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PwC Regulatory Update

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1 *Legislative/Government developments*

Expressions of interest for ASIC registry tender process now underway

Following the scoping study into future ownership options for the operation and ownership of the registry functions of the Australian Securities and Investments Commission (ASIC), ASIC's need to upgrade existing IT platforms and the opportunities for enhanced products and services was confirmed.

The Government is now undertaking a competitive tender process to test the market on the capacity of a private operator to upgrade and operate the ASIC registry. The Government will retain ownership of the ASIC registry's data. The Government is proceeding to make the necessary investment in technology to enhance customer service and to develop value added products and services that will provide broader benefits for the Australian economy.

Parties who registered and complied with the terms and conditions of the Registration of Interest phase are now invited to participate in the Expression of Interest phase.

Other interested parties may still participate subject to complying with the terms and conditions of participation.

Expressions of Interest are due by 4pm, Sydney (Australia) Time, 19 October 2015.

Source: Minister for Finance

Asia Region Funds Passport provides opportunity for Australia's financial services sector

Cross border issuing of managed investment funds is set to become easier across the Asian region after Finance Ministers from Australia, Japan, Korea, New Zealand, the Philippines and Thailand signed the Asia Region Funds Passport Statement of Understanding. The statement signals the commitment of these economies to join the Passport ahead of its commencement in 2016.

The Passport will create a regional market and reduce red tape for managed funds, while providing fund managers with a better opportunity to compete for a larger share of managing Asia's savings.

Members of the Asia Region Funds Passport Working Group and the funds management industry are working on aspects of the region's tax regimes to ensure the international competitiveness of the Passport.

The next milestone will be the signing of the Memorandum of Cooperation by participating securities regulators by the end of 2015.

Source: Minister for Finance

1

Legislative/Government developments (cont'd)

Superannuation Laws Amendment (Unclaimed Superannuation Money) Regulation 2015

Superannuation Laws Amendment (Unclaimed Superannuation Money) Regulation 2015 exposure draft legislation is being released for consultation on the 2015-16 Budget measure to reduce red tape for superannuation funds and individuals by streamlining lost and unclaimed superannuation administrative arrangements. Explanatory statement is also available.

The measure:

- allows Eligible Rollover Funds, which are temporary repositories for inactive superannuation accounts, to proactively consolidate accounts they hold into the active superannuation accounts of members without their consent;
- ensures that members who interact with their superannuation fund through contemporary means of communication such as email and online interactions, are not inadvertently deemed to be lost members; and
- removes an out-dated rule that prevents the identification of certain lost inactive members, that is by removing the 'employer-sponsored' members rule.

The changes apply from 30 June 2016.

Source: Treasury

Unclaimed money provisions

The *Banking Laws Amendment (Unclaimed Moneys) Bill 2015* has passed through the Federal Parliament.

The Bill restores the time bank accounts and life insurance policies can be inactive, before they are transferred to government, from three to seven years.

The Bill ensures that personal details of account holders are better protected. It removes the requirement for ASIC to publish an Unclaimed Money Gazette which included an account holder's name, last known address and the amount of money held by the government. The Bill will also cut $36 million of red tape for business.

Australians can still access information about unclaimed accounts, free of charge, through the ASIC MoneySmart website.

Source: Assistant Treasurer

2 What have the regulators been up to?

ASIC
Australian Securities and Investments Commission

APRA
Australian Prudential and Regulatory Authority

RBA
Reserve Bank of Australia

ASIC consults on remaking employee redundancy funds class order

ASIC has released a consultation paper *Remaking ASIC class order on employee redundancy funds [CO 02/314]* (CP 238). The class order is due to expire ('sunset') in October 2016.

ASIC proposes to extend relief until 1 October 2017. This paper seeks feedback from operators and promoters of employee redundancy funds, trade unions and employer associations on the proposal to remake.

Submissions on the consultation paper is due on 2 October 2015. The draft ASIC instrument is available.

See media release

ASIC remakes instruments and updates policy facilitating offers by foreign companies

ASIC has remade six legislative instruments that facilitate Australian investors participating in foreign scrip offers, when appropriate safeguards are in place, following public consultation (CP 225).

The relief applies to certain rights issues, schemes of arrangement, scrip bids and small scale personal offers and is set out in the following legislative instruments:

- rights issues where foreign company is listed on an approved foreign market and the securities are in the same class as those already held by Australian investors: ASIC Corporations (Foreign Rights Issues) Instrument 2015/356;
- foreign scrip takeovers where the bid class securities are quoted on an approved foreign market: ASIC Corporations (Foreign Scrip Bids) Instrument 2015/357;
- scrip schemes of arrangement where the scheme is regulated in Hong Kong, Malaysia, New Zealand, Singapore, South Africa or the United Kingdom: ASIC Corporations (Compromises or Arrangements) Instrument 2015/358;
- foreign entities making 20 or few offers in Australia in 12 months where the entity is listed on an approved foreign market: ASIC Corporations (Foreign Small Scale Offers) Instrument 2015/362; and
- advertising and other notices relating to foreign securities that is aimed at a foreign market and only incidentally published in Australia: ASIC Corporations (Foreign Securities – Incidental Advertising) Instrument 2015/360, ASIC Corporations (Foreign Securities – Publishing Notices) Instrument 2015/359.

See media release

2

What have the regulators been up to? (cont'd)

ASIC seeks improved compliance by responsible entities and superannuation trustees

ASIC has provided an overview of some compliance issues identified during its proactive surveillance of responsible entities and superannuation trustees that are also holders of an Australian financial services (AFS) licence.

