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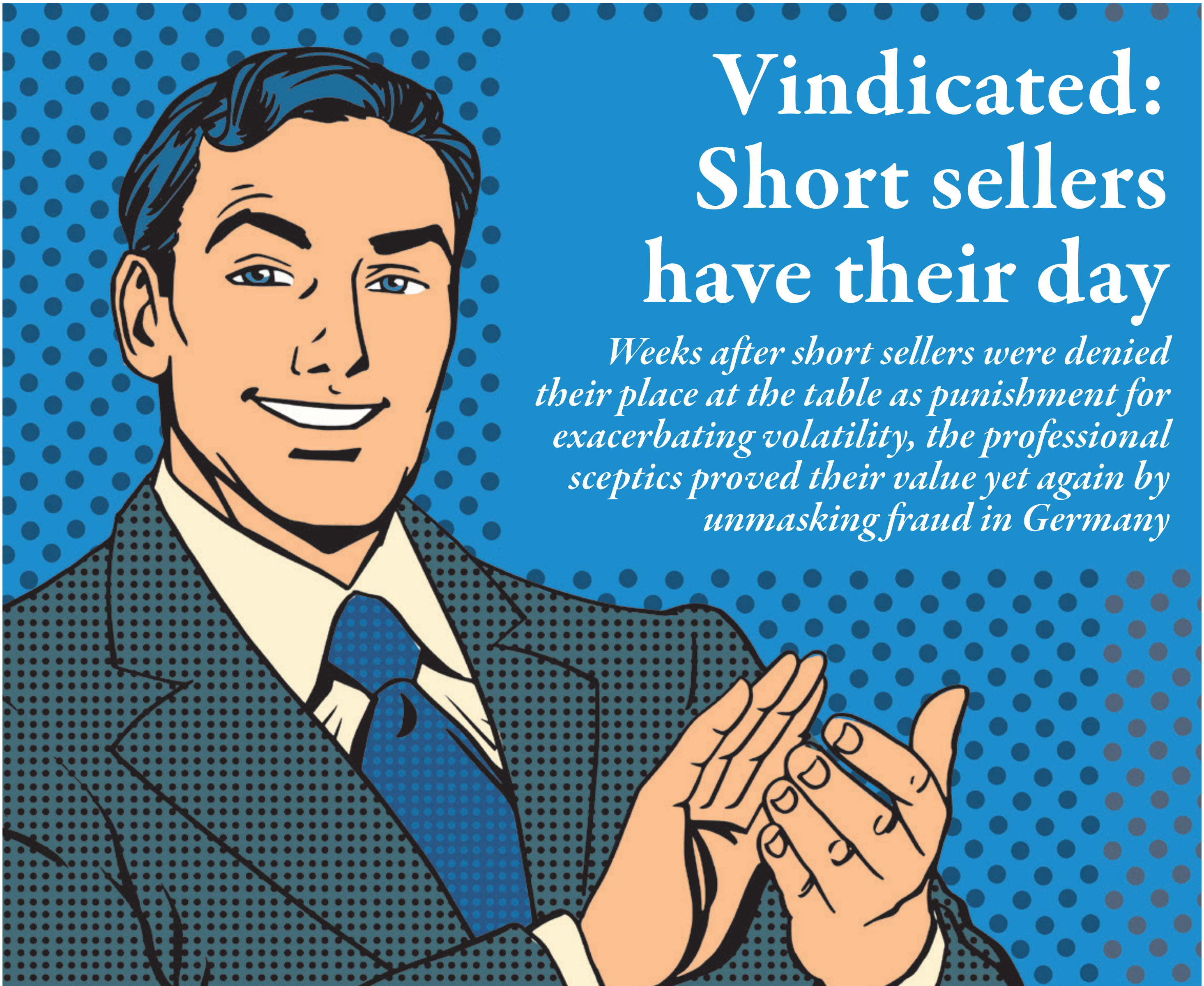

Vindicated: Short sellers have their day

Weeks after short sellers were denied their place at the table as punishment for exacerbating volatility, the professional sceptics proved their value yet again by unmasking fraud in Germany

Data Quality

With SFTR's go-live days away, Darragh Hayes, of LEI Worldwide, details how many industry stakeholders have their LEIs in place

Lessons Learned

The misguided ban on short selling Wirecard has revealed flaws in governance rules and exposed gaps between regulators' mandates

Data Analysis

FIS' David Lewis takes a look at the data behind the headlines that surrounded Wirecard's recent fall from grace

Brexit: UK to break with EU on CSDR and SFTR

The UK has taken an axe to the framework of EU regulations it plans to adopt at the end of the Brexit transition period, including significantly pruning the Central Securities Depositories Regulation (CSDR) and the Securities Financing Transactions Regulations (SFTR).

The chancellor of the exchequer Rishi Sunak confirmed the first ways in which UK-based securities finance market participants will be regulated differently to their EU counterparts in a written statement in mid-June.

In the statement, the chancellor clarified that the UK would not onshore any aspects of EU regulations that are not in effect as of 31 December, when the Brexit transition period ends. Among the many regulatory frameworks, this will impact are the final phase of SFTR and the settlement discipline regime of CSDR, which go live in January and February 2021, respectively.

The terms of the EU Withdrawal Act mean this has always been the default position of the UK's regulation adoption package, but the option does exist for it to use a statutory instrument to take on SFTR or CSDR wholesale. Sunak now says the UK will not pursue this.

CSDR

The settlement discipline regime was originally due to come into effect in September but "technical impossibilities" around the implementation of IT solutions of industry stakeholders, and the fact that an essential ISO update due from SWIFT would not be in place until its annual November update, scuppered this timeline.

Explaining his position, Sunak writes: "The UK played a pivotal role in the design of EU financial services regulation. The government remains committed to maintaining prudential soundness and other important regulatory outcomes such as consumer protection and proportionality.

"However, rules designed as a compromise for 28 countries cannot be expected in every respect to be the right approach for a large and complex international financial sector such as the UK.

"Now that the UK has left the EU, the EU is naturally already making decisions on amending its current rules without regard for the UK's interests. We will therefore also tailor our approach to implementation to ensure that it better suits the UK market outside the EU."

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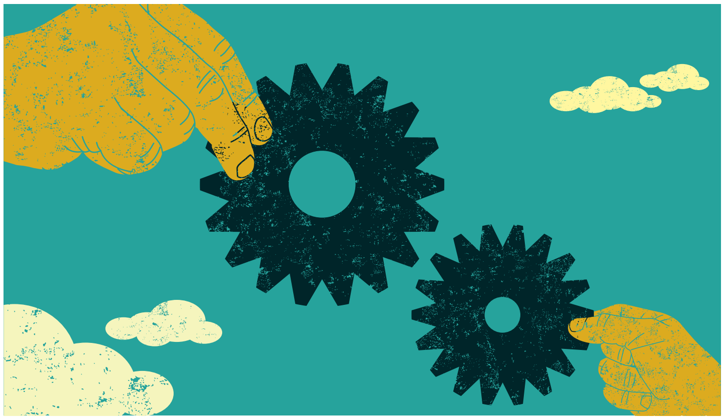

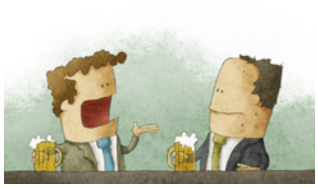

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Brexit: UK to break with EU rules on CSDR and SFTR

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The divergence was broadly welcomed by the industry stakeholders but Kaizen Reporting's senior regulatory reporting specialist, Jonathan Lee, notes that it may create headaches for multinational institutions that will have have to juggle two distinct rule sets across the previously-aligned UK-EU markets.

"This divergence might be an issue for multinational institutions operating in the UK and EU where they will increasingly need to manage two distinct sets of reporting rules and have systems, controls and personnel able to ensure ongoing compliance with both regimes".

"However," Lee adds, "there appears to be plenty of scope to additionally tailor the European Market Infrastructure Regulation and Markets in Financial Instruments Regulation reporting regimes to the benefit of the UK firms without losing equivalence".

Elsewhere, Andrew Hill, the senior director for market practice and regulatory policy at ICMA, tells SLT that Sunak's decision to reject CSDR's buy-in rules that come as part of its settlement discpline regime was "not totally surprising".

"There is a growing realisation that there are some serious problems with the mandatory buy-in piece of the settlement discipline regime and that it is likely to cause more problems than it will solve," Hill explains. "This is one piece of regulation where I do not expect to see too many third countries rushing to copy the EU."

In a seperate written statement, ICMA further notes that UK trading entities, along with all third-country trading entities, are still likely to be brought into the scope of the CSDR as it applies at EU settlement level and requires trading parties to put enforceable contractual arrangements in place importing the mandatory buy-in regime.

SFTR

The other significant amendment to the UK's post-Brexit securities finance regulation is the scrapping of phase-four of SFTR, which relates to non-financial entities (NFCs) reporting their SFTs.

"Given that systemically important NFC trading activity will be captured sufficiently through the other reporting obligations that are due to apply to financial counterparties, it is appropriate for the UK not to impose this further obligation on UK firms," Sunak writes.

The decision is understood to have been made after lengthy discussions on the matter between the Treasury and Market FinReg, which first highlighted the issue to the UK government some time ago.

