SECURITIES & INVESTMENT

REVIEW

NOVEMBER/DECEMBER 2012

THE MEMBERS' MAGAZINE OF THE CHARTERED INSTITUTE FOR SECURITIES & INVESTMENT

cisi.org/sireview

Fighting TALK

With money laundering and the LIBOR scandal keeping the finance industry in the spotlight, how are the authorities policing financial crime? *page 12*

Slow progress

What challenges face the derivatives' central clearing project? *p16*

Christopher Adams

Looking out for the fiscal cliff, *p11*

Program "CCS – Certified Clearing Specialist"

Back office staff operates in a continually changing environment. Interoperability and over-the-counter derivatives clearing are only two of many key concepts that will define the European clearing marketplace of the future.

In order to master the tasks and challenges involved, industry participants must thoroughly understand the clearing process chain, inherent risk and the role of the central counterparty (CCP) in managing that risk as well as the regulatory structures shaping the marketplace.

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- Overview of the different markets and products
- Main types of risk faced by market participants
- Role and function of the clearing house as a CCP
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Is city life cramping your style?

Do you want to work in our space?

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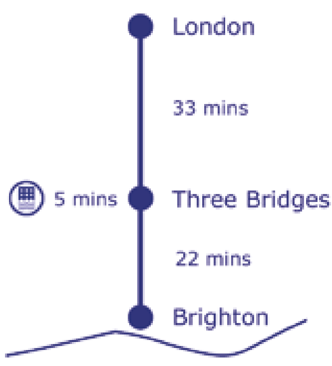


Dowgate has been in business for over 20 years. We have just completed a management buy out and are looking for new investment advisers to join us. We offer a traditional stockbroking service mainly to private clients. In addition, we provide corporate broking services to smaller companies on the AiM market and can provide private client access to new issues led by us or other brokers, if appropriate.

CISI OPINION

The Government should speak out against the Foreign Account Tax Compliance Act, US legislation that will impose unfair costs on UK investment managers and banks who work with Stateside clients

Living in *taxing times*

IT IS NOT a fun time to be working in the finance industry. The public does not easily discriminate between the highly overpaid individuals in the investment banks and those clearing up the mess, while the clamour for increased regulation continues unrestrained.

Against this backdrop, it is no wonder that the Americans have slipped in an extra territorial requirement that will impose significant costs on all asset and investment managers and banks. This US requirement is resulting in a double whammy. It is completely extra-territorial and seeks global compliance, while imposing significant additional costs of compliance on virtually every financial organisation globally. It has resulted in many financial organisations, including private client and wealth managers, turning away clients, simply because they have a link with the US. That strategy alone will not get a financial institution out of the net.

The legislation is the Foreign Account Tax Compliance Act (FATCA), the aim of which is to force non-US financial institutions to identify their US clients and report them to the Internal Revenue Service (IRS). This is to enable the IRS to recover taxes due from any US citizen who has accounts outside the US and has not declared them. While it is understandable for the US to want to obtain tax dollars from its citizens (and it estimates to be recouping almost $20bn a year in doing so), it is wrong to penalise firms based outside the US and impose significant costs and draconian individual responsibility. For example, it will be necessary for any firm that has any investment in the US to first identify which of its customers, or unit trust holders, are American and then report them to the US tax authority (the IRS). If it does not comply, the firm will be deemed non-compliant and face a range of sanctions, including a 30% withholding of any investment in the US, such as the sale of securities.

Furthermore, the US authorities require each foreign financial institution (FFI) to

> *It is wrong to penalise firms based outside the US*

appoint a so-called responsible officer. That named individual from a foreign firm has to be identified during the FFI registration process and will receive a US Employee Identification Number (EIN). This individual will be responsible for compliance with the FATCA regulations within that financial institution and may be personally liable for any substantial non-compliance.

This is an asymmetrical requirement and is causing many private client managers to think carefully about providing a service to those whom the US authorities deem American. Each FFI is required to search for indicators of a US nexus, and this includes whether the FFI has on record any US telephone number, and requires the financial organisation to monitor actively and continuously that the individual does not become a US citizen.

There is a ray of hope that things might improve a little. In September, HM Revenue & Customs signed an Inter-Governmental Agreement (IGA) – and at the same time it announced a consultation process with the aim of reducing the compliance burden. The IGA is a reciprocal agreement and requires the IRS to exchange information with the UK on UK investors within US financial institutions. This has caused an outcry from US financial institutions that do not collect similar information to enable it to report UK account holders to the IRS.

We will wait to see which other countries sign up to an IGA, but many are interested, including some governments in the Caribbean. However, the IGAs are causing a huge problem for global financial institutions that may have to install multiple systems and processes to cover operations in different countries, some signed up to FATCA, some of which are signed up to an IGA and some that are not signed up to either.

The US is guilty of behaving like a bully. No one is advocating tax evasion, but putting the costs on the UK is unfair and our Government should have the courage to say so. ■

Upfront News and views from the CISI

Got a story to tell or a view to share?
Email Richard Mitchell at richard.mitchell@cisi.org

DINNER AND AWARDS

Scotland's roll of honour

Nine financial services specialists have been honoured as Scotland's top performers in CISI exams.

They were recognised at the Annual Dinner and Awards of the Institute's Scotland branch, which took place at the George Hotel, Edinburgh.

Candidates in Scotland took more than 1,500 CISI exams last year. The winners included Alastair Seaton MCSI of Kames Capital, who picked up two awards – for the Diploma in Investment Operations and Advanced Global Securities Operations.

The evening was attended by nearly 200 guests and featured Michael Portillo, TV presenter and former government Cabinet Minister, as guest speaker. Scotland branch President Stephen Barclay, Chartered MCSI, updated guests about regional activities and CISI Managing Director Ruth Martin spoke about developments within the Institute and the latest benefits for members.

A prize draw held in aid of Children's Hospice Association Scotland raised £1,200. The figure will be boosted by Gift Aid. The main sponsor of the event was BlackRock, while support was also provided by Change Recruitment Group.

From left, CISI Scotland branch President Stephen Barclay, Chartered MCSI; Institute Managing Director Ruth Martin; and guest speaker Michael Portillo

Award winners

CISI Diploma: Barry Stewart MCSI, Brewin Dolphin
Diploma in Investment Operations/Advanced Global Securities Operations: Alastair Seaton MCSI, Kames Capital
Diploma in Investment Compliance: Nichola Montgomery, Chartered MCSI, Cigna
Private Client Investment Advice & Management: Vicki Linton MCSI, Speirs & Jeffrey
Advanced Operational Risk: Sandra Trinidad ACSI, Morgan Stanley
Certificate in Investments: Sheila McIntyre, Clydesdale Bank
Investment Operations Certificate, formerly known as the Investment Administration Qualification: Melissa Holmes, Baillie Gifford & Co.
Introduction to Securities & Investment: Kim Gray, Standard Life; Aileen Oliver, Interactive Investor

From left, award winners Melissa Holmes; Sheila McIntyre; Nichola Montgomery, Chartered MCSI; Barry Stewart MCSI; Alastair Seaton MCSI; Sandra Trinidad ACSI; and Vicki Linton MCSI

STATEMENT OF PROFESSIONAL STANDING

Setting standards for advisers

For retail investment advisers, obtaining their initial Statement of Professional Standing (SPS) from the CISI is the start of an ongoing yearly process.

Advisers will need to ensure that they meet the annual requirements and apply to renew their SPS so that there is no gap between their statements. Correctly completed renewal applications, where the adviser has met the requirements, will be processed within 15 working days.

For the majority of advisers, the process of renewing their SPS will be a simple demonstration of having:

- maintained competence through CPD
- adhered to APER
- complied with a recognised code of conduct, such as the CISI's.

The main changes are as follows:

- advisers will need to ensure that their CPD is fully compliant with the RDR CPD requirements (they can no longer obtain a Standard SPS by meeting only the CISI CPD requirements)
- basic SPSs will be available only to newly qualified advisers obtaining their initial SPS (except where six months or more statutory leave has been undertaken by the adviser in the preceding SPS year).

For some advisers, who need to add approval for an RDR specialist area, there may be some additional requirements.

These are detailed on page 24 of the CISI RDR booklet *Implementation: Statements of Professional Standing*.

The booklet also provides more information and guidance on RDR and SPS requirements. It can be viewed at *cisi.org/rdrbooklet*

FUNDRAISING

Isle of Man raises more than £1,500 for charity

The Institute's Isle of Man branch served up an annual dinner that attendees are sure to remember.

Professional speaker John Simonett entertained the 150-strong audience at Mount Murray Hotel & Country Club, Santon, with his humorous speech and phenomenal trained memory.

Branch President Sue Preskey, Chartered FCSI and CISI Regional Director Richard Bennett both addressed the dinner, updating guests about Institute activities.

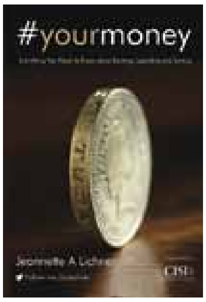
A charity raffle was held to raise money for the Pumps 4 Kids campaign, which supports children with Type-1 diabetes, and the MS Society, generating more than £1,500. The event was sponsored by Thomas Miller Investments.

Isle of Man branch President Sue Preskey, Chartered FCSI, with guest speaker John Simonett

65% The proportion of financial services players who view the Conservatives as the political party offering the best economic plan for the UK, according to a CISI survey. Labour was favoured by 22%, the Liberal Democrats by 5% and other parties by 8%.

PUBLICATIONS

New book gets young people off to a good financial start



#yourmoney is an innovative book that will help 16–25-year-olds to take control of their finances.

Written by Jeannette Lichner MCSI, an experienced financial services professional, and supported by the CISI, the book is a comprehensive guide to earning, spending and saving. CISI Chief Executive Simon Culhane, Chartered FCSI, said: "While there is much discussion about how to improve financial literacy in the UK, there is little tangible input. Until now!

"*#yourmoney* meets a pressing need by providing simple, impartial information on many financial fundamentals."

The CISI is a strong advocate for equipping young adults with the financial knowledge they need to succeed in life, and works closely with many schools, colleges and universities whose students take its professional qualifications.

Simon added: "The Institute believes so strongly in financial education and the relevance of this book that it is donating a copy to every school pupil enrolled on the CISI qualification programme."

The recommended retail price of the paperback book is £13 but CISI members can obtain it at a price of only £9, if bought from *cisi.org/yourmoney*, and in e-reader format from Amazon for £7. It is also available from Jeanette Lichner's website, *yourmoneyuk.com*, which includes book-related material and will be continually updated.

60-second interview

Jeannette Lichner MCSI, author of *#yourmoney*

Q *What inspired you to write the book?*

I've watched my daughter and son and their friends learning about money and have seen how tough that process can be. I wanted to help equip young adults with the knowledge they need to control their financial destiny, no matter how much or how little money they have. I like to think of it as my legacy – my contribution to society.

Q *What do you hope the book will achieve?*

When I started out, my goal was to get the book into the hands of as many 16–25-year-olds as possible, so that they don't have to learn through what I call the 'costly trial and error approach'. Thinking big, the CISI and I hope that the book will be one solution to the need for financial-literacy education. Thinking smaller, I hope that everyone finds it easy and enjoyable to read, and that they keep going back to it as they face new challenges.

Q *Is it only for 16–25-year-olds?*

It's aimed at that age group because that is when most people start making money-related decisions that have long-term implications. But anyone can read it and learn, as I did while writing it. People well beyond the target age group asked for copies when they heard what was in it. They said that they wished something similar had been around when they were growing up.

Jeannette Lichner began her career in financial services in 1983 with Morgan Stanley and has held numerous executive roles within banks and as a consultant. She has always mentored young colleagues and, having gained a coaching accreditation, provides career-coaching services in addition to running a business-advisory practice.

Find out more and engage with Jeannette:
By email: jalichner@yourmoneyuk.com
Online: yourmoneyuk.com
On Twitter: @jalichner

LETTERS

Postbag

Dear *S&IR*,
Dan Barnes' article, 'Man v Machine' (*S&IR*, October), was a salutary reminder of the importance of ensuring that software changes whether large or small, routine or non routine, follow a mindful and measured deployment process. Firms must also invest time and thought into responding to failures in a 'live' environment.

The article refers to the US Securities and Exchange Commission (SEC) round-table meeting on 14 September 2012 on Promoting Stability in Today's Markets. This discussion was deferred to 2 October in order to accommodate strong interest from participants and covered two themes: preventing errors through robust system design, deployment and operation; and responding to errors and malfunctions and managing crises in real-time.

The SEC is currently analysing the findings from the round table. In the meantime, a transcript of the meeting is available on *sec.gov/news/otherwebcasts/2012/ttr100212-2.shtml* and responder comments can be viewed on *sec.gov/news/press/2012/2012-182.htm*.

No firm is immune and there is no schadenfreude when these glitches arise. It remains clear that change management (including system and software deployment processes) must sit high on a firm's top risks document.

Suren Chellappah FCSI, London

An update on progress following the discussion will be carried in a future edition of the S&IR.

MEMBER VIEWS

Have your say

The *S&IR* is your CISI membership magazine – and we want to hear your views.

Comments are welcome about any article you read in this month's edition.

You can get in touch in a number of ways and share your verdict with fellow members:

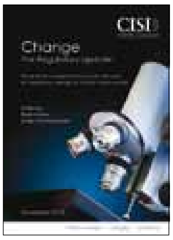
By email: Contact Richard Mitchell, CISI Communications Editor at *richard.mitchell@cisi.org*

Via the *S&IR* online edition: Simply click on the 'Add your comments' box on the homepage of the *S&IR* digital magazine at *cisi.org/sireview*

On Twitter: Follow the Institute on *Twitter@CISI*.

PUBLICATIONS

All change for regulation



It has been a dramatic three months for financial regulation since the August edition of *Change – the Regulatory Update*.

High-profile developments have included the Tyrie Commission into banking culture (including the FSA's ideas for more individual responsibility for a firm's actions), the Wheatley review of LIBOR rate setting and the Kay report on equity markets. In addition, there has a been a flurry of papers from the new UK regulators and continuing discussion of moving the supervision of banks to the European Central Bank under a European banking union.

These important events have taken the focus off more immediate regulatory changes. These include the start of the Retail Distribution Review; new rules for short selling and credit default swaps; FSA initiatives on client assets, product intervention and the sale of alternative securities; disciplinary consequences of the UK regulator's theme visits, such as on money laundering and corruption; and the launch of the Foreign Account Tax Compliance Act tax data and over-the-counter derivative transaction reporting for the US.

