

July 2016

PwC Regulatory Update



1

Legislative/Government developments

CFR delivers a report on the implications of Brexit

The Council of Financial Regulators (CFR) has delivered a [report](#), *Report on the implications of Brexit*, to the Government on the implications of the United Kingdom's vote in favour of exiting the European Union. The report was prepared in response to a request received from the Government on 27 June 2016.

The report reflects the consolidated view of the CFR agencies: the Reserve Bank of Australia (RBA); the Australian Prudential Regulation Authority (APRA); the Australian Securities and Investments Commission (ASIC); and the Treasury.

The report discusses:

- short-term impacts on the domestic and international financial systems and economies and associated responses by authorities
- medium-to long-term implications for the domestic and international economic outlook, the future of the EU, international economic cooperation and the financial regulation reform agenda.

The report highlighted that Australia is well placed to manage the economic and financial market repercussions from Brexit. It also noted that if the UK transition out of the EU is not orderly and uncertainty remains heightened for a significant period, then this would pose some downside risk to the domestic outlook.

The uncertainty and market disruption created by Brexit further emphasised the need to remain focused on progressing international efforts to strengthen financial stability and address risks.

Source: [Treasurer](#)

2

What have the regulators been up to?

APRA

Australian Prudential
Regulation Authority

ASIC

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AUSTRAC

Australian Transaction
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Reserve Bank of Australia

APRA confirms its definition of high-quality liquid assets for the Liquidity Coverage Ratio (LCR) requirement

ADIs subject to the LCR requirement are required to hold a stock of high quality liquid assets (HQLA) sufficient to survive a severe liquidity stress scenario lasting 30 days since 1 January 2015. There are two categories of assets that can be included in this stock:

- Level 1 assets limited to cash, central bank reserves and highest quality sovereign or quasi sovereign marketable instruments that are of undoubted liquidity, even during stressed market conditions.
- Level 2 assets (which can comprise no more than 40 per cent of the total stock) limited to certain other sovereign or quasi sovereign marketable instruments, as well as certain types of corporate bonds and covered bonds, that also have a proven record as a reliable source of liquidity even during stressed market conditions.

Following a review of those assets that qualify for Level 1 and Level 2 assets, APRA has confirmed the existing definitions of HQLA for the LCR in Australia, which are:

- the only assets that qualify as Level 1 assets are cash, balances held with the RBA, and Australian Government and semi government securities
- there are no assets that qualify as Level 2 assets.

See [media release](#)

APRA consults on changes to banks' international exposures reporting requirements

APRA has released a [discussion paper](#), *Banks' international exposures reporting requirements*, seeking feedback on the proposed changes related to banks' international exposures reporting requirements. These changes will enable better monitoring of banks' credit exposures, supply of bank credit and funding risk, to particular countries and counterparty sectors, ultimately promoting a more stable financial system.

APRA has also released various proposed reporting standards:

- [Reporting Standard ARS 731.1 International Banking Statistics – Locational Data](#)
- [Reporting Standard ARS 731.3a International Banking Statistics – Immediate and Ultimate Risk Exposures – Domestic Entity](#)
- [Reporting Standard ARS 731.3b International Banking Statistics – Immediate and Ultimate Risk Exposures – Foreign Entity](#)
- [Reporting Standard ARS 731.4 International Banking Statistics – Balance Sheet Items](#)

It has also released several reporting forms and related instructions together with draft [guidance](#), *Comparison of proposed international exposures reporting and reporting to the Australian Bureau of Statistics*.

Submissions are due by 28 October 2016.

See [media release](#)

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

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APRA releases notice in relation to removal of requirement to report unaudited second semi-annual return

APRA has released a notice to level 2 general insurance groups informing that APRA has removed the requirement to report the unaudited second semi-annual return for reporting periods ending on or after 30 June 2016.

APRA has amended 15 reporting standards to remove this requirement in consistent with APRA's commitment to look for opportunities to reduce compliance costs for business and the community. Amendments to the reporting standards are in Attachments 1 and 2.

The changes take immediate effect. This change to reporting has been implemented in APRA's data lodgement system, D2A.

Until now, Level 2 insurance groups have provided two unaudited semi-annual returns and an audited annual return each financial year. The second unaudited semi-annual return and the audited annual return both cover the full financial year.

See [notice](#)

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ASIC consults on proposed guidance on risk management

ASIC has released a consultation paper, *Risk management systems of responsible entities: Further proposals* ([CP 263](#)), seeking feedback on proposals to provide guidance to responsible entities on their expectations for compliance with their obligation to maintain adequate risk management systems under s912A(1)(h) of the *Corporations Act 2001* (Corporations Act).

The paper builds on the proposals in consultation paper, *Risk management systems of responsible entities* ([CP 204](#)). It outlines expectations for responsible entities to have:

- overarching risk management systems in place
- processes for identifying and assessing risks
- processes for managing risks.

ASIC is seeking to ensure that the risk management systems of responsible entities, include minimum procedures and practices, are adaptable to changing market conditions and remain effective in identifying and managing risks on an ongoing basis.

Submissions are due by 1 September 2016.

See [media release](#)

ASIC consults on communicating audit findings to directors, audit committees or senior managers

The *Australian Securities and Investments Commission Act 2001* (ASIC Act) was amended in 2012 to allow ASIC to communicate specific financial reporting and audit findings identified from reviews of audit files directly to directors, audit committees or senior managers of companies, responsible entities or disclosing entities.

ASIC has released a consultation paper, *Communicating audit findings to directors, audit committees or senior managers* ([CP 265](#)), seeking feedback on the proposed criteria for determining which findings from the reviews of audit files, ASIC would communicate to directors, audit committees or senior managers.

ASIC is also seeking feedback on proposal to let an entity's board of directors know that ASIC will be reviewing audit files relating to the entity as part of our routine audit firm inspections.

Information Sheet 196, *Audit quality: The role of directors and audit committees* ([INFO 196](#)) provides more information on the ways in which directors and audit committees can support audit quality.

Submissions are due by 7 October 2016.

See [media release](#)

2

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Transition period for recognised accountants providing SMSF related financial product advice has ended

The transitional period for recognised accountants who provide self-managed superannuation fund (SMSF) related financial advice ended on 30 June 2016. Recognised accountants, who lodged applications with ASIC between 1 July 2013 and 30 June 2016, were only required to demonstrate that they had completed the appropriate financial product training.

From 1 July 2016, accountants intending to make recommendations to acquire or dispose of an interest in an SMSF must hold a limited AFS licence (or full AFS licence) or become an Authorised Representative (AR) of an AFS licensee.

ASIC has published guidance and has been working closely with the Joint Accounting Bodies to ensure that all affected accountants are clear about what ASIC requires to obtain a limited AFS licence.

See [media release](#)

ASIC crackdown on unlicensed retail OTC derivative providers

ASIC has released a report, *Compliance review of the retail OTC derivatives sector* ([REP 482](#)), highlighting an increase in activity among licensed and other participants, especially binary option providers, operating through online platforms or websites that are offering financial services to retail investors in Australia without an appropriate licence or authorisation.

ASIC has raised its concerns with more than 40 unlicensed providers. Of those providers contacted, 21 have agreed to co-operate with ASIC and take remedial steps, including:

- removing references to Australia on their website
- ceasing marketing campaigns directed at Australian investors
- adding appropriate disclaimers to websites and mobile apps
- blocking sign-up access to Australian investors
- educating introducing brokers and affiliates to cease targeting Australian investors
- closing down existing Australian accounts
- informing Australian investors that the entity is not appropriately licensed in Australia.

Some of these entities have indicated an interest in obtaining the appropriate licence to operate in Australia and have been provided with information to assist them with that process.

See [media release](#)

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Speech: Future priorities for ASIC and the financial system: Building trust and confidence in our financial markets

Greg Medcraft, ASIC Chairman, addressed the Committee for Economic Development of Australia (CEDA) to speak on the future priorities of ASIC and the financial system.

ASIC seeks to achieve the objective of allowing markets to fund economic growth through the twin strategic priorities of promoting investor and financial consumer trust and confidence and ensuring fair, orderly, transparent and efficient markets, which will be influenced by the key challenges faced.

ASIC's activities are focused on both financial services and markets. But the speech was primarily focused on markets.

