COMPLIANCE

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NEWSLETTER

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Forum Compliance .be

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SPECIAL POINTS OF INTEREST :

- Council backs Commission proposal on fight against the manipulation of benchmarks
- Commission opens investigation into the Belgian excess profit ruling system
- Parliament sets up a special committee on tax rulings

Chers Collègues,

Chers Membres,

Nous avons le plaisir de vous adresser un nouveau numéro de notre Newsletter. Dans cet éditorial, nous revenons sur la récente séance d'informations organisée par le Forum qui fut des plus intéressantes. Nous avions choisi le thème des sanctions administratives et pénales compte tenu des nombreuses dispositions légales et réglementaires présentes ou futures, entrant dans nos attributions, qui ne cessent de renforcer celles-ci de même que les pouvoirs des autorités compétentes.

Au risque que mes propos pêchent par excès de simplification, je dirais qu'avant la crise de 2008, nous évoluions dans un environnement cerné par la loi anti-blanchiment, la loi bancaire, la loi Cauwenbergh et MiFID, qui n'en était encore qu'à ses balbutiements.

Si la responsabilité en matière pénale était déjà significative sur base de l'article 505 du Code pénal en matière de blanchiment, les autres écueils de non-conformité se limitaient, la plupart du temps et en pratique, à des sanctions civiles.

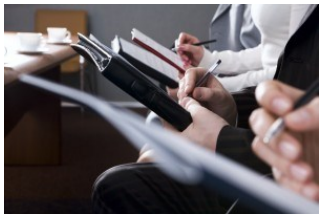
La situation actuelle n'a plus rien de comparable. La lutte contre le terrorisme et son financement, plus que jamais d'actualité, s'est intensifiée; MiFID a pris son essor; la loi bancaire à été modifiée et nous avons assisté à un développement législatif et réglementaire exponentiel sans précédent dans un laps de temps relativement limité et ce, tant au niveau national qu'européen dont le berceau était peut-être au moins partiellement à trouver dans le Rapport Larosière.

Le Twin Peaks a considérablement étendu les pouvoirs des autorités de contrôle et nombreux sommes-nous à avoir été concernés par les injonctions de la FSMA, consécutives à ses rapports d'Inspections sur les conflits d'intérêts et le "zorgplicht". Après le Moratorium, ce sont des interdictions de certains produits qui ont vu le jour.

Nos tourments se sont accrus face à la quasi-impossible mise en oeuvre correcte du concept aux contours mal définis de "fraude fiscale grave", en particulier dans le contexte des rapatriements, augmentant encore le risque des institutions financières tant sur le plan prudentiel qu'en matière pénale.

La loi sur les pratiques de marché s'est renforcée en trouvant application aux instruments financiers. Les règles dites de conduite se sont au moins partiellement étendues aux entreprises d'assurance et aux crédits, notamment aux PME. Je pense à AssurMiFID et à la loi Laruelle.

La loi bancaire qui prévoit, nonobstant sa prédominance "Risk Management", plusieurs dispositions qui intéressent les Compliance Officers au premier chef, comme la gouvernance, les transactions personnelles, les conflits d'intérêts, les mandats, la politique de rémunération, l'outsourcing et la sauvegarde des avoirs clients notamment, comporte également des dispositions particulièrement malaisées à appliquer en pratique. Un exemple édifiant concerne les prêts, sans seuil de montant, aux dirigeants, membres du Conseil d'administration et certaines personnes liées qui requièrent l'intervention dudit Conseil ou, à tout le moins son "nihil obstat". (continued on next page)



EDITORIAL (PART II)

Même si une loi réparatrice est annoncée, cette disposition est en vigueur et comporte, elle aussi, des sanctions pénales.

Il en est de même de la loi sur la planification financière pour les planificateurs indépendants, des sanctions administratives étant également prévues pour les entreprises réglementées. Or, on sait combien l'encre a déjà pu couler quant au champ d'application de ce texte malaisé à cerner.

De nombreux établissements financiers se sont vus lourdement sanctionner, toutes matières confondues, au cours des dernières années. Résolument, les temps ont bien changé. Si le "too big to fail" était un leurre, on ne peut aujourd'hui s'empêcher de penser au "too big to jail". L'adage "comply or explain" n'est-il pas en train de lentement s'éclipser pour lui substituer le "comply or die" ?

En se projetant dans l'avenir et en ne prenant que quelques exemples de lege ferenda, on constate que presque toutes les réglementations vont dans le même sens.