Amid so much activity, there has been little attention given to day-to-day changes, such as the continuing pressure for firms to build liquidity buffers, delays in processing normal applications to the FSA, management and boards' need to address IT risk (following the RBS problems), swaps misselling and the risk to compliance officers from their firms' sale of unregulated funds.

All these areas, and much more, are covered in the November edition of *Change*. A feature on the Tyrie Commission explains why all firms (not only banks) should watch this carefully and there is a summary of regulatory changes for senior management and boards.

View the edition at *cisi.org/regupdate*

SELECT BENEFITS

Save money on the high street

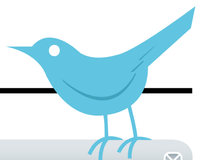
With Christmas just around the corner, make the most of your money when shopping on the high street with My Cashback Cards.

The cards, available to CISI members as part of the Select Benefits scheme, are a simple way to earn cashback on everyday purchases. Easy to obtain and use, they cover a wide range of retailers. You can earn cashback of between 5% and 15% at stores including Sainsbury's, ASDA, Argos, Topshop, Marks & Spencer and H Samuel.

For more information and to apply online, visit CISI Select Benefits at *cisi.org/mycisi*

Terms and conditions apply. See website for further details. Correct at time of print. CISI Select Benefits is managed on behalf of the CISI by Parliament Hill Ltd of 3rd Floor, 127 Cheapside, London EC2V 6BT. Neither is part of the same group as a provider.

ONLINE



BEST OF THE BLOGS

1 tinyurl.com/rhodeslibor
On *Finextra*, Mike Rhodes asks whether traders involved in LIBOR abuse were driven by their own desires or whether their behaviour was a product of the environment they were working in. Was traders' illicit activity over LIBOR abuse a desperate attempt to keep their managers happy in a highly pressured environment? Rhodes argues that understanding why people commit fraud is as important as being able to detect it when it happens. He states that "the institutions responsible had 'conditioned' their traders to make them feel good about abusing the rate."

2 tinyurl.com/badertheory
Under the 'misappropriation theory' of insider trading, a person violates US securities laws by breaching a fiduciary duty to keep information confidential. But *Forbes* blogger Lawrence Bader asks what happens when the entity to whom the obligation was due concludes, after the fact, that the person at issue did not violate any fiduciary duty. Can the Securities and Exchange Commission (SEC) still sue that person for insider trading? The answer is 'yes,' as was made clear by the Second Circuit Court of Appeals in a recent insider-trading case, *SEC v. Obus*. Bader writes: "It is entirely possible that, for any number of reasons, a corporation might not want to conclude that it was a victim of one of its employees' breaches of fiduciary duty to the corporation." It is possible, therefore, that the SEC's interest in deterring insider trading might conflict with the corporation's interest in letting the employee off the hook.

3 tinyurl.com/processman
On the *Fundweb* blog, James Calder, Research Director at City Asset Management, calls for more rigorous systems to be established to prevent financial crime and money laundering. Calder cites examples of where bad processes have exposed firms to risk, including US Senate Committee criticism of Citibank at the April 2012 hearing into money laundering. He asserts that failure to have an adequate process in place, rather than failure to prevent a crime, is the key.

See page 12 for more about financial crime.

Do you have a blog recommendation?
Send it to the Editor: *ella.johnston@wardour.co.uk*

SURVEY

Forum identifies compliance concerns

The FSA should raise important matters with chief executives rather than at compliance-officer level, according to the CISI compliance professional forum.

A number of the 600 forum members received queries from the FSA in a 'Dear compliance officer' letter in June 2012. In response, the forum undertook a survey of its members to examine their views on the targeting and effectiveness of such letters. The feedback highlighted key areas for reform.

When asked if the compliance officer is the 'correct person to address such queries to', 34% of respondents disagreed, while 26% disagreed strongly. By contrast, 32% agreed and 42% agreed strongly that the chief executive was the appropriate person for the FSA to contact in such circumstances.

CPD

New rules for funds

David Patterson

In July 2012, the European Securities and Markets Authority (ESMA) issued guidelines relating to UCITS-compliant exchange-traded funds (ETFs) and other UCITS products.

The new rules tighten regulations that govern funds generally and introduce new procedures and requirements for UCITS ETF providers. Providers must meet these requirements no later than the latter part of 2013 (a date has yet to be specified by ESMA), though certain factors, including where new UCITS ETFs are launched, will need to be complied with earlier than that.

The CISI's final London CPD seminar of 2012 will explore the current structure of ETFs and how the new guidelines should help raise standards and understanding of ETFs and all UCITS products.

Deutsche Bank's David Patterson will lead the discussion at the bank's office in Great Winchester Street, London EC2, on 12 December.

For more information or to book a place, please visit *cisi.org/eventscal*

QUALIFICATIONS

Exceeding standards

Nearly 80% of candidates qualifying through the CISI to meet new Retail Distribution Review (RDR) requirements have exceeded the minimum level 4 qualifications benchmark.

More than 4,200 CISI candidates have completed RDR-compliant qualifications since 2009. Over 3,300 (79%) of these gained qualifications at level 6 or 7. These included entrants to the level 6 Certificate in Private Client Investment Advice & Management (PCIAM). Of 255 entrants sitting PCIAM exams in September 2012, 64% passed.

CLAY *'MUDLARK'* HARRIS

Back story on Jonathan Wernick ACSI, Managing Director, JW Compliance Ltd

Jonathan Wernick ACSI, President of the CISI's East Midlands region, has a CV that is anything but conventional.

Jonathan, who owns an independent consultancy, JW Compliance Ltd, has never worked in an 'ordinary' financial services job, apart from a few years as an insurance salesman – a stint even less relevant than his longer periods in law and education.

"When I was in sixth form," he says, "my father told me: 'Write a list of the things you can do and the things you want to do.' I wrote down 'law, chartered surveyor, chartered accountant', but then I realised I was better at English than maths and I couldn't draw!"

So law it was to be, also prompted by the fact that his late father was a solicitor with a practice in east London specialising in criminal litigation and matrimonial work.

Jonathan started work there and, during that time, obtained an honours degree in law by way of part-time study from the University of East London, then North East London Polytechnic. He went on to study at the College of Law, Lancaster Gate, but he left before his exams were finished. He expected, nevertheless, to qualify one day, as he wanted to fulfil his father's expectations.

He then worked in a practice in the West End of London, where he advised commercial clients and was able to appear before practice masters in the High Court for what he describes as "relatively straightforward debt-recovery cases". He stayed in law for about a decade before changing direction.

After a two-week trial in the classroom at Chigwell School, he became a supply teacher there for two years, and later taught law and politics in a state school.

Jonathan then became an insurance salesman in a period punctuated by takeovers. As the new millennium approached, he took stock and identified two areas of opportunity that he hoped would provide longer-term professional stability: IT and compliance. He went for the latter and taught himself the ropes after persuading Complinet, the compliance website, to give him a temporary free subscription.

> "There's no benefit in dwelling on the 'if' in life"

He joined a former City analyst and financial regulator who had become an independent compliance consultant. They worked together for five years until his mentor's early death in 2005. Jonathan then formed JW Compliance Ltd, acting as an independent compliance and training consultant – particularly in the wholesale sector, where he continues to be to date.

Jonathan remains a teacher at heart, which manifests itself in public speaking and training courses. In training sessions, he sometimes opens with "I know you don't want to be here", inviting participants to write down any risks that they can envisage arising from lack of knowledge or failure to follow correct procedures. He then tailors the presentation to address those points – among others, of course.

He says: "I am very lucky in having a wonderful wife, a gifted and talented daughter who thankfully has her mother's brains and looks, and a career that I continue to enjoy after 12 years."

Law remains the road not taken. "Do I sometimes wish now that I was a qualified solicitor? Of course I do. But there's no benefit in dwelling on the 'if' in life. Nothing is really certain," he says.

"I've also been lucky to get the skills of a lawyer; to have been hardened up by my father's pressure to do well; and to have had a good education," he continues. "I run my business on a simple premise and hope that if you give a decent service to people, they'll come back."

Jonathan Wernick

Managing Director, JW Compliance Ltd

Do you have a back-office story?

mudlarklives@hotmail.co.uk

Illustration: Luke Wilson

Member memory

Daniel Broby, Chartered FCSI (membership number 82), travelled the old Silk Road on his honeymoon. He has returned to the 'new Silk Road' as one of the founders of Silk Invest, an investment manager focused on Africa, the Middle East and Asia. His recent 'Founders Series' CPD talk to CISI members is available on CISI TV.

Daniel Broby, Chartered FCSI

Daniel arrived in the City as it was being transformed by Big Bang and then the 1987 crash. For the first time, London fund managers and brokers were rubbing shoulders with US and German business practices.

"Many firms changed hands around this time," he recalls. "We saw the birth of global investment firms. At the same time, technology progressed in leaps and bounds.

"When I arrived, the office had one flickering black-and-white screen showing mid-prices rather than bid-ask spreads. Young professionals like me were excitedly looking for 'backwardisations' created largely because the older generation wasn't as fast at adapting to the new technology as we were," says Daniel. "I realised that survival and success in the new order called for greater professionalism and a better understanding of the knowledge that lies behind our industry." When the Securities Institute was born out of the London Stock Exchange 20 years ago, the ideals of the fledgling body, he says, "caught my attention".

He then took a Master's degree in investment analysis prior to a research role at Quilter. "At that time, portfolios were UK-oriented," he says. "My job was to create a product that focused on international markets and aided portfolio diversification. This was a lucky break: I was looking for interesting companies to which one couldn't get exposure in the UK, such as technology and pharma. The markets caught on that this was where to focus, and my colleagues attributed some of the resulting outperformance to my stock-picking abilities."

When European monetary union arrived, portfolios had to be further diversified to match risk in a European context. Nordea, the largest Scandinavian bank, took Daniel to Copenhagen as Chief Portfolio Manager.

He moved to BankInvest as Chief Investment Officer, and in eight years oversaw growth in its $4bn under management to $17bn. After a stint with Russia's largest asset manager, Daniel spotted opportunities in the world's frontier – as opposed to emerging – markets. "Having launched an Africa fund for the Russians," he says, "I decided it was time to replicate this success myself."

The credit crisis hit during his infant firm's fundraising, but he persevered, joining forces with a like-minded group. The firm's vision – that frontier markets are what emerging markets were 20 years ago – has attracted enough attention to grow Silk Invest to 26 people, six products and offices throughout Africa and the Middle East. "Through this journey, I have embraced the body of knowledge that the Institute represents and believe that maintaining an ethical and professional approach is what differentiates those who succeed in the long run," Daniel concludes.

What does 'frontier market' status mean? See the continuing professional development article on page 22.

Madeleine Yates
Solicitor,
Clifford Chance

Ask the experts...

CLIENT MONEY

What is it?
Broadly, client money is any money held by FSA-regulated non-bank firms for clients in connection with investment services provided to those clients by such companies.

The FSA's client money rules state that all client money is held on trust by the company. It must be held with an appropriate bank in a client money account that is separate from accounts holding the organisation's own money. The firm must pay a retail client any interest earned on client money, unless the organisation has notified the client in writing that it will not do so.

Money ceases to be client money if, broadly, it is paid to: the client or its authorised representative; a third party on instructions from the client; a bank account in the client's name; the firm itself where due and payable to it; or the company to reconcile an accounting error. The organisation holding client money must make adequate arrangements to safeguard the client's rights and prevent the use of client money for its own account, and introduce organisational arrangements to minimise the risk of the loss of client money as a result of misuse, fraud, poor administration, inadequate record keeping or negligence.

Why are there rules?
The rules' main purpose is to ensure that, if an organisation becomes insolvent, client money is not available to the firm's general creditors (because it is held on trust). Clients are, however, exposed to the credit risk of the bank with which the firm holds client money, so, if the bank is insolvent, the organisation holds for clients only an unsecured debt claim against the bank.

The company must maintain records so that it can distinguish money held for one client from money held for another client, or for the firm itself. Such records must be kept for five years. The rules also require organisations to perform internal reconciliations of their own records, and external reconciliations between their records and those of any third party by whom client money is held (such as the bank where the money is deposited), and to correct any discrepancies and make good any shortfall with their own money until the matter is resolved.

The rules also set out detailed provisions governing the distribution of client money on the insolvency of the firm.

The client money trust does not mean that clients recover all client money held for them by the firm immediately prior to insolvency. On a company's insolvency, all client money held by the organisation is pooled and distributed among clients, pro rata to the amount of client money held for each client at the time of insolvency. Each client's distribution will be reduced by deduction of distribution costs and (arguably) amounts due and payable by the client to the firm. The amount pooled should be equal to the amount received for clients, but if, in fact, the firm holds less client money than it should do, all clients will bear the loss pro rata – even if such a shortfall arises from services provided to only some clients.

If a firm holds client money with a bank in the same group, there is a risk that the bank will become insolvent at around the same time as the organisation, leaving the company holding on trust only an unsecured claim against the insolvent bank.

An organisation can hold client money with a central counterparty (CCP) as margin for clearing. However, following the firm's insolvency, the transfer of clients and their positions to another clearing firm ('porting') is difficult, because the client money is automatically pooled under the client money rules.

Regulation (EU) No 648/2012 ('EMIR') contains requirements regarding porting clients from insolvent CCP clearing members to other clearing members. Therefore, FSA Consultation Paper (CP) 12/22 proposes amending the client money rules so that pooling on a firm's insolvency will not include either client money the company holds with the CCP if the CCP transfers the client positions to another clearing firm, or client money held in a separate client account with the CCP that the CCP returns to the client or to the firm for the client's account.

The future
Lengthy court proceedings arose from Lehman Brothers' administration, drawing attention to concerns about client money. The FSA has already made some changes, such as limiting client money held with a group bank to 20%, but CP 12/22 considers further changes, such as increased reliance on the firm's records and actual segregation of client money when allocating pooled client money following the firm's insolvency.

CLIFFORD
CHANCE

Do you have a question about anything from tax to virtual trading?
richard.mitchell@cisi.org

QUICK QUIZ

Test your industry knowledge

Illustration: Cameron Law

The *S&IR*'s Quick Quiz features questions from CISI elearning products, which are interactive revision aids to help candidates prepare for their exams.
Answers are on page 29.