He discussed in detail about:

- the importance of trust and confidence in markets
- how ASIC is focusing on building that trust and confidence across three particular areas:
 - equity markets
 - debt markets, and
 - derivatives markets.

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

Speech: The importance of corporate culture in improving governance and compliance

Greg Medcraft, ASIC Chairman, addressed the Challenger Legal and Corporate Affairs team offsite on the topic of the importance of corporate culture in improving governance and compliance.

The key points of the speech include:

- Culture matters to ASIC because poor culture can be a driver of poor conduct and can regulate conduct. Poor culture can lead to misconduct and result in significant financial costs, including the cost of remediation, compensation and fines as well as not necessarily attracting and retaining staff.
- He discussed the drivers of a positive culture. The board and senior management are responsible for creating a culture where everyone has ownership and responsibility for 'doing the right thing' and ensuring 'good outcomes for customers'. The accountability of staff is extremely important. The firm should promote a culture of open communication and effective challenge. The last driver relates to recruitment, training and rewards.
- He then discussed the role of governance in ensuring that the drivers of a positive culture are implemented in practice. The firm's values should be incorporated into all of its business practices and governance structures. Under the board's stewardship, the management team should promote, monitor, and assess the impact of the firm's culture on conduct and make changes where necessary.

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

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Speech: Good corporate culture, values and ethics

Greg Medcraft, ASIC Chairman, addressed the launch of Governance Institute of Australia's inaugural Ethics Index.

The main points of the speech are:

- ASIC is concerned about culture because it is a key driver of conduct within the financial industry. By focusing more on culture, we expect to get early warning signs where things might be going wrong to help us disrupt bad behaviour before it happens and catch misconduct early.
- Ethical conduct can help organisations move beyond minimum standards and 'tick a box' compliance practices to best practice standards and compliance practices that protect stakeholders and which are commercially valuable. Translating the firm's values into business practices is important, because it ensures there is no gap between the firm's desired values and actual employee conduct.
- The vast majority of Australians think that corporate governance practices and structures are important in ensuring ethical behaviour within the banking and finance sector. ASIC also sees governance practices and business structures as key to ensuring a good corporate culture.
- Accountability and transparency are cornerstones of a good governance framework, and again tie in to ensuring that business practices encourage transparency and ensure that staff at all levels are accountable for their conduct.

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

ASIC consults on remaking and repealing class orders on markets and securities

ASIC has released a consultation paper, *Remaking and repealing ASIC class orders on markets and securities* ([CP 262](#)), seeking feedback on proposals to remake the following eight class orders into instruments:

- class order [CO 01/1519] *Disclosure of directors' interests*
- class order [CO 02/313] *Part 7.11 - Transfers of securities under Division 3*
- class order [CO 02/608] *Warrants: relief from PDS requirements for secondary sales*
- class order [CO 03/826] *Market related records: Australian financial service licensees dealing on overseas markets*
- class order [CO 03/911] *Licensing relief for self-dealers who provide general product advice about own securities*
- class order [CO 03/957] *ASX managed investment warrants - disclosure and reporting exemptions*
- class order [CO 06/682] *Multiple derivative issuers*
- class order [CO 07/183] *Transfer of Australian securities traded in New Zealand.*

ASIC is proposing to vary the application of the *Corporations (Low Volume Financial Markets) Exemption Notice 2003* by increasing the transaction threshold of low volume financial markets and amending the transaction period to which the transaction threshold applies. It is also proposing to repeal class order [CO 02/284] *CHES approved foreign securities*, having formed the view that this relief is no longer required. Submissions are due by 11 August 2016.

See [media release](#)

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ASIC consults on class order about nominee and custody services and proposed changes to platforms policy

ASIC has released a consultation paper, *Remaking ASIC class order on nominee and custody services and proposed changes to platforms policy* ([CP 264](#)), seeking feedback on proposals to remake class order [CO 02/295] *Nominee and custody services*, which is due to expire on 1 April 2017. ASIC is proposing:

- to remove unnecessary Chapter 5C relief as a nominee and custody service is generally not considered to be a registered managed investment scheme
- to make it clear that relief applies to AFS licensees
- to align the relief for nominee and custody services with the equivalent requirements for platforms.

ASIC is also seeking feedback on its proposal to remake class order [CO 13/763] *Investor directed portfolio services* and class order [CO 13/762] *Investor directed portfolio services provided through a registered managed investment scheme*. ASIC is proposing:

- on access by retail clients to a financial product issuer's dispute resolution processes for investments through a nominee and custody service, or through an investor directed portfolio service (IDPS) or IDPS-like scheme (referred to as platforms)
- to amend the definitions of 'IDPS' and 'IDPS-like schemes' in class orders for platforms.

All class orders will be remade into new [instruments](#). Submissions are due by 1 September 2016.

See [media release](#)

ASIC remakes and repeals class orders on trustee company common funds

ASIC has released a new legislative instrument, following public consultation ([CP 256](#)), to maintain relief concerning the entities to which client money can be deposited under s981B of the *Corporations Act*, which is due to expire on 1 April 2017.

ASIC has replaced the class order [CO 04/1063] *Section 981B money in cash common funds* without significant changes so that their ongoing effect will be preserved without any disruption into an [instrument](#), *ASIC Corporations (Client money - Cash common funds) Instrument 2016/671*.

The instrument enables client money received by an Australian financial service licensee to be deposited into a cash common fund, provided the fund is also a registered scheme. It is intended to provide flexibility to licensees in dealing with client money while retaining the consumer protections provided by s981B of the *Corporations Act*.

ASIC has also repealed class order [CO 00/199] *Trustee companies' common funds* which modified provisions of Chapter 5C of the *Corporations Act*.

See [media release](#)

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AUSTRAC publishes draft AML/CTF rules relating to account-based money transfer services

AUSTRAC has published draft AML/CTF [rules](#) related to account-based money transfer services. These rules were first published in July 2015 and originally related solely to the Western Union account-based money transfer system. They have been amended to include the MoneyGram account-based money transfer system, following public consultation. These systems enable ADIs to offer their customers the ability to undertake or receive remittance transfers through the Western Union or MoneyGram platforms.

Submissions are due by 19 August 2016.

See [media release](#)

2

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Speech: Financial Stability and the Banking Sector

Luci Ellis, Head of Financial Stability Department at RBA, addressed the Sydney Banking and Financial Stability Conference. She spoke on the subject of Banking and Financial Stability. She explained why the unique features of banks make the banking system so important for financial stability, before turning to the implications of this for policy across a range of domains.

The main points of the speech are:

- She discussed the implications of financial stability as regards the role of the regulators, the broader policy environment and the resilience of credit supply. Banks will always need to be regulated and supervised. If society has decided that a private entity can offer deposits, which requires central bank liquidity to work, then the central bank must provide that liquidity. Policymakers need to ensure that credit is still being supplied to good borrowers even in bad times.
- She concluded her speech by stating that a modern economy cannot do without banks, which involve risks and challenges that cannot be eliminated, but there are ways to keep these risks tolerably low. In particular, policymakers need to supervise rigorously and provide liquidity when warranted.
- She also concluded that financial stability policy is messy. Society has many priorities; financial stability is just one of these. Public policy is all about balancing competing considerations. Asset quality usually matters more than raw quantities. Good lending and borrowing habits are more important to instil, than a policy approach centred on a few numbers.

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

3

Industry bodies

ABA

Australian Bankers'
Association

AFMA

Australian Financial
Markets Association .

FSC

Financial Services Council

ABA welcomes the release of Ian McPhee report on package of initiatives in the Australian banking industry

ABA has welcomed the release of the first quarterly independent governance expert [report](#), *Australian banking industry: Package of initiatives* by Ian McPhee, on how the industry is progressing with new initiatives to protect customer interests.

The report highlights key milestones which have been met, including the start of independent reviews into the Code of Banking Practice and into commissions and payments in retail banking.

The report also provides an overview of targeted implementation dates to enhance whistleblower protections, establish customer advocates in banks to help with resolving complaints, and create an industry register of employees with records of poor conduct.

ASIC's former Executive General Manager, Mr Phil Khoury, is reviewing the Code of Banking Practice, which sets standards of good conduct for banks.

Former Australian Public Service Commissioner, Mr Stephen Sedgwick AO, is reviewing product sales commissions and product based payments that could lead to poor customer outcomes.

