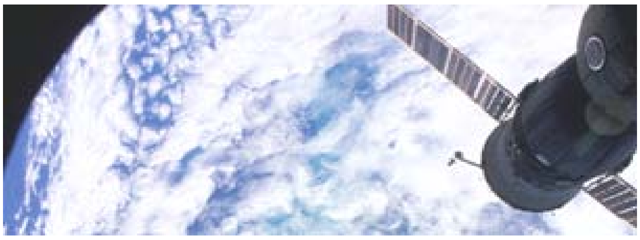
SLIB GPS

A **G**lobal **P**anorama of **S**ecurities



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This editorial brings forward the main news of the past month.*

Editorial

E**MIR** requires CCPs who wish to continue to trade in the European Union to arrange for accreditation based on new regulatory requirements. Accreditation is accompanied by identification of the financial instruments or type of contracts that each CCP is authorized to clear.

On March19, NASDAQ OMX was the first CCP to be awarded ESMA accreditation. The others are expected to follow fairly rapidly.

This accreditation is one of the prerequisites for implementation of the clearing obligation which will be imposed on a number of standard contracts. Nevertheless, this can only actually enter into effect once ESMA has published the list of asset classes which will be subject to it. And it will take at least 6 months before this list is published, at which time the clearing obligation for the products ESMA deems eligible will be retroactive for ongoing contracts.

The principle of retroactivity and desynchronisation between accreditation of the CCPs and the identification of the asset classes concerned by the clearing obligation is at risk of posing some problems for a few months. In fact, in this situation, a number of contracts will have been traded as part of an uncleared OTC transaction and then ultimately find that they have to be integrated in the clearing house processes. That being said, given the uncertainty about the list of instruments which will be selected and about its publication date, it will be complicated for traders to anticipate this major change during the contract.

Now that EMIR is more or less in place, attention is increasingly turning to **MiFID II** which is beginning to become a focus of concern for investment companies and market traders. However, even though the Parliament, the Council and the European Commission reached a political agreement on the text on January 14, 2014, it won't be implemented in the immediate future.
First of all, the European Parliament still has to formally adopt the measures, which it is expected to do at its plenary session on April 20.
Next, after legal and linguistic work is carried out on the text that has been adopted, the Council will formally validate the two constituent parts of MiFID II (the Directive and the Regulation) which will then come into force during the summer.

As of its effective date, member states will have two years in which to transpose MiFID II into their national legislation and the regulations (MiFID II and MiFIR) will then come into effect six months later. All of this leaves the various players in question a greater or lesser amount of time to get ready depending on the extent of the adaptations they will have to implement.

In fact, if one considers the case of investment firms, the situations will be fairly different depending on whether or not they are already subject to MiFID. If they are already subject to MiFID, the changes will only require adjustments to the existing systems and additional controls to take account of the changes in the obligations imposed by MiFID II particularly as regards investor protection. Companies Firms who are not already subject to MiFID, which because of the reduced exemptions will find themselves for the first time within the scope of application of MiFID, will have much more onerous adaptation work to do, which could potentially undermine certain areas of their activities.

Let's finish with a French savings product, the **PEA PME-ETI** (share savings plan reserved for small and medium-sized enterprises).
Account holders and management companies had been in the starting-blocks since it was adopted in November 2013 as part of the Finance Law for 2014 and they had been waiting impatiently for the implementing decree and its publication in the Official Gazette (Journal Officiel).
This happened on March 5.

Unfortunately, if one reads this decree, it transpires that the eligibility criteria of the companies for the PEA PME were more complicated than initially envisaged, which has cast doubt on the initial lists of eligible securities and has disrupted the actual launch of the product.
Even though, by definition, the tax advantages associated with the PEA PME can only benefit French taxpayers, other European players will be directly affected by this new scheme since, like its big brother the PEA, the PEA PME may be fed by securities of companies from other European countries as soon as they meet the eligibility criteria.

In this context, it is conceivable that management companies from the countries in question will take advantage of their knowledge of local small and mid-caps to offer compatible funds to French investors. This approach will be particularly easy since they will have the benefit of cross-border passports under the UCITS and AIFM Directives.

SLIB regulatory watch department