Ainsi PRIIPS, prévoit-elle des sanctions administratives allant jusqu'à 5 mios € ou 3% du chiffre d'affaires annuel pour les personnes morales. S'y ajoutent la publication nominative et la notification aux "European Supervisory Authorities" dont les "Guidelines", certes non contraignantes, doivent néanmoins être respectées.

MiFID II n'est pas en reste puisqu'au delà des amendes administratives (5 mios € ou 10% du chiffre d'affaires annuel, éventuellement consolidé), des sanctions pénales proportionnées peuvent être prévues par les Etats Membres, tous habilités a faire du "gold plating" en la matière.

Enfin MAD/MAR en ce qui concerne "l'insider trading" et la manipulation des marchés prévoient des sanctions allant jusqu'à 5 mios € pour les personnes physiques et 4 ans d'emprisonnement et 15 mios € ou 15% du chiffre d'affaires annuel pour les personnes morales ainsi qu'une interdiction d'avoir recours à l'aide publique, la cessation d'activités, la mise sous surveillance etc.

De plus en plus fréquemment, on relève l'importance des sanctions en cas de défaillance des contrôles et de l'absence de procédures ou d'organisation adéquate. Notre rôle, en qualité de Compliance Officer, est donc plus que jamais déterminant.

S'il y a bien une nécessité, voire une obligation de coopération avec les autorités, il y a aussi un principe consacré de non-auto-incrimination et, s'il y a bien des sanctions à la fois administratives et pénales, le principe "non bis in idem" reste encore de mise.

Pour nous entretenir de ce sujet épineux, nous avons eu la chance et l'honneur que deux grands spécialistes du contentieux et du droit financier, Maîtres Françoise Lefèvre et Etienne Dessy, respectivement "Partner Litigation" et "Counsel Financial Régulation", tous deux avocats en l'Etude Linklaters, nous rejoignent.

Pratiquant de longue date ces matières de manière régulière, ils nous ont brossé le cadre général des sanctions administratives et pénales, ont précisé la différence entre les sanctions et les mesures administratives ainsi que les critères qui confèrent une nature pénale à une sanction administrative et les conséquences afférentes à cette qualification. Ensuite, les pouvoirs généraux et plus spécifiques des autorités de contrôle ont été présentés en évoquant les récents amendements de procédure à la FSMA et à la BNB (les poursuites étant désormais de la compétence du Comité de Direction) et en distinguant les voies de recours en fonction de la nature des sanctions ou mesures prononcées par ces autorités respectives.

Ainsi le recours contre une astreinte infligée par la BNB est-il de la compétence du Conseil d'État alors que la même mesure infligée par la FSMA est de la compétence de la Cour d'appel.

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Si le "too big to fail" était un leurre, on ne peut aujourd'hui s'empêcher de penser au "too big to jail"

EDITORIAL (PART III)

Ont également été abordés les pouvoirs de supervision, d'enquête et de sanction de la BCE ainsi que les procédures y relatives. Les pouvoirs du Parquet et du juge d'instruction sont venus compléter ce tableau, enrichi d'expériences pratiques. Un exemple concret a permis de mieux comprendre les interactions entre les différents "organes" habilités et leurs acteurs. Quelques réflexions de nos orateurs et un échange de questions/réponses sur le principe "non bis in idem" et celui de la non auto-incrimination ont conclu le débat auquel une centaine de collègues a pu assister.

Je termine en vous invitant à prendre connaissance de l'un ou l'autre articles de cette Newsletter qui ne manquera pas, je l'espère, de susciter votre intérêt.

Bien cordialement à toutes et tous,

Marie-France De Pover
Chairwoman

EIOPA PUBLISHES TECHNICAL ADVICE ON CONFLICTS OF INTEREST

On January 30, 2015, the European Insurance and Occupational Pensions Authority (EIOPA) has provided advice to the European Commission on the identification, prevention, management and disclosure of conflicts of interest which may arise in the course of the distribution of insurance-based investment products.

The advice will assist the Commission on possible future implementing legislation.

Identification of conflicts of interest

EIOPA recommends requiring insurance intermediaries and insurers to assess all cases where they have an interest related to distribution which is distinct from the customer's interest and which has the potential to influence the outcome of the services to the detriment of the customer.

For certain cases such conflicts can be always taken to exist, for instance, where the distributor is likely to make a financial gain, or avoid a financial loss, at the expense of the customer, or where the distributor is involved in the management or development of insurance -based investment products.

