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TREASURY ESSENTIALS

Need to know for treasurers and their teams

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Welcome to this edition of Treasury Essentials, our bi-annual publication which seeks to provide insight into topical legal issues of relevance to finance and treasury teams.

To say that the first half of 2025 has been a rollercoaster for business is perhaps an understatement. Corporate treasury teams have been grappling with uncertain and unpredictable markets on a scale many will never have experienced before. The cautious optimism with which many began the year has quickly faded, with global markets left reeling from US President Donald Trump's "Liberation Day" tariff announcement and the subsequent retaliatory measures, negotiations and policy changes.

Despite this, the first half of the year has seen pockets of welcome progress. While the anti-ESG rhetoric in the US continues, the loan trade associations have continued to play their part in promoting the integrity of the sustainable lending market. We look at the trade associations' latest updates to the green, social and sustainability-linked loan principles, published earlier in the year.

In the debt capital markets, the FCA has been pressing ahead with its proposed reforms to the UK prospectus regime and UK Listing Rules. We delve into the FCA's latest consultation paper, the main focus of which, for the debt markets, is on facilitating retail participation in bonds.

In times of economic stress, it is not uncommon to see increased interventions from activist creditors. Interestingly, a number of recent claims have highlighted that corporate events unrelated to financial distress can also attract activist attention. This is the topic of our most recent Treasury Insights Long Read.

Hot off the press, we also consider the potential tax implications of section 899 of Donald Trump's "One Big Beautiful Bill".

And finally, to help treasurers keep abreast of global developments, we share a list of podcast recommendations for "keeping up with the credit markets".

I hope you enjoy this edition of Treasury Essentials. If you would like to explore any of the topics covered in more detail, or if you have any thoughts/feedback on this or previous editions of Treasury Essentials, please get in touch with your usual Slaughter and May contact or a member of the Treasury Essentials team. If any of your colleagues or contacts would like to receive this publication, please click here.

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SUSTAINABLE LOAN PRINCIPLES UPDATED

In March 2025, the loan trade associations published updated versions of the Green, Social and Sustainability-Linked Loan Principles (together, the **Loan Principles**) and related guidance material.

The changes on this occasion are mostly clarificatory in nature (and more limited than in previous years), but there are some changes which are noteworthy for borrowers which use these products or may be considering doing so.

We have summarised the headline points below, with further detail available in our two briefings on the latest updates – 2025 updates to the Green and Social Loan Principles and 2025 updates to the Sustainability-Linked Loan Principles.

With each iteration of the Loan Principles, the scaffolding supporting the integrity of the sustainable loan market becomes stronger and better understood.

Clearer differentiation between mandatory requirements, recommendations and options

A new interpretation section at the outset of each set of Loan Principles clarifies the wording that denotes a mandatory requirement, a recommendation, an option and a possibility, and the wording of each set of Loan Principles has been reviewed and re-cast accordingly. The resulting changes, in particular in terms of requirements that are now clearly expressed as mandatory, are largely reflective of current market practice, although they will warrant attention from borrowers with new transactions in the pipeline and transactions coming up for refinancing.

Removal of grandfathering protection

Grandfathering language was added to the Loan Principles as part of the previous round of updates in February 2023 to clarify that for existing transactions and transactions which were "in flight" as the updated Loan Principles were published, alignment with the version of the relevant Loan Principles in force when the transaction was originated/completed was sufficient for the purposes of the relevant label. This language has now been removed. This may have limited practical significance for transactions currently "in flight" given the nature of the latest changes. The implications for pre-existing loans structured and originated in line with the previous version of the relevant set of Loan Principles will, however, have to be considered on a case-by-case basis.

Adjustments to the Eligible Project categories in the Green and Social Loan Principles

The list of eligible green/social project categories has been refreshed and refined as part of the latest round of updates to the Green/Social Loan Principles. While the list is carefully described as indicative and high level, the identified categories are often the bedrock of lenders' green/social loan frameworks, with decisions on alignment with the Green/Social Loan Principles for any type of project that is not clearly subsumed in one of these categories typically requiring careful thinking and debate. The latest changes, which bring up-to-date and provide additional colour as to what falls into each category, are therefore likely to be viewed as helpful.

Refinement of criteria for the selection of KPIs and SPTs in the Sustainability-Linked Loan Principles

A range of detailed changes have been made to the Sustainability-Linked Loan Principles to bring the criteria for KPI and SPT selection into clearer focus and, importantly, underline key contextual factors such as the borrower's broader sustainability strategy and position, and geographic considerations.

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There will, of course, be some parties disappointed with the scope of the latest updates to the Loan Principles, concerned that particular points of detail have not been addressed and/or that the changes do not go far enough. With each iteration of the Loan Principles, however, the scaffolding supporting the integrity of the sustainable loan market becomes stronger and better understood. While the demand for further explanation and clarity from individual parties will no doubt continue, this year's review further clarifies the requirements of the Loan Principles and explains others, which is a positive step forward. We would also observe that in a year where a number of new reporting requirements are starting to land and/or are being adjusted (the EU Omnibus proposals, for example), it is even more important for the industry to tread carefully so as not to de-stabilise further growth in the sustainable loan market.