See [media release](#)

Review into retail banking remuneration begins

ABA has released details of an independent review of commissions and payments made to bank staff and third parties.

Former Australian Public Service Commissioner, Mr Stephen Sedgwick AO supported by many experts, have been appointed to conduct an independent review of product sales commissions and product based payments that could lead to poor customer outcomes.

The review will include remuneration for selling and providing advice on products such as transaction accounts, general insurance products, consumer credit insurance, mortgages, personal loans, credit cards and small business loans. This covers customer facing employees, contractors, and third parties as well as non-customer facing roles, such as the managers and supervisors of those staff.

Payments made by banks to non-bank sales channels or intermediaries will also be considered as part of the review. The review will focus on retail and small business banking, not wholesale or institutional banking.

Mr Sedgwick will consult with banks, consumer and small business organisations, the Finance Sector Union and employees of banks, regulators and other stakeholders.

Submissions are due by 9 September 2016.

See [media release](#)

3

Industry bodies (cont'd)

ABA

Australian Bankers'
Association

AFMA

Australian Financial
Markets Association .

FSC

Financial Services Council

Review of Code of Banking Practice commences

ABA has released details of the independent review of the Code of Banking Practice, which sets standards of good conduct for banks.

Mr Phil Khoury, Managing Director of Cameron Ralph Pty Ltd, has been appointed to conduct the review of the Code, following consultation with stakeholders and banks. He will consult with banks, consumer and small business organisations, the Finance Sector Union and employees of banks, regulators and other stakeholders.

Mr Khoury will also conduct a review of the activities of the [Code Compliance Monitoring Committee](#), the independent compliance monitoring body established under the Code.

Submissions are due by 19 August 2016.

See [media release](#)

3

Industry bodies (cont'd)

ABA

Australian Bankers'
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AFMA

Australian Financial
Markets Association .

FSC

Financial Services Council

Notice: Evolution of the BBSW Methodology

AFMA has issued a notice in relation to the discussion paper, *Evolution of the BBSW Methodology*, issued by CFR asking AFMA to finalise a set of amendments to the BBSW methodology by June 2016. AFMA has concluded this process and has settled the changes to the future methodology.

AFMA has agreed with the CFR's assessment of the issues confronting BBSW and the principal recommended methodology change, to place primary reliance on a volume weighted average price calculation. The principal feature of the BBSW methodology change is the establishment of a sequentially staged calculation waterfall:

- Stage 1. Volume Weighted Average Price (VWAP) of primary issuance and secondary trading of eligible securities within a trading window defined as 9:00am – 10:10am.
- Stage 2. National Best Bid and Offer (NBBO) – the current methodology, which uses live executable bids and offers to calculate BBSW, will operate only if Stage 1 fails to form BBSW.
- Stage 3. Algorithmic calculation – this would draw on relevant market pricing information that is available only in the circumstance where both Stage 1 and Stage 2 fail to form BBSW.

Transitional steps to facilitate a VWAP methodology will begin in the third quarter of 2016 and the go-live date for Stage 1 will be determined during the test phase for the new operating infrastructure. Stage 2 is currently operational and Stage 3 will be put in place by end-August 2016.

See [notice](#)

Notice: AFMA commences BBSW externalisation process

AFMA has issued a notice, *AFMA commences BBSW externalisation process*, in relation to its intention to step away from its function as administrator of the Bank Bill Swap (BBSW) Benchmark Rate and will transfer responsibilities to an appropriately qualified entity. This will provide AFMA with greater capacity to conduct the policy advocacy and market development activities that form the core of its mission.

AFMA has engaged Ernst & Young to provide financial advisory services in relation to the externalisation process. Parties that may be interested in being considered as a potential alternate benchmark administrator for BBSW are invited to contact Ernst & Young to register interest. The Expression of Interest phase of the project is expected to commence on or around 29 July 2016.

See [notice](#)

3

Industry bodies (cont'd)

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FSC's priorities for the Government

FSC has commissioned a research on regulatory costs from consultancy firm Tria Partners. The research identified that ongoing regulatory reform in the financial services sector over the past five years has cost industry \$2.75 billion, and will rise to \$3 billion once reforms currently before Parliament are implemented. It also found that the cost of reform has contributed \$105 to the cost of superannuation for every Australian consumer.

FSC CEO, Sally Loane called on the 45th Parliament of Australia to pass targeted reforms to financial services that are aimed at enhancing consumer protections and improving the sectors' international competitiveness. She urged the government and the parliament to prioritise the following matters:

- Reintroduction of the Life Insurance Reform Bill to address misaligned incentives and improve trust in life insurance.
- Reintroduce legislation to promote choice and competition and improved governance in the \$2 trillion superannuation industry.
- Introduction of legislation to increase standards required of financial advisers.
- Development of new investment vehicles to drive exports from our \$2.6 trillion investment management industry.
- A simplified, lower withholding tax regime for foreign investors to support Australian investment managers seeking growth and new markets in an increasingly competitive global environment.

See [media release](#)

4

Overseas developments – Global

BCBS: Publishes revised securitisation framework

The Basel Committee on Banking Supervision (BCBS) has published an updated [standard](#) for the regulatory capital treatment of securitisation exposures. This standard amended the 2014 capital standards for securitisations by including the regulatory capital treatment for "simple, transparent and comparable" (STC) securitisations.

The capital treatment for STC securitisations builds on the 2015 [STC criteria](#) published by the BCBS and the International Organisation of Securities Commissions (IOSCO).

The standard sets out additional criteria for differentiating the capital treatment of STC securitisations from that of other securitisation transactions. The additional criteria, for example, exclude transactions in which the standardised risk weights for the underlying assets exceed certain levels. This ensures that securitisations with higher-risk underlying exposures do not qualify for the same capital treatment as STC-compliant transactions.

Source: [BIS](#)

BCBS: Issues FAQs and answers on Basel III's NSFR

The BCBS has issued frequently asked questions ([FAQs](#)) and answers on Basel III's Net Stable Funding Ratio (NSFR).

The BCBS periodically reviews FAQs and publishes answers along with any necessary technical elaboration of the rules text and interpretative guidance to promote consistent global implementation of these requirements.

The BCBS has received a number of interpretation questions related to the October 2014 [publication](#) of the NSFR standard. The FAQs correspond to the text set out in that standard.

Source: [BIS](#)

CPMI: Releases its final report on correspondent banking

The Committee on Payments and Market Infrastructures (CPMI) has issued the final report on [correspondent banking](#), building on an earlier version of the [report](#) that underwent public consultation in 2015 and helps alleviate some of the costs and concerns affecting correspondent banking activities.

The report provides some basic definitions, outlines the main types of correspondent banking arrangement, summarises recent developments and touches on the underlying drivers. The report also develops recommendations on certain measures relating to

- know-your-customer (KYC) utilities
- use of the Legal Entity Identifier (LEI) in correspondent banking
- information-sharing initiatives
- payment messages
- use of the LEI as additional information in payment messages.

Source: [BIS](#)

4

Overseas developments – Global (cont'd)

FSB: Publishes progress report on reforming major interest rate benchmarks

The Financial Stability Board (FSB) has published a [report](#), *Reforming Major Interest Rate Benchmarks*. This is a progress report on implementation of July 2014 FSB [recommendations](#). The report finds:

- Administrators of major interbank offered rates (IBORs) have continued to take steps to implement the FSB recommendations since the last progress [report](#) published in July 2015.
- Progress has been made by the three major benchmarks of EURIBOR, LIBOR and TIBOR.
- The reforms of the IBORs have not been completed. Administrators should now focus on transition and decide how to anchor rates in transactions and objective market data as far as practicable.
- More progress remains to be achieved in identifying risk-free rates (RFRs) and promoting their use where appropriate.

Source: [FSB](#)

FSB: Publishes letter sent on progress in advancing the FSB's 2016 priorities

The FSB has published a [letter](#) from the FSB Chair sent to G20 Finance Ministers and Central Bank Governors in advance of their meeting in Chengdu on 23-24 July, outlining the progress the FSB is making in advancing its 2016 priorities. The letter highlighted that the global economy and financial system have weathered two spikes in uncertainty and risk aversion. Alongside the current priorities, the FSB is also:

- pursuing the full and consistent implementation of post-crisis reforms, while addressing material unintended consequences
- addressing new and emerging vulnerabilities in the financial system, including those associated with conduct, correspondent banking and climate change
- monitoring the potentially systemic implications of financial technology innovations, and the systemic risks arising from operational disruptions.