Seb Malik, head of financial law at Market FinReg, tells SLT: "This is highly significant in that it shows the UK is already diverging from EU regulation while still in the transition period. UK NFCs will not to caught by SFTR. Larger NFCs and FCs (who must report on behalf of small NFCs) will be breathing a collective sigh of relief. The greater question is how far the UK is prepared to diverge going forward."

DTCC expands custodian community ahead of CSDR go-live

The global custodian community of the Depository Trust and Clearing Corporation (DTCC) has grown to 11 in preparation for the Central Securities Depositories Regulation (CSDR).

CSDR is due to come into effect in February with its settlement discipline regime which aims to improve settlement rates by imposing cash penalties and a mandatory buy-in rule for failing trades.

DTCC custodian community members include BNY Mellon, Brown Brothers Harriman, CACEIS, CIBC Mellon, Citi, HSBC and J.P. Morgan.

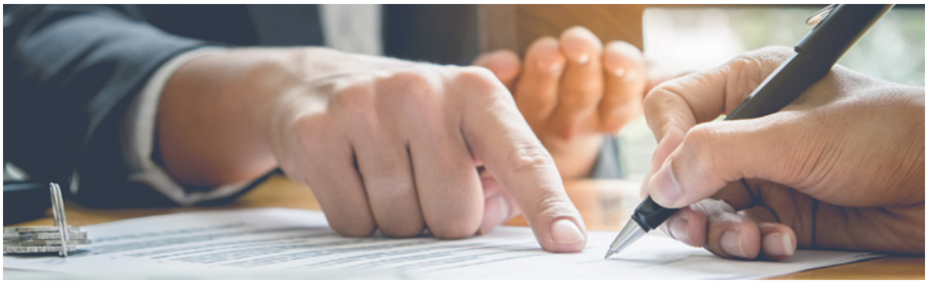
They are joined by Northern Trust, RBC Investor & Treasury Services and State Street.

All members directly submit their exception data to DTCC's Exception Manager platform.

The platform integrates custodian, broker, and depository data to allow buy-side clients to manage exceptions from a centralised location.

It also contains a proprietary data feed that integrates DTCC TradeSuite ID affirmed data and DTCC inventory management system settlement status data.

Through these institutional trade processing solutions, financial firms can comply with CSDR mandates in an efficient workflow that increases affirmation rates and helps to prevent settlement fails, says DTCC.



AcadiaSoft partners with OpenGamma on UMR

AcadiaSoft has partnered with OpenGamma to integrate its initial margin calculation and reconciliation service with a risk sensitivities generation service to help compliance with phases five and six of the Uncleared Margin Rules (UMR).

As a provider of risk and collateral management, AcadiaSoft clients will benefit from OpenGamma's services of automated input file feeds and AcadiaSoft's initial margin exposure manager for daily reconciliation with counterparties also subjected to UMR.

Fred Dassori, chief product officer at AcadiaSoft, comments: "As we continue to work across the industry to make UMR compliance less burdensome for phase five and six clients, this partnership with OpenGamma is a natural fit.

"Bringing OpenGamma into the AcadiaSoft network will enable our common clients to meet the requirements of the new rules efficiently and seamlessly."

Peter Rippon, CEO of OpenGamma, adds: "Bringing together our established services for this common purpose has been well-received by clients and is a testament to our mutual commitment to support industry initiatives designed to integrate proven, best-in-class service providers."

In April, AcadiaSoft also entered into a new initial margin partnership with Cassini Systems, a provider of pre- and post-trade margin analytics for derivatives market participants.

Dominic Crowe, head of custody and fund services, North America, at Citi, comments: “By partnering with DTCC to submit exception data directly into the Exception Manager platform, we are able to provide our clients with centralised access to accurate data and help prepare for CSDR by greatly reducing risk and quickly resolving exceptions.”

Matthew Stauffer, managing director and head of institutional trade processing at DTCC, adds: “The growth in the adoption of Exception Manager, particularly with the top global custodians, is an important step in moving the industry forward in preparation for the upcoming CSDR mandate.

“As settlement fails will soon result in penalties and mandatory buy-ins under the settlement discipline regime, quickly capturing, assessing and resolving exceptions is critical.”

COVID-19 disruption dried up swaps markets, research shows

Almost all UK swaps market participants saw a “massive decline” in interest rate swaps (IRS) liquidity due to COVID-19 in late February and early March, according to new market research.

An investigation into the impact of the pandemic on global swaps markets found that 96 percent of market participants suffered from a swaps drought in Q1.

But, the report notes, 60 percent also saw an immediate improvement to liquidity after central banks stepped in.

The study was led by Greenwich Associates, a global provider of data, analytics and insights to the financial services industry, in conjunction with the International Swaps and Derivatives Association (ISDA).

The researchers interviewed 172 buy- and sell-side swaps market participants in the UK, the EU, North America, Japan, Asia, Latin America, Africa and emerging markets to examine the impact of government intervention and explore the potential for future changes to the market structure.

The subsequent report 'The impact of COVID-19 and government intervention on swaps market liquidity', examines the factors contributing to market illiquidity and how that illiquidity impacted various parts of the swaps market in different parts of the world.

In the report, Kevin McPartland, head of research for market structure and technology at Greenwich Associates, explains that intervention by central banks was "hugely effective in calming markets", but notes that "the appropriateness and adequacy of the specific interventions put in place are still being debated".

"Those that were interviewed appreciated that the banks are safer than before 2008," explains McPartland, "but market participants remained concerned that banks were restrained from stepping into the markets to restore calm as they might have 15 years ago".

"When we asked about the impact of financial regulatory reforms put in place over the past 10 years," McPartland adds that "most acknowledged that the reforms had, in fact, improved the strength and resiliency of the banking system".

However, according to the survey, buy-side respondents in particular, also noted that these reforms reduced the capacity of banks to provide liquidity.

US SEC fines BNP Paribas Securities Corp for Regulation SHO violations

BNP Paribas Securities Corp has settled charges and accepted a six-figure fine for breaking US short selling rules in 2016 when it was known as BNP Paribas Prime Brokerage (BNPP).

The US Securities and Exchange Commission (SEC) has concluded an investigation into the activities of BNPP, prior to its merger into BNP Paribas Securities Corp in March 2018, that finds it in violation of Regulation SHO.

According to the commission, the broker failed in its due diligence by repeatedly loaning securities to a brokerage client to settle long sale orders it had submitted despite the client not delivering the assets to its account on time or providing proof it owned them on numerous occasions.

The SEC's order states that BNPP loaned securities to an institutional hedge fund to settle purported long sales on at least 35 occasions over a four-month period in violation of rule 203(a)(1) of Regulation SHO, which prohibits such transactions.

Between April and July, the US broker's customer repeatedly submitted sale orders marked as long to another broker for execution, which were subsequently submitted to BNPP for clearing.

For each of those long sales, the customer did not have sufficient shares in its prime brokerage account at BNPP on the morning of the settlement date to cover the sale order.

When the customer failed to deliver the shares by the settlement date, BNPP loaned the customer shares to cover the sale.

Between June and July, BNPP loaned its client shares to settle long sale orders in a security on 16 consecutive trading days.

On other occasions, the broker loaned shares to the fund to settle long sales when the client still owed BNPP shares that it had borrowed to settle prior sales in the same security. In total, BNPP loaned its customer more than 8 million shares in the securities of three different issuers over the period.

In its order, the SEC explains that at the time of the hedge fund's long sale orders, BNPP "did not take steps necessary to reasonably ascertain that the client owned the securities, nor did the fund's assurances reasonably inform BNPP that it would deliver the securities to its account prior to the scheduled settlement date".

The commission further notes that although the fund routinely made assurances to BNPP that its orders were properly marked as long and that it would deliver the securities to its account prior to settlement date, "it was not reasonable for BNPP to rely on such representations because BNPP was on notice of its client's repeated failures to deliver the securities to its account by settlement date".

As such, the US securities markets regulator concluded that BNPP "willfully violated" Regulation SHO and handed a penalty of $250,000 to BNP Paribas Securities Corp.

BNP Paribas Securities Corp accepted the fine without admitting or denying the findings and agreed to be censured to cease-and-desist from violating the rule.

It has also voluntarily undertaken remedial efforts concerning its securities lending practices for long sale transactions and implemented new policies and procedures to address situations in which a customer's long sale transaction results in an oversell of the customer's position in a security in its account at BNPP.

EMEA equities fees spike after COVID-19 doldrums

DataLend, the securities finance market data division of EquiLend, has published a report revealing the impact of COVID-19 on the securities lending market over the past four months.

Several specials in Europe, Middle East and Africa (EMEA) have significantly driven demand and revenue across the market, with some specials' fees hitting, and briefly exceeding, 70bps only weeks after regional average borrow fees languished at a three-year low.

Earlier in March, DataLend calculated that fees to borrow EMEA equities averaged 43.67bps, the lowest value at any point within the past three years.

However, as short selling bans in Europe were lifted in May and equity markets started to bounce back, demand to borrow EMEA equities has made a dramatic climb in recent months.

According to DataLend, there has been a momentous month-on-month gain in demand as the top-five stocks earned over $10 million more in revenue when comparing April versus May.

All in, EMEA's top-five earners brought in $23.63 million in May, up from $13.55 million in April.

German equities dominated the tables across April and May.

Wirecard, the scandal-ridden fintech giant, unsurprisingly took the top spot for borrow fees for both months.

As accusations of accounting mismanagement by payments firms intensified, lenders were able to reap revenue of $5.55 million in April and $8.98 million a month later.

Fees to borrow the now-insolvent firm, remain at more than 100 percent.