To order CISI elearning products, please call the Customer Support Centre on ***+44 20 7645 0777*** or visit ***cisi.org***

Q1. Which specified investment is a type of security issued by a company that gives the holder the right to force the company to issue new shares at an agreed price?
A) Bond ***B)*** Warrant ***C)*** Equity ***D)*** Depository receipt

Q2. Holders of which class of share have no voting rights?
A) 'A' ordinary shares ***B)*** 'B' ordinary shares ***C)*** Preference shares ***D)*** Non-cumulative shares

Q3. A bank with £200,000 of cash deposits and a reserve ratio of 10% can create what maximum value of loans?
A) £180,000 ***B)*** £200,000 ***C)*** £900,000 ***D)*** £1.8m

Q4. Which ONE of the following describes the market when a futures price is lower than that of the underlying asset?
A) In contango ***B)*** In backwardation ***C)*** In-the-money ***D)*** Out-of-the-money

Top marks to those members who spotted an error in the Quick Quiz in the printed version of October's *S&IR*. The correct answer to the question 'Which one of the following would normally be used to settle a share future?' was 'Cash' and not, as listed, 'Commodities'. Apologies for the mistake.

On a cliff edge

The US Government's stimulus programme is due to finish at the end of 2012. How does that country avoid plunging into recession once the helping hand has been withdrawn?

ASK ANYONE IN the markets and they will tell you that the buzzwords on everyone's lips are no longer 'debt crisis', but 'fiscal cliff'.

This cliff has little to do with Europe. Rather, it is the precipitous drop facing the US should Congress fail to strike a deal that prevents steep automatic spending cuts and tax rises kicking in come January.

The end of budget measures aimed at stimulating the US economy threaten to pull out the rug out from under a still-fragile recovery. Indeed, in some of the worst-case scenarios flying around, it could even send the world's biggest economy back into recession. So the need for a post-presidential election deal between Republicans and Democrats is urgent – and that is why the markets care.

There is no shortage of dire warnings. Credit Suisse says that the worst outcome could result in a 3.8% drag on US economic growth (it thinks a 1.5% drag is most likely). Nouriel Roubini, a renowned market bear, expects the cliff to wipe 1% from GDP growth next year – what he calls more of a "bunny slope". And even the US Congressional Budget Office estimates that real GDP might contract by 0.5%.

Whoever you believe, the consensus view is that the end of a temporary payroll tax cut and emergency unemployment benefits, a freeze on Medicare and the expiry of Bush-era tax cuts could drain $400bn to $450bn of demand from the US economy.

The link between countries' output and stock-market returns is debatable. Research shows that long-run stock-price growth has fallen short of GDP growth in many countries. Yet the impact on investor confidence at such a critical juncture could be huge should Congress fail to reach an agreement.

Right now, equity markets are being propped up by central bank support – be it the tens of billions of dollars a month injected into the US financial system via the Federal Reserve's open-ended quantitative easing (QE), the European Central Bank's pledge to buy the bonds of crisis-hit countries, the Bank of England's QE programme or Japan's asset purchases.

This wave of liquidity has propelled Wall Street to multi-year highs, even as expectations for companies' earnings growth – arguably a more fundamental influence over share prices – are being scaled back. Remove that prop and equities would tumble. Moreover, leaving aside the risk of toppling over the fiscal cliff, the outlook for global economic growth is already deteriorating.

Even as the US housing market turns and US unemployment figures start to fall, there are fears of a hard landing in China. And the eurozone crisis is far from resolved: the hardest-hit nations are sinking further into recession as tough austerity measures bite deep.

The International Monetary Fund in October 2012 cut its forecast for global growth next year from 3.9% to 3.6%. As such, the danger posed by the fiscal cliff is that it delivers a blow to America's tentative recovery just as the patient is waking up. Yes, those tax cuts will have to go at some point and spending will need to be curbed, too, if the US is to reduce its debt burden. But move too early and you risk a calamity. The prospects of a political deal on tax and spending will depend on the post-election composition of Congress. If last year's struggle to reach agreement on the debt ceiling and avert sovereign default is any guide, expect feverish debate and plenty of angst in the markets, right up to the wire.

> *"Expect feverish debate and angst in the markets, right up to the wire"*

For his part, Roubini believes that the market rally since June defies fundamentals – that transmission channels for further monetary stimulus to the real economy are broken and that central banks are pushing on a string. Personally, I think he's underestimating the impact of the next round of QE. True, the rally on Wall Street may soon peak, but as long as the politicians behave, the US recovery should gather momentum. ■

Christopher Adams is the Financial Times' *markets editor*

The enemy WITHIN

A number of recent cases have focused public attention on financial crime, and enforcement is getting tougher. The industry should continue to increase its vigilance, says **Hugo Cox**

THE CRIMINAL ACTIVITY of employees at international banks has become the focus of a slew of recent negative publicity for the industry.

When the Chief Executive Designate of the UK Financial Conduct Authority, Martin Wheatley, announced the reform of LIBOR at the end of September, he included provision for criminal sanctions in the case of "false or misleading statements in order to manipulate LIBOR". There have been widespread calls for criminal prosecutions in the UK, and the US Department of Justice is preparing a criminal case against banks that submitted false rates.

In August, the New York State Department of Financial Services (DFS) levied a $340m fine on Standard Chartered for the bank's breach of US-Iranian sanctions. One month earlier, a US Senate committee said that HSBC provided a conduit for "drug kingpins and rogue nations" as part of alleged money laundering for clients in Mexico, Syria and Iran; the bank has put aside $1.5bn to cover fines it expects in the US.

UK policing

In the UK, the FSA is increasing its efforts to pursue wrongdoers through the courts rather than using fines. Before 2009, the regulator had not brought a single criminal prosecution for financial crime; since then, it has secured 11 convictions. Sixteen more people are currently charged, and in October the FSA brought prosecutions against another four men for insider dealing under Operation Tabernula, the regulator's most complex investigation of the practice to date, implemented in tandem with the Serious Organised Crime Agency.

The Serious Fraud Office (SFO), meanwhile, appears to be toughening its stance. In September, it withdrew guidance issued with the Bribery Act that firms which self-reported corruption would

Illustration: Darrel Rees for Heart

be punished with civil penalties rather than criminal, as well as assurances that "reasonable and proportionate" corporate hospitality would not fall foul of the law.

The SFO's new Director, David Green, is under pressure to produce convictions after recent bungles. The presiding judge described as "sheer incompetence" the case against property tycoons the Tchenguiz brothers (search warrants issued to the SFO as part of its investigations into the brothers were ruled unlawful by the High Court). The SFO has since apologised and is being sued by one of the brothers for £100m in damages and now faces a judicial review over the matter.

This tougher approach contrasts with a Department of Justice consultation in May on a new law that aims to settle punishments for wrongdoing before cases reach the courts. It proposes US-style deferred prosecution agreements for companies that self-report their involvement in financial crime, saving the time and expense of investigations.

This won't help individuals involved in criminal wrongdoing, since the new law is aimed only at corporates. Besides, says criminal QC Ian Leist, the new law may be threatened by courts' suspicion of backroom deals between firms and prosecutors. "There exists a longstanding mistrust of plea bargaining in this country," he says. "Of primary concern is that prosecutors and defendants will come to agreements that serve their own political and commercial interests at the expense of the public's."

Tougher regulatory stances on financial crime not only increase compliance costs. "Breaches of regulation are costly for the industry and for the institution's reputation," says

Financial crime: your responsibilities

As global regulators increase their efforts to combat financial crime, practitioners must ensure that they are aware of their legal obligations.

Money laundering

This is the process of making ill-gotten gains look legitimate by disguising the proceeds of crime or its true owners. The Proceeds of Crime Act (POCA), introduced in 2002, allows for the civil recovery of criminal assets. It defines offences individuals commit in concealing criminal proceeds or facilitating the "acquisition, retention or use" of proceeds from crime.

Under POCA, you have committed a criminal offence at work if all of the following conditions apply:

- you know or suspect someone is involved in money laundering;
- this is based on information that came in the course of business;
- you can identify the money launderer or the location of the laundered assets or you think the information will help identify either of these;
- you do not report it.

Companies are also liable if they do not have comprehensive internal systems for reporting, control, education and training. These prosecutions would be made by the FSA and carry up to five years in prison.

The UK Money Laundering Regulations (2003) include 'know-your-customer' guidelines specifying requirements for training, record keeping and internal reporting. The rules distinguish between placement (when criminal proceeds arrive in the system), layering (a series of transactions subsequently designed to obscure their origin) and integration (the final shifting of the disguised assets into legitimate funds or assets).

Terrorist financing

The 2002 Terrorism Act makes financing or facilitating the financing of terrorism a criminal offence, requiring workers to report suspicious offences either through a Suspicious Activity Report or, when they have major concerns, by seeking consent before authorising transactions.

Financial sanctions

The UK Treasury is responsible for enforcing international sanctions aimed at combating terrorism, but the Standard Chartered case (see main copy) demonstrates the readiness of foreign governments to prosecute breaches of their sanctions by firms beyond their jurisdiction.

Market abuse

The FSA Code of Market Conduct, 2008, defines various types of market abuse.

- Insider dealing includes improper disclosure (disseminating insider information) and misuse of information (using but not trading on insider information).
- Manipulating transactions and manipulating devices involves manipulating prices by using trades or orders for trade to create a misleading impression about supply or demand.
- Distortion and misleading behaviour cover non-trading activity, such as moving an empty container ship to suggest that a large commodity sale has taken place.
- Dissemination is giving out information that conveys a false or misleading impression about an investment or issuer.

While only insider dealing and market manipulation are criminal, rather than civil, offences, wrongdoing is often prosecuted under both, says Ian Leist QC.

Fraud

Put simply, fraud is an act of deception intended for personal gain or to cause a loss to another party. Efforts by City of London Police are focusing on protecting firms and their clients against fraud.

Bribery and corruption

The 2012 Bribery Act, which aligned the UK with international norms on anti-corruption legislation, makes it a criminal offence to give or receive a bribe. The SFO can now prosecute foreign and domestic firms if they have a presence in the UK.

Reporting

The Suspicious Activity Reports (SARs) Regime sets out the process by which employees must report suspicious activity related to money laundering or terrorist financing to the UK Financial Intelligence Unit, which is part of the Serious Organised Crime Agency. SARs are typically channelled through a money-laundering reporting officer – the FSA requires that every regulated officer should have a SARs process.

David Newton, PwC's Global Financial Services Tax and Insurance Leader, who expects the environment to become more demanding. City of London Police Commissioner Adrian Leppard believes that financial firms underestimate the reputational risks associated with client data (see box, right).

Fraud target

Still greater costs are faced as the industry tries to protect itself from the boom in financial crime facilitated by the internet.

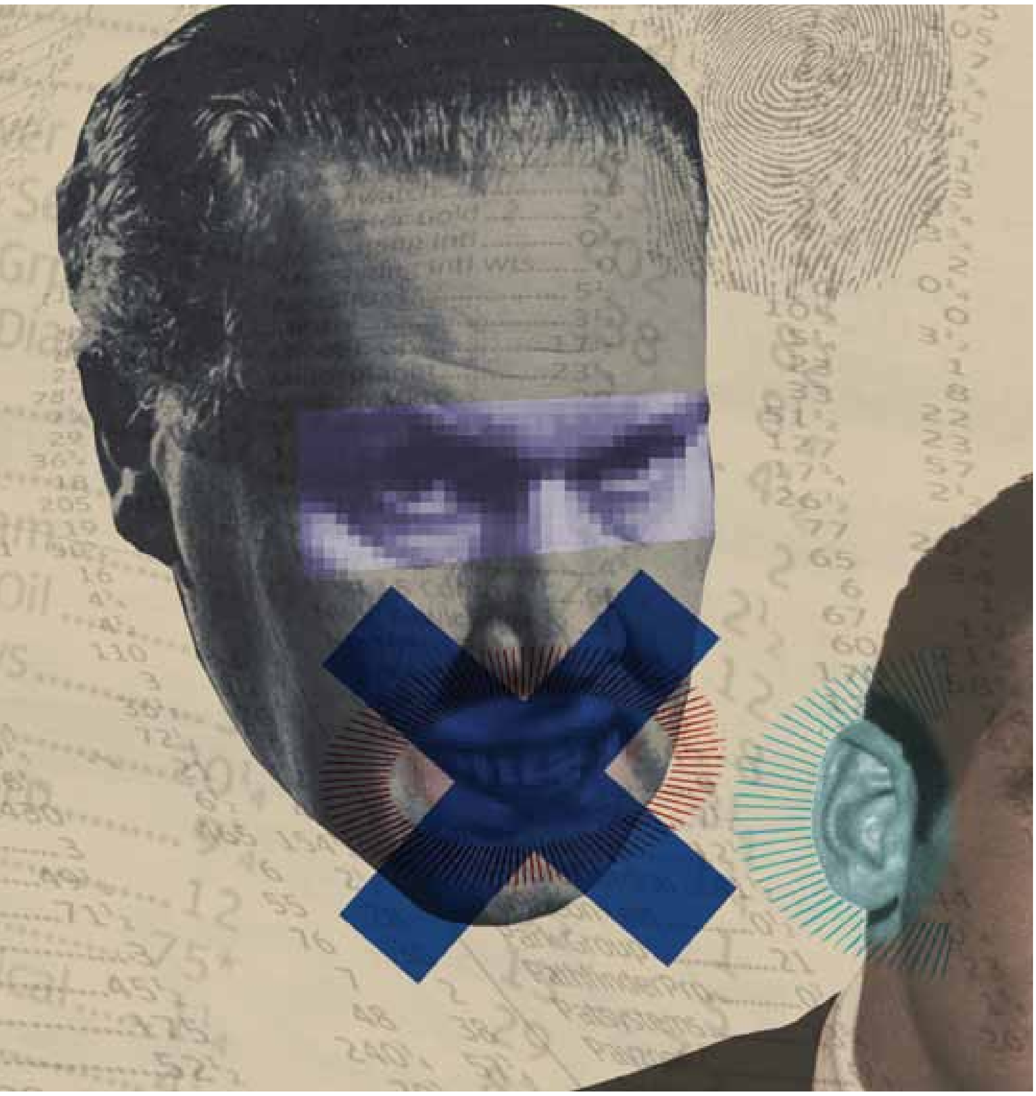
"There are no international boundaries," says Leppard. "Share fraud is increasingly perpetrated by UK nationals living in Spain. Meanwhile, the internet is becoming easier to use, and you don't need to be a technical expert to set up criminal activity; social media provides an increasingly important source of information."