Source: [FSB](#)

4

Overseas developments – Europe

EBA: Clarifies use of 2016 EU-wide stress test results in the SREP process

The European Banking Authority (EBA) has published additional [information](#) on how the EU-wide stress test results will inform the Supervisory Review and Evaluation Process (SREP). The key points include:

- The 2016 EU-wide stress test does not contain a pass fail threshold and is instead designed to be used as a crucial input into the SREP process in 2016.
- The test result will allow supervisors to assess banks' ability to meet applicable minimum and additional capital requirements under stressed scenarios.
- If Competent Authorities (CAs) identify capital shortfalls leading to potential breaches of applicable own funds requirements revealed by the stress tests, they can employ the capital guidance to address their concerns.
- Capital guidance should be set above the level of binding capital and the combined buffer requirements, and institutions are expected to take it into account in their risk management frameworks.

Source: [EBA](#)

EBA: Publishes final draft technical standards for the validation of credit risk models

The EBA has published the final draft Regulatory Technical Standards ([RTS](#)) specifying the assessment methodology competent authorities shall follow in assessing the compliance of an institution with the requirements for the use of the Internal Ratings Based Approach (IRB Approach). The RTS aims to harmonise the supervisory assessment methodology with respect to the IRB Approach across all Member States in the European Union (EU).

EBA's studies on the comparability of risk weighted exposure amounts (RWAs) have shown that different supervisory practices can contribute significantly to non-risk-based differences in capital requirements when calculated according to the IRB Approach.

Source: [EBA](#)

EBA: Consults on guidelines on credit risk management practices for expected credit losses

The EBA has launched a consultation [paper](#), *Draft Guidelines on credit institutions' credit risk management practices and accounting for expected credit losses*, aiming to ensure sound credit risk management practices associated with the implementation and on-going application of the accounting for expected credit losses. It follows BCBS guidance published in 2015. The guidelines include four main sections:

- some general considerations on the application of the principles of proportionality and materiality and the use of information by credit institutions
- 8 principles also addressed to credit institutions related to the provisions for the main elements of credit risk management
- guidance specific to credit institutions reporting under IFRS
- three principles addressed to competent authorities on the supervisory evaluation of credit risk management practices.

Submissions are due by 26 October 2016.

Source: [EBA](#)

4

Overseas developments – Europe (cont'd)

EBA: Publishes analysis on governance arrangements and indicators for recovery plans

The EBA has published a comparative [report](#) on governance arrangements and indicators in recovery plans, aiming to support supervisors and institutions in identifying the crucial elements that should be considered when designing credible governance arrangements and effective indicator frameworks.

The analysis has shown that in a number of recovery plans, banks' approach on governance arrangements is in line with the requirements laid down in the Bank Recovery and Resolution Directive (BRRD).

Other plans still remain at a less advanced stage namely with regards to escalation procedures and decision making processes, where greater clarity is needed, and to governance arrangements and indicators, which need to be more consistent with the existing processes and frameworks.

The EBA has highlighted that coverage and integration of material legal entities within group recovery plans remains a challenging task for the majority of plans.

Source: [EBA](#)

EBA: Launches data collection to support the new prudential framework for investment firms

The EBA has launched a data collection aimed at supporting the response to the European Commission's Call for Advice on a new prudential framework for MiFID (Markets in Financial Instruments Directive) investment firms, which should be less complex, more risk sensitive and more proportionate than the current regime.

The EBA has published templates and instructions which are addressed to [MiFID](#) investment firms and to [UCITS/AIFMD](#) (Undertakings for Collective Investment in Transferable Securities/Alternative Investment Fund Managers Directive) firms that conduct MiFID activities or services for the purpose of this data collection.

Submissions are due by 7 October 2016.

Source: [EBA](#)

EBA: Consults on the minimum requirement for own funds and eligible liabilities (MREL)

The EBA has launched a [consultation](#) on its interim report on the implementation and design of the MREL. The interim report contains several recommendations:

- changing the reference base of the MREL requirement from total liabilities and own funds to risk-weighted assets with, in time, a leverage exposure backstop
- preventing CET1 instruments from counting both towards capital buffers and MREL, while considering the implications on maximum distributable amounts
- extending and enhancing existing powers available to address breaches of MREL
- in calibrating MREL, specific business models may be worth considering to the extent that they lead to differences in resolution strategies
- introducing mandatory subordination for at least some banks, while more generally enhancing transparency and disclosure for all creditors on the creditor hierarchy.

Source: [EBA](#)

4

Overseas developments – Europe (cont'd)

EIOPA: Launching EU-wide thematic review of market conduct:

The European Insurance and Occupational Pensions Authority (EIOPA) is launching an EU-wide thematic review of market conduct among insurance companies operating in the unit-linked life insurance market, aiming to cover 60% of each national market in terms of both gross written premiums and assets of unit-linked funds.

EIOPA also intends to analyse how remuneration paid by asset managers to insurers could influence their choice of investments and how this choice could impact policyholders.

The review focuses on three key issues:

- existence and characteristics of monetary incentives and remuneration
- how insurance undertakings address conflicts of interest
- how insurance undertakings structure unit-linked life insurance products.

Participating insurance companies are expected to report back by September 2016 and the results of the thematic review will be disclosed in early 2017. Source: [EIOPA](#)

EIOPA: Consults on policy proposals regarding the implementation of the IDD

EIOPA has published a consultation [paper](#) on its draft technical advice to the European Commission on possible delegated acts concerning the Insurance Distribution Directive (IDD).

EIOPA invites feedback on the policy proposals with regard to the following areas:

- product oversight and governance arrangements
- organisational arrangements to prevent and manage conflicts of interests
- inducements, namely, third party payments
- suitability or appropriateness of insurance-based investment products (IBIPs).

Submissions are due by 3 October 2016.

Source: [EIOPA](#)

EIOPA: Publishes technical advice to EC on identification and calibration of corporates

EIOPA has published the [technical advice](#) to the European Commission (EC) on the identification and calibration of infrastructure corporates.

The advice was developed upon the request of the EC to further elaborate on the 2015 advice where EIOPA proposed a new asset class under Solvency II for investments in infrastructure projects.

EIOPA recommends to extend this asset class in two ways:

- to allow certain infrastructure corporates to qualify for the treatment for infrastructure projects provided that there is an equivalent level of risk
- to create a separate differentiated treatment for equity investments in high-quality infrastructure corporates.

EIOPA recommends that insurers are required to conduct adequate due diligence, establish written procedures to monitor the performance of their exposures and perform stress testing on the cash flows and collateral values supporting their investment. Source: [EIOPA](#)

4

Overseas developments – Europe (cont'd)

ESMA: Consults on asset segregation and custody services under AIFMD and UCITS

The European Securities and Markets Authority (ESMA) has published a [call for evidence](#) on asset segregation and custody services under the AIFMD and the UCITS Directive.

ESMA first consulted on asset segregation under the AIFMD in 2014. However, given the majority of respondents objected to the two options on which ESMA consulted, coupled with the fact that the new UCITS V Directive has recently introduced asset segregation requirements which are broadly aligned to the AIFMD, ESMA has decided to carry out a further consultation.

ESMA is particularly interested in gathering views on any asset segregation regime which ensures assets are clearly identifiable as belonging to the AIF or UCITS, and which provides investors with robust protection by avoiding ownership of the assets being called into question in the event of insolvency.

Submissions are due by 23 September 2016.

Source: [ESMA](#)

ESMA: Consults on MAR guidelines regarding delayed disclosure of inside information

ESMA has published [consultation](#) on draft guidelines clarifying the implementation of the Market Abuse Regulation (MAR). MAR strengthens the existing market abuse framework by extending its scope to new markets, platforms and trading behaviours. It contains prohibitions for insider dealing and market manipulation, and provisions to prevent and detect these.

ESMA is seeking stakeholder's feedback on draft guidelines:

- for persons receiving market soundings
- on legitimate interests of issuers to delay disclosure of inside information and on situations in which the delay of disclosure is likely to mislead the public.