Conflicts of interest policy

EIOPA also recommends requiring insurance intermediaries and insurers to establish and set out in writing an effective conflicts of interest policy. At the same time, EIOPA acknowledges the importance of proportionality, especially with regard to the impact new organisational requirements may have for small and midsize intermediaries. However, all insurance intermediaries and insurers are bound to adopt the appropriate procedures and measures necessary for ensuring that their distribution activities are carried out in the best interest of the customers and are not biased by conflicting interests.

Inducements and remuneration

EIOPA also notes that conflicts of interest may arise from third party payments (inducements) and from internal payments (remuneration). Therefore, EIOPA is convinced that this issue should be addressed as well. As inducements are discussed in the review of the Insurance Mediation Directive (IMD), EIOPA only presents general observations on this topic.

It is essential to strengthen rules so that consumers' interests are not sacrificed

EIOPA ISSUES OPINION ON ONLINE SALES OF INSURANCE AND PENSION PRODUCTS

On January 28, 2015, The European Insurance and Occupational Pensions Authority (EIOPA) has issued an Opinion on sales via the Internet of insurance and pension products. A substantial percentage of customers already use digital and remote channels,and their number will only increase.

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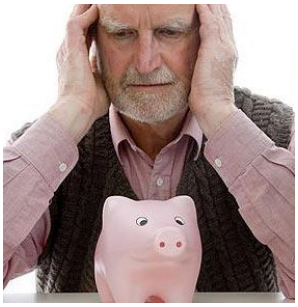
EIOPA ISSUES OPINION ON ONLINE SALES OF INSURANCE AND PENSION PRODUCTS (PART II)



The digital insurance market of the future may create specific consumer detriment.

With this in mind, EIOPA recommends that National Competent Authorities (NCAs) take the necessary and proportionate supervisory actions to ensure that online distributors comply with a duty of advice, if such a duty exists in national law or when sales are so promoted.

NCAs should also make sure that customers are provided with appropriate information on the selling process of the online distributor with a view to avoiding unsolicited, or mistakenly concluded, contracts.

In general EIOPA recommends that NCAs, where relevant, prevent consumer detriment by taking a more proactive approach to how they collect information on online distribution activities used by distributors; and identify challenges and address issues with newly established online distribution channels at national level.

Within six months of the publication of this Opinion, NCAs are requested to provide feedback and, where investigations or regulatory/ supervisory actions are undertaken in view of the recommendations, provide details of those investigations/actions.

TWO SENIOR EXECUTIVES FINED AND BANNED FOR COMPLIANCE FAILINGS RELATED TO LIBOR

On January 22, 2015, the UK Financial Conduct Authority (FCA) has fined and banned two former senior executives of interdealer broker Martin Brokers (UK) Limited for compliance and cultural failings at the firm.

David Caplin (former chief executive) was fined £210,000 and Jeremy Kraft (former compliance officer) was fined £105,000. Both are also banned from performing significant influence functions at financial services firms.

The FCA has found that Caplin and Kraft's failings contributed to a culture at Martins that permitted LIBOR manipulation to take place and enabled the misconduct to continue undetected over a prolonged period. The two directors failed to recognise the risk of this culture developing and failed to take reasonable steps to prevent it.

David Caplin

David Caplin has been fined £210,000 in addition to a ban from holding a significant influence function at an FCA authorised firm because of a lack of competence in his CEO and director role. The FCA found that Caplin presided over a firm where the compliance culture was extremely weak. Caplin failed to ensure the effective oversight of the firm's compliance function and the timely and adequate implementation of recommendations made by an external compliance consultancy. He also failed to ensure the effective supervision and monitoring of broker conduct, for which he was responsible, in particular failing to identify and remedy Martins' lack of controls to prevent brokers making or receiving corrupt inducements. Caplin allowed a culture to develop at Martins which prioritised profits to the detriment of regulatory compliance and was reluctant for compliance to have any role in broker oversight. Despite having assumed de facto responsibility for monitoring brokers and recognising that inducements were a key risk area for Martins, Caplin failed to ensure that brokers behaved ethically and that there were proper controls to monitor the propriety of commission income and entertainment spending.

There was a culture at Martins where revenue came first and compliance was seen as unimportant

A culture developed where brokers would provide lavish entertainment to traders in exchange for commission income.

