EDITOR’S NOTE: THE END OF LIBOR
Victoria Prusen Spears

TREASURY DEPARTMENT, IRS ISSUE PROPOSED RULES
ON TAX IMPACT OF TRANSITION FROM LIBOR
Douglas I. Youngman and Christopher Fiore Marotta

CFTC JURISDICTION OVER CRYPTOCURRENCY:
IMPLICATIONS FOR INDUSTRY PARTICIPANTS
Era Anagnosti, Edward So, Pratin Vallabhaneni,
Alexander Abedine, and Christen Boas Hayes

CFPB DENIES BANK OF AMERICA’S REQUEST TO QUASH PROBE
INTO UNAUTHORIZED CONSUMER ACCOUNT OPENINGS
J.H. Jennifer Lee, Susan Tran, and Julia E. Johnson

NCUA ISSUES GUIDANCE ON BANKING HEMP
Heather Archer Eastep and Richard S. Garabedian

CREDIT MARKETS SEEK TO LIMIT THE INFLUENCE OF NET SHORT LENDERS
Jason Ulezalka and Rob Evans

130 BANKS COMMIT TO UN PRINCIPLES FOR RESPONSIBLE BANKING
Paul A. Davies and Michael D. Green

EUROPEAN CMBS 2.0: HOW SUSTAINABILITY IS THE FUTURE OF THE PRODUCT
Chris McGarry, Tom Falkus, Adam Farrell, and Victoria Speers

REVIEWING ZHENGYANG BEARING: FRAUD RULE, MITIGATION, AND PARTIAL
PAYMENT IN THE DAMAGES FOR LETTER OF CREDIT WRONGFUL DISHONOR
Wang Jingen
130 Banks Commit to UN Principles for Responsible Banking

Paul A. Davies and Michael D. Green*

Launched ahead of the UN Climate Action Summit in New York, the UN Principles for Responsible Banking provides a global framework for a sustainable banking system. This article explores the content of the Principles, as well as the key steps, outlined by the UN Environment Programme Finance Initiative, that signatory banks should implement to demonstrate compliance.

The United Nations (“UN”) and a group of 130 banks from 49 countries launched the UN Principles for Responsible Banking (“PRB”) to provide an international framework for a sustainable banking system, and allow signatories to demonstrate their commitment to achieving the goals expressed in the UN Sustainable Development Goals (“SDGs”) and the Paris Climate Agreement.

This article explores the content of the PRB, as well as the key steps, outlined by the UN Environment Programme Finance Initiative (“UNEP FI”), that signatory banks should implement to demonstrate compliance.

THE SIX PRINCIPLES

Signatories to the PRB commit to:

• Align their business strategy with the SDGs and the Paris Climate Agreement.

• Continuously increase their positive impacts while reducing their negative impacts on, and managing the risks to, people and the environment resulting from their activities, products, and services. They will set and publish targets for the areas in which they can have the most significant impacts.

• Work responsibly with their clients and customers to encourage sustainable practices.

• Proactively and responsibly consult, engage, and partner with relevant stakeholders to achieve society’s goals.

• Implement their commitment to the PRB through effective governance.

* Paul A. Davies is a partner and Michael D. Green is counsel in the Environment, Land & Resources Department, based in the London office of Latham & Watkins LLP. The authors may be reached at paul.davies@lw.com and michael.green@lw.com, respectively.
and a culture of responsible banking.

• Periodically review their individual and collective implementation of the PRB and be transparent about, and accountable for, their positive and negative impacts on, and their contribution to, society’s goals.

A core group of 30 founding banks alongside UNEP FI developed the PRB, which may be seen as the banking industry’s counterpart to the UN Principles for Responsible Investment (“PRI”), which apply to asset managers. A key difference between the two initiatives is that the PRB requires signatories to align their business strategy with the SDGs and the Paris Climate Agreement, while the PRI focuses on signatories’ actions in relation to environmental, social, and governance (“ESG”) issues.

KEY STEPS DOCUMENT

The PRB requires signatories to take three key steps for effective implementation. These steps are set out in an additional document produced by UNEP FI, Key Steps to be Implemented by Signatories (“Key Steps Document”), and include the following:

Impact Analysis

Banks must conduct a review of their activities to identify their most significant potential positive and negative impacts on the societies, economies, and environments in which they operate. This analysis should take into account the bank’s scale in specific geographies, industries, and technologies; the relevance of certain challenges and priorities in the countries in which the bank operates; and the size of the economic, social, and environmental impacts identified. Based on this analysis, the bank should identify opportunities to increase positive impacts and decrease negative impacts.

