

December 2016  
& January 2017

*PwC Regulatory Update*



## 1

# Legislative/Government developments

## Design and Distribution Obligations and Product Intervention Power

The Government has released a [consultation paper](#), *Design and Distribution Obligations and Product Intervention Power*, seeking feedback on the implementation of two measures from the Financial System Inquiry:

- Introduction of design and distribution obligations on issuers and distributors; and
- Product intervention power for ASIC.

Submissions are due by 15 March 2017.

Source: [Treasury](#)

## Superannuation reform package – regulations

The Government has released for consultation a further tranche of [exposure draft regulations](#) and associated explanatory material regarding superannuation reform.

They focus on:

- Prescribing the objectives of the superannuation system;
- Defining total superannuation balances;
- Lowering the annual non-concessional cap;
- Improving access to tax deductions for personal contributions; and
- Implementing the transfer balance cap.

Source: [Treasury](#)

## Review of the financial system external dispute resolution (EDR) and complaints framework

The Government has released an [interim report](#), *Review of the financial system external dispute resolution and complaints framework*, making draft recommendations for changes to the EDR framework and seeking further submissions on those draft recommendations prior to providing a final report to government.

The draft recommendations aim to address gaps in the EDR framework and include:

- A single industry ombudsman scheme for financial, credit and investment disputes to replace the Financial Ombudsman Service and Credit & Investments Ombudsman.
- Superannuation Complaints Tribunal should transition into an industry ombudsman scheme for superannuation disputes.
- An increase to the monetary limits and compensation caps for the new scheme for financial, credit and investment.
- Enhanced accountability and oversight over the two new schemes.

Source: [Treasury](#)

The Association of Superannuation Funds of Australia (ASFA) [welcomed](#) the interim report.

The Australian Banking Association [supports](#) improved external dispute resolution and new compensation scheme. ABA has also made a [submission](#) on EDR.

The review has also received [backing](#) from consumer groups as per the Minister for Revenue and Financial Services.

## 1

# Legislative/Government developments

## Framework for Comprehensive Income Products for Retirement

The Government has released a [discussion paper](#), *Development of the framework for Comprehensive Income Products for Retirement* (products), seeking feedback from the stakeholders in relation to:

- The structure and minimum requirements of these products;
- The framework for regulating these products; and
- The offering of these products.

It explores the key issues in developing the framework for MyRetirement products.

Submissions are due by 28 April 2017.

Source: [Treasury](#)

## Government not proceeding with the commercialisation of the ASIC Registry

The Government has decided not to proceed with the commercialisation of the ASIC Registry after thorough evaluation of final private sector bids. The final bids received were not expected to deliver a net financial benefit for the Commonwealth.

Learnings from this process will now feed into the Government's consideration of future approaches and improvements to registry functions.

Source: [Finance Minister](#)

## Black Economy Taskforce

The Minister for Revenue and Financial Services is seeking stakeholder submissions to the Black Economy Taskforce. The black economy refers to people who operate entirely outside the tax system or who are known to the tax system but deliberately understate their income or overstate their expenses.

The Taskforce will consider measures that have been employed overseas and take steps to identify policy responses which take advantage of emerging technology. The Taskforce will also consider ways to change community attitudes about the black economy and will look at both positive incentives as well as sanctions.

The Taskforce will submit an interim report by March 2017 and a final report by October 2017. Submission of innovative ideas are due by 17 February 2017.

Source: [Minister for Revenue and Financial Services](#)

# 1

## *Legislative/Government developments*

### **Review of tax and corporate whistleblower protections**

The Government has published a [consultation paper](#), *Review of tax and corporate whistleblower protections in Australia*, seeking feedback on the introduction of appropriate protections for tax whistleblowers and assessing the adequacy of existing whistleblower protections in the corporate sector.

Source: [Treasury](#)

### **Government acting on Superannuation Guarantee non-compliance**

The Government has established a working group to investigate and make recommendations to deal with superannuation guarantee non-compliance for employers breaking the law.

The working group will identify the drivers of non-compliance, develop ways to improve compliance, and policy options. The working group will submit their final report in March 2017.