Elsewhere, Deutsche Lufthansa, one of Europe's largest commercial airlines, came in second place for both months as investors expressed jitters over the continent's uncertain return to normal travel conditions.

The German carrier landed lenders $2.63 million in April and $5.38 million in May.

Meanwhile, Varta, the car battery manufacturer, and Grenka, a business solutions provider, also kept their German peers company among DataLend's monthly top-five earners lists.

Other headline names include Groupe Casino, the French mass-market retailer and Intrum a Swedish financial services and payments service provider.

Each firm was trading warm prior to the major regional COVID-19 outbreaks in Q1 but demand has since ratcheted most of them up to red-hot specials levels.

Sweden to launch digital reporting tool for short sellers

Sweden's Financial Conduct Authority (FI) has outlined plans to scrap email and paper-based disclosures of net short positions with the launch of a new digital reporting tool.

The short selling online reporting tool is set to launch in Autumn and will act as a database for all reported short positions.

The tool's primary advantage is that it offers a more efficient system for maintaining data integrity by making it possible to see into the system of positions that were reported earlier and recall incorrectly reported positions, according to FI.

Users will be able to log in with a Bank ID or via SMS via the authority's reporting portal, which is the hub for all reporting, and will no longer be able to report positions via email.

The regulator is recommending that market participants prepare for the transition by creating user accounts in the reporting portal and delegating authorisation to persons who will report on behalf of the position holders. Swedish companies are registered by entering their company identification number, and foreign companies are registered by submitting a digital form.

In both cases, the LEI code is mandatory. The LEI code is provided during the registration process for a foreign firm but, for Swedish companies, it needs to be provided by an authorised signatory after the registration is completed.

The information is then retrieved from the Swedish Companies Registration Office. Once this is done, the authorised signatory is automatically assigned the role "authorised signatory" in the system and can delegate authorisation to the rapporteurs.

Seb Malik
Head of financial law
Market FinReg

Cum-ex tax fraud court ruling

In my previous memo I explained the mechanisms of an estimated €55 billion tax fraud (known as cum-ex) that has occurred in Europe exploiting the mechanics of delivery under a securities lending agreement. In response, a number of individuals from lawyers to industry practitioners contacted me requesting further details.

Last week a court in Bonn finally handed down its landmark decision. It found two defendants criminally liable. Defendant CA was guilty of tax evasion in 10 cases and aiding and abetting tax evasion in another case. He will serve one year and 10 months in jail. He was "ordered to recover the value of the proceeds of the crime in the amount of €14 million". The second defendant was found guilty of only tax evasion and will serve one year in jail; the other defendants were ordered to repay the proceeds of crime: €176.57 million. The ruling comprises 334 pages of technical German but I discussed its implications with a leading tax professor in Germany who has testified in front of the European Parliament.

This ruling is the tip of the iceberg. It will pave the way for state prosecutors to pursue banks, traders, custodian banks, law firms and ancillary actors. It will also reactivate the insolvency case that the High Court stayed pending the Bonn ruling ([2019] EWHC 705 (Ch)).

NCA failure

In 2005 a Dutch employee was fired from a bank and disclosed cum-ex. In 2008, Switzerland tightened its laws to prevent cum-ex. Yet it was a full six years after the Dutch disclosure and three years after the Swiss state that the German Ministry of Finance finally decisively closed the programme – to the detriment of tens of billions of euro. The same actors then moved to Denmark and repeated the scheme there.

The national competent authorities' (NCAs) performance and coordination have been woeful. BaFin, the German financial regulator, could easily have spotted the cum-ex fraud by noting the huge spike in trading volumes in equities around their dividend record dates. The lack of such elementary analysis says little for NCA's surveillance and detection abilities. To compound matters, a whistle-blower first contacted BaFin in 2007 but was ignored.

We now learn that the German Ministry of Finance had been engaged in projects to prevent cum-ex, but had not involved BaFin. Thus, BaFin continued to authorise the establishment of entities set up expressly to commit cum-ex tax fraud. As Gerhard Schick, a German MP, put it: "BaFin could have stopped the criminals by preventing the purchase of the murder weapon."

While the European Securities and Markets Authority (ESMA) was established after cum-ex came to an end, the cum-cum variant ended much later. ESMA too failed to detect the fraud notwithstanding its role to "protect public values such as the integrity and stability of the financial system…". Numerous funds were established in the EU with the sole purpose to facilitate criminal activity.

NCA's and ESMA must engage in serious introspection to identify failures in culture, systems and processes that have allowed the theft of tens of billions of euros.

Securities lending often involves the borrowing of securities that are owned by insurance companies and pension funds. The European Insurance and Occupational Pensions Authority (EIOPA) should instigate an investigation and provide cogent reasons should it refuse to.

Liability

The entities that filed the false dividend tax rebate must be held liable – criminally if their state of mind can be proven. Custodian banks that wrongly issued dividend certificates must be held liable because the fraud is predicated on the issuance of this certificate. There is a strong case for criminal liability as, without disclosing names, a large custodian bank was found to possess two separate bank accounts – one for genuine dividends and one for dividend compensation payments (manufactured payments). The legal advisors should be liable under tort for negligence. If I can explain last week within the confines of a one-page memo how the scheme is obviously illegal, there is no defence for the issuance of shoddy advice that provided legal cover for this fraud.

Schick said: "Deal makers have varied their approaches a lot over time adapting smoothly to changes in law and administration." NCAs and ESMA must invest in state-of-the-art artificial intelligence and machine learning technologies to detect the next big fraud. In the meanwhile, criminal prosecutions must follow.

Who watches the watchman?

Drew Nicol reports

As the dust settles on the collapse of Wirecard, regulators shouldn't sweep their part in the scandal under the rug ignoring the short selling ban that protected fraudsters

The 20-year saga of Wirecard's meteoric rise from humble beginnings to become one of the standard-bearers of German technological prowess, only to fall from grace so publicly last month, has enough colourful characters and plot twists to make a Game of Thrones novel blush.

Intrigue, subversion and a host of warring factions, some of which courted an uneasy alliance only to now be pitted against each other once the status quo began to unravel and their own failings risked being exposed.

Chief among these are the short sellers which might now enjoy being characterised as plucky underdogs that have been vindicated and rightly rewarded for their perseverance in the face of overwhelming odds. The rebel alliance that took on the corrupt empire and won. David and Goliath. You get the idea. The problem with this analogy is that as far as is publicly known, there was no alliance of short sellers. The short interest appears to have come from lone actors that either did their own research or trusted the work of others that had caught a bad smell coming from Wirecard's accounts.

In fact, the claims that short sellers were acting in concert to bring down the payment processing giant came first from Wirecard and later from BaFin, the German financial markets regulator. In the media whirlwind that engulfed Wirecard in June amid accusations of misplacing, or inventing, nearly €2 billion, this sub-plot has largely been forgotten by those involved. Concerns around how such a prominent firm managed to dodge scrutiny of its allegedly-cooked books have understandably taken centre stage so far. But, accusations of accounting fraud may ultimately prove rather humdrum compared to the more pernicious conspiracy to protect the darling of Germany's tech sector from activist short sellers.

The ban

Wirecard was founded in 1999 in Munich with a run-of-the-mill credit card payment processing service. After a rocky start, the ship was steadied by former-KPMG consultant, Markus Braun, who took over in 2002. Braun was among the first of Wirecard's senior management to resign last month shortly before being arrested by the Munich authorities.

Under his stewardship, Wirecard found its niche processing payments for companies in the pornography and online gambling sectors, made some acquisitions and then entered the Frankfurt Stock Exchange in 2005.

It continued to grow and first came to the attention of short sellers in 2008, who were alerted by accusations of accounting irregularities by German shareholders. EY, one of the Big Four accounting firms, was brought in to quash the claims. It now has its own questions to answer. Wirecard escaped the incident largely unscathed and continued to grow and buy-up other payments service providers around the world; mostly in Asia.

In 2015, the UK's Financial Times newspaper began to take an interest in Wirecard's activities and published a series of articles which brought down the wrath of Wirecard's legal team.

A year later, short interest was renewed after new evidence surfaced of Wirecard exaggerating its earnings, international scope and bank balance. Known short sellers and journalists covering the matter became the target of cyber-attacks by unknown actors while Wirecard continued to threaten legal action.

Then, in February 2019, following another round of shorting and yet more allegations of Wirecard's financial mismanagement, BaFin did something it had never done before. It applied to the European Securities and Markets Authority (ESMA) for a two-month short selling ban on Wirecard shares. At the time, BaFin argued that the intense short interest and significant share price drop the firm was battling "constituted a threat to the orderly markets and to market confidence".

Until now BaFin had stood firmly behind Wirecard during each of the prior incidents of accusations followed by short interest and negative headlines. But, this latest action was different. No EU regulator has ever applied for a short selling ban for a single issuer outside of a major financial crisis. Even during periods of volatility such as that seen during the recent COVID-19 turmoil in Europe in February and March, national regulators only ever sought to protect floundering banks, not fintech firms, and only for single trading days at a time, not two months. Confusingly, when some European regulators imposed blanket bans on short selling in embattled equities markets under their respective remits, BaFin was one of the most outspoken critics of the restrictions.

The blame game

When it came to Wirecard, BaFin saw the growing black smoke-cloud of accusations filling the sky and prayed for wind, rather than checking on the barn.