City of London Police, the UK's leading police force for tackling economic crime, estimates that profits derived from financial crime now exceed those from drug crime. Its data show that in 2002 fraud was the principal source of income for 5% of organised gangs; now, the number is 17%, with 30% of all gangs using fraudulent activity to gather money in some capacity.

Leppard believes that staff awareness of money laundering is a priority, but training at financial services firms is failing to keep pace with developments in financial crime. The US cases against HSBC and Standard Chartered suggest that there are shortfalls here, and the FSA has expressed concern. Its June 2011 Guide for Firms highlighted inadequate anti-money laundering measures that have triggered enforcement action against banks (it also warned that many firms had weak measures to combat mortgage fraud).

Staff awareness of money laundering is a priority, but training at financial services firms is failing to keep pace

Improving the ability to combat financial crime is an important prerequisite for rebuilding the industry's reputation. High-profile investigations into wrongdoing are likely to continue, given the FSA's commitment to bringing more criminal prosecutions. As criminals focus their attention on the fraud of financial organisations, there is much for firms' management to keep an eye on. ■



Data security: missing a trick?

By ignoring the reputational costs associated with lapses in data security, the financial services industry is dangerously exposed, according to Adrian Leppard, Commissioner of City of London Police.

"There is a reluctance to recognise the benefits of greater data security at a boardroom level in mitigating the reputational risks of a loss of client's personal data," he explains, pointing to the direct impact on "shareholder value" of the theft of hundreds of thousands of customer records from Sony in March 2011.

Internet-launched cyber attacks now "come almost on a daily basis" for major firms, launched by criminals trading in personal information as a commodity. Personal records fetch between $3 and $4 each on anonymous websites. Personal details can be used to set up false bank accounts or make purchases using credit cards.

But the danger also comes from within, with individual employees increasingly recruited by crime networks to facilitate frauds. Leppard recommends a number of precautions to increase security. These include compartmentalising sensitive data on secure servers, controlling employee access to customer records and limiting USB or DVD access to firms' networks via desktop terminals. He also believes that there should be direct CEO responsibility for data security.

City of London Police has set up its own fraud academy. It offers training to the private sector that complements the CISI accreditation efforts (see below).

Crime qualification

Combating Financial Crime is an international qualification launched by the CISI that tackles the financial crime agenda, takes a global view of transnational crime and illustrates practical defences, including the Bribery Act (2010). This level 3 qualification has been developed by established international specialists. It is relevant to compliance officers and money-laundering reporting officers; those involved in regulation, law enforcement, trade and commerce; and individuals from bilateral development institutions.

There is a workbook to support candidates studying for the qualification and a Professional Refresher elearning module, Financial Crime. For further information visit *cisi.org*.

Not quite safe ground

As the global deadline for derivatives' central clearing approaches, it is clear that no one will meet it. **Andy Davis** finds that the project faces obstacles both in theory and in practice

AT THE END of December, the financial services industry will pass a major milestone on the road to a safer financial system. Just over three years ago, the G20 meeting in Pittsburgh set a target of 31 December 2012 for a comprehensive overhaul of the $600tn-plus market for over-the-counter (OTC) derivatives, including mandatory trading on electronic exchanges, central clearing of certain types of contract by financial corporations and full reporting of all transactions. (The Financial Stability Board (FSB) subsequently formulated the target into workable objectives.) But, as the deadline approaches, it is clear that the mammoth task will not be finished on time.

True, the European Securities and Markets Authority (ESMA) met its deadline of 30 September to send proposals for new laws to the European Commission (as part of the European Market Infrastructure Regulation). At least at the top level, the legislation should be in place in Europe and the US before the end-of-2012 deadline. But a large quantity of detailed rule-making is still to be enacted in both regions before it is clear who in the market must do what, and by when. The FSB reported in October that only the US and Japan had adopted legislation mandating central clearing.

US and Europe lag

The latest uncertainty concerns the timing of the US Commodity Futures Trading Commission's detailed rules on swap execution facilities (SEFs). These are the electronic systems on which derivatives contracts will be traded and cleared; new rules will cover capital requirements, operations and governance, among other areas. An announcement was widely expected this year and David Clark, Chairman of the Wholesale Markets Brokers' Association (WMBA), is optimistic: "There's still a hope in the marketplace that SEF rules will be announced some time before the end of the year."

In Europe, where ESMA is responsible for drafting the key technical standards, there is general acceptance that it will be well into next year before they are published. Until they are, market participants will not know which contracts will have to be cleared with a central counterparty (CCP) or which rules will cover collateral requirements. "I think you're talking about next summer and beyond," says Martin O'Donovan, Deputy Policy and Technical Director at the Association of Corporate Treasurers.

Safer in practice?

Critics of central clearing point to the concentration of systemic risk implied by the need to clear all trades with a CCP (see box, 'Safer, in theory', far right). With everyone exposed to the risk of default by a CCP, will these become 'too big to fail'?

"People will feel comfortable when, and only when, a resolution process is worked out for these CCPs," says David Clark at the WMBA. "That is absolutely the top priority for the regulators and the central banks: CCPs must have a living will agreed with their regulators."

To limit the risk that CCPs fail, parties must lodge collateral against their open positions with the clearing house. This too has caused alarm that there will be a system-wide shortage of suitable collateral to post against derivative positions.

Those OTC derivatives that are not subject to central clearing will also face onerous margin requirements. Furthermore, under Basel III, less capital is required to be held back against centrally cleared trades than must be reserved to trade bilaterally (CCP trades require 2% risk weight; bilateral trades require an additional 'credit valuation adjustment'). Tougher still, when it comes to CCP trades, derivatives brokers must pay the 2% risk charge and post collateral with the CCP, even when their clients are exempt from posting collateral (as is the case for smaller trades by non-financial firms – see box, 'Rolls-Royce', right).

The International Swaps and Derivatives Association (ISDA) fears that the industry will be overwhelmed with collateral calls. ISDA estimates the collateral required to cover current positions at $15.7tn. "For all practical purposes, any number above a couple of trillion would make the cost of meeting such requirements prohibitive – even if it is feasible at all to locate so much collateral," notes its derivatiViews blog.

ISDA's other objection concerns the requirement to mark centrally cleared derivatives contracts to market each day. The resultant daily margin requirements will impose new daily liquidity challenges for users, which

Impact assessment

Buy side

Pension funds argue that holding the high-grade government bonds or cash sufficient to meet collateral requirements would cost them 1%–2% in investment returns, forcing them to increase their risk appetite or demand more support from the sponsoring employer (a secondary effect of central clearing on corporates). The deadline for their compliance with central clearing requirements in Europe has been extended to 2015 and the majority of companies have avoided committing to central clearing until they have greater clarity about the rules.

Another problem is created by the separation of the derivatives business for pension funds that will follow the migration of some contracts to central counterparties but not others. While interest-rate swaps, for example, are headed for central clearing, inflation swaps are not, meaning that pension funds will have to create two separate derivatives portfolios, increasing their costs, says Jeremy Taylor, Specialist in Operational Processing and Derivatives at Rule Financial.

Sell side

The sell side has gone much further towards achieving compliance. According to the Financial Stability Board, by as early as mid-2010, 47% of interest rate swaps, 22% of multi-name credit default swaps (CDS), and more than 20% of OTC commodity derivatives were being cleared centrally.

But sell-side firms could also gain from helping the buy side achieve compliance by offering 'collateral transformation' – swapping, for a fee, a pension fund's illiquid holdings for high-quality government debt to post at the CCP. The problem is that this could merely shift risk from the pension fund to the broker: if a major counterparty fails and the high-quality collateral it has 'lent' to the pension fund in this way is suddenly recalled, the derivative positions must then be unwound and the whole system could come crashing down.

Rolls-Royce: corporates feel the heat

Pension funds are not the only ones complaining of the costs of shifting to central clearing. Corporates argue that new 'initial margin' requirements on bilateral over-the-counter (OTC) trades will curtail their growth.

Currently, non-financial counterparties will be subject to clearing and bilateral collateral requirements only if their OTC derivatives positions are large enough and are not directly reducing commercial risks or related to treasury financing activity.

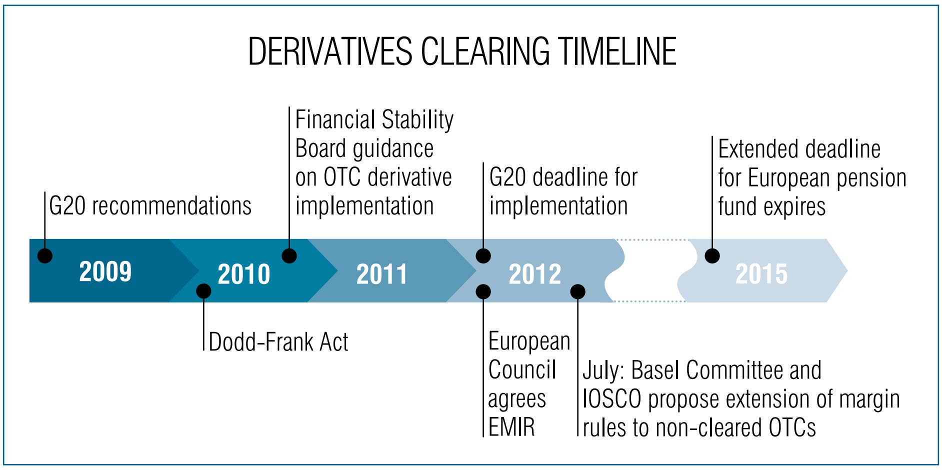
But bigger positions could rapidly become expensive. In a response to March's European consultation paper on technical standards, Rolls-Royce estimated the annual costs of maintaining a $20bn derivatives hedge book to be $28m a year.

The firm suggests that 'non-financial counterparties' (NFCs) should be exempt from all initial margin requirements. It notes that prudentially regulated financial counterparties – banks and financial firms – must already hold enough capital against their OTC trades to protect themselves against NFCs not meeting their side of the bargain. Secondly, unlike banks, NFCs cannot access central banks and depositors for the cheap liquidity to meet margin requirements. Instead, the costs will act as a drag on performance.

could drain liquidity from the financial system when it is most needed.

How far these objections are heeded will be up to local regulators and central banks. This is the final challenge to achieving global implementation – it relies on unilateral adoption at a local level. The recent surprise decision by the FSA to waive capital and liquidity requirements on new lending under the Funding for Lending scheme shows how hard it is to get unilateral adherence to global rules. Asian regulators are already showing some variation in the speed of their enforcement of central-clearing rules.

Delays – or, worse, failure of some countries to implement central clearing at all – raise the risk of regulatory arbitrage. With central clearing already among the financial world's most complex reforms, this is one problem it could do without. ■



Safer, in theory

The drive to bring trading of OTC derivatives on to public exchanges stems from the widespread desire among policy-makers and regulators for safer and more transparent financial markets following the credit crisis of late 2008. OTC derivatives, which are private bilateral contracts covering areas such as currency and interest-rate swaps, were accused of exacerbating the crisis because they lacked transparency and so made it too hard for regulators to assess build-ups of risk in these off-balance-sheet positions.

The response has been an effort to move as much of the present OTC derivatives market as possible on to public trading platforms and to insist that all such trades are collateralised, cleared via a CCP and reported to a trade repository so that regulators can gain a comprehensive view of how risk is accumulating and being managed across the system.

Marisol Collazo is Managing Director, Product Management for Deriv/SERV LLC, the subsidiary of the Depository Trust & Clearing Corporation (DTCC) responsible for OTC derivatives globally. She says that the first compliance date under Dodd-Frank for reporting to the depository (for interest swaps and credit derivative trades) was 12 October, although swap dealers have an extension to 31 December.

On 10 January 2013, the remaining asset classes, equities, foreign-exchange and commodities derivatives begin mandatory reporting under Dodd-Frank, although trades involving two parties that are both 'end-users', rather than one being a dealer, have until April next year.

Having comprehensive reporting data available should help regulators select which additional instruments to clear centrally. "The further transparency globally resulting from the reporting requirement," says Collazo, "will hopefully help to inform the regulators even better about what mandatory clearing needs to take place and where the liquidity is in these transactions."

The DTCC is preparing for further reporting compliance milestones in Europe (set for 1 July 2013) and Asia (Japan's deadline is April 2013).

A matter of principle

Hugo Cox talks to Chet Helck of the Securities Industry and Financial Markets Association about Capitol Hill's approach to regulating financial services in the US

WHEN HE TALKS about his work at the Securities Industry and Financial Markets Association (SIFMA), an American securities-industry trade group, you sense that Chairman Chet Helck is on something of a personal crusade.

"Our problem today is that many people have lost confidence and trust in the markets, in the industry, in the regulators," he says. "They are worried that, if they put their money at risk, it will be subject to some vagary that they aren't told about, don't know about or can't see coming."

> *"Many people have lost confidence and trust in the markets, in the industry, in the regulators"*

Helck believes that headline-grabbing legislation or sweeping regulatory reform are not the answer and that this approach is doing more harm than good by hobbling the ability of financial services to drive much-needed economic growth. He is scathing about the Volcker rule – intended to limit proprietary trading but likely to catch widespread market making and reduce liquidity. When I ask him for more examples about counterproductive regulation, he says that we would need the rest of the week to list them all.

Instead, Helck's prescription for recovering trust in the investment industry is to return to its basic principles. Without a commitment to integrity and competence and the need to put customers first, there is no chance of winning back the trust of customers. And there will be nothing glamorous about this process.

"That kind of disciplined management approach is not sexy," he says. "It's not some great new idea for a law or regulation – it's just fundamental values that are essential for the effective operation of our business."

Level playing

One exception to Helck's scepticism about legislating the US investment industry out of its current troubles is the 2012 Investment Adviser Oversight Act. The appeal of the proposed act lies in its plan to bring a single standard of oversight to the provision of investment advice in the US.

To date, investment advisers giving retail advice have had it much easier than their wholesale counterparts from broker-dealer firms. The Securities and Exchange Commission (SEC) inspects them, on average, once every 11 years, compared with yearly inspections for broker-dealers.