Source: [Minister for Revenue and Financial Services](#)

## 2

# What have the regulators been up to?

## APRA

Australian Prudential  
Regulation Authority

## ASIC

Australian Securities and  
Investments Commission

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Exchange

## AUSTRAC

Australian Transaction  
Reports and Analysis  
Centre

## RBA

Reserve Bank of Australia

### APRA releases consultation package on risk management for private health insurers

APRA has released a [discussion paper](#), *Risk management prudential standard for private health insurers (PHI)*, proposing to apply APRA's cross-industry [prudential standard](#), *Risk Management (CPS 220)* and associated guidance to private health insurers.

APRA is particularly seeking feedback on:

- Whether there are any features of the PHI industry which warrant different treatment to the requirements set out in the version of CPS 220 released with the paper;
- The proposed transition period if CPS 220 is to be applied to private health insurers; and
- Any new material costs a private health insurer may face complying with the standard.

Submissions are due by 15 April 2017.

See [media release](#)

### APRA releases letter in relation to requirements timetable for non-centrally cleared derivatives

APRA has released a letter to all APRA-regulated institutions other than private health insurers in relation to the implementation timetable for margining and risk mitigation requirements for non-centrally cleared derivatives.

APRA is advising that [prudential standard](#), *Margining and risk mitigation for non-centrally cleared derivatives (CPS 226)* will commence on 1 March 2017, after monitoring progress in other jurisdictions, subject to the following:

- CPS 226 incorporates a six-month transition period (i.e. until 1 September 2017) for requirements to exchange variation margin, during which APRA covered entities may finalise their implementation and transition to full compliance.
- Requirements for the post and collection of initial margin will be subject to a phase-in timetable (broadly equivalent to the international timetable).
- The risk mitigation requirements in CPS 226 will take effect from 1 March 2018.

APRA has also released an updated version of CPS 226 incorporating the implementation arrangements outlined in the letter.

See [letter](#)

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### APRA responds to submission on Basel III liquidity

APRA has released a letter to all authorised deposit-taking institutions (ADIs) in response to submissions on Basel III liquidity, incorporating APRA's revised proposals on aspects of the proposed implementation of the Net Stable Funding Ratio (NSFR) for ADIs and the future operation of the liquid assets requirement for foreign ADIs.

Regarding the NSFR proposals, APRA recognised submissions Basel standardized credit weights, member-directed superannuation deposits, term deposits, family trusts, treatment of open reverse repos, call funding at a bank's discretion and securitization.

APRA will retain the 40 per cent Liquidity Coverage Ratio as the default liquid assets requirement for foreign ADIs, but allow foreign ADIs with simpler business activities to apply to use the alternative Minimum Liquidity Holdings (MLH) approach.

APRA has also released the final revised [prudential standard](#), [Liquidity](#) and [prudential practice guide](#), [Liquidity](#).

The new APS 210 will commence on 1 January 2018, while the new APG 210 replaces the existing APG 210.

See [response letter](#)

### APRA consults on proposed reporting requirements for securitisation

APRA has released a letter to all ADIs to consult on proposed revised reporting requirements for securitisation. The revised reporting requirements will take effect at the same time as the revised prudential standard – from 1 January 2018.

APRA proposes to streamline statistical reporting for securitisation activities, aligned with the revised APS 120. APRA is proposing to consolidate the three current reporting standards into two:

- [Reporting standard](#), *Securitisation – Regulatory Capital*
- [Reporting standard](#), *Securitisation – Supplementary Items*

See [letter](#)



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### ASIC announces world-first fintech licensing exemption

ASIC has released [regulatory guide](#), *Testing fintech products and services without holding an AFS or credit licence*, allowing eligible financial technology (fintech) businesses to test certain specified services before they obtain an Australian financial services or credit licence. The guide explains the options available for testing without a licence. This can occur through:

- Existing statutory exemptions or flexibility in the *Corporations Act 2001* and *National Consumer Credit Protection Act 2009*.
- Relying on ASIC's relief under *ASIC Corporations (Concept Validation Licensing Exemption) Instrument 2016/1175* or ASIC Credit (Concept Validation Licensing Exemption) Instrument 2016/1176 for testing certain specified products and services.
- Where ASIC grants individual relief, for particular other services.

All these measures collectively form Australia's 'regulatory sandbox' framework.

ASIC has also released updated guidance to licensees on satisfying the requirements to maintain competence in [regulatory guide](#), *Licensing: Organisational competence* and [regulatory guide](#), *Credit licensing - Competence and training*.

See [media release](#)

The Treasurer [welcomes](#) the launch of an innovative regulatory sandbox for fintech by ASIC.

