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# **Developments on the EU Financial Services Legislative agenda**

**London, 2 February 2016**

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# Inter-connecting challenges facing the EU over 2016

## Shadow Banking

- ▶ ...\$75trillion of assets
- ▶ ...120% of global GDP
- ▶ Shift to identifying non-bank non-insurer global G-SIFIs
- ▶ Stability risks linked to market based intermediation, especially via asset managers

## EU-USA Regulatory divergence

- ▶ Transatlantic Trade and Investment Partnership – excludes financial regulation
- ▶ Prudential rules often include extraterritoriality provisions, thus not popular
- ▶ Slow progress on EU-US CCP equivalent standard

## Non-Performing Loans

- ▶ Close to 6% of total loans
- ▶ €1trillion or 7,3% of EU GDP
- ▶ Rises to 10% for non-financial corporate loans
- ▶ NPLs doubled in Portugal and Netherlands (2012-2014)
- ▶ Valuation measurement varies across countries

## Fragile EU funding space

- ▶ Slow diversification of funding – over reliance on banks
- ▶ Fragile state-backed debt – bailed-out in times of trouble?
- ▶ Sovereign bonds – assume zero-risk weighting in future?

## Resolution - Recovery

- ▶ Investors treated unevenly in bail-in cases (Italy, Portugal...Cyprus)
- ▶ Discrimination against foreign bondholders risk
- ▶ Divergence in treatment for institutional bondholders versus pari passu individual investors
- ▶ How will ECB react?

## Digitalisation of financial Services

- ▶ Cyber-security and data protection “regulatory gaps”
- ▶ Pre-contractual info to customers inadequate
- ▶ Increased financial exclusion

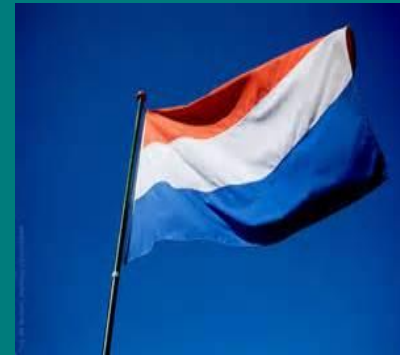
## Changing political landscape

- ▶ Fragmented mainstream political parties
- ▶ Slow structural reforms
- ▶ Southern versus Northern EU – differences of view
- ▶ Brexit
- ▶ Continuing open borders to capital?

# The Dutch EU Presidency

...in pursuit of growth, jobs and structural reform (January to June 2016)

- **CMU initiative** - legislative packages on qualified Securitisations, revised Prospectus Directive
- **Re-visit CRR/CRD IV** - consultation on capital charges proportionate to risks, impact on lending to SMEs and infrastructure projects, simplification of rules...
- **Bank Structural Reform**
- **Benchmarks regulation** – ESMA RTSs for non-regulated trading data
- **EMIR** - 15 June 2016 extension on QCCP equivalence debate between EU/US
- **European Deposit Insurance Scheme** (mutualised)
- **Securities Financing Transactions Regulation**
- **General Data Protection Regulation**
- **Money-Market Funds Regulation**
- **Post AQR Review:**
  - **Targeted EBA stress testing**
  - **ECB enforcement:** reducing national discretions, conduct risks



## Dutch focus on CMU initiative

- ▶ Concrete steps to “make it easier for companies to obtain capital, offering alternatives to bank financing”
- ▶ Facilitating cross-border retail investments, and EU pension products package

# Capital Markets Union

...re-directing new funding to the real EU economy



## Structural reform

- ▶ SME funding in Europe heavily reliant on banks: 80%
- ▶ Compliance with 28 different national rules...significant differences in financing conditions and market practices between Member States, i.e., private placements, national treatment on tax (equity versus debt), divergent insolvency laws
- ▶ Shareholders and buyers of corporate debt rarely invest beyond their national borders ...only 6% of EU citizens!
- ▶ Improve functioning and liquidity of corporate bond markets

## Key short-term initiatives – low hanging fruit

- ▶ Revised Prospectus Directive
- ▶ Qualifying Securitisations Regulation
- ▶ EC Green Paper on fostering retail and institutional investments (cross-border)
  
- ▶ Prospectus: raising the threshold to €500,000 on public markets without prospectus; states can raise this capitalisation up to €10m and reduced approval times of 5 days via “annual universal registration document”

## Securitisation Regulation

“simple, standard and transparent” (SST) – 29 criteria

- ▶ Loans – max 3 years – auto loans/leases, credit cards, personal loans, equipment loans/leases, trade receivables originated by corporates and smaller banks – no commercial or residential property mortgages.
- ▶ Lower capital charges. Additional criteria to be included in the CRR to determine whether a bank may benefit from the preferential capital requirements regime for STS
- ▶ Originator, sponsor or original lender of a securitisation retain a material net economic interest in qualified securitisation of  $\geq 5\%$
- ▶ Synthetic securitisation (sales of credit insurance against potential losses on SME loans) excluded from scope...but EBA pushing for its inclusion as separate asset class
- ▶ Inclusion of separate STS criteria for ABCP in the proposed Securitisation Regulation, but problematic: European money market funds restricted from investing in non-compliant ABCPs

# The European consumer protection agenda

... a shift from Caveat Emptor to Caveat Vendor!