As a result of the compliance failures and areas of concern that were identified during the reviews, ASIC has required both responsible entities and trustees:

- to amend and update compliance measures;
- to develop procedures such as those related to the due diligence and authorisation of disclosure documents and promotional material;
- who are responsible entities, to make changes to their risk management arrangements and implement additional measures to monitor the reporting of returns;
- to withdraw disclosure documents and marketing materials; and
- to issue revised or supplementary disclosure.

The surveillance program of responsible entities has resulted in a number of regulatory outcomes, including the imposition of additional AFS licence conditions, amendments and improvements in the quality of licensees' compliance arrangements and governance frameworks.

See media release

ASIC consults on fundraising class orders and guidance

ASIC has released a consultation paper *Disclosure documents: Update to ASIC instruments and guidance* (*CP 239*), covering proposals designed to further the facilitation that ASIC relief and guidance plays in ensuring efficient public fundraising in Australia.

ASIC has reviewed 31 sun setting class orders relating to Chapter 6D of the Corporations Act and proposes to reissue the relief in 26 class orders and repeal the five class orders that are no longer required. ASIC proposes to issue two new legislative instruments which will reduce the need for issuers to seek individual relief. These instruments:

- facilitate issuers to extend the time limits within which the minimum subscription and/or quotation conditions applying to an offer of securities must be satisfied and clarify how the minimum subscription and quotation condition time periods are calculated; and
- provide relief for prudentially-regulated issuers undertaking certain offers of regulatory capital securities to allow the use of a transaction-specific prospectus.

Submissions are due on 27 November 2015.

See media release

2

What have the regulators been up to? (cont'd)

ASIC
Australian Securities and Investments Commission

APRA
Australian Prudential and Regulatory Authority

RBA
Reserve Bank of Australia

ASIC reports on decisions to cut red tape – February to May 2015

ASIC has released *Report 449 Overview of decisions on relief applications (February to May 2015)* (REP 449) with the aim of improving the level of transparency and the quality of publicly available information about decisions ASIC makes when asked to exercise its discretionary powers to grant relief from provisions of the Corporations Act 2001 or National Consumer Credit Protection Act 2009.

The report summarises examples of situations where ASIC has exercised, or refused to exercise, its exemption and modification powers. The report also highlights instances where ASIC has considered adopting a no-action position regarding specified non-compliance with statutory provisions.

See media release

ASIC releases second licensing activity report

ASIC has published its second report, *Overview of licensing and professional registration applications: January to June 2015* (REP 448). It sets out recent regulatory outcomes achieved by ASIC in relation to Australian financial services applications, Australian credit licence applications, liquidator registration applications, company auditor and approved SMSF auditor registration applications.

This report outlines ASIC's decisions on applications for the period from 1 January to 30 June 2015 relating to:

- new Australian financial services licences and licence variations;
- new Australian credit licences and licence variations;
- the registration of liquidators, official liquidators, company auditors and approved self-managed superannuation fund auditors; and
- Australian financial markets, clearing and settlement facilities, and derivative trade repositories.

See media release

2

What have the regulators been up to? (cont'd)

Speech: Challenges for our capital markets

John Price, a Commissioner at ASIC addressed the members at Deloitte Australia on key challenges the capital markets face:

- Global regulatory trends and how they will impact Australia – Offshore global providers are increasing opportunities for the Australian market. However, challenges to these developments include the slow and uneven implementation of international regulatory standards, risks to Australian investors from emerging market issuers and increased trading options for investors through dark pools, alternative exchanges and international trading facilities.
- Culture as a key driver of conduct – ASIC highlights that the underpinning elements of good culture include the clear articulation of expected conduct and behaviours, challenging existing practices and encouraging employees to escalate behaviours of concern, and the avoidance of complacency by boards in the ongoing review enforcement and validation of conduct risk management.
- Cyber resilience - ASIC is focusing on promoting cyber resilience, identifying potential cyber attacks in the markets through real-time monitoring, ensuring compliance with licensing obligations, including the need for adequate technological resource, risk management arrangements and disclosure obligations, and engaging with other Government departments to identify cyber risks and resilience.
- The importance of informed markets - Compliance with continuous disclosure provisions goes to the heart of ASIC's priority of promoting fair and efficient markets, and this issue remains a central to ASIC's ongoing market surveillance work.

The full speech can be found here.

Speech: ASIC and financial innovation

John Price, a Commissioner at ASIC, and Mark Adams, Senior Executive Leader at ASIC addressed the fintech startups meetup. The Commissioner covered ASIC's regulatory role and why there are specific financial services laws, and then discussed the ASIC Innovation Hub initiative. He also highlighted the five elements of the Innovation Hub:

- engaging with other fintech initiatives, including physical hubs and co-working spaces that have been established for startup businesses;
- streamlining how to facilitate business for new innovative business models;
- establishing a new page on the website – a one-stop shop for innovative businesses to access information and services targeted at them;
- the establishment of a senior internal taskforce; and
- the establishment of the Digital Finance Advisory Committee.

Mr Adams discussed the financial services regulatory framework , particularly touching upon the issues that arise in the area of licensing and outlined the licensing process for fintech startups. These issues included the choice of business model and operation as an authorised representative under a licensee, the expectations and competency of responsible managers and other staff. He also highlighted roboadvice or automated advice, crowd-sourced equity fundraising, and marketplace lending as significant considerations for fintech startups.

The full speech can be found here.

2

What have the regulators been up to? (cont'd)

ASIC
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Reserve Bank of Australia

Speech: The Financial System Inquiry - A regulator's perspective

Greg Medcraft, Chairman at ASIC, addressed the 32nd annual conference of the Banking and Financial Services Law Association on the Financial System Inquiry (FSI) from the regulator's perspective.