The Financial Services Council also [welcomes](#) ASIC's opening of the regulatory sandbox for financial technology companies.

### ASIC consults on registered liquidators and proposes to consolidate the ASIC market integrity rules

ASIC has released a [consultation paper](#), *Registered liquidators: Registration, disciplinary actions and insurance requirements*, seeking feedback from registered liquidators, professional advisers, insurance brokers and other interested parties on their proposed guidance on the registration of, disciplinary actions applicable to and insurance requirements for registered liquidators. The paper includes a [draft](#) of the proposed *Regulatory Guide, Registered liquidators: Registration, disciplinary actions and insurance requirements*. Submissions are due by 9 February 2017.

ASIC has released a [consultation paper](#), *Proposals to consolidate the ASIC market integrity rules*, seeking feedback from market operators and participants on their proposals to consolidate the ASIC market integrity rules and clarify existing obligations for:

- Management requirements and responsible executives;
- Dealing 'as principal';
- Block trades and large portfolio trades;
- Derivatives market contracts and wholesale client disclosure; and
- Record keeping by market licensees.

Submissions are due by 7 March 2017.

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### ASIC extends the transition period for superannuation and retirement calculators and defers the superannuation consistency requirements

ASIC has [extended](#) the time for the providers of retirement and superannuation calculators to comply with the new requirement that generic financial calculators must account for inflation to 1 July 2018 through [ASIC Corporations \(Amendment\) Instrument 2016/1090](#). The extension has been made to make sure that superannuation calculators should present and calculate estimates in the future after considering impact of the current superannuation reforms.

ASIC has [deferred](#) the superannuation consistency requirements until 1 January 2019 through [ASIC Superannuation \(Amendment\) Instrument 2016/1232](#) to allow sufficient time for the Choice product dashboard requirements to be settled and implemented.



## 2

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### The ASX releases response to consultation on changes to the MCCR

The ASX has released its [response](#) to [consultation](#) on ASX Clear's changes to the Minimum Core Capital Requirements (MCCR) approach, which proposed that Schedule 1 be amended to reflect that the MCCR for a Clearing Participant (CP) of ASX Clear, will be based on three categories of CP activity (client short ETO, own account business and non-ASX activity), in addition to the degree of third party clearing undertaken by the CP.

ASX has the following viewpoints:

- The increments in MCCR based on these three categories of activities is appropriate and consistent with ASX's policy objective of maintaining appropriate MCCR standards.
- The MCCR is an important part of systemic risk management controls, and its role in the ASX risk control framework is to ensure, together with the Total Risk Requirement (TRR), that CPs have sufficient capital to support their business activities.
- A "carve out" for CPs who clear for related body corporates (RBCs) or are RBC's of Authorised Deposit-taking Institutions (ADIs) is not appropriate given the primary relationship is between ASX Clear and its CPs, and the MCCR is intended to give ASX the required visibility and comfort that a CP has the requisite minimum financial means to support its business activities.
- The bespoke nature of CP risk frameworks mean that it is impractical for ASX to conduct monitoring and assessment of these frameworks for the purposes of MCCR determination.

See [media release](#)

### ASX to administer BBSW rate benchmark

The ASX has been appointed the new Bank Bill Swap (BBSW) benchmark rate administrator by the Australian Financial Markets Association (AFMA). The ASX will take over as the administrator on 1 January 2017. Under transitional arrangements, AFMA will continue as the calculation agent until mid-2017.

As part of the transitional arrangements, ASX and AFMA will work together on moving to a volume weighted average price (VWAP) calculation that will replace the nationally observed best bid and best offer (NBBO) methodology as the primary calculation method.

See [media release](#)

### AUSTRAC publishes draft amendments to chapter 59 – Suspension of remitters

AUSTRAC has published [draft amendments](#) to chapter 59 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules - 'Matters to be considered by the AUSTRAC CEO when deciding to suspend a registration'*, addressing four issues:

- Post-implementation review recommendation;
- Allowing the AUSTRAC CEO to suspend a remitter's registration without prior notice;
- Delegating the CEO's responsibility for considering matters relevant to making a suspension of registration decision; and
- Aligning the grounds for suspending remitter registrations with the grounds for cancelling remitter registrations.