In its request for ESMA's endorsement of a ban, BaFin's argument was two-fold. Firstly, it emphasised that Wirecard's size and international prominence meant that its rapid decrease in value was a threat to Germany's economic stability. Moreover, it argued that such concerted "attacks" on a member of the prestigious DAX 30 index (which it joined in 2018 by supplanting

Commerzbank) represented “a risk of contagion to other shares of the DAX”.

Secondly, BaFin supplied evidence to ESMA that indicated that members of the media were working with short sellers for mutual gain and the downfall of Wirecard. BaFin highlighted repeated instances where short positions were increased mere minutes after new negative stories were published by the press.

This, it claimed, indicates that hedge funds were not simply reading the reports and reacting but were acting in coordination with journalists. It is worth noting at this point that, bar closely-alignment in press coverage and further short activity, BaFin has failed to produce any evidence to corroborate its claims, despite calls to do so. Around the same time, the regulator took another radical step by filing a criminal complaint against two Financial Times reporters and certain short sellers that were most prolific is asking awkward questions about Wirecard. Again, however, the regulator did not go so far as to make evidence for its concerns public. The day after BaFin filed its application for a ban on shorting Wirecard, the FT issued a statement on its legal snafu with the regulator.

“We have not been contacted by the German financial regulator or the Munich prosecutor,” the newspaper’s statement read. “Any investigation would, therefore, appear to be at the very earliest stage, with investigators not yet having spoken to those they say they are investigating.” No further action has been taken.

When asked by this magazine if the ban could still be justified in light of recent events, a BaFin spokesperson explains: “At the time of our short selling ban, we observed a) big (and growing) net short positionings, b) significant losses in share price, c) high volatility and d) specific hints on manipulation of share prices (via coordinated short selling attacks).

“This set of factors forced us to take action. Our target was neither evaluating the outstanding accusations nor shielding a single issuer, our focus was on protecting market confidence.”

For ESMA’s part, it agreed with BaFin’s analysis and issued a positive opinion on the ban.

At the time, ESMA said it believed “that the price drop, the sharp increase in the net short positions and the high volatility observed in the prices of Wirecard shares constituted a threat to the orderly markets and to market confidence if those circumstances have not been caused by the release of fundamental information related to Wirecard”.

The authority further noted that “the possibility that the large short positions and the severe declines in price observed over the last weeks might correspond to manipulative practices constitutes in ESMA´s view a clearly adverse scenario for market confidence, as it risks undermining investors’ trust in the price formation mechanism”. ESMA also reinforced BaFin’s actions prior to the ban stating that “the coincidence in time of the building up of significant net short positions, the publication of the news reports and the abrupt price declines described by BaFin deserve further investigations, in particular since similar situations took place in 2008 and 2016, that were subject to scrutiny by BaFin and German public prosecutors”.

SLT also offered ESMA the opportunity to review the validity of BaFin’s evidence of a conspiracy or the fact its endorsement of the ban now appears to have helped block legitimate investors from expressing a negative sentiment towards a fraudulent company.

An ESMA spokesperson replied by noting that “ESMA took its decision based on the material provided by BaFin in support of their proposed short selling restriction”.

“ESMA’s role in assessing requests under the Short Selling Regulation (SSR) is limited to assessing whether there is a risk to financial stability or market confidence and on the basis of the information available at that time provided by BaFin we concluded that this was the case.”

The spokesperson also noted that the SSR only allows ESMA a 24-hour window to respond and “does not require, or provide any powers to ESMA to conduct supervisory investigations into the underlying evidence supporting a short selling measure proposed by a national authority”.

Hindsight is 20/20 and the 40 percent share price drop that Wirecard suffered in the two weeks leading up to the ban no doubt raised alarms in Bonn and Paris, but regulators should now be equally concerned that they appear to have been manipulated into shielding a firm that deserved every short position it had against it. Another feature of the SSR is that BaFin would have been able to unilaterally impose a ban even if ESMA issued a negative opinion but this would have undoubtedly have caused a headache for the German regulator in justifying the unprecedented move.

Many within the securities lending and short selling communities were loudly critical of the ban at the time and are repeating their grievances now.

Jack Inglis, CEO of the Alternative Investment Management Association (AIMA), argued vehemently at the time that imposing the ban was unjustifiable and that if market abuse is suspected then the authorities have all the tools they need in the Market Abuse Directive.

In a note to members last week, he further stated that "what is very clear is that short selling hedge funds did not cause the demise of Wirecard. Far from it."

He went on to state: "It takes bravery and belief to commit to short positions but at last those hedge funds who have stuck with it have been vindicated. Sure, there will be some who say it is wrong for hedge funds to benefit from corporate misery, but there would have been a lot less misery for those investors who continued to buy the shares (up to a peak of €191 in the summer of 2018) had they paid heed to the public signals being put out by the short sellers."

Missed opportunity?

As the complex web of Wirecard's deception unravels and those involved are able to assess the part they played, regulators initially seemed keen to learn lessons from the affair that led up to the first insolvency filing of a DAX 30 member. BaFin has found the tables turned as it goes from inquisitor to defendant. In the wake of last month's revelations and the belated collapse of Wirecard, the European Commission has instructed ESMA to conduct a "fact-finding mission" to figure out what went wrong, including a review of the supervisory responses to the events.

However, regulators risk ignoring what could arguably be a fundamental undermining precedent of EU rules meant to protect market participants during emergency situations. ESMA has subsequently confirmed to SLT that the request "focuses on financial reporting requirements under the Transparency Directive". This suggests that the short selling ban will not feature prominently in their investigation but it has not been ruled out entirely. Watch this space.

Short selling bans are not meant to protect fraudulent firms from facing the consequences of their actions. Wirecard, at least in its current form, is no more and yet the sky has not fallen in Germany, as BaFin feared it would. In fact, the European Commission is now arguing that BaFin's suspected mishandling of the affair is a much larger threat to market confidence than the collapse of Wirecard ever could be.

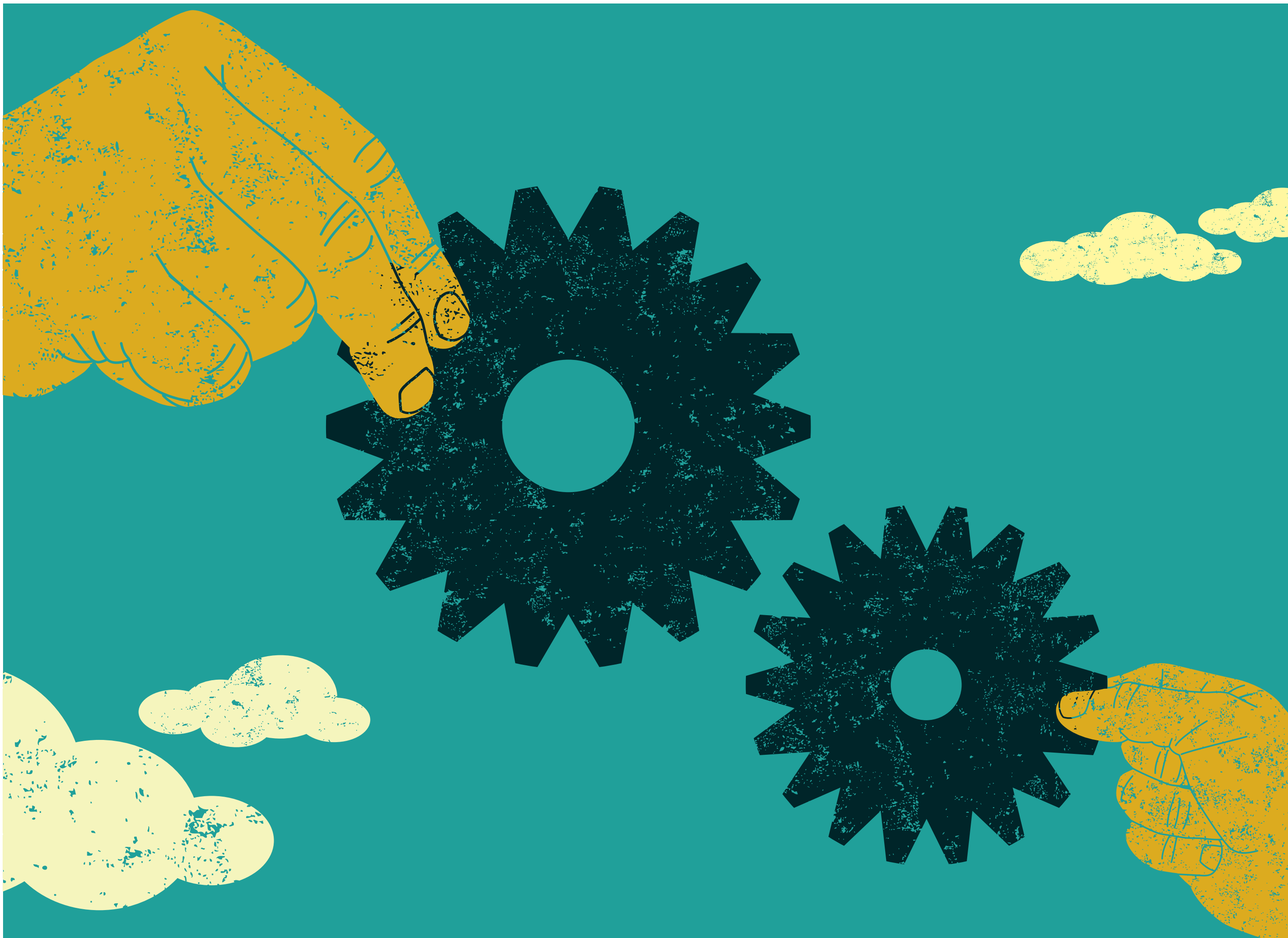
"While we are not in a position to comment on a national investigation, we would recall that the effectiveness of EU rules depend on supervisors having a strong oversight of the activities of market players and listed companies," a commission spokesperson tells SLT.