The lack of inducement controls had other consequences as there were no systems to detect "wash trades" which were executed to reward Martins for their

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TWO SENIOR EXECUTIVES FINED AND BANNED FOR COMPLIANCE FAILINGS RELATED TO LIBOR (PART II)

efforts to manipulate the LIBOR submissions of panel banks.

As a result, Martins' LIBOR misconduct went undetected for several years.

Caplin's failings facilitated Martins' misconduct in respect of LIBOR and risked compromising the integrity of the UK financial markets.

Jeremy Kraft

Jeremy Kraft has been fined £105.000 and banned from holding a position of significant influence in an FCA authorised firm because of a lack of competence as an FCA approved compliance officer. He failed to give due attention to his responsibilities for Martin's systems and controls, did not properly oversee brokers and did not challenge Caplin on compliance matters, in particular his stance in relation to the role of compliance staff in monitoring the front office .

Kraft also delegated other compliance responsibilities to unqualified members of staff and failed to act on the advice of an external compliance consultancy which identified serious compliance deficiencies at Martins.

Kraft's failings together with those of Caplin facilitated Martins' misconduct in respect of LIBOR and risked compromising the integrity of the UK financial markets.

ESMA ADVISES COMMISSION ON IMPLEMENTATION OF NEW MARKET ABUSE REGIME

The European Securities and Markets Authority (ESMA) has published on February 3, 2015, its technical advice regarding the new Market Abuse Regulation (MAR). MAR defines activities and behaviours that constitute market abuses, e.g. insider dealing or market manipulation.

Compared to the current Market Abuse Directive (MAD), MAR extends the scope of market manipulation in order to cover new trading tactics and market realities and also provides non-exhaustive lists of indicators for market manipulation, such as the spreading of false or misleading signals, price securing, and the use of fictitious devicor any other form of deception or contrivance. MAR also defines the framework within which inside information has to be publicly disclosed.

ESMA's technical advice :

- specifies the MAR market manipulation indicators, by providing examples of practices that may constitute market manipulation as well as proposing "additional" indicators of market manipulation;
- recommends to set the minimum thresholds that exempt certain market participants in the emission allowance market from publicly disclosing inside information at six million tonnes of CO2eq per year and at 2,430 MW rated thermal input;
- suggests the way to determine to which regulator delays in disclosure of inside information needs to be notified.
- provides clarifications on the enhanced disclosure of managers' transactions. ESMA recommends disclosing any acquisition, disposal, subscription or exchange of financial instruments of the relevant issuer or related financial instruments carried out by managers, further illustrated through a non-exhaustive list of types of transactions subject to this obligation. ESMA also clarifies the transactions that can be allowed by the issuer during a closed period when normally managers are prohibited to trade; and
- proposes procedures and arrangements to ensure sound whistleblowing infrastructures – i.e. EU national regulators should allow the receipt of reports of infringements, including appropriate communication channels and guarantee the protection of reporting and reported persons, with respect to their identity and their personal data.

ESMA provides the details which will make MAR applicable to market participants and investors

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SEC IMPOSES SANCTIONS AGAINST CHINA-BASED MEMBERS OF BIG FOUR ACCOUNTING NETWORKS

On February 6, 2015, the US Securities and Exchange Commission imposed sanctions against four China-based accounting firms that had refused to turn over documents related to investigations of potential fraud. The China-based firms are members of large international networks associated with the "Big Four" accounting firms and registered with the Public Company Accounting Oversight Board.

In January 2014, after a 12-day hearing the previous summer, an administrative law judge issued an initial decision finding that the four firms – Deloitte Touche Tohmatsu Certified Public Accountants Limited, Ernst & Young Hua Ming LLP, KPMG Huazhen (Special General Partnership), and PricewaterhouseCoopers Zhong Tian CPAs Limited Company – willfully refused to provide the SEC with workpapers and related documents in connection with their audit work for nine China-based companies that had securities registered in the U.S.

The initial decision found that the firms willfully violated Section 106 of the Sarbanes-Oxley Act, which requires foreign public accounting firms to provide such workpapers to the SEC upon request.

After the hearing, the SEC received multiple productions of workpapers from the firms through assistance provided by the China Securities Regulatory Commission (CSRC).

The proceeding continues against a fifth China-based accounting firm, Dahua CPA Ltd.

MONEY LAUNDERING : COUNCIL ENDORSES AGREEMENT WITH EUROPEAN PARLIAMENT

The Council, on February 10, 2015, approved an agreement with the European Parliament on strengthened rules to prevent money laundering and terrorist financing.