See [media release](#)

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### RBA consults on dual-network debit cards and mobile wallet technology

The RBA has released a [consultation paper](#), seeking feedback on:

- Scheme rules or policies of a network that prevent or hinder Australian card issuers from provisioning a competitor network for mobile payments. Stakeholders have raised concerns that issuers with existing dual-network cards might be prevented from enabling both networks on those cards for mobile payments.
- Contractual terms for tokenisation services that could penalise an Australian issuer for provisioning a competitor network for mobile payments. Stakeholders have raised concerns that contractual terms may allow a scheme to increase the price of tokenisation services for issuers that choose to also enable a network other than that scheme.

See [media release](#)

### Speech: The Global Code of Conduct for the Foreign Exchange Market

Guy Debelle, Deputy Governor at the RBA, addressed the CLS FX Industry Reception in Sydney. He discussed the topic, *The Global Code of Conduct for the Foreign Exchange Market*.

Key issues covered in the speech included:

- Global principles of good practice in the foreign exchange (FX) market will provide a common set of guidelines for the market. This will also help restore confidence and promote the effective functioning of the wholesale FX market.
- The Code will replace the existing codes of conduct present in the FX market, including the ACI model code used here in Australia.
- Along with drafting the Global Code, the RBA has been devoting considerable time and effort to thinking about how to ensure widespread adoption by market participants.
- The complete Code is intended to be released following the Global FXCs meeting in London in May 2017. The Code will evolve as the foreign exchange market continues to evolve.

The full speech can be found [here](#).

# 3

## Industry bodies

### ABA

Australian Bankers'  
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### ASFA

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### FSC

Financial Services Council

#### The ABA makes a submission on ASIC industry funding

ABA Chief Economist Tony Pearson's [response](#) is summarised below:

- The revised model has addressed most of the concerns with the initial proposal.
- The submission outlines the industry's concerns with the complexity of the model and how fees will be charged.
- The model remains complicated and will cause difficulty for some banks to know exactly how much they will contribute.
- There is potential for a significant reporting burden. The ABA will support the Federal Government on how this could be reduced.

See [media release](#)

The FPA has also made a [submission](#) on the ASIC industry funding model.

#### Banks announce more initiatives to make banking better

The Better Banking [program](#) has been launched to work on new initiatives to improve consumer experience and sentiment. Some of the new initiatives include:

- A renewed commitment to support customers in financial difficulty, including making the financial hardship support programs more accessible and working with financial counsellors to support the setup of a new debt repayment service to help people manage multiple debts.
- Providing more support to farmers and small businesses by introducing new best practice standards on valuation practices and how banks appoint receivers. Banks will also work on developing financial literacy resources and tools for small businesses and farmers to help them maintain and grow their businesses.
- Helping customers better understand how they can switch accounts and banks by holding a roundtable with banks, consumer groups, and government representatives to identify customers' underlying concerns about switching and how they can make it easier.

See [media release](#)

# 3

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#### The ABA releases new principles to improve whistleblower protections

Based on an assessment of current global banking industry whistleblowing policies, the ABA has released new [principles](#) for banks to implement standards to improve whistleblower protections:

- Clear policies, roles and responsibilities and recognition of the importance of the program should be part of the senior management and organisational culture.
- The scope of the whistleblower policy should be broad, allowing disclosures from people with a connection to the banking group.
- The reporting and investigation process in the whistleblower policy should facilitate open and honest communication by whistleblowers.
- The whistleblower policy must articulate the standards for protecting and supporting whistleblowers during and after the process.
- The whistleblower program should be known and understood by all senior executives, managers, employees and others across the banking group. Raising awareness and providing training should be embedded in the banking group's business, operational risk and culture frameworks.
- Banks will monitor the awareness and effectiveness of the whistleblower program to ensure continuous improvement and adherence to the highest standards in whistleblowing practices.

See [media release](#)

#### The ABA comments on the Retail Banking Remuneration Review's issues paper

The ABA commented on the release of Mr. Stephen Sedgwick's [issues paper](#) from his independent review into commissions and payments made to bank staff and third parties.

The ABA's Executive Director of Retail Policy Diane Tate's response is summarised below:

- The paper highlights the importance of culture, good governance, performance management systems, compliance checking, and communications across the organisation and by management, in relation to remuneration.
- Un light of changing community expectations and regulatory requirements, more changes are required to remuneration practices to place more emphasis on good behaviour rather than sales targets.
- Banks have committed to changing or removing payments that could lead to poor customer outcomes.
- The issues paper has not identified systemic issues warranting the outright banning of product based payments.
- The review will comment on overarching principles on how banks pay and incentivise all executives and employees in addition to reviewing payments for the selling of retail banking products like deposit accounts and mortgages.