> ***When it came to Wirecard, BaFin saw the growing black smoke-cloud of accusations filling the sky and prayed for wind, rather than checking on the barn***

"Strong regulation and supervision are key to preserving trust in finance, whether for traditional or new players," they add. "This is key in order to ensure transparency, investor and consumer protection, and financial stability in the EU."

The European Commission's executive vice-president Valdis Dombrovskis noted succinctly: "We need to clarify what went wrong." Indeed we do.

Hopefully, the right lessons will be learned so that regulators can properly discern between legitimate investment strategies and predatory activities when the inevitable next Wirecard comes along.



Panellists

Adrian Dale
Head of regulation & market practice
International Securities Lending Association

Caroline McGinniss
Operations senior specialist
Goldman Sachs

Paul Bradford
Trading desk head
European equity lending, repo and TRS
ING

Ed Oliver
Managing director, product development
eSecLending (Europe)

ISLA SFTR working group panel discussion

Members of ISLA's SFTR Working Group discuss the upcoming regulation and the journey they took to get here

How well did the working group come together to solve SFTR issues?

Adrian Dale: From the outset, there was very good engagement from our members. Working groups can be run in various ways, from small focus groups to large all-are-welcome events. The later can sometimes reduce engagement, and so a smaller SFTR Steering Committee (SteerCo) was created to be representative of our industry, drawing from the most active members in those early meetings. The SteerCo primary group members attended meetings in person and were called upon to provide feedback, documentation and supporting examples. They also assisted in presenting to regulators throughout the project. Of course, all members were welcome to the working group, many just listening in by phone to keep track of developments. This then created average working groups sizes between 100-200 throughout the 12 months.

This robust engagement from member resulted in good market consensus on both the understanding of the regulation and ultimately how to reports securities lending activity.

Caroline McGinniss: Extremely well, having a diverse population of market participants with deep-rooted expertise in the product, combined with ISLA's ability to navigate the regulators were a key reason why it worked so well.

Paul Bradford: I think the International Securities Lending Association (ISLA) did a fantastic job pulling in participants from the various parts of our industry into one forum and at an early stage in the overall process. It allowed everyone to have their say on what are some quite difficult issues, some of them which seemed really basic at the time such as booking practices. I think the working group challenged participants to ask themselves 'have we thought of that/how will we deal with that?' and encouraged them to take the learning back to their own organisations. There wasn't a bias towards any service providers or trade providers for the Securities Financing Transactions Regulation (SFTR), which I think was very important way to manage it. Industry best practise and practical guidance around each and every field, albeit painstaking work at the time, has had a hugely positive impact for firms and their own projects and builds. Overall though, bringing everyone together to discuss issues and ideas has been the main positive, and has steered organisations down a very similar path in terms of how this major regulatory change is dealt with within.

Ed Oliver: This was the first time I can recall that a group of securities finance professionals came together to discuss detailed technical issues at an industry level. Everyone came from different firms, different backgrounds and with different perspectives on some of the technical elements of SFTR data. I think all of us who were in the initial meetings will admit it took three or four meetings for the group to settle in and learn how to work together. However, once this happened, the approach was superb. I commend ISLA too – they recognised the need to apply resources to this working group and committed to do so. Without that central hub, we would not have got to where we are today – with an effective best practice approach to the application of the individual data fields. It is also worth noting in this environment of working from home and conference calls, that being at a 2-3 hour meeting in person was most impactful. I suspect we would have struggled more if we had been kicking off this project over the past three months via conference calls.

If, as some suggest, there will be further iterations of SFTR, what lessons could be learned by the ISLA taskforce and applied to future rule changes?

Bradford: I think the ISLA approach was very good and led to positive debate and discussion. The key is always having representatives from all sides of the industry to ensure that the proposals and outcomes are balanced and therefore widely accepted.

Dale: SFTR is due to be reviewed in Q1 2022 (see ISLA regulatory roadmap) and ISLA will continue to host SFTR SteerCo meetings on each month until that group stop or reduce its frequency. The primary aim of the group going forward will be to gather feedback and keep regulators updated on progress, raising proposals or highlighting areas that may require review or clarification. We are sure that other trade associations, and the trade repositories, will do the same.

The first phase of SFTR was delayed until July, which has allowed many first to extend their solution testing periods. Does this mean SFTR should have better trade matching rates than other regulations, such as the European Markets Infrastructure Regulation (EMIR)?

McGinniss: I would predict a better pairing rate of transactions, not necessarily due to the delay but because we have well-established industry vendors in the securities lending space who already provided real-time automated trade matching services prior to SFTR. This has been an excellent foundation for these vendors to build enhanced SFTR reconciliations that will allow an automated exchange of unique transaction identifiers (UTI) and other key SFTR details.

Oliver: For securities lending transactions, our industry's existing reconciliation processes, such as contract and compare, will put securities lending participants in a naturally better position than those who reported under EMIR. Many of our data points are reconciled already. The extension has helped ensure that our firms are prepared for the 13 July data delivery by virtue of having more time to test – the matching won't really occur until October when there will be two-sided reporting. The phase-three date has not been moved back, so I would argue the phase-one extension is not really impactful to matching rates.

Dale: In recent virtual conferences, we heard that testing was well underway and using the extra time to undertake a deeper analysis of reporting issues than would have been possible. Overall, one could say a this is at least one positive outcome from what has been a very difficult and unpleasant time.

Bradford: Yes I think so. From ING's perspective, the extra three months has given us the time to test with many more counterparties than we were expecting to, and that can only be positive as issues are ironed out prior to the go-live. I'm not for a second saying that there won't be issues go-live but the fundamental problems and hurdles will have been cleared, and that can only be a good thing for trade matching at the outset.

In the final weeks before go-live and beyond, what challenges does the market still have to overcome on SFTR?

Oliver: I am focused on the October date as that is when eSecLending's clients will need to report – albeit in all cases the reporting has been delegated to us. Between now and then there will be a number of items to address. Testing and reconciliation with our counterparties will continue, with a focus on data fields subject to reconciliation in October. We need to help our clients understand how to perform oversight on the SFTR outputs they will see from their trade repositories and which data fields they should expect to see breaks. The work that the ISLA working group has done will help with the explanation as to why there are data breaks (price and foreign exchange data source differences for example), and benchmarking data in the trade repository outputs will also help.

Dale: Some of the familiar issues are still present such as synchronisation of lifecycle events, compounded by the previous gap in standard representation of our industry. The other challenge is reference data. This comes in several areas such as legal entity identifiers (LEI) for counterparty or asset issuer but also extends in jurisdiction or rating.

Considerable effort has been spent on these challenges and, as the live data feeds through, ISLA will work with members using the resulting quantification to prioritise what further effort is required to help solve them.

Bradford: I have been surprised by the amount of hard work the ING project team have had to do to agree UTI sharing arrangements, and we are now in a great spot whereby there are very few customers that we still have outstanding for this to be agreed. We started on that pretty early and it will be a significant challenge for those who are only just embarking on that process. For me, that has been the most difficult part given the array of different solutions that are out there, and unless everyone has agreed with every counterparty how this will happen there will be reporting issues.

McGinniss: I see the largest challenge in the agency lending space where for buy-side participants facing an agent lender the accuracy, timeliness and completeness of our reporting is highly dependent on the data provided by these lenders via vendor platforms. Given the complexity of the reporting requirements, this has been one of the biggest implementation challenges.

Concerns remain about LEI adoption within and outside the EU. Third-country counterparts have a one-year LEI exemption under SFTR, but LEI coverage is not complete in the EU either. How big a problem is this?

Bradford: I think it is a concern but not a large one. Our policy here at ING from a counterparty perspective is quite simple; no LEI, no trade. If a similar approach is taken by the majority of other market counterparts (and how can they actually report without one?) then clearly if they want to be involved in any way in this market they need to get an LEI. It isn't expensive and not too onerous a process so I don't believe it will cause too much of a problem. But I think it is that straight forward and will become apparent pretty quickly. The bigger challenge will be in terms of securities not having the LEI of issuer, but if the market removes those securities from lending programmes, collateral sets etc, there will be an impact on the market liquidity which will hopefully then give the impetus to get an LEI.

Dale: ISLA asked members to submit lists of International Securities Identification Number (ISINs) that did not have associated issuer LEIs' and consequently received more than 40,000 unique ISINs. Those ISINs were then reviewed by data vendors, Global Legal Entity Identifier Foundation and ANNA with further data applied regarding outstanding and available to lend values. The resulting picture shows that Issuer LEIs to ISIN mapping over the past 18 months has improved, approximately 8 percent of on-loan securities still requiring Issue LEI and more should be done to update securities reference data within firms. The improvement in mapping is most pronounced regarding EU securities, non-European Economic Area securities by contract are not improved with circa €4 trillion of lendable assets missing an issuer LEI. As many collateral portfolios have balances of EU and non-EU assets, and validation rules in SFTR will NACK any data block with a missing Issue LEI, firms must decide how to be compliant. Either holding back reporting, reporting and NACKing or removing that asset from lending. ISLA will continue to work on improving LEI registration with members, data vendors, GLEIF and ANNA and are extremely grateful for all the work they have done to date.