The FSI made 44 recommendations, some centered on resilience and innovation in line with ASIC's strong focus on promoting and facilitating innovation as well as ensuring trust and confidence. The Chairman highlighted three recommendations of significance to ASIC:

- for ASIC to have a new 'product intervention' power;
- to introduce a new product design and distribution obligation on product issuers; and
- that penalties should be increased to act as a credible deterrent, and that ASIC should be able to seek disgorgement of profits gained by wrongdoing.

The Chairman commented on each recommendation:

- a product intervention power would give ASIC a greater capacity to apply regulatory interventions in a timely and responsive way, as long as transparency and accountability were upheld;
- broad principles-based obligation placed on financial institutions to have regard to the needs of their customers in designing and targeting their products promotes a customer-focused culture; and
- Penalties need to give market participants the right incentive to comply with the law. They should aim to deter contraventions and promote greater compliance, resulting in a more resilient financial system.

The full speech can be found here.

2

What have the regulators been up to? (cont'd)

ASIC
Australian Securities and Investments Commission

APRA
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Reserve Bank of Australia

Consultation Paper: Minor clarification on countercyclical capital buffer

APRA has released for consultation a draft version of Prudential Standard APS 110 Capital Adequacy (APS 110). The proposed amendments relate to the countercyclical capital buffer requirements which commence on 1 January 2016.

APRA has identified some potential ambiguity in the wording of the countercyclical capital buffer requirements in APS 110. To address this, APRA proposes minor amendments to APS 110 to clarify the requirements.

Submissions are due on 2 October 2015.

See APRA website

APRA releases a new class approval on the form and operation of disclosures by foreign ADIs

APRA has released a letter to all foreign bank branches (foreign ADIs) in relation to class approval under section 11E of the Banking Act 1959.

APRA recently undertook a consultation on proposed changes to the form and operation of required disclosures by foreign ADI under s11E. APRA has made a class approval replacing all individual entity approvals with effect from 1 October 2015.

A six-month transition will be provided to allow foreign ADIs time to meet the new requirements or agree alternative arrangements with APRA where there is a demonstrated need.

See APRA website

2

What have the regulators been up to? (cont'd)

Speech: Regulation – Responding to market change or driving it?

Wayne Byres, Chairman at APRA, addressed the Actuaries Institute 'Banking on Change' seminar on whether regulation drives or responds to market change. In particular, he highlighted some of the changes stemming from the post-crisis regulatory reforms in banking that represent both a response to and an attempt to drive changes in the market.

APRA's supervisory approach has traditionally placed a strong emphasis on the governance and risk management of financial institutions. Since the financial crisis, remuneration arrangements and risk culture have also received more prominence.

The Chairman emphasised that there are still some challenges and risks to grapple with, a few more regulatory changes in the pipeline, and the environment will inevitably evolve further. Being able to respond and adapt to these events without too much difficulty will be important for demonstrating that the Australian community, and international investors, can continue to have confidence in the strength and resilience of the Australian banking industry.

The full speech can be found here

Speech: In search of...unquestionably strong

Wayne Byres, Chairman at APRA, addressed the RMA Chief Risk Officer Forum on the search for an 'unquestionably strong' standard following the Financial System Inquiry (FSI).

The first recommendation of the FSI was that APRA should *"set capital standards such that Australian authorised deposit-taking institution capital ratios are unquestionably strong."* But what 'unquestionably strong' meant precisely was largely left for APRA to determine. The FSI suggested aiming for top quartile positioning against international peers as a starting point and APRA subsequently published a study on how the major banks stand against that benchmark. However, international comparisons are not suitable as the ultimate benchmark against which 'unquestionably strong' is judged. This is for two main reasons: first, APRA should have the final say on the calibration of Australian capital standards and not have it determined by changes in the ratios of foreign banks, and secondly, because precise comparisons are hard. There are no single, internationally-harmonised capital ratios readily useable to benchmark Australia against.

The Chairman continued to highlight that there are many unknowns about the way capital adequacy will be measured in the future, and reminded the forum that capital is only one measure of the strength of an ADI, and ideally, 'unquestionably strong' should be considered in a broader perspective.

The full speech can be found here

2

What have the regulators been up to? (cont'd)

ASIC
Australian Securities and Investments Commission

APRA
Australian Prudential and Regulatory Authority

RBA
Reserve Bank of Australia

Report: 2014/15 Assessment of ASX Clearing and Settlement Facilities

RBA has released a report, *2014/15 Assessment of ASX Clearing and Settlement Facilities*, presenting its assessment of the four licensed clearing and settlement facilities in the ASX Group – the two central counterparties, ASX Clear Pty Limited and ASX Clear (Futures) Pty Limited; and the two securities settlement facilities, ASX Settlement Pty Limited and Austraclear Limited – for the year ending 30 June 2015.

All four facilities have made substantial progress towards addressing the recommendations and regulatory priorities identified in the Bank's 2014/15 Assessment. Many of these priorities have been fully addressed. RBA concludes that the facilities have conducted their affairs in a way that causes or promotes overall stability in the Australian financial system.

RBA has made a number of recommendations to further strengthen the ASX facilities' observance of requirements under the Financial Stability Standards.

See RBA website

Research Discussion Paper: Unprecedented changes in the terms of trade

RBA has released a research discussion paper, *Unprecedented changes in the terms of trade.*

The ongoing development of Asia has led to unprecedented changes in the terms of trade of commodity-exporting economies.

Using a small open economy model, changes in the long-run level and variance of Australia's terms of trade has been estimated and the quantitative implications of these changes studied. The study found that the long-run prices of commodities that Australia exports started to increase significantly in mid 2003 and that the volatility of shocks to commodity prices doubled soon after.