The directive and regulation will strengthen EU rules against money laundering and ensure consistency with the approach followed at international level. The draft regulation deals more specifically with information accompanying transfers of funds.

International recommendations

The texts implement recommendations by the Financial Action Task Force (FATF), which is considered a global reference for rules against money laundering and terrorist financing. On some issues, the new EU rules expand on the FATF's requirements and provide additional safeguards.

The strengthened rules reflect the need for the EU to adapt its legislation to take account of the development of technology and other means at the disposal of criminals. The main elements are:

Extension of the directive's scope, introducing requirements for a greater number of traders. This is achieved by reducing from €15 000 to €10 000 the cash payment threshold for the inclusion of traders in goods, and also including providers of gambling services;

Application of a risk-based approach, using evidence-based decision making, to better target risks. The provision of guidance by the European supervisory authorities;

Tighter rules on customer due diligence. Obliged entities such as banks are required to take enhanced measures where the risks are greater, and can take simplified measures where risks are demonstrated to be smaller.

Beneficial ownership

The package includes specific provisions on the beneficial ownership of companies. Information on beneficial ownership will be stored in a central register, accessible to competent authorities, financial intelligence units and obliged entities

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The directive and regulation will strengthen EU rules against money laundering

MONEY LAUNDERING : COUNCIL ENDORSES AGREEMENT WITH EUROPEAN PARLIAMENT (PART II)

such as banks. The agreed text also enables persons who can demonstrate a legitimate interest to access the following stored information:

- name,
- month and year of birth
- nationality,
- country of residence,
- nature and approximate extent of the beneficial interest held.

Member states that so wish may use a public register. As for trusts, the central registration of beneficial ownership information will be used where the trust generates consequences as regards taxation.

Gambling

For gambling services posing higher risks, the agreed text requires service providers to conduct due diligence for transactions of €2000 or more. In proven low-risk circumstances, member states will be allowed to exempt certain gambling services from some or all requirements, in strictly limited and justified circumstances. Such exemptions will be subject to a specific risk assessment. Casinos will not benefit from exemptions.

Sanctions

As concerns sanctions, the text provides for a maximum pecuniary fine of at least twice the amount of the benefit derived from the breach or at least €1 million. For breaches involving credit or financial institutions, it provides for:

- a maximum pecuniary sanction of at least €5 million or 10% of the total annual turnover in the case of a legal person;
- a maximum pecuniary sanction of at least €5 million in the case of a natural person.

Next steps

Agreement with the European Parliament was reached on 16 December 2014. The Council's approval of that outcome paves the way for adoption of the package at second reading.

Member states will have two years to transpose the directive into national law. The regulation will be directly applicable.

A majority of the broker-dealers (88%) and the advisers (74%) stated that they have experienced cyber-attacks

SEC ALERTS INVESTORS AND INDUSTRY ON CYBERSECURITY

On February 3, 2015 ,the US Securities and Exchange Commission released publications that address cybersecurity at brokerage and advisory firms and provide suggestions to investors on ways to protect their online investment accounts.

One publication, a Risk Alert from the SEC's Office of Compliance Inspections and Examinations (OCIE), contains observations based on examinations of more than 100 broker-dealers and investment advisers. The examinations focused on how these firms:

- Identify cybersecurity risks,
- Establish cybersecurity policies, procedures, and oversight processes,
- Protect their networks and information,
- Identify and address risks associated with remote access to client information, funds transfer requests, and third-party vendors,
- Detect unauthorized activities.

The second publication, an Investor Bulletin issued by the SEC's Office of Investor Education and Advocacy (OIEA), provides core tips to help investors safeguard their online investment accounts, including:

- Pick a "strong" password,
- Use two-step verification,
- Exercise caution when using public networks and wireless connections.

This bulletin provides everyday investors with a set of useful tips to help protect themselves from cyber-criminals and online fraud.

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ACM IMPOSES FINES ON INVESTMENT FIRMS IN CARTEL CASE

Investment firms that own businesses can be held accountable for violations of the Dutch Competition Act committed by those businesses, if the investment firms have decisive influence over them.

This is one of the conclusions of a decision of the Netherlands Authority for Consumers and Markets (ACM) in the so-called 'Flour cartel.' Three investments firms are imposed fines, between 450.000 and 1,5 million euro. This decision marks the first time that ACM fines investment firms.