UTI generation and exchange is another lingering concern, especially for buy-side firms that are considering taking on SFTR reporting obligations themselves. What challenges does this bring to the table and what can ISLA or the wider market do to help?

Dale: The ISLA SFTR working group identified this as an issue some time ago and created a standard template that contained the minimum number of fields to exchange data between counterparts. That template has grown to incorporate repos and been upgraded to a more formalised XML schema. ISLA also proposed using the UTI waterfall, with a focus on the European Securities and Markets Authority's scenario two, that allows counterparts to agree who should generate the UTI. In addition to this, we recommend counterparties reach out to each other prior to go-live to agree who sends what and when. Of course, much of this can be accomplished through vendor products that not only reconcile between parties but also offer a data exchanges data and UTI generation services. For buy-side firms, it is critical they approach this topic with a solid understanding of what their counterparts are doing and what their own responsibilities and obligations are.

McGinniss: I actually am very optimistic about the UTI exchange process as a significant percentage of the securities lending market participants have opted to use one of the vendor solutions available for automated trade pairing and UTI generation/sharing.

Bradford: I believe this to be the biggest issue the market has. It really becomes a bespoke agreement with most as to how this is done and options are severely limited depending on the solution that your firm has chosen to go with. We have found that in a few cases with counterparties there is really no automated way this can be done that doesn't involve paying for a solution provider in one-way shape or form, and this inevitably will mean manual intervention for some. Clearly that is not something that I believe is a direction that we want to go in as a market, our future is about digitalising workflows etc and to me this seems like a step backwards. A market centralised solution whereby UTIs can be posted and received would be ideal but someone has to build that, and that naturally incurs a further cost, something which I don't think anyone wants right now.

There are several service providers offering various SFTR solutions, but this creates friction between counterparts that do not subscribe to the same vendor. Would some level on interoperability between service providers benefit the industry?

Dale: One of the reasons we proposed the minimum standard template was to support interoperability and so, in the group that discussed and validation that template, we invited vendors to work together on its formation.

Bradford: This links directly to the points earlier about the challenges around UTI generation and sharing. Lack of interoperability has forced firms to pay for more than one service provider in order to continue to do business with existing counterparties. This will overall be detrimental to the market. I think seamless interoperability between providers would reduce costs and increase efficiency in the process no end, and may encourage some of the smaller firms to at least take on one provider rather than none because no single one allows them to connect with their existing counterparties.

SFTR will bring a level of transparency to the market that we've never known before. What opportunities could this bring?

McGinniss: I would hope firms will continue to use their SFTR reporting obligation as a lever to drive further automation of our product.

Dale: SFTR could offer many benefits, not least addressing the lack of transparency identified by regulators in 2008. But looking outward from that, it is starting our industry along a path to data and lifecycle standardisation that will balance some of the ingrained legacy issues that needed reviewing. However, I would not like to overstate its benefit in this area as it is only a start, so will have associated missteps and of course multiple inspirational quotes related to going in the right direction.

Bradford: I think there are a couple of real positives here. Firstly the market has been forced to go through a significant review of how we do our business, how we book it, how we manage the lifecycle events etc and many have had to make changes to ensure SFTR compliance. This for me can only serve us well as we move as an industry towards digitalising our flows and documentation over the coming months and years. Secondly, I hope that the sheer amount of information being provided to the regulators daily will mean that any further regulations will be much easier to adopt and adhere to, as all of the information required should already be there.

Oliver: I think there are positives. We now have a standard reporting framework which, once some of the existing idiosyncrasies are cleared up in SFTR 2.0, could become the template for the industry. As many clients want to see data feeds, we could potentially use the SFTR standard to provide everything anyone could need. ISLA is also looking to use this as a basis for its Common Domain Model (CDM) project. One other consideration is the approach other regulators may take to obtaining the same sort of data transparency. If they also adopt SFTR-like reporting, then hopefully the implementation will be easier.

Last orders for LEIs before SFTR go-live next week

Natalie Turner reports

Darragh Hayes, director of LEI Worldwide, a GLEIF Registration Agent that provides LEIs to firms globally, discusses the state of LEI issuance across the EU ahead of the SFTR go-live

The requirement for an LEI is a central pillar SFTR that was borrowed from EMIR. Has the LEI requirement evolved since EMIR and Why is it important for regulators?

The Securities Financing Transactions Regulation (SFTR) is certainly using the experience gained from other regulations such as the European Market Infrastructure Regulation (EMIR) and Markets in Financial Instruments Regulation (MiFIR), and it is clear the European Securities and Markets Authority (ESMA) has pulled elements from both.

Many firms will already be prepared for the legal entity identifier (LEI) requirement having past experience in dealing other regulations. Like EMIR, SFTR utilises the LEI system to identify parties in a transaction.

As of 13 July, the SFTR LEI requirement will become a mandatory reporting obligation extended to entities like investment firms, creditors and central securities depositories (CSDs).

The 'increased transparency objective' of SFTR is reliant on the use of LEIs. Transparency is important for regulators as it provides the information necessary to develop effective policy tools to prevent systemic risks.

Accurate reporting of LEIs enhances the visibility of securities transactions which allow for better surveillance of market stability and potential risks.

To summarise, the LEI system makes the regulators role more accurate and efficient.

How difficult is it to meet SFTR's LEI requirement?

Article 4(10) (A) of SFTR prescribes the use of an LEI code. It is just one of 155 transaction reporting fields which need to be completed under SFTR. So, we understand firms are under pressure to complete all sorts of data fields. This is why we have made it our mission is to reduce the regulatory burden and provide fast, accurate and simple LEI management tools for the buy and sell side of SFTR.

The process of obtaining an LEI is actually quick and relatively simple. The application can be made by a third-party on behalf of the applying entity. They will need to provide basic company details along with supporting documentation to validate the accuracy of the registered name, address, and date of incorporation. The data is then corroborated and cross-checked with the company's registry data, and if it is accurate - an LEI is issued.

This process is quick in most cases, especially within the EU. LEIs can be issued anywhere in the space of 10 minutes to a few hours.

Over 50 percent of firms agree that data collection is one of the biggest challenges of SFTR, so it is a good idea to get the LEI box ticked right away.

To answer the question, it is not very difficult, and a quick google search will provide multiple options for LEI providers and information on how to obtain one.

When ESMA released its level-three guidelines in January, it noted that only 80 percent of EU counterparts had their LEIs sorted. Has that figure changed since then?

Since March, the major EU countries have been issued 47,000 LEIs, and there have been 83,000 LEIs issued globally since then. So, the bulk of LEI applications in recent months have been coming out of the EU.

As we know, the SFTR was originally set to go live in April, and this was reflected in a 64 percent increase in LEI applications in March as firms prepared for the apparent deadline.

Now that it has been extended to July because of COVID-19. This means June has also been a big month with over 15,000 LEIs being issued globally.

In relation to the numbers of LEIs sorted, according to ESMA, the EU has 88 percent LEI coverage as of January but recent estimations have been over 90 percent.

But this still means up to 10 percent of EU issuers are yet to put LEIs in place, it is looking likely that a few will have impacted future security issuances.

The good news is that ESMA has shown to be lenient, and firms have had a reprieve as ESMA have extended the original deadline in April until July, due to added pressures firms have been placed under with COVID-19.

Once firms are seen to be making an effort the fallout should be minimal. For those who are behind schedule, it is advisable to apply for an LEI immediately, as it is a relatively quick process.

Certain EU countries, such as Ireland, have stood out as having firms that are slower to clear the LEI hurdle than their peers in other EU member states. Why and how has this happened? Is this a problem?

The issue is that LEI coverage in the EU is over 90 percent moving into July, but recent data compiled by London Stock Exchange Group shows that 55 percent of buy-side entities have only just started with SFTR preparations. Most of these would have already had an existing LEI.

COVID-19 has definitely impacted the workflow of firms falling under SFTR, and we have seen this cause setbacks as firms prepare for SFTR.

But the trend looks positive from our point of view as we have had a spike of enquiries about SFTR LEI requirements in the last couple of weeks.

Enquiries now tend to be from EU firms such as fund administration companies, asset managers and investment firms. We view our role as raising awareness and to continue providing informative content that will help firms become aware of the LEI process.

Registrations have been high and more than 1,000 LEIs have been issued in Ireland since January this year, hopefully more to come before the mid-July deadline.

issuers to ensure meet the new deadline. Is this a challenge?

Our role is to provide the highest quality LEI data. So, we don't have much of an insight as to the inner relationships of each firm and their non-EU counterparties. When providing LEIs, we try to educate and inform firms on the LEI requirement as best we can and encourage the message be passed on to EU and third-country issuers alike.

We will have to wait and see how the coverage rate develops over the coming months, and what trends begin to emerge in the lead up to the deadline in April next year.

> *Up to 10 percent of EU issuers are yet to put LEIs in place, it is looking likely that a few will have impacted future security issuances*

Also in January, ESMA warned that only 30 percent of non-EU counterparts had an LEI and as a result offered 12-month grace period on reporting of LEIs from these firms. Has the situation improved and what challenges does this situation bring?

Third-country issuers do have an extension and we view this decision as a net positive. With just 30 percent of third-country issuers having an LEI, if it were to go live now it would disrupt the markets.