The persistent increase in the level of commodity prices is smaller than single-equation estimates suggest, but the inferences rely on many observables that in general equilibrium also respond to shifts in the long-run level of the terms of trade.

See RBA website

2

What have the regulators been up to? (cont'd)

ASIC
Australian Securities and Investments Commission

APRA
Australian Prudential and Regulatory Authority

RBA
Reserve Bank of Australia

Speech: Opening Statement to the House of Representatives Standing Committee on Economics

Glenn Stevens, Governor at RBA addressed the Committee members at Canberra. The main points of the speech include:

- The Australian economy continues to progress through a major adjustment, in the midst of testing international circumstances. The terms of trade have been falling for four years and are now back to about the same level as in 2006 – still about 30 per cent above their 20th century average level.
- Very low interest rates, coupled with financial institutions wanting to lend, have played a part in the improvement in conditions in some sectors.
- Emerging market countries are under some pressure and some of them have specific problems that are being recognised by markets. Many emerging market countries have done quite a bit to improve their resilience over the years.
- Australia cannot determine its terms of trade or other forces in the global economy. It can only adjust to them. The record of adjustment in recent years is good.
- He also discussed another area of bank's responsibilities, namely the payments system. The New Payments Platform will enable real-time, data-rich payments on a 24/7 basis for households, businesses and government agencies. In the card payments area, the Bank has announced a review, which contemplates the potential for changes to the regulation of card surcharges and interchange fees.

The full speech can be found here.

3 Industry bodies

FSC
Financial Services Council

ASFA
Association of Superannuation Funds of Australia

COBA
Customer Owned Banking Association

ABA
Australian Bankers' Association

FSC urges Federal Parliament to pass ChAFTA legislation as a priority

The FSC has set a deadline for Federal Parliament to show bipartisan support for the China-Australia Free Trade Agreement (ChAFTA) legislation by passing it during the October sittings. This follows the introduction of the enabling legislation by Trade Minister Andrew Robb.

ChAFTA provides unprecedented access to the Chinese market and financial sector which is not available to Australian financial centre competitors such as Japan, the U.S. and most of Europe.

See media release

FSC welcomes the Superannuation Legislation Amendment (Trustee Governance) Bill 2015

The FSC has welcomed greater consumer protection under the recently introduced Superannuation Legislation Amendment (Trustee Governance) Bill 2015 by the Assistant Treasurer. The Bill is part of a package of reforms designed to increase competition and raise standards of governance across the entire superannuation industry by requiring all superannuation funds to appoint independent directors onto the boards of superannuation funds.

The reforms are applicable equally to all APRA-regulated funds including retail, industry, public sector and corporate. These reforms are expected to protect consumers from conflicts of interest and will lower fees.

See media release

3 Industry bodies (cont'd)

ASFA responds to CEDA retirement report

The ASFA has some deep concerns with elements of the retirement income and superannuation reforms proposed by the Committee for Economic Development of Australia (CEDA)

In this report, CEDA proposes a number of measures that AFSA perceive to compromise the retirement incomes system in order to fix the broader issues of housing affordability, including allowing first home buyers to access their superannuation and mandating superannuation be paid out of post-tax income.

ASFA believes that housing affordability is best addressed through policy measures directed at making housing more affordable, including the release of land, rezoning, the lowering of stamp duty, the funding of assisted housing and other measures designed to reduce costs and increase supply.

ASFA also challenges the CEDA proposal to address inequality by mandating superannuation be paid out of post-tax income.

See ASFA website

ASFA submission to ASIC on the disclosure of fees and costs

The ASFA has made a submission to ASIC in support of the disclosure of fees and costs on a consistent basis under a draft Class Order amending *CO 14/1252* and draft Regulatory Guide 97. In relation to what was proposed, the submission outlines significant difficulties and additional costs with the disclosure regime and that the benefits to consumers need to be assessed in light of those costs.

ASFA are advocating that consumer testing be undertaken on whether there is value in the full spectrum of disclosure proposed. Additionally, ASFA supports further consideration of the alignment between superannuation and managed investment scheme disclosure and in terms of materiality of costs.

The submission identifies a number of issues with the draft amending class order and draft revised Regulatory Guide 97. It also outlines a number of structures and products where there are difficulties in complying with the disclosure regime. ASFA recommends that further consultation be undertaken on these issues.

Please download the submission here

3 Industry bodies (cont'd)

FSC
Financial Services Council

ASFA
Association of Superannuation Funds of Australia

COBA
Customer Owned Banking Association

ABA
Australian Bankers' Association

Speech: Senate Standing Committee on Economics Inquiry into matters relating to credit card interest rates

Luke Lawler, Head of Public Affairs at COBA, addressed the Senate Standing Committee on Economics Inquiry into matters relating to credit card interest rates. Key points include:

- The average interest rate for standard cards issued by the customer-owned banking institutions sector is 12.9% compared to 18% for the major banks. Credit cards offered by customer owned banking institutions have substantially lower average rates, more free days and lower annual fees compared to the major banks.
- In a credit card market that is delivering competitive products and choice, the challenge is ensuring that consumers are informed and empowered to act in their own interests. The Government, and agencies such as ASIC, should devote resources to campaigns to make sure consumers are better informed about them.
- The Financial System Inquiry has made 12 recommendations relating to competition, including measures to level the playing field in banking, increase regulator accountability and strengthen the focus on competition in the financial system.

The full speech can be found here.