ESMA will consider the feedback to finalise the two sets of guidelines and publish a final report by early Q3 2016. MAR will directly apply in EU Member States from 3 July 2016, amending the previous Market Abuse Directive (MAD).

Source: [ESMA](#)

ESMA: Issues warning on sale of speculative products to retail investors

ESMA has issued a [warning](#) about the sale of contracts for differences (CFDs), binary options and other speculative products to retail investors who are unaware of the risks associated with these products, and also highlights the regulatory action taken in relation to several Cyprus-based investment firms.

The warning comes as ESMA and a number of national supervisors have observed an increase in the marketing of these products, through aggressive practices and a rise in the number of complaints from retail investors who have suffered significant losses.

ESMA has recently published an updated [Questions and Answers document](#), which clarifies how rules relating to these products should be implemented

Source: [ESMA](#)

4

Overseas developments – Europe (cont'd)

ESMA: Consults on proposed central clearing delay for small financial counterparties

ESMA has published a consultation [paper](#), *On the clearing obligation for financial counterparties with a limited volume of activity*, proposing to change the phase-in period for central clearing of OTC derivatives applicable to financial counterparties with a limited volume of derivatives activity under the European Market Infrastructure Regulation (EMIR).

ESMA proposes to amend EMIR's Delegated Regulations on the clearing obligation to prolong, by two years, the phase-in for financial counterparties with a limited volume of derivatives activity.

Submissions are due by 5 September 2016.

Source: [ESMA](#)

ESMA: Consults on the validation and review of CRAs' methodologies guidelines

ESMA has published a consultation [paper](#), *Guidelines on the validation and review of Credit Rating Agencies' methodologies*, clarifying ESMA's expectations regarding how CRAs should validate and review their methodologies.

ESMA aims to achieve a consistent application of validation and review measures across CRAs through the demonstration of the discriminatory power, predictive power and historical robustness of their methodologies. The draft guidelines also identify the measures that CRAs should implement when validating and reviewing their methodologies with limited quantitative evidence. The paper is accompanied by a [Feedback Statement](#).

Submissions are due by 22 August 2016.

Source: [ESMA](#)

ESRB: Publishes its strategy paper on macroprudential policy beyond banking

The European Systemic Risk Board (ESRB) has published a strategy [paper](#), *Macroprudential policy beyond banking: an ESRB strategy paper*, analysing the current legal and institutional framework governing macroprudential policies beyond banking and proposing a comprehensive policy strategy to address financial stability risks. The paper presents short-term policy options and a long-term agenda for macroprudential policy beyond banking.

While macroprudential policy for the banking sector is already operational, the policy strategy, regulatory data and instruments required to address risks beyond the banking sector need further enhancement.

Source: [ESRB](#)

4

Overseas developments – Europe (cont'd)

ESRB: Publishes first EU Shadow Banking Monitor and accompanying occasional paper

The ESRB has published the first EU Shadow Banking [Monitor](#), presenting an overview of developments in the European shadow banking system to assess potential risks to financial stability. This is the first report in an annual series that will contribute to the monitoring of a part of the financial system that has experienced significant growth in recent years.

The ESRB has identified issues that can be a source of and amplify systemic risks:

- Financial leverage, in particular in hedge funds, but also in real estate funds.
- Systemic interconnectedness, which is especially pronounced between money market funds and the banking system.
- Maturity and liquidity transformation, which are a concern.

The ESRB has also published an occasional [paper](#), *Assessing shadow banking – non-bank financial intermediation in Europe*, describing in further detail the monitoring framework developed for assessing shadow banking activities in Europe.

Source: [ESRB](#)

4

Overseas developments – UK

Bank of England: Reviews MoU with PRA, FCA and PSR

The Bank of England (BoE), the Prudential Regulation Authority (PRA), the Financial Conduct Authority (FCA) and the Payment Systems Regulator (PSR) have reviewed the memorandum of understanding ([MoU](#)), which sets out the high-level framework used to cooperate with each other in relation to payment systems in the UK.

The four authorities have emphasised their ongoing commitment to working closely together on issues of common regulatory interest and avoiding duplication.

The Bank's Deputy Governor for Financial Stability, the PRA's Deputy Governor for Prudential Regulation, the FCA Board and the PSR Board have considered the views of industry and staff, and concluded that cooperation and coordination under the MoU is working well. Some minor changes to the MoU have also been agreed to reflect the expansion of the PSR's remit since the MoU was first signed in 2015.

Source: [Bank of England](#)

Bank of England: Consults on establishment of EDMC

The BoE has published a consultation [paper](#), *Establishment of the Enforcement Decision Making Committee (EDMC)*, setting out proposal for the establishment of a unified EDMC to take decisions in respect of:

- the PRA
- Financial Market Infrastructure (FMI)
- Resolution contested enforcement cases.

The Bank also proposes to use the EDMC in enforcement cases in relation to Scottish and Northern Ireland banknotes issuance by the banks that are authorised to issue their own banknotes.

The paper extends the proposed EDMC model across all regulatory areas where the Bank has been granted enforcement powers consistently.

Submissions are due by 21 October 2016.

Source: [Bank of England](#)

Bank of England: Publishes occasional consultation paper

The BoE has published an occasional consultation paper (OCP) ([CP26/16](#)), setting out proposed changes to the PRA Rulebook Parts and supervisory statements (SS):

- SS24/15 - The PRA's approach to supervising liquidity and funding risks (Chapter 2)
- Internal Liquidity Adequacy Assessment (ILAA) Part (Chapter 3)
- Regulatory Reporting Part and SS34/15 - Guidelines for completing regulatory reports (Chapter 4)
- Conditions Governing Business Part (Chapter 5)
- Capital Buffers Part and Leverage Ratio Part (Chapter 6).

The OCP also consults on an administration instrument. An administration instrument is used to make minor corrections to PRA Rulebook provisions.

Submissions for Chapters 2 – 6 are due by 21 October 2016, and for the administration instrument by 5 August 2016.

Source: [Bank of England](#)

4

Overseas developments – UK (cont'd)

PRA: Issue publications on structural reform and operational continuity

The PRA has issued the following publications on structural reform and operational continuity:

- The implementation of ring-fencing: prudential requirements, intragroup arrangements and use of financial market infrastructures ([PS20/16](#)): This policy statement (PS) provides feedback on responses received to its consultation paper ([CP37/15](#)). As part of PS20/16, various other [publications](#) have been published.
- The implementation of ring-fencing: reporting and residual matters ([CP25/16](#)). This CP consists of two parts. Part one focuses on reporting requirements for RFBs. Part two focuses on additional matters relating to ring-fencing on which the PRA has decided to consult.
- Ensuring operational continuity in resolution ([PS21/16](#)). This PS provides feedback on responses to consultation paper ([CP38/15](#)) and the [addendum](#) to CP38/15 published in October 2015.

Source: [PRA](#)

PRA: Publishes update to counterparty credit risk (SS12/13)

The PRA has published [update](#) to counterparty credit risk (SS12/13), providing clarifications to the reporting requirements for model changes.

Amendments were made for qualifying central counterparties (QCCPs). The amendments also clarify that further information on central counterparties (CCPs) can be found on the ESMA website, and adjusts the notification arrangements when a CCP no longer reports its hypothetical capital.

The policy contained in this supervisory statement has been designed in the context of the current UK and EU regulatory framework. This supervisory statement is aimed at firms to which CRD IV applies.

Source: [PRA](#)

PRA: Publishes update to market risk (SS13/13)

The PRA has published [update](#) to market risk (SS13/13), amending the expectations on the validation of firms' risks not In VaR (RNIV) frameworks and reporting of extensions and changes to firms' RNIV frameworks, and also provides clarification on the PRA's reporting requirements around Internal Model Approach (IMA) model changes and extensions.

Amendments were made to bring attention to the PRA's expectations for firms applying for: the use of own estimates of delta in the standardised approach for options; the use of sensitivity models and the exclusion of positions from the calculation of net open currency positions. The amendments clarify the criteria expected of firms to satisfy the standards set out in the relevant CRR articles.

The policy contained in this supervisory statement has been designed in the context of the current UK and EU regulatory framework. The statement is aimed at firms to which CRD IV applies.