The problem has arisen because the retail advisory services of investment advisers and broker-dealers have converged in recent years. With each currently regulated by different bodies and to different standards,

CV snapshot

2012 – President and COO, Raymond James Financial

1989 – Vice President of business development for a Raymond James Financial contractor subsidiary

1983 – Investment representative for Edward D. Jones & Co; he later became the firm's regional leader for Georgia, Florida and Alabama

1974 – Product marketing and territory manager for Deere & Co

the 2012 Act recommends the same level of examination and oversight for what is essentially the same conduct: giving investment advice to retail clients. (Those in the UK, including the CISI, that are currently lobbying to bring professional standards in wholesale markets into line with the Retail Distribution Review's exacting new rules for retail advisers might find it amusing that their US peers are facing the reverse dilemma.)

"Clients should be able to trust that, whomever they do business with, the same standards of care at the highest levels are being applied, so they can go from one adviser to another without having to understand the intricacies of regulatory infrastructure to determine who they should trust," says Helck.

Both the industry and Congress agree in principle with achieving equivalence in oversight. But there is still a good deal of debate about how best to get there. Helck wants a new 'retail-adviser regulatory organisation' along the lines of the Financial Industry Regulatory Authority (FINRA), a private, self-regulatory organisation funded by the industry. The rival Investment Adviser Association complains of conflicts of interest in self-regulation and favours a 'user-fee' system in which advisers would pay fees to the SEC to cover exam costs.

Helck's fear is that the SEC would not spend the money effectively. The organisation's Chair, Mary Shapiro, has said that she would need another 2,200 staff to do the job; FINRA reckons it could carry it out with 900. Helck summarises: "In practice, we've seen that the Government is the worst management organisation you could find for such a job."

Comments like these may not win the plain-speaking Texan many fans on Capitol Hill. But, midway through his first year at the helm of the securities industry's leading trade group, practitioners across the Atlantic should expect to benefit from both his candour and his commitment. ■

SIFMA

SIFMA represents the interests of more than 650 securities firms, banks and asset management companies in the US.

It formed in 2006 from the merger of the Bond Market Association and the Securities Industry Association and has offices in New York City and Washington DC.

A portrait of the adviser as a young man

It is easy to see why Chet Helck has succeeded as an investment adviser. The CEO of the Private Global Client Group at financial-planning firm Raymond James has a reassuring manner and his deep voice and Southern accent brings to mind country-music icon Johnny Cash.

It may be true that his countrymen 'do' heartfelt better than their English peers. But his conviction that the industry has lost sight of the "fundamental values" of trust and putting customers first strikes a more authentic note than the often-brittle messaging that many in the sector have delivered since the financial crisis.

"I believe we are engaged in a noble profession," he said at SIFMA's annual general meeting in October. When we meet, he entreats US regulators to "stop allowing those who abuse that trust to operate in our business".

Most resonant, though, is his own story of accumulating wealth – and his fears about losing it – which eventually led him to work as a financial adviser.

Nine years into a career at Deere & Co, the US agricultural-equipment manufacturers (famous for John Deere tractors in the UK), he had accumulated a tidy pot of company shares through the firm's stock-purchase plan. He took a keen interest in competitor firms' shares – notably those of International Harvester, Deere's larger peer, which consistently traded at a $10 premium to Helck's employer. By the early 1980s, the share price of International Harvester stood at about $75, and Helck was pleased to note that many senior employees at the firm had become quite wealthy through their shareholdings.

Then, almost overnight, International Harvester's stock plunged to $2 per share and Helck had to reconsider his financial planning.

"A large multinational company that in those days seemed indestructible had crashed and burned," he says. "Deere was an excellent company but it was clear to me that I should diversify my holdings, and so I started doing business with an investment adviser."

Three years later, the very same adviser offered Helck a job.

Despite this year's exception, **Hugo Cox** finds that it is hard for practitioners to agree on the practical merits of the theories that win economists the Nobel Prize…

Applied theory

THERE ARE TWO remarkable points to consider regarding this year's Nobel Prize for economics. The first is that one of the winners, Lloyd Shapley, once designed an algorithm to produce stable marriages. The second is that his co-winner, Alvin Roth, has provided an application for theoretical economics that everyone agrees has a benefit – about as rare an eventuality as a hen's tooth.

Despite the dinner-party appeal of Shapley's model for matrimonial bliss (see below), most of his work turns out to be highly theoretical and mathematically complicated. So far, so familiar, as Nobel Prize winning theories go. But Roth has used the discoveries of game theory to solve real-world problems, such as the supply of medical graduates to hospitals, children to schools and kidneys to transplant patients.

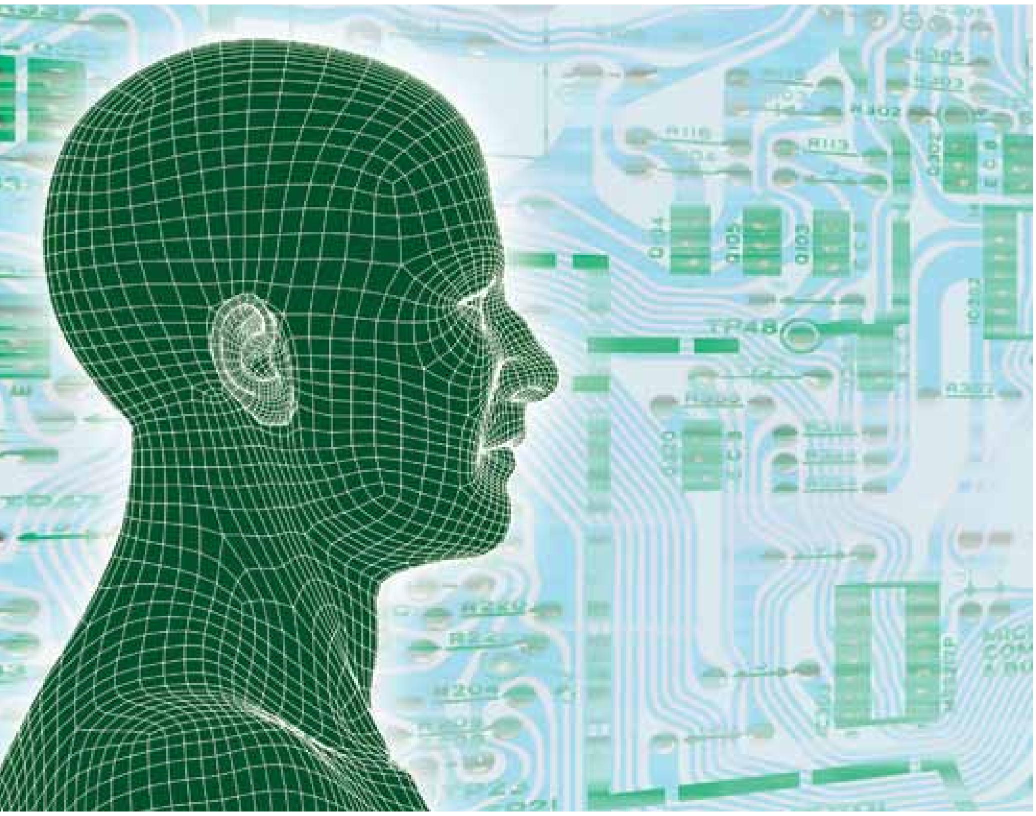
Roth discovered that a system where medical students, rather than teaching hospitals, make the 'offer' in selecting their chosen place of study creates a stable outcome. Research showed that both parties were happy with where the student ended up, and therefore would not do deals on the side to undermine the system. When Roth applied this rationale to public schools in New York, in 2003, his algorithm resulted in a 90% reduction in the number of students assigned to schools that were not in the youngsters' top five.

Roth can also boast a practical social impact when there are tricky ethical issues to consider (traditionally off limits for the rarefied intellectual purism of theoretical economics), such as the exchange of kidneys. Where someone requires a kidney transplant, the spouse may be prepared to donate one but an incompatible blood group prevents this. To solve this problem, Roth helped found the New England Program for Kidney Exchange, which created a 'clearing house' similar to that of schools and hospitals, successfully matching pairs of donors with compatible pairs of recipients before conducting the operations at the same time (the surgery had to be simultaneous because US law prohibits the drawing-up of contracts for organ donation).

Useful tools

It's hard to argue against the benefit of increasing the number of happy students or successful kidney transplants. Such a consensus that Nobel Prize-winning ideas have a practical benefit is rare.

In 2011, Thomas Sargent and Chris Sims collected the economics prize for their work on evaluating the macroeconomic effects of major single changes, such as a shift in interest rates or



Stable marriage

Shapley's marriage algorithm was devised alongside David Gale in 1962. It excited economists at the time because it solved the 'stable matching problem' by designing an algorithm to match a group of men and women in which all marriages are stable. It works by multiple rounds of engagement. In each round, a woman provisionally accepts a proposal from the man who loves her most. She says 'maybe' to that man and 'no' to all the rest. Then all the remaining men propose again. This time the woman can jettison her 'maybe' from the previous round in place of a new 'maybe'. He goes back into the pool and makes another offer in the third round. Or she can keep her previous 'maybe'. The process repeats until everyone is engaged. At this stage the process is stable because it's impossible to find a man and a woman both of whom like each other more than their partners.

a hefty tax cut. The theory depended heavily on a version of the vector-auto regression model developed by Sims, which has proved effective in predicting the effect of surprise or shock changes.

The applications of their work have been popular among many central bankers keen to predict the impact of interest rates, explains Peter Englund, Permanent Secretary of the Swedish academy that awards the Nobel Prizes and Professor of Finance at Stockholm School of Economics. "We highlighted the impact of the work on monetary policy: almost every central bank around the world would certainly use some version of that regression."

But not everyone agrees that they should. The regression theory is woefully inadequate at explaining the current fiscal and economic disorder in Europe, believes celebrated UK economist John Kay, who recently chaired a Government review of long-term governance in equity markets. "It's shocking to me that many people believe that if you announce a credible fiscal trajectory for countries in the eurozone then wages and prices across Europe will adjust quickly. This is clearly a major influence on European Central Bank policy," he said.

Jan Dehn, Co-Head of Research at Ashmore Investment Management, an emerging market specialist listed in the FTSE 100, says vector auto-regression is a useful tool to evaluate the effects of a big interest rate or oil price shock on monetary policy but its application to asset prices is limited.

"In particular, it does not allow for technical factors, such as investor flows and sentiment," he explains. In this sense, it demonstrates a limit to many economic theories that fall well short of making market predictions.

Consensus that Nobel Prize-winning ideas have a practical benefit is rare

Put to the test

Certainly, there will always be disagreement about how effective an economic theory is in predicting events. One way to resolve these disagreements is to test theories in the laboratory.

Vernon Smith, who won the prize in 2002, aimed to do just this. Smith initiated the use of so-called 'wind-tunnel' experiments – applying the principle that racing car and aeroplane designers would put their designs through such testing, so why shouldn't new markets and economic policies go through an equally stringent process before they are implemented? He analysed alternative market designs in the lab before they were implemented in practice. Smith employed this method in the design of government auctions to achieve deregulation and privatisation of public monopolies. This included looking into the auction of broadcasting rights.

Hear no evil?

The 2002 prize also shows another limitation of applied economics – prejudice in the face of compelling evidence.

That year, Smith shared his award with psychologist Daniel Kahneman for his work uncovering the biases and mistakes in human decision-making. In his recent bestselling book, *Thinking Fast and Slow*, Kahneman recalls presenting to a small but well-reputed firm of US wealth managers about how mistakes could cloud their investment strategies.

On the eve of his talk, he was given data about the portfolio returns of 25 managers over eight years. A quick regression analysis found that the average correlation of performance between individual years was as good as zero. This suggests an 'illusion of skill'; if skill was a factor in investment performance then, at least for some managers, there should have been a correlation in performance across years. (Kahneman explains people's blindness to this by reference to cognitive illusions such as hindsight bias – the tendency to reconsider outcomes in the light of information we know now but did not know at the time – and attributing the positive effect of chance events to personal skill).

The next day, Kahneman presented the results of the regression analysis to the firm's executives, noting that "the firm was rewarding luck as if it were skill" by determining annual bonuses via individual portfolio performance. The response was a polite acknowledgement of what should have been a damning revelation and Kahneman left with the conviction that nothing at the firm would change.

Kahneman's work has certainly had an impact: behavioural finance has given a compelling theoretical underpinning to passive and exchange-traded fund (ETF) investing. By emphasising evidence, including the fact that, in any year, two out of three mutual funds underperform the market, his work and that of other behavioural economists, has helped spawn the explosion in passive and ETF funds. Applied as behavioural finance, these ideas have significant influence in investment management. Richard Thaler, a founding father of the behavioural finance movement, is one half of an investment management firm with several billion dollars under management. There are few fund managers now that are not aware of the dangers of 'loss aversion' or risks created by the disproportionate salience of recent news about a company.

However, the full impact of Kahneman's work has been limited on an everyday basis because receiving the news that we are flawed is very hard to swallow. Even a simple monitoring of personal decision-making by investment managers is too hard for most, Kahneman explains:

"Keeping a log of their decisions and why they make them could eventually force professionals to improve performance. But for some reason people just hate doing that."

What Nobel Prize-winning ideas offer financial services professionals and policy-makers depends partly on their expectations. In some cases, such as the collapse of hedge fund Long-Term Capital Management, excitement about advances in theoretical economics may have misled investors (see box above). In others, such as Kahneman's, many professionals are not getting excited enough about the practical implications of new ideas. Those hoping that Shapley's marriage matching algorithm can help reduce divorce rates will be disappointed. But every year there will be something of value for practitioners in the award announced by Peter Englund in Stockholm. ■

The dangers of applied economics

In 1997, US academics Myron Scholes and Robert Merton shared the Nobel Prize for a new model for pricing options. This proved portentous timing. The Black-Scholes formula (also co-authored by Fisher Black who had died by 1997) underpinned Long-Term Capital Management (LTCM), a US hedge fund set up three years earlier with Scholes and Merton on its board. Following several years of more than 40% returns, it collapsed dramatically in 1998. The fund enjoyed fantastically high levels of leverage – peaking at about 250 to one as investors ran for the exit – in part because of the impeccable academic heritage of its theory.

"I accept that the prize gives a special significance to the individuals who receive the prize, who may then be regarded as having a greater amount of wisdom than they have," says Peter Englund, Permanent Secretary of the Swedish academy that awards the Nobel Prizes and Professor of Finance at Stockholm School of Economics. But in this case he notes, LTCM was firmly on the way to its $5bn peak in assets under management when the prize was awarded in 1997.

