.

Lastly, concerning the **European Financial Transaction Tax** (FTT), we'd like to point out that the proposal under discussion is likely to undergo significant changes. One of the amendments put forward concerns the exclusion of repos, government bonds, corporate bonds and certain types of derivatives from the scope of the tax. Concerning equities, in line with the Italian and French initiatives, the tax may only apply to purchases of shares issued by companies whose capitalisation exceeds a certain threshold. Moreover, the exclusion of intra-day transactions from the tax is also being envisaged. As you can see, the proposal is still far from being finalised and is highly likely to surface again and again in 2014.

SLIB regulatory watch department

About SLIB

Always in line with the latest changes in the European securities landscape, SLIB is a leading securities software solutions provider and a trusted partner to the financial industry.

SLIB provides more than 50 financial institutions, with innovative software solutions to streamline their securities processing and improve their performance, whilst mitigating their risks.

The SLIB solutions support securities order and trade, clearing, settlement, custody, risk and electronic voting at general meetings.

More information on **www.slib.com**
Follow SLIB on

This document is strictly reserved to the personal use of its recipient and is provided for general information purposes only. Its content can therefore be considered neither as exhaustive nor as legally binding. The recipient is solely responsible for the use of the information in this document. SLIB (trademark and logo) and all other trademarks quoted in this document are registered trademarks. Any reproduction or reuse of all or part of these trademarks is prohibited. Product sheets are protected by copyright.

© SLIB 2012, all rights reserved.