3 Industry bodies (cont'd)

ABA response to the BCBS Consultative Document: Interest rate risk in the banking book

The ABA has responded to the Basel Committee on Banking Supervision (BCBS) Consultative Document (CD) on interest rate risk in the banking book (IRRBB). Some of the key responses are as follows:

- The ABA views the proposed more standardised Pillar 1 methodology outlined in the CD as being insufficiently risk sensitive to provide both an accurate and appropriate measure of banks' IRRBB exposure.
- It supports an IRRBB measurement methodology based on a flexible, risk-sensitive, principles-based measurement approach similar to the current Australian approach, which allows advanced accredited banks to apply advanced internal models to IRRBB, subject to regulatory approval.
- It recommends the BCBS take time to consider the treatment of the investment term of equity, in light of the developments in capital structures and planning since the global financial crisis, including capital buffers, non-viability triggers, and recovery and resolution planning.
- The ABA's view on non-maturity deposits is that the proposed stability caps and pass-through floors are excessively conservative and are not sufficiently sensitive to specific product characteristics.
- It finds that the shock parameters prescribed by the BCBS, which appear to have been weighted more heavily by low rate currency histories, result in significantly overstated shocks when applied to jurisdictions such as Australia that have relatively higher rates.

See media release

4 Overseas developments – Global

FSB: Releases recent reports to G20 Finance Ministers and Central Bank Governors

The Financial Stability Board (FSB) has released three reports that were sent to G20 Finance Ministers and Central Bank Governors ahead of their meetings in Ankara.

The reports are:

- Corporate funding structures and incentives – in their February communiqué, G20 Finance Ministers asked the FSB in coordination with others to present a report on the factors that shape the liability structure of corporates, focusing on the implications for financial stability.
- The financial crisis and information gaps – the IMF and the FSB published their sixth annual progress report on the implementation of the G20 Data Gaps Initiative begun in 2009.
- Work on foreign currency exposures – the IMF, FSB and BIS have presented a report providing an update on their work to address data gaps involving foreign currency exposures.

Source: FSB

FSB: Releases progress report on work to enhance CCP resilience

The FSB, the Basel Committee on Banking Supervision (BCBS), the Committee on Payments and Markets Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) have released a progress report on their work to enhance the resilience, recovery planning and resolvability of central counterparties (CCPs).

The report provides an update on delivery against the 2015 workplan developed by these bodies to ensure effective coordination of policy work to make CCPs more resilient. The workplan is also released.

Source: FSB

ISDA: Launches new industry initiative for a derivatives product identification standard

The International Swaps and Derivatives Association, Inc. (ISDA) has launched a new industry data project, aimed at developing an open-source standard derivatives product identification system that can be applied consistently and comprehensively across all derivatives facilities, including trading venues, clearing houses, repositories and other infrastructures.

ISDA is overseeing the symbology project, which involves a consortium of buy- and sell-side market participants, vendors, platforms and trade associations.

London-based capital markets technology consultancy E-trading software, is acting as project manager.

Source: ISDA

4 Overseas developments – Global (cont'd)

BIS: New report on payment aspects of financial inclusion

The Committee on Payments and Market Infrastructures (CPMI) and the World Bank Group have issued a consultative report on payment aspects of financial inclusion, examining demand and supply-side factors affecting financial inclusion in the context of payment systems and services, and suggests measures to address them.

It outlines guiding principles designed to assist countries that want to advance financial inclusion through payments:

- commitment from public and private sector organisations;
- a robust legal and regulatory framework underpinning financial inclusion;
- safe, efficient and widely reachable financial and ICT infrastructures;
- availability of a broad network of access points and interoperable access channels;
- effective financial literacy efforts; and
- the leveraging of large-volume and recurrent payment streams.

Source: BIS

BIS: Harmonisation of key OTC derivatives data elements (other than UTI and UPI)

The CPMI and IOSCO have published for public comment a consultative report *Harmonisation of a first batch of key OTC derivatives data elements (other than Unique Transaction Identifier, UTI, and Unique Product Identifier, UPI).*

G20 Leaders agreed in 2009 that all over-the-counter (OTC) derivatives contracts should be reported to trade repositories (TRs) as part of their commitment to reform OTC derivatives markets. Aggregation of the data reported across TRs will help to obtain a comprehensive view of the OTC derivatives market and its activity.

Following the 2014 feasibility study, the FSB asked the CPMI and the IOSCO to develop global guidance on the harmonisation of data elements reported to TRs and important for the aggregation of data by authorities including the UTIs and UPIs.

Submissions close on 9 October 2015.

Source: BIS

BIS: Review - vulnerabilities of emerging market economies take centre stage

The September issue of the BIS quarterly review highlights the increased focus of investors on vulnerabilities in emerging market economies and the consequences for global markets.

The issue also introduces enhancements to the statistical series, in particular:

- The BIS locational and consolidated banking statistics have been enhanced and expanded in a number of ways.
- A new data set on general government debt contains consistent quarterly figures on core government debt for 40 advanced and emerging market economies.
- The BIS has started to estimate private sector debt service ratios (DSRs) - the ratio of principal and interest payments to income - for 32 advanced and emerging market economies.

Source: BIS

4 Overseas developments – Global (cont'd)

IOSCO: Publishes review of implementation of incentive alignment recommendations

The Board of IOSCO has published its final report on the peer review of the implementation of incentive alignment recommendations for securitisation, which describes the implementation progress made by 25 jurisdictions in adopting legislation, regulation and other policies in relation to incentive alignment in securitisation.

The report covers the three incentive alignment recommendations in the 2012 report, which call for national authorities to:

- evaluate incentives across the securitisation value chain, formulate and implement approaches to incentive alignment (Recommendation 1);
- set out the elements of the incentive alignment approach, including risk retention (Recommendation 2); and
- seek to minimise the potentially adverse effects of cross-border securitisation transactions resulting from differences in approaches to incentive alignment and risk retention (Recommendation 3).