The ABA will provide another submission to Mr. Sedgwick to help complete his review.

See [media release](#)

## 3

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### Improving Life Insurance in Superannuation for consumers

The Insurance in Superannuation Working Group (ISWG) is identifying current weaknesses within the default group insurance in superannuation system in order to raise its standard. Four clear priorities include:

- Improving cost impacts on account balances for consumers, including the right cover for young people.
- Addressing multiple default insurance policies.
- Providing better assistance to consumers during claims.
- Improving superannuation fund member communications on insurance.

Through the ISWG, industry bodies are building a reform framework and implementation plan to ensure that group insurance in superannuation remains accessible to the general public. As part of the reforms, a Code of Practice will lift superannuation fund and Registrable Superannuation Entities' (RSEs) licensee obligations to meet consumer needs and expectations. The ISWG will release discussion papers on how to improve consumer outcomes in group insurance in superannuation in early 2017.

See [media release](#)

### SCT removal to result in consumer protection risk

The removal of the Superannuation Complaints Tribunal (SCT) may put consumer protections at risk, in the view of ASFA. Specifically:

- A government-appointed panel has been reviewing the complaints handling framework for financial services since last May 2016 and has recommended replacing the SCT with a Superannuation Ombudsman and potentially introducing a compensation scheme of last resort for the industry.
- ASFA believe the government should increase funding for the SCT rather than replace it with a Superannuation Ombudsman.
- There is significant scope to modernise the operation of the SCT through important changes to its governance, accountability and service model and this should be the priority for government.
- With the SCT, there is no monetary limit on access or redress and there is enforceability of determinations and rights of appeal that protects the consumer.
- A membership-based industry ombudsman scheme would impose limits on the type or value of claims that may be pursued, there would be no direct right of appeal and the possibility the individual would need to pursue contractual remedies against a provider to enforce a decision.
- Arrangements already exist that effectively provide a compensation scheme of last resort for the APRA-regulated superannuation sector, in the form of Part 23 of the *Superannuation Industry (Supervision) Act 1993*.

See [media release](#)

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#### Report: FSC/UBS SMSF Insights Report 2016

The FSC has published a [report](#), *FSC/UBS SMSF Insights Report 2016*, outlining the key findings of the second annual SMSF Insights survey of over 600 SMSF holders jointly published by the FSC and UBS Asset Management.

The key findings of the report are:

- A sense of control and good returns are driving continued satisfaction with SMSFs.
- SMSFs have seen a shift back to deposits/cash but other investment categories are also strong.
- Instilling confidence is key for driving greater uptake and satisfaction.
- There are a range of views on what is required for a comfortable retirement.
- ETFs appeal through diversification, cost and access to international markets.
- Professional financial advice still plays a key role, with accountants the most trusted in the field.
- There is cautious optimism around SMSFs' ability to provide enough income in retirement.
- Superannuation policy influences voting decisions, but awareness is low.

See [media release](#)



## 4

# Overseas developments – Global

## FSB: Recent guidance and recommendations

The Financial Stability Board (FSB) has issued two proposed guidance papers to support resolution planning and promote resolvability:

- [\*Guiding Principles on the Internal Total Loss-absorbing Capacity of G-SIBs\*](#) proposes guiding principles to assist home and host authorities in the implementation of internal Total Loss-Absorbing Capacity (TLAC) mechanisms consistent with the TLAC standard.
- [\*Guidance on Continuity of Access to Financial Market Infrastructures \(FMIs\) for a Firm in Resolution\*](#) proposes a set of arrangements to support continued access to FMIs by a firm in resolution.

The FSB has published [policy recommendations](#) to address structural vulnerabilities from asset management activities, focusing on open-ended fund liquidity mismatch, investment fund leverage, operational risk and securities lending.