Nonetheless, because it proved a fairly accurate model for options pricing at the time, the Black-Scholes formula helped fire a false assumption that there was only one right price for an option, which may have blinded those at LTCM when the bets started to go bad.

The new Silk Road

Frontier markets can yield glittering profits for canny investors. But what are the stakes, and how are they weighed? **George Littlejohn MCSI** explains

Ibn Battuta

IBN BATTUTA, A household name for many in Asia's fastest-growing economies, left home in Tangiers one June day in 1325. He returned 24 years later, having covered an immense 75,000 miles across what became known as the Silk Road. His near-contemporary, Marco Polo, managed a mere 15,000 miles over the same length of time.

The Silk Road was a network of interlinking trade routes across the Afro-Eurasian land mass that connected Asia – booming, then as now – with the European and Mediterranean world and parts of north and east Africa.

No traveller matched Ibn Battuta's efforts until the steam age some 450 years later. Then, commerce took global travellers along the same paths in search of profitable opportunities. The investment community followed quickly, as those charged with looking after other people's money saw the rich potential in the frontier markets.

These frontier markets are back with a bang, and many Institute members now comb them for exciting propositions as their clients expand their investment horizons. Daniel Broby, Chartered FCSI, who is profiled on page 9, was one of the earliest members of the CISI to follow in Battuta's boot steps.

Frontier or emerging?

But where to begin when probing these still very foreign markets? Early movers can make sizeable profits, but one person's glittering prize is another's can of worms, especially in some of the newer markets. A large part of the answer lies in the work done by the FTSE and MSCI groups, which methodically allocate individual countries' markets across a spectrum of development. Their indices drive investment from funds, targeting specific markets that they track. FTSE's country classifications run from developed, through advanced emerging and secondary emerging, to frontier. The categories are assigned according to a set of criteria developed in conjunction with international investors and the markets. "This rules-based approach provides a transparent and objective mechanism for assessing markets," says Chris Woods, FTSE's Managing Director of Governance and Policy.

FTSE's Country Classification Committee conducts an annual review of the classifications, making recommendations to its Policy Group. "Early distinctions between developed and emerging markets were somewhat arbitrary," says Woods. "They tended to focus on the relative wealth of countries as the distinguishing measure, together with subjective judgments about the quality of the market."

Now, the process is much more rigorous, focusing strongly on quality-of-market criteria, such as regulation, the dealing landscape, custody and settlement procedures and the presence of a derivatives market.

Countries are promoted or demoted between categories via a 'watchlist' (see box right), to which they are added when the Country Classification Committee agrees that enough scores have changed to merit a proposed reclassification. This autumn, for instance, Argentina was listed for possible demotion from frontier status due to continuing stringent capital controls imposed on international investors and the perceived lack of an independent regulatory authority to protect shareholders' rights. Argentina had already been demoted from secondary emerging to frontier status in 2010. Greece, too, is on the watchlist. Meanwhile, Mongolia joined the list for possible inclusion as a frontier market based on its progress in developing a market infrastructure that is attractive to foreign investors through improvements to its trading, settlement and custody arrangements.

The other major player in this arena, MSCI, launched the first comprehensive emerging markets (EM) index in 1988. Since then, the MSCI EM Indices have evolved considerably, moving from about 1% of the global equity opportunity set in 1988 to 14% in 2010. Today, they cover more than 2,700 securities in 21 markets that are currently classified as EM countries. MSCI regularly reviews the market classification of all countries included (or under consideration for inclusion) in its global equity universe based on extensive discussion with the investment community.

The glittering prize of graduation

The real prize – the graduation, in one Middle East regulator's words, "from a cycling proficiency badge to a full driving licence" – is the move from frontier to EM status. This can open the floodgates to institutional investment, notably by US pension and endowment funds. So how do markets move up the pecking order? Dogged determination and attention to detail seem to be the answer.

Russia is a prime example. Robert Barnes, Chartered FCSI, who is CEO, UBS MTF and Managing Director, Equities at UBS, and a member of the CISI Board, has been actively involved in TheCityUK's engagement with the nascent Moscow International Financial Centre (MIFC) and many other markets. Russia is currently ranked secondary emerging in the FTSE indices and emerging by MSCI. The development and promotion of the new Moscow centre is close to President Vladimir Putin's central plans to improve the Russian business climate.

Robert Barnes, Chartered FCSI

"An encouraging number of new business practices, meeting international

standards, have taken root in the Russian market," says TheCityUK's MIFC update. "This makes it easier to do business that will support Russia's privatisation programme and help Moscow flourish as an international financial centre."

"The most notable accomplishment was the passing of the Central Securities Depository [CSD] law on 1 January 2012. Implementation will bring greater efficiencies and transparency and lower risk to the securities markets through centralising and simplifying trading and posttrade services. It will help Russia to compete on the international stage, and we look forward to the introduction of access for foreign nominee accounts and the approval of international CSDs, CSDs and global custodians. We support and encourage the speedy development of a trade repository for financial products as proposed by the National Securities Depository [NSD], and are delighted that Euroclear Bank has recently been granted access to the NSD by Russia's Federal Financial Markets Service. The NSD's plans for change will make accessing the Russian market easier for international institutions."

"Early distinctions between developed and emerging markets were somewhat arbitrary"

A member of the FTSE Country Classification Committee, Barnes has been instrumental in engaging the Russian market with FTSE to start navigating a path towards future promotion.

"Since we discussed FTSE Country Classification at our June 2011 inaugural MIFC Joint Liaison Group meeting in Moscow, MICEX-RTS [the Moscow Exchange] and Naufor [the Russian National Association of Securities Market Participants] co-ordinated answers to updated FTSE country questionnaires, which resulted in Russia earning more criteria upgrades than any other country," he says.

Current FTSE 'watchlist' markets

- Argentina – possible demotion from frontier
- China 'A' share (traded in yuan) – possible inclusion as secondary emerging
- Greece – possible demotion to advanced emerging
- Kazakhstan – possible inclusion in frontier
- Kuwait – possible inclusion as secondary emerging
- Mongolia – possible inclusion in frontier
- Poland – possible promotion from advanced emerging to developed
- Taiwan – possible promotion from advanced emerging to developed
- Ukraine – possible inclusion in frontier

The gold medal of order flow

Financial institutions, both national and international, need to see business coming out of these developments to make their engagement worthwhile. "The execution arms race continues," says Barnes. "The prize is order flow that concentrates to those most capable, particularly with respect to market structures."

In recent years, regulators in the UK and US, and across Europe, have pushed for greater transparency and accountability in relation to the use of dealing commissions. This led to the introduction of commission unbundling and commission-sharing arrangements (CSAs). Under CSAs, an agreed portion of the commission is set aside to be used to pay for research, either by the dealing broker or another organisation from which the investor wishes to source advice.

The advantage is that CSAs enable buy-side investors to avoid a conflict inherent in the previous arrangements. The market convention had been to pay for ideas with order flow, so that investors obtained their research from the brokers carrying out their transactions. The conflict arose where a broker with good research ideas – that the investor wanted to use – had a weak execution desk that the investor did not want to use.

Under the CSA mechanism, buy-side investors have the freedom to concentrate their order flow through the brokers providing best execution, and the power to reward value-added ideas from others with weaker or non-existent execution services. In 2007, the European Commission's launch of Mifid redefined best execution and, by specifically excluding research from the definition of execution criteria, effectively extended CSAs across Europe. In the US, the Securities and Exchange Commission approved a structure similar to CSAs, the Client Commission Arrangement, to make it as easy as possible for investors to pay for independent research. Because global clients prefer a consistent process, CSAs are becoming the new convention worldwide.

"With the advent of global CSAs," says Barnes, "markets are more likely to attract incremental liquidity if they commit to a high quality of markets criteria and if they join broker execution networks with clients that have global CSAs."

In October, the Moscow Exchange pressed the button on a full-scale link between its domestic market and a London 'POP' – point of presence – to help increase trading volume. The London server, nestled in a data centre with companions from most of the big global banks, claims a round-trip time to whisk data to and from Moscow of 42 milliseconds – for once, beating Ibn Battuta ■

Robert Barnes and Chris Woods will be exploring these issues at a CISI CPD event in March 2013. For more information, visit cisi.org

George Littlejohn MCSI is a senior adviser at the CISI.

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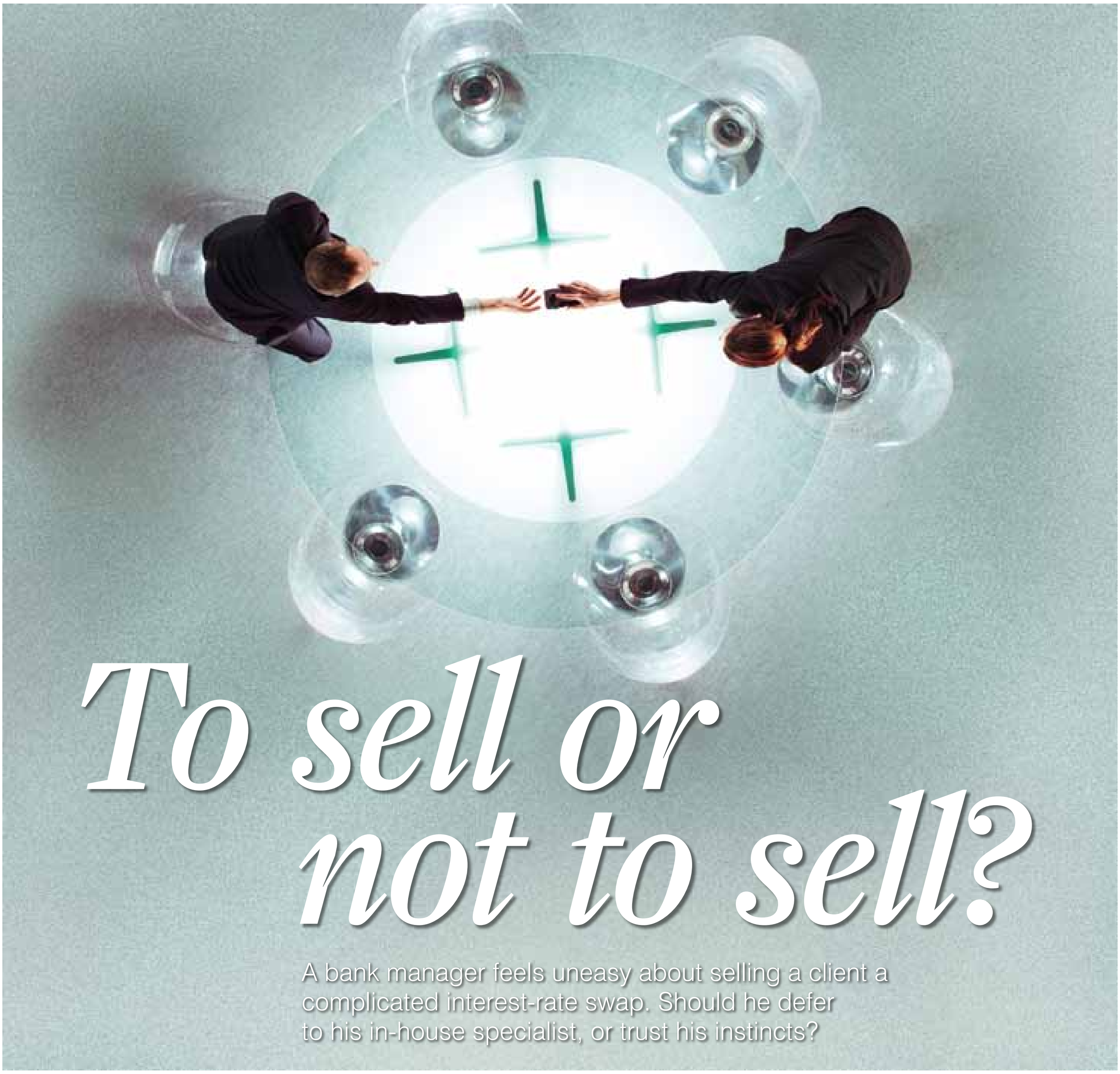


To sell or not to sell?

A bank manager feels uneasy about selling a client a complicated interest-rate swap. Should he defer to his in-house specialist, or trust his instincts?

PHILIP RUNS A successful small engineering company, employing 40 people, that makes specialist components for the aircraft industry. He is keen to expand his firm through the acquisition of GZB, a company in a similar line of business, whose current owner wishes to retire. Philip has reviewed the position with his accountant Sunil and they determined that the proposed acquisition would enable his company to take on more work, providing valuable economies of scale. Although GZB is only occasionally profitable, a major attraction is that it owns the freehold property from which it operates, thus justifying the £3m asking price.

Philip and Sunil draw up a business plan that envisages an additional working-capital requirement, and a term loan secured on the GZB property. Having completed the plan, they make an appointment to see Alan, the manager of the bank that has supported Philip to date. Alan welcomes Philip and Sunil, saying that the bank is always keen to support successful businesses. He assures them that if the business plan makes sense, the bank should be happy to provide the funding that Philip is seeking. Alan notes that Philip is looking for a term loan to support the purchase of GZB, to be secured against GZB's property, and says that there may be some conditions, particularly hedging the interest-rate risk on the term loan, as he knows the bank is promoting its interest-rate protection products.

Alan is pleased with the approach, which will help him meet his new business target, and if he convinces Philip of the merits of interest-rate protection, he will receive extra credit. Philip and Sunil leave the bank satisfied that they have made a good case and that their application should be approved. They are not overly concerned by Alan's comments about hedging the interest payments, since it seems a sensible thing to do, as financial commentators are saying that interest rates have been lower than the historic norm for some time and the next series of moves are likely to be upwards. A short time later, Alan calls Philip and tells him that his funding application has been approved and, as anticipated, it is conditional upon the term-loan interest payments being hedged. Alan adds that Kumar, a member of the bank's specialist swap team, will visit later that week and would like to discuss the various options with Philip; a meeting is arranged.

Before the meeting, Alan and Kumar discuss the different forms of derivatives products that are available, and Alan admits his lack of detailed knowledge about swaps and their strengths and weaknesses. Kumar says that is not a problem as he will do the talking, but

Alan should bear in mind that, from the bank's perspective, the greater the 'structuring' in a product, the more money it makes. So it's in everyone's interest that structures are not rejected just because they might be complicated.