Source: IOSCO

IOSCO: Publishes report on cross-border regulation

The IOSCO has published the final report of the IOSCO Task Force on Cross-Border Regulation. The report indicates that cross-border regulation is moving towards more engagement via different forms of recognition to solve regulatory overlaps, gaps, and inconsistencies.

The report presents a series of concrete next steps aimed at supporting cross-border regulation and embedding the consideration of cross-border issues more effectively into IOSCO's work.

The report provides a detailed resource for regulators. It includes a toolkit of three broad types of cross-border regulatory options, supporting case studies, a description of the processes used to assess comparability of foreign regulatory regimes, and considerations on the application of the toolkit.

Source: IOSCO

IOSCO: Publishes final report on the peer review of regulation of money market funds (MMFs)

IOSCO has published the final report on the peer review of regulation of money market funds, which describes the implementation progress made by 31 jurisdictions in adopting legislation, regulation and other policies in relation to MMFs.

The review covers the implementation progress for the eight reform areas covered in IOSCO´s 2012 report on policy recommendations. Some of them are:

- Definition of MMFs in regulation and appropriate inclusion of other investment products;
- Limitations to the types of assets of, and risks taken by, MMFs;
- Valuation practices of MMFs;
- Liquidity management for MMFs;
- Addressing the risks and issues which may affect the stability of MMFs;
- Disclosure to investors; and
- MMF practices in relation to repurchase agreement transactions.

Source: IOSCO

4 Overseas developments – Europe

EBA: Publishes its first analysis of asset encumbrance in EU banks

The European Banking Authority (EBA) has published its first analysis of asset encumbrance among EU banking institutions.

The analysis will provide important elements for EU supervisors to assess the sustainability of banks funding structures. It shows there is no indication of a general increase in the level of asset encumbrance over recent years across EU banking institutions.

The report will be published on a yearly basis in the future.

Source: EBA

EBA: Publishes new DPM and XBRL taxonomy for remittance of supervisory reporting

The EBA has published an update to the XBRL taxonomy to be used for the remittance of data under the Implementing Technical Standards on supervisory reporting.

It will be used for the first reports under the revised Liquidity and Leverage Ratio requirements resulting from Delegated Acts of the European Commission.

The following documents have been published:

- a set of XML files forming the XBRL taxonomy;
- a description of the architecture of the XBRL taxonomy; and
- a description of the Data Point Model (DPM).

Source: EBA

EBA: ESAs see risks in financial markets and call for rigorous action on assets and liabilities

The European Supervisory Authorities (ESAs) for securities (ESMA), banking (EBA), and insurance and occupational pensions (EIOPA) have issued their August 2015 Joint Committee report on risks and vulnerabilities in the EU financial system with focus on cross-sectoral vulnerabilities and developments.

The main risks challenging financial stability in the EU are:

- the low interest rate environment and its impact on the profitability and sustainability of financial institutions;
- the continued search for yield and the associated mispricing of assets;
- political and economic risks due to residual uncertainty around Greece's financial situation;
- financial market volatility and structural concerns about economic prospects of emerging market economies, in particular in China; and
- reductions in market liquidity.

Source: EBA

4 Overseas developments – Europe (cont'd)

ESMA: Consults on the European Single Electronic Format

The European Securities and Markets Authority (ESMA) has launched its public consultation on its regulatory technical standards on the European Single Electronic Format (ESEF).

The amended Transparency Directive requires issuers listed on regulated markets to prepare their annual financial reports in an ESEF from 1 January 2020.

It aims to make submission easier for issuers and facilitating accessibility, analysis and comparability for investors and regulators.

The paper includes an assessment of current electronic reporting and explores ways forward with regard to the establishment of an ESEF.

Source: ESMA

ESMA: Publishes draft ITS on penalties and measures under UCITS V

The European Securities and Markets Authority (ESMA) has released implementing technical standards (ITS) on penalties and measures under UCITS V to the European Commission for endorsement.

UCITS V requires national competent authorities (NCAs) to provide ESMA annually with aggregated information on all the penalties and measures they impose on companies and persons in respect of infringements under UCITS.

NCAs must report the administrative penalties or measures to ESMA at the time of publication. These technical standards set out the procedures and forms NCAs must use when submitting this information to ESMA.

UCITS V and these technical standards are expected to apply from 18 March 2016.

Source: ESMA

ESMA: Publishes draft RTS on European Electronic Access Point

ESMA has delivered its regulatory technical standards (RTS) on the European Electronic Access Point (EEAP), as required under the amended Transparency Directive, to the European Commission for endorsement.

The EEAP will provide an easy search and access tool for end-users looking for regulated information on issuers admitted to trading on regulated markets in Europe.

The EEAP will be a web-portal, built and operated by ESMA, to provide a single point of access at EU level to the regulated information stored by officially appointed mechanisms (OAM) in each Member State.

The EEAP will be developed over the next couple of years and made available to end-users after 1 January 2018. ESMA encourages OAMs to start preparing for implementation at national level (OAM level) as soon as possible.

Source: ESMA

4 *Overseas developments – Europe (cont'd)*

EIOPA: Publishes opinion on group solvency calculation in the context of equivalence

The European Insurance and Occupational Pensions Authority (EIOPA) has published an opinion on group solvency calculation in the context of equivalence.

The opinion is of relevance for insurance groups that operate outside the European Economic Area in third countries whose solvency regimes are considered equivalent to Solvency II.

Source: EIOPA

4 Overseas developments – UK

FRC: Enhances confidence in audit through implementation of the EU audit regulation and directive

The Financial Reporting Council (FRC) has published a consultation on revisions to Ethical and Auditing Standards, the UK Corporate Governance Code and related Guidance on Audit Committees as part of its ongoing work to enhance justifiable confidence in audit.