Source: [FSB](#)

## FSB: Reports published on the re-hypothecation of client assets and collateral re-use

The FSB has published two reports to address financial stability risks arising from securities financing markets:

- [\*Re-hypothecation and collateral re-use: Potential financial stability issues, market evolution and regulatory approaches\*](#) describes the potential financial stability issues and explains the evolution of market practices and current regulatory approaches to the re-hypothecation of client assets and collateral re-use. The report examines the possible harmonisation of regulatory approaches to the re-hypothecation of client assets and any residual financial stability risks associated with collateral re-use.
- [\*Non-cash Collateral Re-Use: Measure and Metrics\*](#) sets out the measure and metrics of non-cash collateral re-use in securities financing transactions that authorities will monitor for financial stability purposes.

Source: [FSB](#)

## 4

# Overseas developments – Europe

## EBA: Recent recommendations

The European Banking Authority (EBA) has published a [report](#), *Cyclicality of Capital Requirements*, recommending the EU to retain its risk sensitive framework for bank regulatory capital.

The EBA has published a [report](#), *Final report on MREL: Report on the implementation and design of the minimum requirement for own funds and eligible liabilities (MREL) Framework*, recommending a number of changes to reinforce the MREL framework and integrate the international standards on total loss-absorbing capacity in the MREL.

The EBA has published a [report](#), *EBA report on covered bonds: Recommendations on harmonisation of covered bond frameworks in the EU*. It aims to ensure that only those financial instruments that comply with the harmonised structural, credit risk and prudential standards can be branded as covered bonds and have access to special regulatory and capital treatment as provided in the EU financial regulation.

Source: [EBA](#)

## EBA: Recent announcements

The EBA has issued a revised [list](#) of validation rules in its *Implementing Technical Standards* (ITS) on supervisory reporting, highlighting the ones deactivated either for incorrectness or for triggering IT problems.

The EBA has published final draft *Regulatory Technical Standards (RTS)* on cooperation and exchange of information between Competent Authorities (CAs) for passporting under the revised Payment Services Directive (PSD2) to facilitate cross-border provision of payment services in the EU internal market.

The EBA has published final [guidelines](#) on revised Pillar 3 disclosures requirements, aiming to improve and enhance the consistency and comparability of institutions' regulatory disclosures.

The EBA has published [DPM](#) and [XBRL taxonomy](#) 2.6 for remittance of data for supervisory reporting by CAs. The revised taxonomy will be used for reference dates from 30 June 2017 onwards and includes changes and corrections to validation rules.

Source: [EBA](#)

## 4

# Overseas developments – UK

## FCA: Recent consultations

The Financial Conduct Authority (FCA) has published a [consultation paper](#), seeking feedback on a number of options for changing both the funding of the Financial Services Compensation Scheme (FSCS) and the coverage it provides to consumers, and also on a number of specific proposals to change rules around the scope and operation of FSCS funding. Submissions are due by 31 March 2017.

The FCA has also published a [consultation paper](#), outlining concerns around increasing evidence of poor conduct and risks to investor protection from retail contract for difference products (CFDs) and proposing a package of policy measures designed to address those risks.

The FCA has published a [feedback statement](#), providing interim feedback on the post-implementation review of the loan-based and investment-based crowdfunding market. The FCA is proposing to modify a number of rules for the market after seeing the issues during the supervision of crowdfunding platforms currently trading and consideration of applications from firms seeking full authorisation.

Source: [FCA](#)

## FCA: Recent announcement

The FCA and the Prudential Regulation Authority (PRA) have published final changes to the [policy statement](#) to strengthen the transparency and effectiveness of their enforcement decision-making processes. Their response addressed the following areas:

- How decisions are made whether to refer an issue to Enforcement and Markets Oversight or the Regulatory Action Division for investigation;
- The provision of more information to the subject of an investigation about why they have been referred for investigation;
- Regular updates throughout an investigation, as well as ensuring there is increased engagement with the subject;
- Effective levels of dialogue between Enforcement and Supervision during an investigation; and
- Producing more detailed guidance on the process for joint FCA/PRA investigations.

Source: [PRA](#)

## 4

# Overseas developments – US

## CFTC: Recent announcements

The US Commodity Futures Trading Commission (CFTC) is [proposing](#) to amend the recordkeeping obligations, thereby modernising the manner in which regulatory records must be kept, reducing costs associated with the retention and production of paper and electronic records, and providing greater flexibility.

The CFTC is [proposing](#) to amend the swap data rules that implement Congressional action to remove indemnification requirements for the use of swap data by other regulators, together with [updating](#) Parts 3 and 9 to integrate existing advisory guidance, incorporate swap execution facilities (SEFs), and update provisions currently applicable to designated contract markets (DCMs).