At the meeting, Philip and Sunil sit down with Alan and Kumar, who is introduced as the bank's 'swap specialist'. Alan runs through the nature of the conditional approval relating to the interest-rate protection, saying that it does not specify what form the protection should take and therefore that it is up to Philip to decide.

Kumar sets out a range of product options, the attractions of which are determined principally by the interest-rate environment and anticipated movements in rates over the next seven years, which is the term of the loan. They discuss the likely direction of interest rates, taking into consideration that the bank's economics department predicts a steady rise until rates plateau about 3% higher than their present level. Against that background, the case for protection is obvious. However, the form of the product is less clear, and they spend some time discussing the various options, starting with a straightforward swap, to enable Philip to fix the rate on the loan. Alan tells Philip that it seems a simple and straightforward option.

> **He should bear in mind that, from the bank's perspective, the greater the 'structuring' in a product, the more money it makes**

Kumar then explains that there are more complex products, such as collars and structured collars, that will limit interest-rate movements within a specified range and can be tailored to suit specific circumstances. He adds that he strongly believes that such a product would be ideal for Philip's expanding business, which would no doubt welcome a bit of flexibility.

Both Philip and Sunil are interested in the range of options offered. Philip says that they will not rule out anything until they have discussed the matter further, since they are businessmen, not financiers, and want to make sure they do what is right for the firm. They thank Kumar and Alan, adding that they will come back to the bank with a decision shortly.

When the customers have left, Alan asks Kumar what product he truly recommends as most appropriate to Philip's needs, adding that if it were up to him, he would suggest a plain-vanilla swap tied to the loan period. Kumar replies that he was not happy that Alan had appeared to support such a simple product, as he felt that, with a little gentle persuasion, Philip would agree to the structured hedge. This would go down much better with the bank's head office, for obvious reasons.

Alan says that, as Kumar was the expert, he would not argue with him, but would wait and see what Philip wanted to do and then respond accordingly, adding that he was beginning to feel a bit of a dinosaur these days.

The following day, Philip calls and tells Alan that he wishes to go ahead with both the loan and the structured derivative that Kumar had sold him on, and asks for the necessary documentation to be prepared. He also asks for Kumar's phone number, saying that he wants to make sure that he properly understands what he is signing up to.

A few days later, with the documentation prepared, Alan arranges for Philip to come and sign it at the bank. While he is waiting for Philip, he receives a telephone call from Derek, his regional manager. Derek informs him that as a result of the signing of Philip's loan, and particularly the structured swap, which is a first for the region, Alan will top this month's league table for new business. Derek invites Alan to lunch at head office, an offer that Alan enthusiastically accepts.

Shortly after the phone call, Alan welcomes Philip into his office and they sit down to sign the documentation. But before they do so, Philip says that he is struggling to understand the mechanics of the structured product, despite further conversations. He explains that it is only because Kumar has assured him that the bank would not sell him anything that was not in his best interests that he is prepared to go ahead.

On hearing this, Alan is concerned that he may be a party to misselling. He tells Philip that, before he signs, he will call Kumar himself, and he asks Philip to excuse him for a moment while he does so. Kumar is clearly irritated by Alan's phone call, saying that he has explained everything several times and that the client was happy. The fact that Alan, a self-confessed dinosaur, is uncertain is no reason to get cold feet at this time and he suggests that Alan must do whatever is necessary to reassure Philip and get the documentation signed.

Alan now feels pulled in several directions. Before returning to his office, he considers the best thing to do, mindful also of his earlier conversation with the regional manager. ■

Can he safely:

- encourage Philip to sign the documentation, reliant upon Kumar's reassurance that it is in Philip's interest
- say that Philip should not sign unless he is 100% comfortable with what he is doing
- tell Philip to sign the documentation because he (Alan) will happily unwind the transactions if anything goes wrong
- quote Shakespeare's "There is a tide in the affairs of men which, taken at the flood, leads on to fortune", and leave it to Philip to make the choice?

Visit cisi.org and let us know your favoured option. The results, together with the opinion of the CISI, will be published in the February 2013 edition of the S&IR.

A costly slip-up THE VERDICT

An erroneous trade by Daniel causes potential financial problems for Litmus, a small broker. Freddie, an old school friend of Daniel, is the manager at the client firm, Raptor. He offers to help Litmus by directing more of Raptor's business to the firm.

This was the Grey Matters dilemma in the September issue of the *S&IR*. Readers were invited to vote in a poll on the CISI website for the course of action that they felt Freddie should take, choosing from four options.

The results were as follows:

- Freddie can safely make his offer. His client is not being disadvantaged, since it would pay the same commission anyway – 5%.
- Freddie should not make any offer to Litmus, as the mistake was its fault and it must take responsibility for the cost of putting this right – 65%.
- Freddie should not make the offer. Although it is not a breach of the soft commission or payment for order flow or inducements rules, since Litmus would have to pay the loss anyway and Raptor is not receiving any money, it is perhaps against their spirit – 27%.
- Freddie can make the offer, because while Raptor's other brokers may feel aggrieved, they have no right to the extra business, and Freddie's client does not suffer – 3%.

The CISI response

While a significant majority said that Raptor (Freddie) could not make the offer, of those only a small number suggested that the proposal was against the spirit of the rules rather than the letter. This suggests, as we have commented before, that there is a tendency for respondents to these dilemmas to rely on the comfort of apparent regulatory certainty.

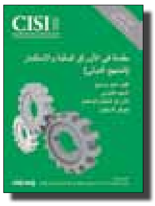
From a commercial perspective, there seems no valid reason why Raptor management should allow an old personal friendship to influence business decisions of this nature, and in this day and age it is unlikely to do so, but we do not believe that this is a regulatory issue.

The suggestion that the proposal would fall under the terms of the Bribery Act, as suggested by one respondent, would be a rather extreme interpretation of the Act.

Need to read

The latest publications and study aids supporting CISI qualifications

NEW WORKBOOK EDITION



International Introduction to Securities & Investment (Arabic)

This unit – the first to be translated into Arabic by the CISI – provides an introduction to the world of financial services for people working outside the UK. It looks at the economic environment and the participants in the global financial services industry. A new edition (which will apply to exams until 10 January 2014) of the *International Introduction to Securities & Investment (Arabic)* workbook is out now. Topics include:

- financial assets and markets
- equities, bonds and derivatives
- investment funds
- regulation and ethics.

Price: £75

TWO NEW WORKBOOKS AND ELEARNING EDITIONS

Investment Advice Diploma

Derivatives: The aim of this Retail Distribution Review (RDR)-compliant unit is to provide those advising on and/or dealing in derivatives with the knowledge and skills required for their roles.

Securities: This RDR-compliant unit will ensure that candidates can apply the appropriate knowledge and understanding of securities, markets and related functions and administration.

Price: £100 per subject for the combined workbook and elearning product

NEW WORKBOOK AND ELEARNING EDITION

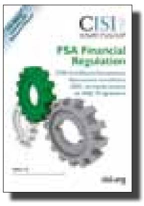
Commodity Derivatives

The Certificate in Commodity Derivatives is a globally portable qualification that addresses the needs of the modern international commodity derivatives market. It has been developed with representatives from global financial services firms and input from major exchanges to provide employees advising and/or dealing in commodity derivatives on behalf of professional clients with the knowledge and skills required for their job roles. A new edition of the *Commodity Derivatives* workbook and corresponding elearning product (valid for exams from 11 February 2013) will cover:

- underlying commodity markets
- exchange-traded commodities futures/options
- principles of exchange-traded commodities futures/options
- over-the-counter commodity derivatives
- principles of clearing and margin.

Price: £100 for the combined workbook and elearning product

NEW WORKBOOK AND ELEARNING EDITION



FSA Financial Regulation

The aim of this unit (part of both the Investment Operations Certificate, formerly known as the Investment Administration Qualification, and the Certificate programmes) is to ensure that candidates have an understanding of the regulations and legislation that underpin the financial markets and the conduct of investment business. A new edition of the *FSA Financial Regulation* workbook and corresponding elearning product (covering exams from 21 November 2012 until further notice) is out now. Topics covered include:

- the regulatory environment
- the Financial Services and Markets Act 2000
- the FSA's Conduct of Business Sourcebook/client assets.

Price: £100 for the combined workbook and elearning product

NEW WORKBOOK AND ELEARNING EDITION

Investment Management

The Certificate in Investment Management is the appropriate competence-based qualification targeted at investment professionals engaged in managing investments, dealing in/advising on securities or derivatives and undertaking activities as a broker fund-adviser. A new edition of the *Investment Management* workbook and corresponding elearning product (covering exams from 22 March 2013) is due out in December and will cover:

- economics
- financial mathematics and statistics
- industry relations
- asset classes and investment strategies
- portfolio management.

Price: £100 for the combined workbook and elearning product

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- training and competence
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Price: Free for all CISI members, otherwise it costs £150 per user. There are also tailored module packages available for individual firms. Visit cisi.org/refresher for further information.

External specialists

The CISI relies on industry practitioners to offer their knowledge and expertise to help create and maintain its exams, workbooks and elearning products. There are several types of specialists: authors and reviewers for workbooks and elearning products, item (question) writers, item editors and exam panel members. All receive a number of benefits to thank them for their involvement.

There are currently about 300 external specialists who have volunteered to assist the Institute's qualifications team, but more are required. The CISI would particularly welcome applications from specialists to assist with developing exams for Exchange-Traded Derivatives, Commodity Derivatives, Over-the-Counter Derivatives and Corporate Finance Technical Foundations.

To register your interest, please contact Iain Worman on *+44 20 7645 0609* or download the application form available at *cisi.org/externalspecialists*

Diary

Events to attend over the coming months

Professional courses

Venue: London unless otherwise stated

10/11 DECEMBER **Derivatives* £900**

12 DECEMBER **Investment Principles and Risk* (PCIAM, half day)* £300**

14 DECEMBER **Securities* £500**

17/18 DECEMBER **Derivatives* £900**

22 JANUARY 2013 **Advanced Leadership Skills for Investment Seniors £500**

31 JANUARY **Financial Crime Hot Topics for 2013 £500**

6 FEBRUARY **Investment Principles and Risk* (PCIAM, half day)* (Isle of Man) £300**

6 FEBRUARY **Investment Principles and Risk* (IAC) (Isle of Man) £500**

6/7 FEBRUARY **Investment Principles and Risk* (LSE) (Isle of Man) £900**

*This event fulfils the requirements for qualifications gap-fill between existing CISI exams and the new Retail Distribution Review exam standards

Member and Fellow discounts

Professional courses discount: Fellows 35%; Members 30%; Associates 20%.

The following discounts are applicable only to one workshop per year: Affiliates 30%; Students 20%.

To book: *cisi.org* *customersupport@cisi.org* *+44 20 7645 0777*

London CPD events

4 DECEMBER **Risk, Equality and Opportunity – the Roles for Government Finance**
Gresham College, Barnard's Inn Hall, Holborn, EC1

12 DECEMBER **Transparency and the New Regulatory Guidelines for UCITS-compliant ETFs**
Deutsche Bank, 1 Great Winchester Street, EC2

For further information about London CPD events, visit *cisi.org/capitalcpd*

To book:
cisi.org/eventscal *customersupport@cisi.org* *+44 20 7645 0777*

Branch events

4 DECEMBER **Football Tournament**
Yorkshire: Goals Soccer Centre, Redcote Lane, Leeds

4 DECEMBER **FATCA Update (followed by drinks)**
South East: The Spa Hotel, Mount Ephraim, Royal Tunbridge Wells

12 DECEMBER **Christmas Drinks Reception**
Birmingham & West Midlands: Metro Bar, 73 Cornwall Street, Birmingham

12 DECEMBER **Christmas Drinks Reception**
Liverpool & North Wales: Baby Blue Bar & Grill, 17 Edward Pavilion, The Albert Dock

14 DECEMBER **Christmas Drinks Reception**
Manchester & District: The Living Room, 80 Deansgate, Manchester

15 JANUARY **Bank of England Update**
Bristol & Bath: Brewin Dolphin, the Paragon Building, 32 Counterslip, Bristol

15 JANUARY **The Economy and Risk Management**
Yorkshire: Aviva Offices, Wellington Row, York

25 JANUARY **Annual Dinner**
Guernsey: Beau Sejour Leisure Centre, Amherst, St Peter Port, Guernsey

To book:
cisi.org/eventscal *region@cisi.org* *+44 20 7645 0652*

Professional forums

Forum welcomes new Chair

From left, Debbie Clarke, CF, Chartered MCSI; guest speaker Mrs Moneypenny; and Frank Moxon, CF, Chartered FCSI, at the corporate finance forum's annual dinner

The fourth annual dinner of the CISI's corporate finance forum was the biggest to date, with 65 guests attending.

Former stockbroker and investment manager Heather McGregor, who writes and broadcasts as Mrs Moneypenny, entertained guests with her amusing outlook on life in and out of the City. The evening also saw forum Chairman Frank Moxon, CF, Chartered FCSI, stand down after seven years.

Frank set up the forum in 2005 and has overseen its growth to a membership of more than 570. He is succeeded as Chair by Debbie Clarke, CF, Chartered MCSI, Head of Corporate Finance at Chantrey Vellacott DFK. Debbie has been a Deputy Chair of the forum since its inception.

Frank said: "It's been a great privilege to lead the forum and, among other things, to see it play a key role in the development of the new joint ICAEW/CISI Corporate Finance Diploma exams. The support and engagement of its professional members is what keeps it vitalised and relevant to practising corporate financiers, to whom it affords the opportunity to enhance their professional knowledge and skills while making a valid contribution to the continuing development of their chosen profession. Debbie has played a key role in the forum's work and I wish her every success in taking it on to greater things."

Debbie added: "I'm delighted to be taking over the reins of the forum and intend to continue Frank's excellent work. We have expanded forum membership significantly over recent years and aim, through our programme of networking and engaging, practitioner-led seminars on relevant topics, to attract more corporate finance professionals to join us. In addition, we will continue to support the development of the new Corporate Finance Diploma, which we believe will help bring on the next generation of corporate finance professionals."

Sponsored by Mazars LLP, Gowlings and mergermarket, the dinner took place at the Naval and Military Club in London's West End.