Source: [PRA](#)

4

Overseas developments – UK (cont'd)

FCA: Publishes thematic review on UK equity market data pools

The FCA has published a thematic review, *UK equity market dark pools – Role, promotion and oversight in wholesale markets (TR16/5)*, outlining some areas where improvements could be made for both operators and users. For operators these include:

- providing clear detail about the design and operation of a dark pool to users and, for investment banks
- improving the monitoring of activity in their pools with a focus on operational integrity, best execution, client preferences and unwanted trading activity including market abuse
- doing more to identify and manage conflicts of interest.

Best practice for users included being very clear about the rationale for using dark pools and conducting sufficient due diligence to understand thoroughly the operating model of each pool they access as there can be significant differences between pools.

Source: [FCA](#)

FCA: Publishes occasional paper on attention, search and switching from savings market

The FCA has published an occasional [paper](#), *Attention, Search and Switching: Evidence on Mandated Disclosure from the Savings Market* along with [technical appendix](#), describing the findings of a series of field trials that explored how disclosure-type regulatory interventions could encourage consumers to switch to higher-paying savings accounts.

The new disclosure proposals were designed to help consumers identify better products and stimulate competition between firms. They test the effectiveness using field trials involving five regulated firms and 130,000 consumers on three interventions: information about comparable higher-rate-paying products, a pre-filled return form that enabled simplified switching and a reminder about the rate decrease. Consumers in the trials were either about to experience a decrease in their interest rate, or were on a rate lower than available on currently offered products.

Source: [FCA](#)

FCA: Launches call for input on crowdfunding rules

The FCA is seeking [input](#) on which areas should be considered as part of its upcoming review of the rules surrounding both investment-based and loan-based crowdfunding.

Loan-based crowdfunding issues include:

- considering whether financial promotions, due diligence and prudential standards are still appropriate for the way the market has developed
- whether platforms should be required to assess investor knowledge or experience of the risks involved in this type of investment.

Investment-based crowdfunding issues include:

- how conflicts of interest are managed on these types of platform
- whether the due diligence rules for platforms need to be strengthened.

Submissions are due by 8 September 2016.

Source: [FCA](#)

4

Overseas developments – UK (cont'd)

FCA: Publishes thematic review on Principals in the general insurance sector

The FCA has published a thematic review, *Principals and their appointed representatives in the general insurance sector (TR16/6)*, setting out the findings from the thematic review of principal firms and their appointed representatives in the general insurance sector.

The review identified significant shortcomings in relation to principal firms' understanding of their regulatory obligations for their appointed representatives and their control and oversight of their appointed representatives' activities. Over half of the 15 principal firms in the sample could not consistently demonstrate that they had effective risk management and control frameworks to identify and manage the risks arising from their appointed representatives' activities.

The report also found examples of potential mis-selling and customer detriment as a result of appointed representatives' actions at a third of the principal firms included in the review, with most of these issues not previously identified by the principal.

Source: [FCA](#)

FCA: UK establishes FinTech bridge with the Republic of Korea

The UK has established FinTech bridge with the Republic of Korea. The launch of the bridge included the signing of a regulatory Co-operation [agreement](#) between the UK's FCA and the Korea's Financial Services Commission (FSC). The agreement will enable the regulators to share information about financial services innovations in their respective markets, including emerging trends and regulatory issues.

The bridge will reduce the barriers to entry in a new jurisdiction and further encourage innovation in both countries' financial services sectors by strengthening links between the regulators and governments. It will make it easier for FinTech firms in the UK and the Republic of Korea to scale up internationally.

Source: [FCA](#)

FCA: Publishes final findings of credit card market study

The FCA has published a [report](#) on the final findings of its credit card market study. The FCA sets out a package of measures, which include a series of industry led proposals, to help consumers take better control of their spending. The final findings show:

- consumers shop around, switch and value the flexibility offered by credit cards
- competition is focused on certain product features such as introductory promotional offers and rewards
- higher risk consumers have a more limited choice of products and providers and have concerns when shopping around for credit cards
- new analysis carried out increased concern about credit card debt – 650,000 people had been in persistent debt for three years or more, and a further 750,000 people had been making systematic minimum repayments for that time.

Source: [FCA](#)

4

Overseas developments – US

CFTC: Staff issues guidance to clearinghouses on recovery plans and wind-down plans

The U.S. Commodity Futures Trading Commission's (CFTC) Division of Clearing and Risk (DCR) has issued a [memorandum](#) to clearinghouses providing guidance to further the development of recovery plans and wind-down plans.

The CFTC now requires that standard derivatives trades must be cleared. It has overhauled its rules regarding clearinghouse oversight, strengthened requirements regarding risk management and transparency, bolstered customer protection measures, and expanded and enhanced programs related to examinations, compliance, and risk surveillance.

The guidance sets questions that clearinghouses should consider:

- in evaluating whether particular tools for recovery and orderly wind-down should be included in their recovery plans and wind-down plans
- in designing proposed rule changes to support the inclusion of particular tools in such plans.

Source: [CFTC](#)

Federal agencies: Publishes revisions to interagency Q&A as regards community reinvestment

The Board of Governors of the Federal Reserve System (FRS), Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) (the Agencies), has published final [revisions](#) to *Interagency Questions and Answers (Q&A) Regarding Community Reinvestment*, providing additional guidance to financial institutions and the public on the agencies' *Community Reinvestment Act (CRA)* regulations in the following areas:

- availability and effectiveness of retail banking services
- innovative or flexible lending practices
- community development-related issues
- responsiveness and innovativeness of an institution's loans, qualified investments, and community development services.

The attached notice will be published shortly in the Federal Register.

Source: [FDIC](#)

Federal agencies: Proposes method to adjust threshold for exempting small loans

The Consumer Financial Protection Bureau (CFPB), the Federal Reserve Board (FRB), and OCC have issued a [proposal](#) detailing the method that will be used to make annual inflation adjustments to the threshold for exempting small loans from higher priced mortgage loan appraisal requirements.

The *Dodd-Frank Act* amended the *Truth in Lending Act* to add special appraisal requirements for higher-priced mortgage loans, including a requirement that creditors obtain a written appraisal based on a physical visit to the home's interior before making a higher-priced mortgage loan. The rules implementing these requirements contain an exemption for loans of \$25,000 or less and also provide that the exemption threshold will be adjusted annually to reflect increases in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

Source: [FRB](#)

4

Overseas developments – US (cont'd)

Federal agencies: Proposes method to adjust thresholds for exempting certain transactions

The FRB and the CFPB have issued a proposal detailing the method that will be used to adjust the thresholds for exempting certain consumer credit and lease transactions from the [Truth in Lending Act](#) and [Consumer Leasing Act](#) (Acts)

The *Dodd-Frank Act* requires that the exemption thresholds in the Acts be adjusted annually based on the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The calculation method proposed would allow the thresholds to keep pace with the CPI-W. Among other clarifications, the proposal details that if there is no annual percentage increase in the CPI-W, the agencies will not adjust the exemption thresholds from the prior year.

Source: [FRB](#)

FRB: Announces adoption of changes to part II of the Federal Reserve Policy

The FRB has released a [notice](#) on the adoption of changes to part II of the Federal Reserve policy on Payment System Risk (policy) to conform with enhancements to the Reserve Banks' same-day automated clearing house (ACH) service previously announced by the Board in 2015.

The policy establishes the procedures, referred to as posting rules, for the settlement of credits and debits to institutions' Federal Reserve accounts for different payment types. The policy changes relate to the posting rules for forward and return same-day ACH transactions. The policy will align the posting rules with changes that the Reserve Banks previously adopted to enhance the efficiency of the ACH network and the broader U.S. payment system.

The policy comes into effect from September 2016.

Source: [FRB](#)

OCC: Reports on risks facing National Banks and Federal Savings Associations

The Office of the Comptroller of the Currency (OCC) has published a [report](#), *Semiannual Risk Perspective*, addressing key issues facing banks, focusing on those that pose threats to the safety and soundness of banks and their compliance with applicable laws and regulations. Highlights from the report include:

- Strategic risk remains high as banks struggle to execute their strategic plans and face challenges in growing revenue.
- Credit risk is increasing because of strong loan growth combined with easing in underwriting standards.
- Operational risk concerns include increasing cyber threats, reliance on third-party service providers, and resiliency planning.
- Low energy prices, the potential for rising interest rates, and risks associated with banks partnering with marketplace lending firms are of concern and being monitored, as they may develop into broader system-wide issues.