- MiFID II
- Insurance Distribution Directive
- PRIIPs Regulation
- Data Privacy Regulation

- ▶ Product governance
- ▶ Commissions/inducements
- ▶ Pre-contractual information
- ▶ Suitability/due diligence
- ▶ Price transparency
- ▶ Retail/professional investors classifications
- ▶ Safeguarding clients monet and data!



# Payments and cards...EU Interchange Bank Fees Regulation

## Debit card transactions:

- ▶ Cross-border agreed cap of 0.2%
- ▶ Domestic agreed cap of 0.2% based on annual weighted average of transaction value over five year period

## Credit card transactions:

- ▶ Agreed cap of 0.3% of transaction value
- ▶ Timing: six months after legislation enters into force (September 2015 earliest)
- ▶ Retailers free to choose the cards they accept

## Interoperability:

- ▶ No commercial or technical obstacle should prevent execution of transaction if different payment service providers use different processing systems

## ◆ Three-party schemes:

- ◆ Involving only one bank – exempt from inter-charge fee, provided card is both issued and processed within the same scheme

- ◆ Co-branding third party: with separate issuing and acquiring entities falling within the scope

## ◆ Four-party schemes:

- Subject to caps if the card issuers have in excess of 3% of market share, ie., Visa, MasterCard

## ◆ Commercial cards:

- Exempt from caps only if used for business expenses
- Not exempt if customers pay the expenses and seek reimbursement from employer
- Other:
- EC keen to give retailers freedom to charge clients more for use of cards that cost them more

# EU Legislative initiatives – the story so far...

## 2001 EU Regulation on cross-border payments in Euro

- cross-border transfers cost the same as domestic transactions
  - **Credit transfers**
    - **ATM withdrawals**
    - **Electronic payments, include card payments**



**January 2008** – launch of SEPA Credit Transfer (SCT)

**2009 Payments Services Directive** – debit and credit cards processed in one day after the payment order is placed.

**2009 Adjusted Regulation of 2001 on cross-border euro payments** to direct debits - introducing equal charges for national and cross-border payment transactions.

**2011: Council and EU Parliament set SEPA migration end date of 1 August 2014 (extension)**

- Applies to euro-denominated transactions in non-eurozone countries from 30th October 2016.

# Revised Payment Services Directive ... political agreement on May 2015

- Facilitate a more secure use of low cost internet payment services
- Improved consumer protection against fraud – Consumers indemnified for losses – maximum of 50 EUR - in cases of unauthorized card payments
- improves consumer rights when sending transfers and money remittances outside Europe or paying in non-EU currencies.

- Cash deposits and withdrawals
- Execution of payment transactions
- Credit transfers, including standing orders
- Direct debits, including one-off direct debits
- Payment card transactions
- Issuing payment instruments (i.e., debit cards) or acquiring payment transactions
- Money remittance
- Payments sent through the intermediary of a telecom, IT system or network operator

## EXCLUSIONS

Cash only transactions  
Cheques and paper instruments  
Cash transportation (i.e., cash deliveries by commercial security companies)  
Payment transactions related to securities asset servicing  
Technical services including independent ATM deployers.



# SPDII ...next steps



- 5 May – EP and Council reach political agreement on SPDII package
- 11 May 2015 - Publication of the final PSD2 in the Official Journal of the European Union
- 1 June 2015 : Entry into force of the PSD2 (Article 103 of the PSD2)
- 1 June 2016: EBA to issue draft regulatory technical standards (RTS Article 87a of the PSD2)
- 1 August 2016: EC to decide whether to endorse the RTS or not (Articles 10 to 14 of Regulation)
- 15 September 2016: EBA to amend the draft regulatory technical standard on the basis of the Commission's proposed amendments and resubmit it in the form of a formal opinion to the Commission (Articles 10 to 14 of Regulation 1093/2010).
  
- ◆ Unclear: Date of entry into force of the RTS (Article 102.4 of the PSD2)
  - 1 January 2018: Member states to ensure application of RTS (Article 102.4 of PSD2)
  - 1 June 2017: Transposition: Member states to adopt and publish laws, regulations and administrative provisions necessary to comply with the PSD2 requirements (Article 102.1) and apply those provisions (Article 102.2)



# Thank you!

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