ACM has previously already imposed fines on various companies that had been directly involved in the flour cartel.

Between 2001 and 2007, these flour producers made mutual arrangements in order to keep prices stable. One of these arrangements was a non-aggression pact. In addition, several flour producers bought and subsequently dismantled an old flour mill in the Netherlands in order to reduce total production capacity.

These flour producers had a combined market share of approximately 65 percent. At the time, the investment firms that have now been fined successively owned one of the producers involved.

Investment firms usually manage one or more funds. Funds hold shares of businesses, and these shares are usually resold after a while. However, ACM is of the opinion that investment firms, too, can be held responsible for the behavior of the firms they own (through those funds), particularly if the investment firm in question has decisive influence.

ACM has concluded that this was the case with the investment firms which have now been fined.

COUNCIL AGREES STANCE ON TIGHTER CONTROLS ON BENCHMARKS FOR FINANCIAL INSTRUMENTS

The Permanent Representatives Committee on 13 February 2015 agreed, on behalf of the Council, a negotiating stance on new rules aimed at ensuring greater accuracy and integrity of benchmarks in financial instruments.

It asked the Latvian presidency to start, as soon as possible, negotiations with the European Parliament so as to enable adoption of the regulation at first reading.

Recent cases of manipulation of interest rate benchmarks such as Libor and Euribor have highlighted the importance of benchmarks and their vulnerabilities. The pricing of many financial instruments and contracts depends on the accuracy of benchmarks. Doubts about the integrity of indices used as benchmarks can undermine market confidence, cause losses to consumers and investors and distort the real economy.

Benchmarks are susceptible to manipulation where conflicts of interest and discretion exist in the benchmark process and where these are not properly supervised.

The draft regulation agreed by the Council therefore has the following objectives:

- Improving governance and controls over the benchmark process, in particular to ensure that administrators avoid conflicts of interest, or at least manage them adequately;
- Improving the quality of input data and methodologies used by benchmark administrators;
- Ensuring that contributors to benchmarks and the data they provide are subject to adequate controls, in particular to avoid conflicts of interest;
- Protecting consumers and investors through greater transparency, adequate rights of redress and an assessment of suitability where necessary.

The draft regulation introduces a legally binding code of conduct for contributors (of data) requiring the use of robust methodologies and sufficient and reliable data.

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Doubts about the integrity of indices used as benchmarks can undermine market confidence

COUNCIL AGREES STANCE ON TIGHTER CONTROLS ON BENCHMARKS FOR FINANCIAL INSTRUMENTS (PART II)

In particular, it calls for the use of actual transaction input data where possible. But other data may be used if the transaction data is insufficient.

The scope of the regulation is broad, although benchmarks deemed to be critical will be subject to stricter rules, including the power for the relevant competent authority to mandate contributions of input data. The regulation will not apply to the provision of benchmarks by central banks and for public policy purposes.

Administrators of benchmarks will have to apply for authorisation and will be subject to supervision by the competent authority of the country in which they are located. If an administrator does not comply with the provisions of the regulation, the competent authority may withdraw or suspend its authorisation. Administrators will be required to have in place appropriate governance arrangements and controls to avoid conflicts of interest.

The European Securities and Markets Authority (ESMA) will coordinate the supervision of benchmark administrators by national competent authorities. For critical benchmarks, a college of national supervisors including ESMA will be set up and take key decisions.

COMMISSION FINES BROKER ICAP EUR 14.9 MILLION FOR PARTICIPATION IN SEVERAL CARTELS

On February 4, 2015, the European Commission has fined the UK based broker ICAP € 14 960 000 for having breached EU antitrust rules by facilitating several cartels in the sector of Yen interest rate derivatives (YIRD).

The Commission uncovered seven distinct bilateral infringements lasting between 1 and 10 months in the period 2007 to 2010. The anti-competitive conduct concerned discussions between traders of the participating banks on certain JPY LIBOR submissions. The traders involved also exchanged, on occasions, commercially sensitive information relating either to trading positions or to future JPY LIBOR submissions.

The Commission's investigation uncovered that ICAP facilitated six of the seven cartels in the YIRD sector through various actions that contributed to the anticompetitive objectives pursued by the cartelists.

The fines reflect the gravity, duration and nature of ICAP's involvement as a facilitator as well as the need to ensure that the fine has a sufficiently deterrent effect.

Any person or firm affected may bring the matter before the courts of the Member States and seek damages.

Assisting companies in their cartel activities has severe consequences