The corporate finance forum meets next on 11 December, when Tim Linacre, Chairman of Investment Banking at Panmure Gordon & Co, will address the question: 'Corporate broking: is the obituary premature?' Book your place now at corporatefinanceforum@cisi.org

The corporate finance forum is one of seven forums run by the CISI. For more information about forthcoming meetings, visit cisi.org/pfs

ANNIVERSARY

Twenty years of ethical issues

As the Institute marks its 20th anniversary, we delve into the *S&IR* archives to highlight an article from yesteryear and consider what has changed in relation to the issue covered.

In March 1998, George Nissen, Chairman of the Institute's new Ethics Committee, wrote about the importance of integrity within financial services, stating that "mere compliance is not enough".

He said: "One committee member captures the difference between compliance and ethical behaviour well when he says: 'Ethics tell you to do the right thing, compliance tells you to do things right'. The City has, over the last decade, got used to compliance. What is needed now is self-imposed ethical behaviour."

Noting that, on the US Derivatives Exchanges, ethical education for dealers was compulsory, he said that the Institute was looking to promote such training in the securities industry.

Requesting readers' views, he asked: "But can people be trained to behave ethically or is that grasping at sunbeams?"

A modern-day view

Andrew Hall, CISI Head of Professional Standards, says: "One of the objectives of the Institute when it was established was 'to develop high ethical standards for practitioners in securities and investments and to promote such standards in the UK and overseas'. This remains the case today, even more so than when it was first written.

"Since the publication of George Nissen's article, industry attitudes have been on a rollercoaster, from the days when 'my word is my bond' informed the behaviour of many practitioners – not simply London Stock Exchange members – through the beginning of this century, when apparently anything was acceptable, to post-crash, when ethics are again to the fore and at all levels, from the newest recruit through to the Chairman.

"Over this period, the Institute has been consistent in its message and, in pursuit of this, has developed a range of tools to help members to recognise ethical dilemmas, the first stage in learning how to respond to them. These include a series of *Integrity at Work* books, IntegrityMatters, an online workshop and test, and an Integrity at Work interactive presentation.

"While the CISI is not seeking to 'train people to behave ethically', since most people do so as a matter of course, we are seeking to help our members to navigate their way through what can be tricky situations, which inevitably crop up from time to time."

For further information, visit *cisi.org/ethics*

EVENTS

US equities find favour

Is it time for equities? That was the question discussed at the sixth annual Guernsey Investment Briefing, which was attended by more than 100 CISI members.

The sixth annual Guernsey Investment Briefing, held at the Old Government House & Hotel, St Peter Port, Guernsey

The audience heard from three speakers: Jeremy Beckwith MCSI, Incoming Chief Investment Officer at London Wall Partners; Kevin Lyne-Smith, Global Head of Equities at Credit Suisse, and Robert Jukes, Global Strategist at Collins Stewart. While they gave varying views, there was a marked preference for US equities over those from the beleaguered eurozone.

There was positive feedback from attendees at the event held at the Old Government House & Hotel in St Peter Port, which was organised by the CISI's Guernsey branch. Comments included: "entertaining and thought provoking" and "speakers were highly knowledgeable and delivered coherent and compelling arguments, supported by a wealth of relevant information".

If you missed out, the full presentation is available to watch on CISI TV at ***cisi.org/cisitv****. Watching the presentation will count towards CPD hours.*

APPOINTMENTS

New branch President for Guernsey

Julian de G. Parker, Chartered FCSI

Julian de G. Parker, Chartered FCSI, has been appointed President of the CISI's Guernsey branch.

Julian has worked for Generali since 2003 and heads up the Compliance team across its companies regulated in Guernsey, as well as for a number of other jurisdictions, including Hong Kong and Singapore.

With more than 30 years' experience in financial services, Julian has worked in private banking on the lending side, having started his career at a clearing bank. He is a member of the Guernsey Association of Compliance Officers, a body he chaired for ten years, and is a former President of the Bankers in Guernsey, serving on its committee for 17 years.

Outside work, Julian is busy in the community with various charities. He is also a councillor – douzenier – for the parish of St Pierre du Bois, and co-ordinated successful celebrations in that locality earlier this year to mark the Queen's Diamond Jubilee.

FOOTBALL

Team scores second consecutive tournament victory

Pershing came out victorious for the second year running in the annual CISI Liverpool & North Wales five-a-side football tournament.

Led by captain Neil Lester ACSI, Pershing secured a hard-fought 3-2 win against Investec Wealth & Investment in the final. Investec's Danny Smith had the consolation of being the tournament's top scorer, netting 12 times.

Liverpool & North Wales President Jon Walker, Chartered MCSI, said: "Ten teams from across the region took part in what turned out to be the highest standard of football we have seen in the tournament's four-year history."

Jon, Associate Investment Director at Investec, lined up for Invesco Perpetual, the event sponsors, as its team was a player short.

Membership admissions and upgrades

MCSI
A J Buckley
Paul Willans
Alexander Forbes
Evantz Perodin
Baillie Gifford
Caroline Hughes-Hunn
Bank Insinger de Beaufort
Osman Akbar
Bank of China
Jiajie Yu
Barclays
Andrew Cheeseman
Alan Colquhoun
Andrew Davies
Mark Endacott
Jennifer Flood
Shailesh Gorasia
Wayne Hawkes
Darren Hirst
Jonathan Marks
Robert Websdale
Brooks Macdonald
Peter Harris
Butterfield
Ganesh Ramkumar
Cazenove
David Hayes
Channel Capital Advisors
Nathan Townsend
Charles Stanley
Helen English
Matthew Guy
Clariden Leu
Rebecca Collins Bettany
Ben Giles
Credit Suisse
Robert Babar
Marta Bleier Glynn
Stefano Bruschini
Russell Elvidge
Anna Epstein
Alper-Georgios Ertzan
Russell Gale
Brij Sharma
Edward Thomas
Sotirios Zois
Daniel Stewart
Andrew Ells
Deutsche Bank
Damien Crommie
FBN Bank
Muna Duale
FCG
Clive Bouch
Fisher Investments
Christopher Eason
HSBC
Jose Islas
Richard Jablonowski
David Rumsey
Jupiter
Harry Walsh
Kleinwort Benson
Nicholas Robert M Lowson
Lloyds Bank
Andrew Evans
LV
Katherine Oxenham
Manor
Trevor English
Mazars
Paul James Smith
McInroy & Wood
Guido Bicocchi
MCM
David Perkins
Merrill Lynch
James Barrett
Anil Dadlani
Duncan Jamieson
Ali-Sevket KaracaPhilip Maher
Newton
Aidan Butler
Michael Connor
Edward Heaven
Mike O'Brien
Ben Russon
Jeremy Wells
NST Working
Derek Satterthwaite
Principal
Kenneth Fry
Iain Scotland
Paul Stevens
Raymond James
Jeffrey Hedges
Redmayne-Bentley
Nigel Scott
Rothschild
Benedict Cullen
Rowan Dartington
David Smith
Royal Bank of Canada
Pawel Zalewski
Royal Bank of Scotland
Benjamin Vincent
SG Hambros Bank
John Birdwood
Peter Haynes
Neil Turner
Gideon Wittenberg
Speirs & Jeffrey
Adam Drummond
The Wealth Management Partnership
Andrew Hearne
TTT Moneycorp
Andrew Harrison
Vestra Wealth
Oliver Da Cunha
Matthew Guy
Francoise Marcus
World First
Magnus Batsvik-Miller

ACSI
53 Solutions
S. Sivakumar
Baillie Gifford
Linsey Dou
Bank Insinger de Beaufort
Trevor Berkowitz
Gregory Fields
Giandeo Pittea
Adrien Samuel-Lajeunesse
Stanislas Sintive
Jennifer Taylor
Barclays
James Astbury
Craig Brown
Mark Brown
Mark Dooner
Robin Douglas
David Evans
Alison Probert
Gaurav Thakker
Simon Thomson
Julia Tyrrell
James Williams
Brewin Dolphin
Amir Ali
Dalbinder Bhartti
Charles Caton
Rachael Marsden
Dean Slee
Andrew Williams
Brown Shipley
Gretel Ann Cook
Burndy Technology & Global Business Services
Anil Komban Varghese
Butterfield Bank
Siobhan Mckenna
Charlemagne
Clive Weatherup
Charles Stanley
Joyce Deonaran
Citibank
Charles Read
Citihub
Isabel Kershaw
Clariden Leu
Shahruh Abdurashidov
Olga Bushina
Close Brothers
Graham Paul
Glenn Whitley
Deutsche Bank
Arnaud De Beauchef De Servigny
EFG
Ioannis Michalopoulos
FNZ
Christian Dougal
Hartmann Capital
Angela Macro
HB Markets
Jonathan Scally
HSBC
Hicham Najem
iFunds
Christopher Baynes
Invesco
Hina Vadher
Investec
Alison Cuthbert
Mark Walsh
Paul Whyman
IronFX Financial Services
Stefanos Kashiouris
J.P. Jagdev
Jai Jagdev
Lloyds TSB
Henry Taylor
Merrill Lynch
Matthew Carter
Isha Desai
Brian Ikin
Stewart McGregor
Nikhil Mehra
Veronique Morel
Agustin Segura Galdeano
Trevor Stevenson
Nucleus Financial Group
Greg Klar
Nutmeg
Evrin Erdem
Octa Phillip Securities
Huw Davies
Paul E. Schweder Miller
Russell Hart
Principal
Duncan Burden
PRUPIM
Jennifer Trayner
Rathbone
Robert Fardey
Diane Morris
Sally Tait
Raymond James
Paul Bridge
Redmayne-Bentley
Harbinder Sahota
Caroline Squire
Nick Thompson
Royal Bank of Canada
Katharine Stone
Royal Bank of Scotland
Nicholas Smith-Saville
SC Securities
Sri Hari Haran Vythilingam
Smith & Williamson
Julie Cunningham
Andrew Graham
Tees Financial
Kirsty Kendall
Vestra Wealth
Edward Massam
Others
Guy Anderson
Mihai Anton
Alexander Ford
Keith Murray

Chartered FCSI
Bestinvest
Michel Neumann
Cantor Fitzgerald
Ademola Olopade
Church House Investments
Amanda Loram
Close Brothers
Jon Wingent
Dart Capital
Linsay McPhater
FNB
Carl Tandy
Investec
Simon Hook
Redmayne-Bentley
Justin North
Smith & Williamson
Colin Elwell
Standard Bank
Simon Bradbury
Karl Holden
TD Direct Investing
Benjamin Bright

Chartered MCSI
Brewin Dolphin
Naomi Lindsey
David Thomas
Cave & Sons
Johnathan Naylor
Cigna
Nichola Montgomery
Collins Stewart
Anthony McGovern
Creative Benefits
Andrew Clark
Credo Capital
Richard McCadden
Deutsche Bank
Karen Pincher
Farley & Thompson
Caroline Mills
HSBC
David Bradley
Philip Chambers
Norman Jensen
Investec
Thomas Dawson
Alison Maillardet-O'Neill
JM Finn
Andrew Wimble
Odey Wealth Management
James Barton
Pegasus
Gordon Bennie
Quilter
Katie Davey
Rathbone
Clare Gunn
RBC Wealth Management
Vignesh Vijayakumar
Other
Harry Pickard

This list includes membership admissions and upgrades from 31 August to 24 September 2012

Answers to the quiz from page 10: 1:B, 2:A, 3:D, 4:B

Paperback writer

A new chapter has opened for Len Warwick CBE, Chartered FCSI – as a fiction writer. **Lora Benson** reports

Len Warwick, Chartered FCSI

HAVING ENJOYED A distinguished 50-year career in financial services, Len Warwick is still relishing new challenges.

He has achieved his ambition to publish a novel, *The Unspoken*, which is set in Ireland over a period of eight decades. Len says: "I've written for many financial and business publications over more than 30 years, including my first book, *Making a Difference*, which was a personalised view of the life-assurance industry. However, for some time I had wanted to write a novel."

He tapped into his personal passions as inspiration for the book – a love of Ireland and its history and delving into the Irish roots of both himself and his wife, Rosaline.

Four generations ago, Len's ancestors lived in Ireland before moving to north-east England. Rosaline's parents were from Cork and Westmeath. "While the story is entirely fictional, it does draw on real-life people for some of the characters, on locations with which I am familiar from our frequent visits, particularly West Cork, and on the country's history from its civil war to the present day."

The book is based on the cause and repercussions of the shooting of two brothers outside their farmhouse in 1922. Len says: "It reveals how the secrets of the past play on to the future. It is about deception caused by silence and how a failure to speak spoils relationships."

He spent three years researching and writing the novel, mainly early in the morning or late at night. He says: "I might scribble down some ideas on a train journey. Sometimes, rarely, I found I could not write at all. I felt I had come to a dead end and, on those occasions, I just walked away from it for another day.

"There has to come a point when you say 'enough is enough', and 'this is it'"

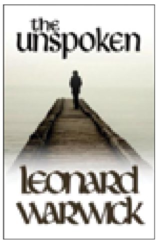
"I learned that whatever I wrote could be improved upon," he continues. "It was not unknown for me to be constantly editing, rewriting or moving whole sections into another part of the book. There has to come a point when you say 'enough is enough', and 'this is it'. I shudder to think what it must have been like when Dickens wrote everything by hand. Thank goodness for 'cut and paste'!"

The golden rule that Len followed throughout the process, he says, was: "never interrupt or interfere with the day job." That job is Chairman and Compliance Director at Warwick Butchart Associates, a firm of independent investment and financial advisers in Cheltenham, Gloucestershire, that he founded in 1981.

He has been at the forefront of key developments within the financial services industry. Between 1989 and 1996, he was a director of the Securities and Investments Board (SIB), a precursor to the FSA. In 1996, he was awarded a CBE in the Queen's birthday honours for services to financial regulation.

In more recent times, Len was a founder director of the Association of Independent Financial Advisers. He says: "I'm pleased with how my book turned out and have received some very complimentary comments on my website from people who have read it.

"I would like to publish another novel and have got a couple of ideas, including for a sequel to *The Unspoken*. I also have a great passion for football and the history of the game, and have been told that I should use my knowledge to produce a book." ■



The Unspoken *is available at leonardwarwick.co.uk and through booksellers' sites*

Got an interesting hobby? Contact Lora Benson with your story at ***lora.benson@cisi.org*** *If it is published, you will receive £25 of shopping vouchers.*

Len Warwick and wife Rosaline enjoy Ireland's scenery