Since the financial crisis, the FRC has introduced measures to enhance confidence in the quality of audit and increase the value of auditor reporting to investors. The measures include retendering, enhanced and extended auditor and audit committee reporting, and increased transparency of the results of the FRC's audit quality inspections.

Source: FRC

Bank of England: Announces the timetable for publication of the 2015 UK stress testing results

The Bank of England has set out the timetable for the publication of the UK stress test results. The 2015 stress test assesses the resilience of the UK banking system to a deterioration in global economic conditions.

It is a coherent, 'tail-risk' scenario that has been designed specifically to assess the resilience of UK banks and building societies to a severe shock. The key elements of the 2015 stress test together with guidance for participating firms are also available.

Final decisions on the results of the stress tests will be made by both committees on 30 November and will be fed back to the firms involved on the same day. The UK stress test results will be published alongside the Financial Stability Report on 1 December.

Source: Bank of England

Investment Association: Calls for rethink as bond-trading plans threaten performance

The Investment Association is calling for a rethink of proposed trading rules that would make it harder for investors to buy and sell bonds. The plans could damage already-strained levels of liquidity in the bond market, triggering higher transaction costs and higher borrowing costs for sovereigns and companies.

The Investment Association is calling for a public consultation of at least 30 days on the plans. It wants to give sufficient time for market infrastructure to develop. It means pushing back application of the Markets in Financial Instruments Regulation rules from January 2017 to January 2018.

Source: Investment Association

4 Overseas developments – US

OCC: Releases CRA evaluations for 30 national banks and federal savings associations

The Office of the Comptroller of the Currency (OCC) has released a list of Community Reinvestment Act performance evaluations that became public during the period of August 1, 2015 through August 31, 2015.

The list contains only national banks, federal savings associations, and insured federal branches of foreign banks that have received ratings. The possible ratings are outstanding, satisfactory, needs to improve, and substantial noncompliance.

Of the 30 evaluations made public, five are rated outstanding, 24 are rated satisfactory, none are rated needs to improve, and one is rated substantial noncompliance.

Source: OCC

SEC: Proposes liquidity management rules for mutual funds and ETFs

The Securities and Exchange Commission (SEC) has proposed a comprehensive package of rule reforms designed to enhance effective liquidity risk management by open-end funds, including mutual funds and exchange-traded funds (ETFs).

Under the proposed reforms, mutual funds and ETFs would be required to implement liquidity risk management programs and enhance disclosure regarding fund liquidity and redemption practices.

Source: SEC

CFPB: Finalises rule to facilitate access to credit in rural and underserved areas

The Consumer Financial Protection Bureau (CFPB) has finalised several changes to its mortgage rules to facilitate responsible lending by small creditors, particularly in rural and underserved areas.

The new rule will increase the number of financial institutions able to offer certain types of mortgages in rural and underserved areas, and gives small creditors time to adjust their business practices to comply with the rules.

Source: CFPB

4 Overseas developments – US (cont'd)

CFTC: Signs MOU to enhance supervision of cross-border clearing organizations

The U.S. Commodity Futures Trading Commission (CFTC) Chairman Tim Massad has signed a Memorandum of Understanding (MOU) with Chairman Yim Jong-Yong of the Korean Financial Services Commission (FSC) and Governor Zhin Woong-Seob of the Korean Financial Supervisory Service (FSS) regarding cooperation and the exchange of information in the supervision and oversight of clearing organizations that operate on a cross-border basis in the United States and in the Republic of Korea.

Through the MOU, the CFTC and the FSC and FSS express their willingness to cooperate in the interest of fulfilling their respective regulatory mandates.

Source: CFTC

CFTC: Approves supplement to proposed rulemaking to modify the aggregation provisions of Its position limit rules

CFTC has approved for public comment a supplement to its November 2013 proposal to modify the policy for aggregation under the Commission's position limits regime for futures and option contracts in Part 150 of its regulations.

If the Commission's proposed position limits regime for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts are finalized, the proposed modifications would also apply to aggregation under the position limits regime for those contracts and swaps.

Source: CFTC

FINRA: Releases guidance on liquidity risk management practices

The Financial Industry Regulatory Authority (FINRA) announced that it has released *Guidance on Liquidity Risk Management Practices*, the results of a year-long review of firms' contingency plans and processes related to managing liquidity needs in a stressed environment.

FINRA conducted a review of 43 firms' plans and readiness for addressing liquidity during financial stress. This review amplifies the guidance provided in Regulatory Notice 10-57, *Funding and Liquidity Risk Management Practices*, by measuring how well firms are prepared for liquidity stress events.

The review consisted of two phases. The first phase required firms to calculate the impact on liquidity when five stresses were applied concurrently to the broker-dealer's business. The second phase allowed a firm to challenge the severity of the assumptions used in the test, describe mitigating action the firm would take and demonstrate the resources available to offset the stressed outflows of cash.

Source: FINRA

4 Overseas developments – Asia

Singapore: Cross border capital raising in ASEAN made easier

The Monetary Authority of Singapore (MAS) and Singapore Exchange, together with the Securities Commission Malaysia (SC) and the Securities and Exchange Commission, Thailand, have issued a handbook to implement the streamlined review framework for the ASEAN common prospectus.

Under the framework, ASEAN issuers planning a multi-jurisdictional offering of equity or plain debt securities can expect a shorter time-to-market, and faster access to capital across the region.

The framework requires both home and host authorities to complete the prospectus review process at the same time, within three to four months from the date of submission.