The CFTC is [reproposing](#) regulations implementing limits on speculative futures and swaps positions to conform with the *Dodd-Frank Act*. The CFTC is also [proposing](#) to amend regulations with respect to the policy for aggregation under the position limits regime for futures and option contracts on nine agricultural commodities.

Source: [CFTC](#)

## FRB: Recent announcements

The Federal Reserve Bank (FRB) is adopting a [final rule](#) revising the capital plan and stress test rules for bank holding companies with \$50 billion or more in total consolidated assets and US intermediate holding companies of foreign banking organisations. Under the final rule, large and non-complex firms are no longer subject to the provisions of the capital plan rule where the FRB may object to a capital plan on the basis of qualitative deficiencies in the firm's capital planning process.

The FRB is adopting a [final rule](#) requiring US bank holding companies identified as global systemically important to maintain a minimum amount of loss-absorbing instruments, including a minimum amount of unsecured long-term debt.

The federal agencies have issued interagency [final rules](#) that increase the number of small banks and savings associations eligible for an 18-month examination cycle rather than a 12-month cycle to reduce regulatory compliance costs for smaller institutions, while maintaining safety and soundness.

Source: [FRB](#)

## OCC: Recent announcements

The Office of the Comptroller of the Currency (OCC) has released the [final rule](#) to reduce regulatory burden on national banks and federal savings associations by removing outdated or unnecessary provisions of certain rules. The OCC has also recommended legislative changes to remove unnecessary burden, such as a community bank exemption from the Volcker rule and a proposal to provide federal savings associations with greater flexibility to adapt to changing economic and business environments and meet the needs of their communities.

The OCC has released a [report](#), *Analysis of implementation of 2013 OCC bank supervision peer review project*, assessing the OCC's implementation of recommendations from the 2013 International Peer Review of the agency's approach to supervising large and midsize institutions. The review team found that large and midsize bank supervision at the OCC is more effective now than three years ago and that the OCC has accomplished a significant amount in a relatively short time.

Source: [OCC](#)

## 4

# Overseas developments – Asia

## Hong Kong: Recent announcements by HKMA

The Hong Kong Monetary Authority (HKMA) and the FCA have entered into a co-operation agreement to facilitate financial innovation in both jurisdictions.

The *Banking (Disclosure) (Amendment) Rules 2016* and the *Banking (Specification of Class of Exempted Charges) (Amendment) Notice 2016* were [gazetted](#) to implement, or facilitate the implementation of, recent international standards for banking regulation in Hong Kong.

The Securities and Futures Commission (SFC) has entered into a memorandum of understanding ([MoU](#)) with the SEC providing for consultation, cooperation and exchange of information to enhance supervision of Cross-Border Regulated Entities.

The Securities and Futures Commission (SFC) has issued a [circular](#) to introduce measures to heighten the senior management accountability of all licensed corporations and to promote awareness of senior management obligations under the current regulatory regime.

Source: [HKMA](#) and [SFC](#)

## Singapore: Recent announcements

The Monetary Authority of Singapore (MAS) has published a [consultation paper](#), seeking feedback on the detailed short selling reporting requirements as required in the draft *Securities and Futures (Short Selling) Regulations 2017* and the draft guidelines on the regulation of short selling in relation to the specified capital markets products.

The MAS has published a [consultation paper](#) seeking feedback on the proposed revisions to enhance the examination framework for representatives conducting regulated activities under the *Securities and Futures Act (SFA)* and *Financial Advisers Act (FAA)*.

The MAS has published a [consultation paper](#) seeking feedback on proposed amendments to the capital framework for securitisation exposures and interest rate risk in the banking book in MAS Notice 637.

Source: [MAS](#)

## South Korea: Recent announcements

The Financial Services Commission (FSC) identified domestic systemically important bank (D-SIBs) for 2017: Shinhan Financial Group, Hana Financial Group, KB Financial Group, NH Financial Group and Woori Bank in accordance with assessment criteria proposed by the BCBS., thereby requiring them to hold an extra 1% capital by 2019.

The FSC has proposed amendments to the Enforcement Decree of the *Financial Investment Services and Financial Markets Act* to support previously announced government measures to promote the growth of large investment banks and reform the public offering regime.