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UPDATE ON THE UK PROSPECTUS REGIME REFORMS: FCA CONSULTS ON FACILITATING RETAIL PARTICIPATION IN BONDS

On 31 January 2025, the Financial Conduct Authority (**FCA**) published a consultation paper (CP25/2) (the **Consultation Paper**) which set out further proposed changes as part of reforms to the UK prospectus regime and UK Listing Rules. The Consultation Paper is a follow up to the FCA consultation published in July 2024 (CP24/12) on the public offers and admissions to trading regime which is covered in further detail in our previous briefing.

The main focus of the Consultation Paper for the debt markets is the FCA's proposals for facilitating retail participation in bonds. These proposals tie in with the FCA's wider policy aims to improve the attractiveness of UK capital markets and remove barriers to retail participation. Key highlights are set out below, with further detail in our recent briefing.

For the debt markets, the main focus of the FCA's latest consultation paper on reforms to the UK prospectus regime is its proposals for facilitating retail participation in bonds.

Single standard of disclosure

The FCA proposes to remove the current differentiated prospectus disclosure regime for wholesale and retail debt securities and replace it with a single standard of disclosure for all debt securities based on the current wholesale standard. The FCA also proposes to do away with the requirement for a summary for prospectuses relating to debt securities.

Non-Complex Listed Corporate Bonds and financial reporting

The FCA proposes the inclusion of a new definition of "Non-Complex Listed Corporate Bonds" (**NCLCBs**). NCLCBs are, broadly speaking, senior unsecured, plain vanilla, listed bonds issued by UK listed corporates (see below). The FCA proposes to make changes to its Disclosure and Transparency Rules (**DTRs**) to exempt financing subsidiaries that exclusively issue NCLCBs from the annual and half-yearly financial reporting requirements in the DTRs (the current rules contain an exemption for issuers that issue exclusively wholesale debt securities).

Non-Complex Listed Corporate Bonds are listed debt securities that are:

- issued by an issuer that has an existing listing in the equity shares (commercial companies) category, or are issued by a wholly owned subsidiary of such a listed company, provided the debt securities are fully, unconditionally and irrevocably guaranteed by the issuer's listed holding company;
- fixed or floating rate securities (subject to certain conditions);
- unsubordinated, unsecured and not subject to a potential write-down or conversion as a result of a resolution authority exercising its powers (i.e. not subject to bail in); and
- not convertible securities, asset backed securities or securities giving rise to payment or delivery obligations linked to an underlying asset or index (other than benchmarks tracking UK inflation).

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Product governance and PRIIPS

In addition to the disclosure requirements imposed on retail securities in the current prospectus regime, the EU derived MiFID rules on product governance and PRIIPs (Packaged Retail and Insurance-based Investment Products) regime also imposed an additional layer of complexity, with uncertainty over application of these rules acting as a deterrent to issuance of retail debt.

To address this, the FCA proposes to issue guidance to clarify that NCLCBs should be treated as "simple" financial instruments which are likely to be compatible with the needs and characteristics of customers in the mass retail market.

In addition, the FCA proposes clarifications to the scope of the PRIIPs regime (to be replaced by the new Consumer Composite Investments regime) to make clear that certain common features in vanilla corporate bonds do not make them a PRIIP.

Other proposals

The Consultation Paper also sets out a number of other proposals including relating to listing for further issuances, removal of listing particulars as an admission document and other minor changes. Please see our full briefing for further detail.

Timing

The FCA aims to finalise the rules for the new UK prospectus regime by the summer of 2025. The new rules are then expected to come into force in early 2026.

T+1: Shortening of standard settlement cycles

The UK and EU are making steady progress toward the implementation of a T+1 settlement cycle, which is set to shorten the standard time between trade execution and settlement from two business days (T+2) to one (T+1). This change is designed to reduce counterparty risk, enhance market efficiency, and align UK and European markets with global peers such as the US and Canada, which adopted T+1 in May 2024.

In February 2025, the UK government announced that it accepted the recommendation of the Accelerated Settlement Taskforce to change the current T+2 requirement under the UK Central Securities Depositories Regulation to a T+1 requirement. This change will take effect on 11 October 2027. In February 2025, the European Commission also proposed 11 October 2027 as the appropriate date for the EU's transition to T+1 settlement.

It should be noted that the T+1 scope does not include primary markets - primary market settlement windows for bonds are not expected to be impacted. However, it may be the case that some voluntary shortening of the primary market settlement period may take place in due course following the secondary market move to T+1.

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EVENT-DRIVEN CREDITOR ACTIVISM – A CORPORATE PERSPECTIVE

Interventions from activist creditors – normally hedge funds - are familiar in crisis and insolvency scenarios, but a number of recent claims highlight that corporate events unrelated to financial distress can also attract activist attention. This type of event-driven creditor activism (named to distinguish it from strategies focussed on distress) is opportunistic, often arising out of unforeseeable or unforeseen events. Successful claims are not common, but when they arise, they can be a significant distraction to manage.