Source: [OCC](#)

4

Overseas developments – US (cont'd)

SEC: Adopts amendments to rules of practice for administrative proceedings

The Securities and Exchange Commission (SEC) has adopted [amendments](#) updating its rules of practice governing its administrative proceedings, post consultation in 2015.

SEC has adopted the final amendments:

- extend the potential length of the prehearing period from the current four months to a maximum of 10 months for the cases designated for the longest timelines
- allow parties in the cases designated for the longest timelines the right to notice three depositions per side in single-respondent cases and five depositions per side in multi-respondent cases, and to request an additional two depositions
- clarify the types of dispositive motions that may be filed at various stages of proceedings and the applicable procedures and legal standards for the motions.

Source: [SEC](#)

SEC: Proposes rules to enhance order handling information available to investors

The SEC has proposed [rules](#) that for the first time, broker-dealers would be required to disclose the handling of institutional orders to customers. The rules would expand the information included in existing retail order disclosures.

The rules would require a broker-dealer to provide a customer, upon request, a report on its handling of that customer's institutional orders (orders in exchange-listed stocks with an original market value of at least \$200,000), containing specified monthly data for the previous six months.

The rules also would enhance current retail order disclosures by requiring more detailed information about the payments received by broker-dealers from execution venues or paid to such venues, reporting by calendar month rather than by quarter and separate reporting information for marketable and non-marketable limit orders.

Source: [SEC](#)

SEC: Adopts additional rules related to security-based swap transaction reporting

The SEC has adopted [amendments](#) and guidance related to rules regarding the regulatory reporting and public dissemination of security-based swap transactions (Regulation SBSR). The new rules are designed to increase transparency in the security-based swap market. The rules implement mandates under Title VII of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

The final rules:

- assign the reporting duties for platform-executed security-based swaps that will be submitted to clearing and for security-based swaps resulting from the clearing process
- establish regulatory reporting and public dissemination requirements for certain cross-border security-based swaps
- prohibit registered swap data repositories (SDRs) from imposing fees or usage restrictions on the security-based swap transaction data that Regulation SBSR requires them to publicly disseminate.

Source: [SEC](#)

4

Overseas developments – Asia

Hong Kong: HKMA launches IFFO

The Hong Kong Monetary Authority (HKMA) has launched the Infrastructure Financing Facilitation Office (IFFO) to promote development of Hong Kong as an infrastructure financing hub.

IFFO is an integral part of the HKMA, facilitating infrastructure investments and their financing by working with a cluster of key stakeholders. The functions of IFFO are:

- providing a platform for information exchange and experience sharing
- building capacity and knowledge on infrastructure investments and financing
- promoting market and product development
- facilitating infrastructure investment and financing flows.

More information about IFFO's work and its partners can be found in the [factsheet](#).

Source: [HKMA](#)

Hong Kong: HKMA consults on introducing mandatory clearing and expanding reporting

The HKMA and the Securities and Futures Commission (SFC) have published further consultation [paper](#) on introducing mandatory clearing and expand mandatory reporting for the second stage of the over-the-counter (OTC) derivatives regulatory regime.

Highlights include:

- removal of the requirement to submit pdf files when reporting transactions
- further clarification and guidance on completing specific data fields
- acceptance of internal code references (in place of other counterparty identifying particulars) when reporting transactions involving individuals.

The paper also includes a revised version of the specific data fields to be completed under the expanded reporting regime, and a revised list of entities that will be regarded as financial services providers for the purpose of mandatory clearing.

Source: [HKMA](#)

Japan: FSA launches tests of economic value-based evaluation and supervisory method

The Financial Services Agency (FSA) has decided to conduct field tests covering all insurance companies, with the aim of considering the economic value-based evaluation and supervisory method.

The FSA will conduct field tests that include trial calculations of the economic value of assets and insurance liabilities, etc. for all insurance companies, to comprehend to what practical extent insurance companies are dealing with the calculation and solvency condition at the current low interest rate environment. Findings obtained in the tests, including any practical issues, will be utilised for further consideration including following and contributing to international discussions.

A summary of results will be made public around March 2017.

Source: [FSA](#)

4

Overseas developments – Asia (cont'd)

Korea: FinTech bridge established between the UK and the Republic of Korea

The FinTech bridge has been established between the UK and the Republic of Korea. The bridge is an agreement that makes it easier for UK and the Republic of Korea to invest in FinTech, will help UK FinTech firms and investors access the Asian market and expand to the Republic of Korea, as well as attracting Korean FinTech companies and investors to the UK.

The bridge will support international expansion of UK and Korean FinTech firms.

The launch included the signing of a regulatory Co-operation Agreement between the UK's FCA and the Korean Financial Services Commission (FSC). The agreement will enable the regulators to share information about financial services innovations in their respective markets, including emerging trends and regulatory issues.

Source: [FSC](#)

Korea: FSS provides expanded financial products comparison service

The Financial Supervisory Service (FSS) has established a system which enables consumers to search financial products from all areas and compare their characteristics at a single platform. This one-stop service for search and comparison has been operated since January and considered favorable for financial consumers.

The FSS has also decided to provide additional information regarding loans, bank deposits/installment savings, tax-saving investment products and credit/debit cards.

The FSS is planning to make the additional information available by September 2016 through the cooperation with financial companies and relevant associations, and the data management platform for credit and debit cards would be available in April, 2017. The expanded service is expected to help users rationally choose financial products which are suitable for their purposes and also prevent them from wasting times and costs.

Source: [FSS](#)

Korea: FSS developed methods for upholding principle of self-responsibility

The FSS is making efforts to restore public trust in capital market and reform wrong sales practices with the aim of preventing financial companies from conducting mis-selling. FSS focuses on creating a sound culture for investment by undertaking practicable tasks one by one in order to implement the principle of self-responsibility. This is a follow-up to the second phase of "20 Reform Tasks". The FSS would like to strengthen its supervision over financial companies to see whether they put consumers' interests first and follow sales principles.

The FSS will continue promotion and education about the principle of self-responsibility for investors and seek a reasonable system improvement, which is to help a mature and advanced culture for financial investment to be settled.

The FSS will develop specified and detailed plans for improvement before the third quarter of this year in relation to each subtask of the "20 Reform Tasks"

Source: [FSS](#)

4

Overseas developments – Asia (cont'd)

Singapore: MAS issues guidelines on outsourcing risk management to FIs

The Monetary Authority of Singapore (MAS) has issued new [guidelines](#) on outsourcing risk management to financial institutions (FIs) following consultation.

The guidelines provide expanded guidance to the industry on prudent risk management practices for outsourcing, including cloud services, which have been adopted by a growing number of FIs.

Key changes to the guidelines include:

- introduction of a new section on cloud computing that sets out MAS' stance on cloud computing
- removal of expectation for FIs to pre-notify MAS of material outsourcing arrangements
- revision to the definition of “material outsourcing arrangement” to include, under certain circumstances, an arrangement that involves customer information.

Source: [MAS](#)

Singapore: MAS consults on enhancements on protection of customer's moneys and assets

MAS has released a [paper](#), *Consultation Paper on Enhancements to Regulatory Requirements on Protection of Customer's Moneys and Assets*, proposing to enhance the regulatory regime governing the protection of client moneys and assets held by capital markets intermediaries. These proposed enhancements take into account the international standards promulgated by the IOSCO and FSB.

These enhancements minimise the risk of loss or misuse of customer's moneys and assets during normal times and also facilitate the prompt return or transfer of customer's moneys and assets in the event of the default, resolution or insolvency of the financial institutions.

Submissions are due by 19 August 2016.

Source: [MAS](#)

Singapore: MAS in close discussion with SGX to enhance the governance of responsibilities

MAS has been in close discussion with SGX on enhancing the governance of SGX's regulatory responsibilities. The setting up of a separate subsidiary company to perform regulatory functions, together with the establishment of the independent Listings Committees in October 2015, will further strengthen SGX's role as a self-regulatory organisation (SRO).

SGX's move to transfer its regulatory functions to a separate subsidiary company will help to manage potential conflicts of interest between SGX's commercial and regulatory roles.

The independence of the subsidiary company from SGX will be an important factor for its success. MAS will continue to directly regulate SGX in terms of its obligations as a listed company and market operator, as well as maintain oversight of SGX's regulatory responsibilities as performed by its regulatory subsidiary.