The FSC has outlined its financial [policy](#) direction for 2017, focused on

- Prompt and thorough response to financial market risks;
- Financial support for stabilization of household livelihood; and
- Financial reforms and innovation to revitalize the economy.

Source: [FSC](#)

## 5

## PwC publications

### PwC US: Cyber - New approach from New York regulator

The Department of Financial Services (DFS) issued a revised proposed set of regulations for banks, insurers, and other institutions, including adjustments to encryption, multi-factor authentication, and third party risk management requirements.

Although the proposal is largely consistent with existing cybersecurity guidance, it goes further in some ways. DFS will require that the chairperson of the board or a senior officer submit an annual certification that the entity is complying with the regulation's requirements.

It is clear that regulators across the financial services industry are focused on raising the bar for cybersecurity programs. As a result, organisations should proactively focus on developing a robust risk-based cybersecurity program rather than reactively responding to siloed regulatory guidance.

PwC US has released a report, *Cyber: New approach from New York regulator*, analysing DFS's revised proposal and identifying key challenges.

See [publication](#)

### PwC US: Balancing act - a framework for capital management

Despite the ongoing economic recovery, the banking industry continues its struggle to return to profitability levels achieved prior to the 2008 financial crisis. The industry's efforts toward recovery have been challenged by post-crisis risk aversion, a low interest rate environment, and an increase in regulatory constraints.

Accordingly, banks hoping to maximize their returns are re-considering their mix of assets. While there are numerous approaches for banks to "optimize" their asset mix and maximize returns relative to economic risk and regulatory constraints, we found that the top performing systemically important US regional banks share similar risk and return tradeoff strategies.

PwC has published a report, *Balancing act: A framework for capital management*, analysing how top performing regional banks have demonstrated similar capital allocation strategies.

See [publication](#)

### PwC US: Sanctions - Myanmar restrictions lifted

The US government has recently taken steps to remove sanctions against Myanmar, seeking to reward the country for its moves toward democracy after decades of military rule. The new sanctions relief lifts the restrictions on banking and transacting with Myanmar, removes the ban on over 200 individuals from conducting business with the US, and removes restrictions on importation from Myanmar to the United States.

Although the lifting of sanctions against Myanmar creates business opportunities for financial institutions, they should carefully review their policies to prevent violating any remaining sanctions in place, such as those issued by the US Congress or the European Union. Additionally, financial institutions should consider the risk of a "snapback" of sanctions due to ongoing human rights concerns in Myanmar.

PwC US has published a report, *Sanctions: Myanmar restrictions lifted*, analysing how new sanctions relief creates business opportunities for financial institutions.

See [publication](#)



## 5

## PwC publications

### PwC US: Fed's final rule on Total Loss-Absorbing Capacity (TLAC)

PwC US has published a report, *Fed's final rule on TLAC*, highlighting key points:

- Previously ineligible debt will now be grandfathered.
- US banks have a new TLAC buffer.
- No internal debt requirement for US banks.
- US intermediate holding companies debt requirements are now more similar to those for US banks.
- Some US intermediate holding companies can now issue debt to third parties.
- US intermediate holding companies avoided higher taxes on equity.
- Clarification on permitted contracts still to come.
- The Fed did not include a final rule on inter-bank debt holdings.
- A few industry requests were not granted.

See [publication](#)

### PwC HK: IFRS 17 - an opportunity to shine a light on value creation

PwC Hong Kong has published a report, *IFRS 17 - an opportunity to shine a light on value creation in the insurance industry*, highlighting that the insurance sector has long felt undervalued by investors. Many attribute this to the complexity of the financial statements and the vast array of different measures that are used to assess performance. This situation has not been helped by the lack of a consistently applied global accounting standard.

However, after many years of waiting, it now appears that this latter issue is drawing to a close. The IASB is expected to issue a final accounting standard for insurance contracts, IFRS 17, in the first half of 2017. This will profoundly change the way that insurance contract liabilities are measured and profit is reported. It also gives insurers a chance to take a fresh look at how they tell their market story and opens the door to many strategic opportunities.

See [publication](#)

### PwC China: Climate policy risk

PwC China has released a briefing, *More for less: Five steps to strategic cost reduction*, stating how climate policy risk become a credit risk for banks.

The briefing outlines PwC's thinking on how emerging policy to address climate change could impact banks by impacting the credit quality of lending and trading portfolios, particularly to sectors and geographies that are more vulnerable to climate policy risk.

See [publication](#)

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