For example, earlier this year, the Financial Times reported that certain bond investors have been challenging disposal transactions on the basis that the transaction in question breached the cessation of business event of default in the relevant bonds. The report suggested that hedge funds are drawing up “shopping lists” of companies that could be potential candidates for claims should a disposal be proposed. Low interest rate-era bonds are trading at a discount, which lays the ground for activist investment with a view to forcing repayment or buyback above market value, if an arguable and actionable event of default can be found to have occurred. This article has prompted quite a lot of discussion and focus on the wording and operation of cessation of business events of default. While terms vary quite considerably, cessation of business events of default are a common feature of bonds of all types and we have been asked to advise on the applicability of these events of default many times, in the context of both solvent and distressed disposals.

While interventions from activist creditors are familiar in crisis and insolvency scenarios, a number of recent claims highlight that corporate events unrelated to financial distress can also attract activist attention.

Our most recent Treasury Insights Long Read considers the nature and incidence of event-driven creditor activism in the UK and Europe, and the key risk indicators for claims. We look at some examples of the types of claims that arise, which often turn on competing interpretations of contractual terms. Cessation of business events of default are discussed in detail by way of example. We also outline some strategies for anticipating and responding to activist claims when planning for disposals and other corporate events.

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TRUMP'S ONE BIG BEAUTIFUL BILL – POTENTIAL TAX IMPLICATIONS

The Trump Administration's One Big Beautiful Bill (**OBBB**) is currently working its way through the US legislature. Both the version passed by the House of Representatives and the more recent Senate Finance Committee's version, include a provision (section 899) to increase US tax rates (including withholding tax rates) on residents of foreign countries that impose "unfair foreign taxes" on US persons. This is understandably causing concern for non-US persons with US investments. The House and Senate Finance Committee versions of section 899 are different but, in each case, "unfair taxes" should include the Pillar 2 undertaxed profits rule, digital services taxes and diverted profits taxes. As the UK currently has all three of these, UK resident investors with US investments will, absent a political solution, likely be affected. It is important to note that there is considerable uncertainty over the application of section 899 and whether (or in what form) it, or the whole of the OBBB, will even be enacted.

Section 899 is understandably causing concern for non-US persons with US investments.

One effect of section 899, if enacted, would be to increase the rate of withholding tax on certain US-source income (which includes interest and dividends), by 5% for each calendar year, up to a maximum of a 15% increase (according to the Senate Finance Committee's version, but this cap may yet change – it was higher in the House version). The Senate Finance Committee's version includes protection for the portfolio interest exemption which, if included in the final version, should ensure that section 899 should not be an issue for the US bond market. Where, however, a tax treaty is relied on for an exemption from tax, or a reduced rate of tax, on a relevant payment from a US person, there is a potential risk of an increase in the rate of withholding tax and this risk should be borne in mind for existing arrangements and for those being negotiated. Where, for example, existing loan agreements with US borrowers have non-US lenders relying on a treaty for a zero or reduced rate, it should be considered whether an increase in withholding tax under section 899 could trigger gross-up and/or termination provisions. Where a loan agreement or derivative contract is currently being negotiated with a US borrower or counterparty, parties may wish to discuss with their advisers whether there will be, and how to address, any potential increase in withholding taxes under section 899, if enacted. There is similarly a potential increase in tax for intra-group funding arrangements and dividend streams where tax treaties are relied on for reduced rates.

Under the Senate amendments, the section 899 withholding tax increase would begin at the earliest from the start of calendar year 2027, rather than 2026 as per the House version. We are following developments in this area closely. Please do get in touch with your usual Slaughter and May contact if you have any concerns about the impact of section 899 on payments from the US.

This content was written on 18 June 2025 and does not reflect any developments after this date.

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KEEPING UP WITH THE CREDIT MARKETS – PODCAST RECOMMENDATIONS

In a dynamic credit environment, keeping abreast of global developments is essential for effective treasury management. Ways for treasury professionals to keep up to date with geopolitical developments and market movements and outlook was a discussion topic at our most recent round of Slaughter and May Treasury Exchange (SMTE) events. Many of our guests noted the importance of input from relationship banks, debt and legal advisers as well as treasury networks for market insights. The value of sourcing independent thoughts online, including by listening to podcasts, was also raised by many.

A number of well-known trusted voices were among the suggested resources but there were also some gems we had not heard of before. We thought it might be useful to share some of the recommendations for "keeping up with the credit markets" put forward by our dinner guests, alongside some additional suggestions from our own lawyers. The selection here are some edited highlights - ranging from mainstream to more targeted podcasts and resources. If you have additional recommendations to suggest we would love to hear from you.

In a dynamic credit environment, keeping abreast of global developments is essential for effective treasury management.

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KEY CONTACTS

If you would like to discuss any of the above in more detail, please contact your relationship partner or email one of our Treasury Essentials team.

You can find previous editions of Treasury Essentials here.

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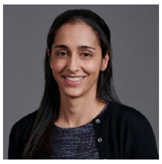

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