INVESTMENT MANAGEMENT – REGULATORY ECOSYSTEM

~ Mind Map ~

**Key Regulatory Reforms for Asset Managers**

**FATCA**
- US Foreign Account Tax Compliance Act
  - **Timeline**: Signed into law in March 2010; Jan 2013 IRS online registration available
  - From Jan 2014 withholding of FDIP; from Jan 2017 for pass through payments
  - **Key Themes**
    - Rationale: prevent tax evasion by US investor through offshore accounts
    - FDIP income is fixed, determinate, annual or periodic income sourced in US
    - Foreign Financial Institutions (FFIs) defined as holding financial assets for the accounts of others; can enter into an agreement with US authority IRS by Jan 2013 to be identified as participating FFIs; entities duty to report to US authorities on any accounts held by US investors
    - Non-participating FFIs will be subject to 30% tax withholding on all US-sourced payments such as dividends/interests paid by US corporations
    - **Operational challenges**: to identify end-investor, to verify as US citizen through IRS online registration available

**DODD-FRANK ACT / VOLCKER RULE**
- US comprehensive rules reforming financial services
  - **Timeline**: Signed into law in July 2010, phased implementation
  - **Key Themes**
    - US/non-US investment advisors need to register with the SEC if AUM greater than USD 1000 million respectively attributable to US investors
    - **Deliverables**: new capital standards designed to strengthen capital and liquidity, stress testing; creating a more robust and resilient banking sector
    - **Key Themes**
      - Systemically important financial institutions (SIFIs) to have loss absorbing capacity beyond existing standards
      - “living wills” recovery & resolution plan

**BASEL III**
- Global Capital Rules for Banks & Insurance
  - **Timeline**: G20 by and 2012: EU CRD IV; in US: Dodd-Frank Act provisions
  - **Key Themes**
    - Systemically important financial institutions (SIFIs) to have loss absorbing capacity beyond existing standards
    - “living wills” recovery & resolution plan
    - Higher risk weightings on derivatives 2%; against initial margin posted to the CCP, clearing members to hold capital against exposure to clients
    - New capital thresholds and structure

**EMIR**
- EU Market Infrastructure Regulation
  - **Timeline**: EMIR entered into force in August 2012; technical standards in progress
  - **Key Themes**
    - Central clearing of OTC derivatives through a CCP similar to US Dodd-Frank; otherwise capital charges apply; need to review risk management
    - Common governance standards for CCPs and pan-EU requirements for CCP interoperability regarding equities, third country CCPs need to meet EU standards
    - Increased capital requirements: portability and eligibility of collateral not yet finalised

**MIFID II**
- EU Markets in Financial Instruments Directive
  - **Timeline**: MIFID II Regulation & Directive proposal published in Oct 2011
  - **Key Themes**
    - Wider scope in 3 aspects: 1) new instruments, 2) venues, 3) activities; captured will be eg: almost any type of derivatives; organised trading facilities (OTFs), “dark pools”
    - Derivatives on-exchange trading (ETD): if economically significant, risk of those trades
    - Structured UCITS classified as complex products – marketing impact: MFSD sales and transparency rules will apply; this will increase operational complexity of distribution of structured, non-UCITS UCITS
    - Advisor commissions/inducements: ban on commission payments for independent advice from 2013 (potentially creating an uneven playing field with insurance or other products, ie non-MIFID PRIPs

**PRIPs / UK RDR**
- EU & UK Rules for Retail Fund Distribution
  - **Timeline**: PRIPs proposal published in July 2012
  - UK RDR: Directive for industry from Jan 2013
  - **Key Themes**
    - Definition Package Retail Investment Products – offer exposure to various underlying financial assets with the objective to grow capital but with a modified exposure compared to direct holdings; no rigid definition yet aim to capture retail UCITS, insurance and structured or otherwise manufactured products
    - Marketing rules: PRIPs, fund marketing duties, ban on inducements
    - Aims also to establish a level playing field across various investment products and their distribution to retail market; uniform rules expected to make products more comparable; envisages KID responsibility with manufacturer

**AIFMD**
- EU Alternative Investment Fund Manager Directive
  - **Timeline**: Level 1 Directive in force since July 2011, effective for industry from July 2013
  - **Key Themes**
    - Applicable: to non-UCITS funds, including hedge funds, private equity
    - Died for investor: applicable if the alternative fund (AIF) manager (AIFM) is domiciled in one of the EU 27 member states
    - **Timeline**: EU mutual funds entered into force in August 2012; technical standards in progress

**UCITS IV / V**
- EU Mutual Funds
  - **Timeline**: UCITS IV in force and mostly implemented by EU 27 member states
  - UCITS V proposal published in July 2012
  - **Key Themes**
    - Passport: in force for management companies
    - Marketing rules / KIID: Key Investor Information Document will be further harmonised
    - **Timeline**: entered into force in August 2012; technical standards in progress
    - **Key Themes**
      - Common governance standards for CCPs and pan-EU requirements for CCP interoperability regarding equities, third country CCPs need to meet EU standards
      - Central clearing of OTC derivatives through a CCP similar to US Dodd-Frank; otherwise capital charges apply; need to review risk management
      - Common governance standards for CCPs and pan-EU requirements for CCP interoperability regarding equities, third country CCPs need to meet EU standards