Target Setting and Implementation

Banks must establish and make publicly available a minimum of two ambitious targets which relate to the positive and negative impacts identified in the Impact Analysis. These targets should derive from the bank’s alignment with the SDGs and the Paris Climate Agreement, and their implementation is to be continuously monitored within the bank, through milestones and other oversight methods, to ensure that the bank is on track to meet them.

Accountability

Banks must demonstrate their progress on implementing their targets and be transparent about their impacts, contributions, and adherence to the PRB.

(Banks may use their existing public reporting to demonstrate such progress.) Additionally, banks must examine their efforts to implement the steps outlined in the Key Steps Document by completing the UNEP FI’s Reporting and Self-Assessment Template, alongside a limited assurance of that self-assessment by a third-party assurer.

Banks are expected to publish their first reporting and self-assessment on the PRB within 18 months of becoming a signatory, and annually thereafter in line with their annual reporting cycle. Since the requirements constitute a significant change from current practice, the UNEP FI is allowing banks up to four years from the date of signing up for full implementation of the steps outlined in the Key Steps Document, despite the fact that reporting must begin much earlier.

FAQs AND GUIDANCE

UNEP FI has produced a set of FAQs as well as a guidance document on how banks can work towards compliance with the PRB. Among other issues, the FAQs state that regulators and policymakers may use the PRB as an assessment tool to identify which banks are best positioned to address emerging risks and challenges, as well as identifying those that are contributing to national and international policies and goals. If regulators and policymakers take up this opportunity, PRB compliance may be a key signifier in terms of evidencing banks’ compliance with present and future national and international requirements.

The FAQs also note that any bank can become a signatory to the PRB as long as they are a member of UNEP FI. Non-bank financial institutions, such as banking associations, investment companies, insurance companies, and civil society organizations, cannot become signatories, but can instead be “Endorsers” of the PRB.

CONCLUSION

The eventual impact of the PRB remains to be seen, but the implementation of a sustainability framework for banks that applies to the whole institution, as opposed to other frameworks that only target specific business areas (such as the PRI or the Equator Principles), represents a further acknowledgment of the increasing importance of sustainability in the banking sector. The PRB’s requirement on reporting will also provide a useful tool to compare the sustainability credentials of different institutions in a way that is not possible today.
THE BANKING LAW JOURNAL (ISBN 978-0-76987-878-2) (USPS 003-160) is published ten
times a year by Matthew Bender & Company, Inc. Periodicals Postage Paid at Washington,
D.C., and at additional mailing offices. Copyright 2020 Reed Elsevier Properties SA., used
under license by Matthew Bender & Company, Inc. No part of this journal may be reproduced
in any form—by microfilm, xerography, or otherwise—or incorporated into any information
retrieval system without the written permission of the copyright owner. For customer support,
please contact LexisNexis Matthew Bender, 1275 Broadway, Albany, NY 12204 or e-mail
Customer.Support@lexisnexis.com. Direct any editorial inquiries and send any material for
publication to Steven A. Meyerowitz, Editor-in-Chief, Meyerowitz Communications Inc.,
26910 Grand Central Parkway, #18R, Floral Park, NY 11005,
smeyerowitz@meyerowitzcommunications.com, 646.539.8300. Material for publication is
welcomed—articles, decisions, or other items of interest to bankers, officers of financial
institutions, and their attorneys. This publication is designed to be accurate and authoritative,
but neither the publisher nor the authors are rendering legal, accounting, or other professional
services in this publication. If legal or other expert advice is desired, retain the services of an
appropriate professional. The articles and columns reflect only the present considerations and
views of the authors and do not necessarily reflect those of the firms or organizations with
which they are affiliated, any of the former or present clients of the authors or their firms or
organizations, or the editors or publisher.

POSTMASTER: Send address changes to THE BANKING LAW JOURNAL LexisNexis Matthew
Bender, 230 Park Ave, 7th Floor, New York, NY 10169.

POSTMASTER: Send address changes to THE BANKING LAW JOURNAL, A.S. Pratt & Sons,
805 Fifteenth Street, NW., Third Floor, Washington, DC 20005-2207.