Source: MAS

Singapore: MAS enhances regulatory safeguards for investors

The MAS will proceed with enhancements to its regulatory framework for safeguarding investors' interests, taking into account feedback received on its consultation paper published on 21 July 2014. The key changes are as follows:

- Retail investors in non-conventional investment products will be accorded the same regulatory safeguards as investors in capital markets products.
- Investors who meet prescribed wealth or income thresholds to qualify as accredited investors (AIs) will have the option to benefit from the full range of regulatory safeguards that are applicable for retail investors.

Source: MAS

Hong Kong: Joint HKMA-SFC consultation on the new OTC derivatives regime

The Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC) have jointly issued a consultation on introducing the first phase of mandatory clearing and the second phase of mandatory reporting under the new OTC derivatives regime .

The first phase mandates the clearing of certain standardised interest rate swaps entered into between major dealers. The key proposals identify the types of transactions that will be subject to mandatory clearing; the persons who will be subject to the clearing obligation and in what circumstances; the exemptions and reliefs that may apply; and the process for designating central counterparties for the purposes of the clearing obligation.

The second phase expands the existing reporting regime. Their key proposals include requiring the reporting of transactions in all OTC derivative products; widening the scope of transaction information to be reported; and identifying the specific data fields to be completed.

Source: HKMA

4 Overseas developments – Asia (cont'd)

Korea: New guidelines to be implemented for banks' internal control and compliance functions

The Financial Services Commission (FSC) and the Financial Supervisory Service (FSS) will implement new guidelines for banks' internal control and compliance functions to ensure the effectiveness of internal controls in the banking sector.

This is a follow-up to the "measures to ensure effective compliance at financial companies" that the FSS introduced in August, 2014 to restore public confidence in the financial sector.

Source: FSS

Korea: FSS announces new plan to encourage fairer evaluation of personal credit ratings

The FSS has announced a new plan to address improper practices with regard to the evaluation of personal credit ratings as a follow-up to the '20 reform tasks'.

Given that a person's credit rating determines his or her loan eligibility and borrowing rate, the new plan seeks to ensure a fairer rating for all financial consumers that corresponds to their credit worthiness. This is expected to improve consumer access to financial institutions and lower an interest rate burden on borrowers through an upward adjustment in their current credit ratings.

Source: FSS

Korea: FSS announces detailed plan to encourage fair practices in non face-to-face marketing of financial products

The FSS has introduced a detailed plan to encourage fair practices with regard to the sale of financial products on the internet or through home shopping networks. This is a follow-up to the '20 Reform Tasks'.

With financial product sales using non face-to-face channels on the rise, the new plan seeks to promote fairness in relevant business practices with the aim to improve consumer convenience and prevent damage caused by mis-selling.

Source: FSS

5 PwC publications

PwC China: Insurance 2020 & beyond - reaping the dividends of cyber resilience

With annual gross written premiums estimated to grow from around $2.5 billion to $7.5 billion by the end of the decade, demand for cyber insurance offers a potentially huge commercial opportunity for insurers and reinsurers. But it could also expose the industry to potentially devastating losses.

This publication discusses how business can develop the risk evaluation, risk pricing and risk transfer structures and capabilities to put cyber insurance on a sustainable footing. It looks at growing concerns about both the concentrations of cyber risk and the ability of some less experienced insurers to withstand what could be a fast sequence of high loss events.

See publication

PwC UK: CBI/PwC financial services survey – September 2015

The 104th CBI/PwC financial services survey marked the end of a three-year run of optimistic growth within financial services, as sentiment remained broadly unchanged.

With profit growth expected to slow in the next three months, firms have kept their headcount stable and do not envisage any hiring activity. 31% of firms find availability of professional staff as a limitation to growth over the next twelve months.

A significant number reported that they remain uncertain of the impact of fintech firms.

See publication

PwC UK: Precious plastic 2015 - how Britons fell back in love with borrowing

The latest Precious Plastic report projects that the average UK household is set to owe close to £10,000 in unsecured debt by the end of 2016.

The total household debt to income ratio is projected to reach around 172% by 2020.

The PwC analysis indicates that a 2 percentage point increase in the cost of servicing consumer's debt would see households needing to find an extra £1,000 a year, just to cover the additional interest costs.

In the face of regulatory scrutiny, aggressive competition from new entrants and changing consumer behaviour and expectations, the industry, and particularly credit card issuers, are on the brink of significant change.

See publication

5 PwC publications (cont'd)

PwC US: Making omnichannel work - the "to do" list for banks

It is tempting to think of omnichannel banking as a technology issue, particularly because there is often a lot of technology involved.

But customer expectations now go beyond the "look and feel". Delivering a consistent, appealing customer experience—online, in a branch, by phone, on an app—requires a different way of thinking. Everyone in the bank has an important role, including channel managers, customer teams, product developers, marketing and sales leaders, and those in charge of technology and analytics.

Omnichannel banking is not easy. This publication shows how it can be done from call centers to customer advocates.

See publication

PwC US: Shared Success - where risk, efficiency, tech, and customer experience meet

Financial services organizations are continuously updating their business processes to improve compliance, organizational efficiency, technology, and the customer experience.

At the same time, firms want to reduce redundant discussions with business units, eliminate disparate process frameworks, and align performance metrics. This PwC shared approach to process documentation suggests a smarter way to do both.

See publication

PwC US: Consumer lending - understanding today's empowered borrower

The consumer lending environment is highly complex, driven by ever increasing customer demands, regulatory changes, and the digital revolution that is leading to a host of new entrants. Successful lenders should develop a set of principles which can be used to build a successful customer strategy.

PwC conducted a second extensive study and analysis in late summer 2015 of what consumers expect from their lending experience across different products, with a particular focus on the loan origination process.

PwC took an in-depth look at customer preferences in four major asset classes—auto, home, student, and personal loans. The results highlight opportunities for lenders to tailor their products, services, and operations to stand out in the marketplace.

See publication

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