

# REGULATION UPDATE

BY SAKHILA MIRZA, LBMA GENERAL COUNSEL  
AND EXECUTIVE DIRECTOR OF LBMA BOARD

## NET STABLE FUNDING RATIO (NSFR)

Under NSFR, part of the Basel III framework, precious metals had been allocated a Required Stable Funding (RSF) factor of 85%. This meant that 85% of liquid assets must be held against the commodity to achieve the RSF. This would have had a detrimental impact on the clearing and settlement services provided by London Precious Metals Clearing Ltd (LPMCL) and also potentially increase the cost of financing and/or lead to market participants exiting the market.

LBMA, together with LPMCL and the German Precious Metals Federation, have been working with Norton Rose Fullbright LLP to lobby against the 85% RSF factor, asking for short-term precious metals contracts to be carved out of the rules.

Recently, the lobbying efforts have had a positive impact. The European Parliament's Committee on Economic and Monetary Affairs (ECON) has adopted amendments to NSFR, which have included lowering the RSF factor for assets used for providing clearing and settlement services, and for financing transactions of precious metals from 85% to 50%. On the basis of this agreed position of the European Parliament (EP), the rapporteur of the file and his shadow rapporteurs will now enter into informal discussions with representatives of the member states to negotiate and agree upon a common position. The negotiating position of the member states in the Council does not include any amendments to the RSF for precious metals dealings. Discussions are expected to run at least until the end of 2018.

The objective of any upcoming advocacy activities remains securing a full exemption for precious metals clearing and settlement services, and financing transactions from the application of the RSF. The ECON's amendments, adopted on 19 June, set the ground for future advocacy and allow targeted lobbying activities.

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## TRADE REPORTING

It is anticipated that the true size of the global OTC market in gold, silver, platinum and palladium will be known later this year. Not only will the actual volume be known for the first time, but the data collected will help form LBMA's ongoing dialogue with regulators on matters such as NSFR and other measures under Basel III. LBMA-i is the vehicle by which trade reporting will be collated. It has been set up by Simplitium (formerly known as Boat Services Ltd) on behalf of LBMA. This was in response to the recommendations of the Fair and Effective Markets Review – which was led by the Bank of England and co-chaired by the FCA and HM Treasury – for greater clarity in the financial markets.

All LBMA Market Making Members have signed the necessary documentation, with the majority already connected and successfully reporting. Progress continues for other trading Full Members of LBMA. In line with other trade reporting mechanisms, LBMA-i has established de minimis thresholds in order to be able to collect the majority of data, whilst allowing some smaller traders an exemption from reporting.

It is mandatory for all LBMA members to participate in LBMA-i by reporting their transactions, and there are sanctions for those that do not comply.

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**Sakhila Mirza, LBMA General Counsel and Executive Director of the LBMA Board**

works very closely with the CEO on the strategic development of the association, leading on a range of market development initiatives. She also takes responsibility for all the legal work affecting the Association, lobbying on matters affecting the

market and building key relationships with governmental officials and regulators around the world.

She previously worked in the energy and commodities industry on compliance, legal and regulatory matters. She read law at the LSE and is a qualified solicitor.