Source: [MAS](#)

4

Overseas developments – Asia (cont'd)

Singapore: MAS proposes further revisions to RBC framework for insurers

MAS has published its third consultation [paper](#) on proposed revisions to the Risk-Based Capital (RBC) framework for insurers after taking into account the feedback received from the previous [consultation](#) in 2014.

Since the first consultation in 2012, MAS has been closely engaging stakeholders in the RBC framework review to ensure that the framework remains relevant to industry's needs while enhancing protection for policyholders. Key revisions include:

- Capital requirements for equity investment, credit spread, counterparty default and operational risk have been recalibrated downwards to more accurately reflect the risks they pose to insurers.
- The discounting of life insurance liabilities has been adjusted to reduce the impact of short-term volatility on insurers' capital adequacy. This will enable insurers to continue providing sustainable long-term insurance solutions to policyholders.

Submissions are due by 20 October 2016.

Source: [MAS](#)

Singapore: Speech by Ravi Mennon on reforms in banking regulation

Mr Ravi Menon, Managing Director at MAS, delivered his speech at Symposium on Asian Banking and Finance. He spoke on the topic, *Reforms in Banking Regulation – Effects and Outcomes*.

He addressed the following sub-topics in his speech:

- progress in regulatory reforms and their effectiveness
- implementation has been satisfactory but more needs to be done
- regulatory reforms have generally been effective
- ensuring that banks continue to serve the real economy
- bank profitability is important for bank stability.

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

Singapore: Speech by Chua Kim Leng on keeping pace with ML/TF risks

Mr Chua Kim Leng, Assistant Managing Director at MAS, delivered his speech at Asia Anti-Money Laundering Summit 2016. He spoke on the topic, *Keeping Pace with ML/TF Risks*.

He addressed the following three sub-topics in his speech:

- money laundering and terrorist financing activities (ML/TF) risks faced by the insurance industry
- complex and cross-border ML/TF activities
- effective mitigation against ML/TF risks.

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

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PwC publications

PwC AUS: High Court allows late payment fees

PwC Australia has published a report, *LegalTalk Alert: High Court allows late payment fees*.

The High Court of Australia has dismissed a class action against Australia and New Zealand Banking Group Limited (ANZ) by finding that the bank's late payment fees to its credit card account holders were enforceable. The High Court held ANZ was entitled to charge customers late payment fees of up to \$35, having regard to the bank's provisioning, regulatory capital, and operational costs.

The bank's customers were unsuccessful in their claims that the late payment fees were unenforceable as penalties at common law, and that the contractual provisions imposing the late payment fees breached various statutes which prohibited unconscionable conduct and unjust and unfair terms.

Whilst this decision analysed the legitimacy of late payment fees in the banking industry, the Court's analytical approach is likely to have broader application to those in other industries (e.g. telecommunications and utilities) that also impose late fees.

See [publication](#)

PwC: Exchange Traded Funds (ETFs) - a roadmap to growth

PwC has published a report, *Exchange Traded Funds (ETFs): A roadmap to growth*, presenting findings from the 2nd Annual Global ETFs survey.

Some of the key findings are:

- ETFs continue to dominate flows, setting a record US\$351 billion in global flows for 2015.
- Regional ETF record flows were achieved in Europe and Canada, while the US and Asia regions approached near record flows in 2015.
- The market for ETFs is likely to grow at a healthy rate over the coming years.
- New firms are expected to enter the ETF space, either organically or through acquisitions.
- More investor segments are likely to continue to find new and different ways to use ETFs as part of their investment strategy, which will help to possibly drive global ETF assets above US\$7 trillion by 2021.

See [publication](#)

PwC UK: Continued evolution of the Basel Leverage ratio

PwC UK has published a briefing note, *Continued evolution of the Basel Leverage Ratio*, setting out a summary of the latest revisions proposed by the BCBS, together with some initial perspectives on their implications for banks.

On 6 April 2016, BCBS [consulted](#) on proposed revisions to the design and calibration of the Basel III Leverage Ratio. The revisions are informed by its ongoing Basel III monitoring process in the parallel run period (since 2013) and industry feedback gathered since the initial release of the Leverage Ratio framework in January 2014.

The Leverage Ratio (LR) is expected to play a highly prominent role as a non-risk sensitive backstop supporting the banking prudential framework, when fully phased-in as a Pillar 1 measure on 1 January 2018.

See [publication](#)

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PwC publications (cont'd)

PwC US: SEC's reporting and public dissemination rule

PwC US has published a report, *SEC's reporting and public dissemination rule*.

On 13 July, the SEC has adopted a final rule related to the reporting and public dissemination of security-based swap (SBS) transaction information. The rule builds on an earlier reporting rule for security-based swap dealers (SBSDs) finalised in 2015.

Five key points from the SEC's reporting and public dissemination rule are:

- Cleared trade reporting aligns with the CFTC's recent amendment to its reporting framework.
- Expanded reporting for non-US SBSDs.
- Clarified compliance schedule for reporting.
- SBSDs now have certainty regarding which trades they should report.
- SEC Chair White aims to have the remaining substantive requirements for SBSDs completed by the end of the year.

See [publication](#)

PwC US: SEC's business continuity plan proposed rule

PwC US has published a report, *SEC's business continuity plan proposed rule*.

On 28 June, the SEC proposed a rule that would require investment advisers to adopt and implement formal business continuity plans (BCPs) outlining how they would minimise investor impact in the event of a major disruption to their business. The proposal is a continuation of the SEC's efforts to modernise and enhance oversight of asset managers. The five key points from the proposed rule for investment advisers:

- Investment advisers can leverage existing business continuity planning requirements.
- BCPs should identify reliance on key third-party service providers.
- Investment advisers and funds should consider third-party backup plans.
- BCPs will also need to account for key operational risks.
- Proposed transition planning is not detailed and faces questions.

See [publication](#)

PwC US: AML monitoring - New York regulator gets prescriptive

PwC US has published a report, *Financial crimes observer, AML monitoring: New York regulator gets prescriptive*, analysing the regulation's five most impactful elements and provides view of what institutions should do now.

The New York State Department of Financial Services (NYDFS) issued its final rule on 30 June requiring either senior officers or the board of directors to certify the effectiveness of AML and Office of Foreign Assets Control transaction monitoring and filtering programs.

The final rule, differs in several critical ways from an earlier version of the rule NYDFS proposed in December 2015, removed the provision stipulating potential criminal penalties for incorrect or falsified certification filings.

The rule will challenge institutions as it represents the first time a regulator has provided a prescriptive regulation regarding institutions' transaction monitoring and watch list filtering programs.

See [publication](#)

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PwC publications (cont'd)

PwC US: CFTC's amendment to swap data reporting

PwC US has published a report, *CFTC's amendment to swap data reporting*. The CFTC amended its reporting and recordkeeping rule for Swap Dealers and Derivatives Clearing Organisations in June 2016. The amendment addresses data quality issues identified after the agency began reviewing information submitted to the Swap Data Repositories and clarifies key areas of the existing rule and removes problematic valuation and confirmation data reporting requirements for cleared swaps.

Five key points from the CFTC's amendment to swap data reporting are:

- The CFTC is addressing industry concerns.
- Duplicative valuation reporting is no longer required.
- The CFTC converges with the SEC.
- Will the CFTC continue to listen to the industry on future reporting challenges?
- Even with two vacancies, the CFTC continues to make progress.

See [publication](#)

PwC US: SEC Sweep - customer protection rule

PwC US has published a report, *Regulatory brief, SEC Sweep: Customer protection rule*, analysing the most important areas for broker-dealers to review to prepare for the SEC sweep.

The SEC recently announced its intention to perform a sweep of US broker-dealers' compliance with the Customer Protection Rule (CPR). Violations are expected to result in considerable enforcement actions, but broker-dealers can self-report violations by 1 November to obtain more favorable settlement terms.

The CPR requires broker-dealers to deposit cash (or securities) owed to customers into a Reserve Bank Account in order to protect customer funds from proprietary activities and to ensure the timely return of assets in the event of a broker-dealer failure. A broker-dealer's failure to maintain the appropriate amount owed to customers would be a violation of the CPR and must be reported to the SEC. As such, broker-dealers will be well-served to assess their current CPR processes.

See [publication](#)

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