In the meantime, EU issuers should make their non-EU counterparties aware of the deadline this time next year and we should do our part to educate and inform so we can raise this coverage to near 100 percent by this time next year.

We will have to see in the coming months as we monitor LEI issuance rates before we can determine the position and readiness of third country issuers.

As you mention, a condition for allowing the reprieve was that EU counterparties are expected to liaise with their third-country

As an EU-driven regulation, what happens if, in the event of a no-deal Brexit, securities issued by UK issuers serve as a collateral buffer but, there is no obligation to provide an LEI?

The SFTR deadline is in place for EU country issuers including the UK beginning next month so there is very high adoption rates with 155,720 UK LEIs already in existence.

UK firms are familiar with the LEI by now, as it is the second-largest user of the LEI after the US, and also will be familiar with previous European regulations.

It is hard to say, but in the case that a no-deal Brexit goes through and UK entities are not reporting an LEI, it may need to be re-examined by a UK authority or joint EU/UK collaboration. The EU will still retain a strong influence over UK firms trading within the EU.

Most UK firms we have spoken to recognise that they would still comply with SFTR and EU regulations as they would want to show that they still wish to trade cross borders and not minimise their potential customer base.

The numbers don't lie

David Lewis
Senior vice president
FIS, Astec Analytics

FIS' David Lewis takes a look at the data behind the headlines that surrounded Wirecard's recent fall from grace

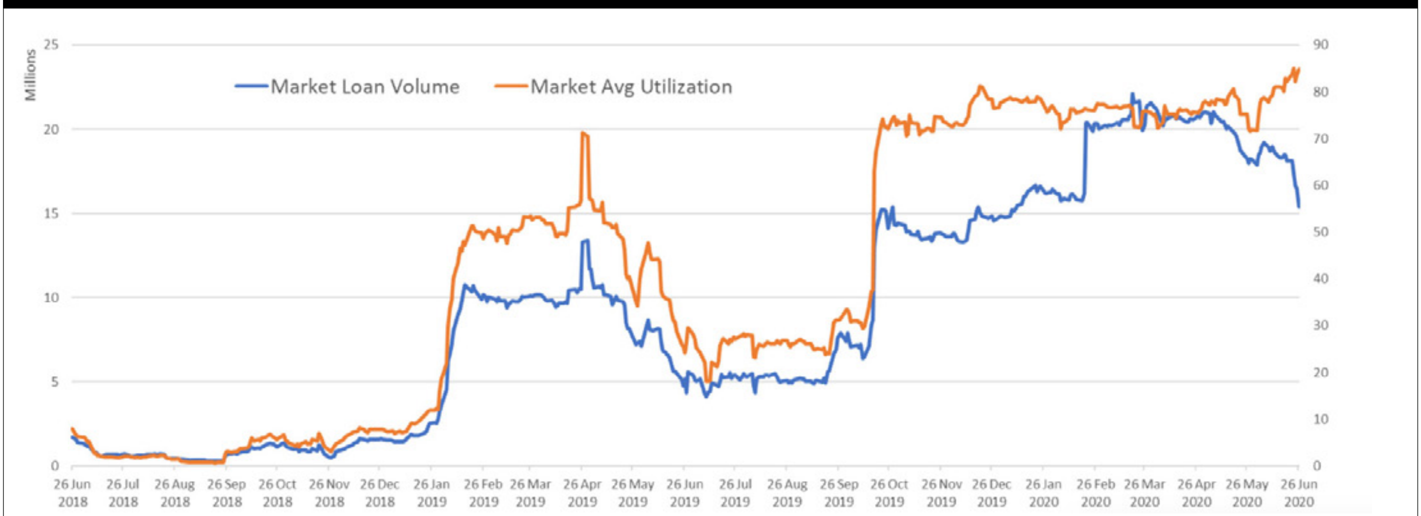
Maths and science are subjects full of irrefutable facts and laws. Consistent application of those laws provides certainty of outcomes – the numbers never lie. Once the numbers are produced, however, we make the transition from the realm of the scientific to that of the subjective, and its game on in terms of interpreting data to produce actionable information upon which to make reasonable decisions. Very few people from anywhere in the world could have escaped the deluge of data and numbers available to them regarding the spread of the COVID-19 virus and the ensuing pandemic. Such data has flowed in vast quantities and widely varying degrees of accuracy through both official and, shall we say, more informal channels.

Many casual observers have absorbed and analysed these data points to either come to a reasoned analysis of their situation and the relative risk of the position that they find themselves in, or they have used the data points that suit their predetermined conclusions. This is where subjectivity makes its entrance, allowing interpretation of the data by non-rational processes. The polarisation of views over the cause, extent and real threat level of the COVID-19 pandemic is a master class in the application and interpretation of data to suit other agendas and predetermined outcomes. Is this a situation that can be solved for or avoided in financial markets?

Trading algorithms that run high-frequency trading, for example, are deemed highly efficient at finding and exploiting even the tiniest windows of financial opportunity due to their tireless and extraordinarily rapid analytics and decision-making. However, such capabilities are also blamed for "flash crashes" and other tailspin-

Figure 1 *Source: FIS' Astec Analytics*

Wirecard AG shares on loan and utilisation over 24 months till 29 June 2020



like events that sometimes suddenly and inexplicably strike financial markets. How can this be? The machine cannot be distracted, tired or even panic. It can only follow the program and rules it is set to follow – and therein lies the weakness. It is not the computer at fault, but its programming, or programmer(s). At some point in the development of the algorithm, there has been an interpretation of a scenario with a given outcome, or probability of an outcome, that has not matched the reality of the situation. Whether that is a genuine or negligent mistake is of little consequence to those that see their investments crash in the blink of a flash crash.

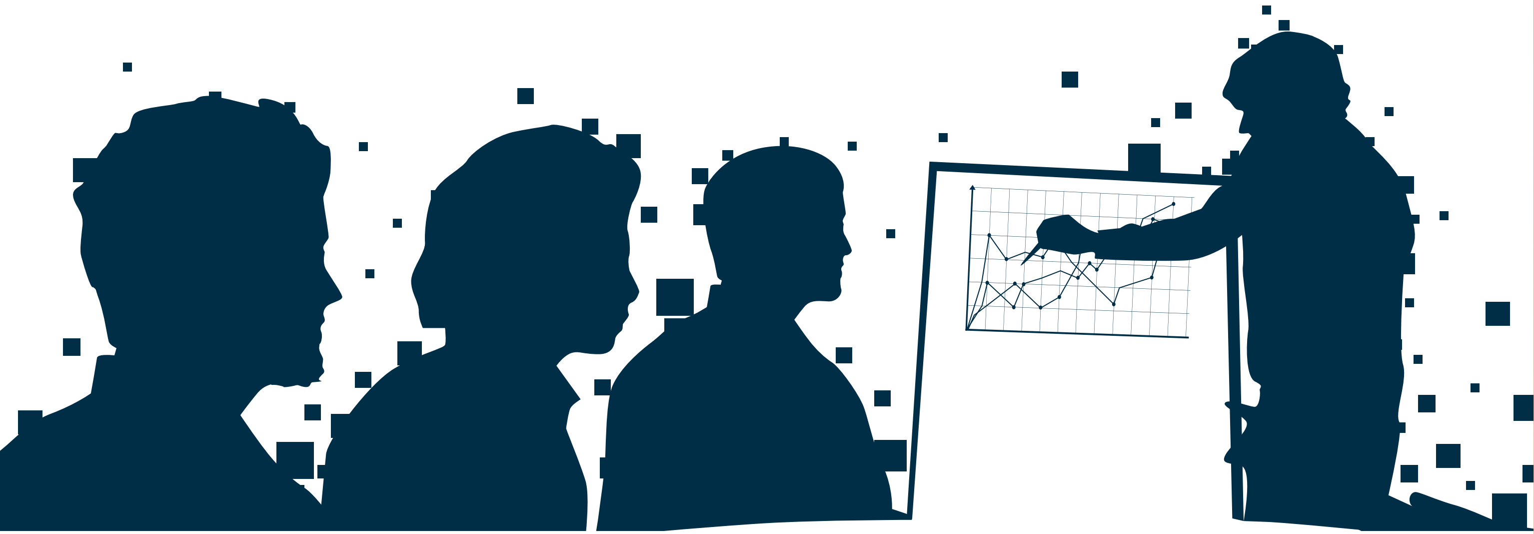
In other cases, seemingly irrational decisions can be made with apparent disregard for the data that appears in plain sight. Take Wirecard AG, for example. Less than two weeks ago, the company share price was a little over €104 apiece. While this is down significantly from the 12-month high of €159.60 seen in September 2019, it still made Wirecard a €13 billion company. Multiple red flags had been raised over the past few years, with various allegations of wrong-doing and misrepresentation of accounts, some of which came from well-known activist short sellers. Short sellers have been riding the Wirecard wave for some time, see Figure 1,overleaf. Volumes really began to ramp up at the start of 2019, trending down again through the third quarter only to jump upward in two large steps, peaking in quarter one this year. Utilisation, by contrast, burst through 75 percent in October 2019 and didn't fall below it again. Despite this, the company managed to rise in value from around €115 a share to over €140 not once, but twice between October 2019 and April 2020.

The final straw was the fourth delay in a row regarding the publication of audited results. When the company auditors refused to sign off the accounts citing a near €2 billion hole in the German payment providers finances. The former chief executive was then arrested on suspicion of accounting fraud, announcing the beginning of the end for the company and a collapse in the share price as it filed for bankruptcy protection. At the time of writing, in a telling illustration of risk of not looking behind the headlines, the share price had gained by a surprising 155 percent on the day, to close at 3.34 euros. While such a percentage gain would be lauded by many companies, this still represents a fall of over €101 or 97 percent in recent weeks. The market capitalisation that evaporated over the past 14 days amounted to some €12.6 billion.

With multiple red flags and warnings across the market, what kept the valuation so high? Hindsight is a wonderful thing, of course, but the concerns surrounding this company have been around in the public domain for an extended period. Short sellers have certainly proved their worth this time around, highlighting an allegedly fraudulent company that has secured capital and investment well beyond its worth, damaging investors and, to an extent, the industry. Much has been written about the returns that short sellers have made as a result of the Wirecard debacle, but it should not be forgotten that there is an equivalent value that has been lost from the holders of long positions in these shares – less, of course, the income they have gained from lending them at what became some very-high rates in the last few weeks.

While short interest signals are a proven leading indicator of price actions, such data becomes significantly more powerful when combined with other evidence and information. All investors need to be very careful around the information contained in individual headlines or carefully selected data points, such as those seen today citing a "surge in Wirecard shares" even after the company has filed for insolvency. The shares had indeed risen 155 percent, but from a very low point indeed. There are many valuable data points available in the financial markets, and no shortage of sources of opinion and advice to absorb and assimilate. The application of irrefutable facts and laws is a given, but the real answers lie in actionable information analysed in the right context.

David Lewis
Senior vice president
FIS, Astec Analytics



Upcoming Securities Finance Training

Corporate Events in Securities Finance

Date: 08 July 2020 15:00 (BST)
Location: Online
Provider: Consolo
This live on-line training course is designed for anyone who needs to know the background, structure and obligations of corporate events in the securities finance industry

SFTR

Date: 15 July 2020 17:00 (BST)
Location: Online
Provider: Consolo
This live online training course is designed for anyone who needs to know the background, structure, reporting obligations and timeline for delivery of the European SFT regulation

Non-Cash Collateral

Date: 23 July 2020 17:00 (BST)
Location: Online
Provider: Consolo
This live on-line training course is delivered by an experienced market practitioner and designed for anyone who needs to understand non-cash collateral purpose, process and requirements

European Regulation Impacting Securities Lending

Date: 04 August 2020 17:00 (BST)
Location: Online
Provider: Consolo
This live on-line training course is designed for anyone who needs to know the background, and application of core European regulations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Comings and goings at GLMX, Eurex, Margin Reform and more

Margin Reform has appointed Dess Kabakova as its first European-focused senior consultant. Kabakova, who is based in Paris, will be supporting clients across Europe.

She has more than 15 years of management consulting experience and has specialised in securities finance, private markets, investment banking and financing.

Kabakova joins from Semantys, the consulting arm of Groupe Astek, where she served as a senior consulting manager for nine months in Paris. While there, she worked with her team alongside Margin Reform to drive solutions for banking and brokerage, institutional investors and investment management.

Prior to that, Kabakova served as investment director for five years at the Allen Partnership, a boutique private equity and private placement practice based in London.

Kabakova also boasts a portfolio of management consulting experience at Barclays wealth management, HSBC and Astek.

She also held numerous roles in management and portfolio consulting at Oriskany, in Luxembourg, Omega Financial Solutions and Natixis Asset Management based in Paris.

Financial data and technology provider S3 Partners has appointed Bloomberg's former global head of product, Palak Patel, to the newly-created role of chief revenue officer.

S3 Partners provides pricing and analytics for capital markets, including real-time shorting data, along with solutions that aim to connect clients to their critical investment data.

Reporting to S3 Partner's managing partner Bob Sloan, Patel has assumed responsibility for oversight of global enterprise and platform business development at the financial data and technology firm, supported by his expertise in multi-asset class offerings for portfolio management, compliance and operations.

Patel previously served as business manager and global head of product for Bloomberg Asset and Investment Manager between 2015 and 2019.

During this period he cultivated experience in senior business and product management, including the creation of a portfolio management, trading, and investment operations platform.

Before that, he operated as a product manager for the International Securities Exchange from 2004 to 2008.

Sloan says he has worked with Patel over the past five years and was impressed by his "work ethic and deep understanding of how technology and data can improve investor and client outcomes has stood out".

Moreover, Sloan adds that Palak's time with Bloomberg and the International Securities Exchange combined with his experience developing and commercialising enterprise platforms "has resulted in a strong understanding of the financial technology industry and a wide-reaching network uniquely situated to help us expand our reach globally".

Of his new role, Patel says: "I am a strong believer that data and transparency help clients make better investment decisions. S3's platform provides the highest quality data and insights quicker and more intuitively than any other third-party provider on the Bloomberg ecosystem.

"It is clear that Bob and his team have listened closely to their customers and shaped S3's offerings to effectively meet their needs and bring much-needed transparency to the marketplace."

Eurex Frankfurt and Eurex Clearing are making several changes to their executive boards as a consequence of a reorganisation of responsibilities on the executive board of Deutsche Boerse.

Michael Peters, who has served at Eurex for more than 15 years, will step up to become the new CEO of Eurex as of 1 July, after four years as deputy CEO.

Peters succeeds Thomas Book who has been with Deutsche Boerse since 1995 and was CEO of Eurex Clearing from 2013 until he shifted to become CEO of Eurex Frankfurt in 2016.

Meanwhile, Eurex's cash market division, which was previously the responsibility of Hauke Stars, will be integrated into the trading and clearing division under Book as of today.

Randolph Roth, who is based in Frankfurt and served as a member of the management board at Eurex for over four years, will become responsible for equity and index derivatives and client services.

As part of the changes, Roth will also be responsible for client service trading and clearing.

Elsewhere, Jonas Ullmann will join Eurex Frankfurt's executive board as chief operating officer, taking over trading design and delivery. His responsibilities will include the further development of trading functionalities and ongoing trading operations.

Ullman has been with Eurex for nearly seven years and was previously head of market functionality from 2016. Prior to that, he was a market supervision specialist in derivatives trading for a couple of years.

Finally, Jens Janka will join the executive board of Eurex Clearing as chief operating officer with responsibility for clearing design and delivery.

He succeeds Heike Eckert, who will take over the newly-created executive board division human resources and compliance at Deutsche Boerse.

Janka has served at Eurex Clearing for more than 16 years in a number of roles including head of clearing supervision, delivery and control. Prior to that, he was vice president, head of clearing operations for five years.

Chris Benedict leaves securities finance

Seasoned securities finance veteran Chris Benedict has left the market to pursue a role as director and data product owner for company Reorg, a data provider focused on stressed and distressed debt analysis.

Prior to striking out for pastures new, Benedict served for 15 years at EquiLend, including spending the past eight years as a director at DataLend, the data analytics arm of EquiLend.

Before that, he served as vice president of product development for EquiLend for over six years.

Elsewhere, Benedict, who is based in New York, served in various roles including a senior consultant for BearingPoint Consulting in January 2003 for a few years.

Prior to that, he was a client service relationship manager for BNY Mellon from 1999 to 2001.

GLMX reveals several key hires amid major growth

GLMX has secured several senior hires as part of a wider reshuffle of responsibility at the top of the firm.

GLMX's CEO, Glenn Havlicek, says a restructure of senior leadership was needed to better reflect the various responsibilities for managing the company and scaling its global capabilities amid rapidly growing demand for its trading technology.

Kyle O'Donnell will join GLMX on 22 June in the newly-created role of chief information officer (CIO).

O'Donnell has experience at both trueEX and Symbiont.io and will report to Havlicek.

As CIO, O'Donnell will be responsible for infrastructure and data security, which for the past four years has been overseen by GLMX's chief technology officer (CTO), Ilia Mirkin.

Explaining the need to divide the CTO and CIO remits, Havlicek tells SLT that the volume of client onboarding being conducted and the demands on the development side of the engineering team is "skyrocketing" and so it has become necessary to split the roles.

Mirkin will retain oversight of GLMX's software development and overall architecture.

Meanwhile, Andrew Turvey will join GLMX on 1 July as director of sales for the UK and Europe.

Most recently, Turvey was J.P. Morgan's head of fixed income financing sales for Europe, the Middle East and Africa, and boasts a nearly 20-year career engaging buy-side clients for the bank.

Today, the platform hosts more than 20 major broker-dealers, Havlicek says, and as a result, reached "critical mass liquidity" just over a year ago.

Havlicek says Turvey's hire reflects GLMX's ongoing push to engage major buy-side players to maximise the robustness of its liquidity ecosystem.

As of July, Turvey will run point on cultivating these relationships further.

Elsewhere, Phil Buck, currently GLMX's managing director for UK and Europe, will leave the firm on 30 June after two years in the role but will continue to consult in several key areas through September.

Responsibility for GLMX's activities in the UK and Europe will be taken over by Andy Wiblin, who will manage this role alongside his existing duties as chief product officer.

Also in London, David Grimsby will transition from operations to client support and integration to support GLMX's growth in Europe.

Grimsby is one of the original GLMX team from Palo Alto, having joined in 2011.

Finally, Sal Giglio, currently chief operating officer, will expand his responsibilities to manage business development, sales, client support and integration globally.

Havlicek explains that because many of GLMX's largest clients are international entities means that they would be best served by Giglio having a global remit.