

June 2015

***PwC Regulatory Update***



## 1

# Legislative/Government developments

## Australia signs trade agreement with China

Australia has signed a Free Trade Agreement with China. The China-Australia Free Trade Agreement ([ChAFTA](#)) is designed to secure existing trade and provide opportunities for future growth across a range of areas including goods, services and investment.

The Agreement will enter into force after the completion of domestic legal and parliamentary processes in China and Australia, including **review by the Australian Parliament's Joint Standing Committee on Treaties**, and the Senate Foreign Affairs, Defence and Trade References Committee.

Source: [Minster for Trade & Investment](#)

## ASIC Registry tender process begins

The Government plans to call for registrations of interest as they test the market on the ability of a private operator to upgrade, operate and add value to the registry functions of the Australian Securities and Investments Commission (ASIC) soon.

This is the first step to explore whether a private operator is better placed to run the ASIC Registry and to take on the necessary investment in technology to enhance customer service.

In considering a private operator, the Government will also take into account its preference for the ASIC Registry to maintain its existing operations in Traralgon, Victoria. The Government will retain **ownership of the ASIC Registry's base data**.

Registrations of interest opened on 29 June 2015 and are due by 4pm Australian Eastern Standard Time on Monday 27 July 2015.

Source: [Minister for Finance](#)

## 1

# Legislative/Government developments

## Australia to join the Asian Infrastructure Investment Bank

The Government announced that Australia will become a founding member of the Asian Infrastructure Investment Bank (AIIB).

The AIIB will work closely with the private sector for Australian businesses to take advantage of the growth in infrastructure in the region. The governance of the AIIB will be based on best practice, ensuring that all members will be directly involved in the direction and decision making of the bank.

Australia will contribute around A\$930 million as paid-in capital to the AIIB over five years and will be the sixth largest shareholder. The AIIB will have paid-in capital of US\$20 billion (\$A25.2 billion) with total authorised capital of US\$100 billion (A\$126.2 billion).

Source: [Treasurer of the Commonwealth of Australia](#)

## Foreign investment rules producing results

The Foreign Investment Review Board (FIRB) has 195 cases under investigation one month after the Government announced its plans to improve foreign investment rules for residential real estate.

Of the 195 cases, 24 are foreign investors who have voluntarily come forward to identify that they may have breached the foreign investment rules.

The value of the properties in question range from the prestige market to real estate in the suburbs of our capital cities.

Another 40 cases relate to referrals from the community where members of the public suspect foreign investors may have broken the rules by using complex structures and illegal leasing arrangements to hide foreign ownership.

As part of the reforms to strengthen the foreign investment rules, the Government transferred all residential real estate functions from Treasury to the Australian Taxation Office (ATO).

Foreign investors who think they may have broken the rules will still be forced to sell the properties, but will not be referred for criminal prosecution if they voluntarily come forward before 30 November.

Source: [Treasurer of the Commonwealth of Australia](#)

## 1

# Legislative/Government developments

## Finalising the Future of Financial Advice laws

The Government has agreed with the Opposition to progress minor and technical refinements to the Future of Financial Advice (FOFA) laws contained in the *Corporations Act 2001*.

The agreed refinements will be progressed through a new regulation, before 1 July 2015, to:

- clarify that advice provided to an employer about default superannuation funds is considered to be providing a financial service to a retail client
- make FOFA consistent with other parts of the Corporations Act by including a wholesale and retail client distinction
- update FOFA to treat non-cash payments, such as travel money cards, consistently with other simple financial products
- ensure that the modified best interests duty applies in respect of advice on basic banking products and/or general insurance even where provided at the same time as advice on the provision of consumer credit insurance (which attracts the full best interests duty)
- make the conflicted remuneration exemption that applies to basic banking products and general insurance applicable to benefits relating to consumer credit insurance where an employee or agent of an authorised deposit-taking institution provides advice on any or a combination of these three products
- ensure that benefits provided by a retail client to their financial adviser are exempt from conflicted remuneration provisions.

Source: [Assistant Treasurer](#)

## Improving superannuation governance

The Government has released exposure draft legislation to improve governance in superannuation.

The exposure draft legislation released proposes that all Australian Prudential Regulation Authority (APRA) regulated superannuation funds, including corporate, industry, public sector, and retail funds, have a minimum of one third independent directors on their trustee board and an independent chair. The new governance rules will not apply to self-managed superannuation funds.

Further, and consistent with rules that apply to Australian Securities Exchange (ASX) listed companies, trustees of APRA-regulated super funds will be required to report on whether they have a majority of **independent directors, on an 'if not, why not' basis, in their annual report**.

**The Government's proposal for a minimum one third independent directors and an independent chair** is in-line with several recent independent reviews of the superannuation system that recommended that superannuation trustee boards include a higher number of independent directors.

Recognising that a number of existing funds will need to reconstitute their boards as a result of these reforms, the Government proposes a three year transition period will apply from the date of Royal Assent to the legislation. However, where an APRA-regulated super fund is established after 1 July 2016 it will have to adhere to the new governance measures from the time it is established.

Interested stakeholders are invited to comment on the exposure draft legislation and explanatory material. Submissions close on 23 July 2015.

Source: [Assistant Treasurer](#)

## 1

# Legislative/Government developments

## Industry reform proposal on retail life insurance

The Government welcomed the comprehensive reform package received from the Association of Financial Advisers (AFA), Financial Planning Association of Australia (FPA) and Financial Services Council (FSC) on behalf of the retail life insurance industry.

A key component of this package is the abolition of the current high upfront commission structure.

The package also presents a number of measures which together are designed to:

- address incentives for poor quality advice
- address conflicts of interest, including conflicted remuneration
- strengthen monitoring and enforcement
- increase transparency
- encourage industry innovation and efficiency.

**The Government will consider industry's proposals in the context of its response to the Financial System Inquiry.**

Source: [Assistant Treasurer](#)

## 2

# What have the regulators been up to?

## ASIC

Australian Securities and  
Investments Commission

## APRA

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## AUSTRAC

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Reports and Analysis  
Centre

### ASIC updates guidance on collective action by investors

ASIC has released updated Regulatory Guide 128 *Collective action by investors* (RG 128) for investors to help them in taking collective action to improve the corporate governance of listed entities.

RG 228 includes:

- illustrative examples of conduct which is unlikely or more likely to trigger the takeover and substantial holding provisions
- an **outline of ASIC's approach to enforcement of these provisions** in the context of collective action by investors, which includes considering whether the conduct is control seeking rather than simply promoting good corporate governance
- an overview of some other legal and regulatory issues that can arise in relation to investor engagement.

ASIC has discontinued class order relief that facilitated voting agreements between institutional investors.

See [media release](#)

### ASIC reduces red tape for changes of auditors

ASIC has released the revised Regulatory Guide 26 *Resignation, removal and replacement of auditors* (RG 26). RG 26 sets out how to apply for ASIC consent to the resignation, removal and replacement of auditors of registered schemes, Australian Financial Services licensees and credit licensee trust accounts.

ASIC will now generally consent to the resignation of an auditor at any time of the year. Previously, ASIC only consented to the resignation to take place at an annual general meeting (AGM) unless there were exceptional circumstances.

ASIC will consent to the resignation of an auditor at any time if:

- they have no concerns in connection with the resignation, such as a concern where there is a disagreement between management and the auditor over an accounting treatment, and
- the change in auditor and the reasons for the change are communicated to members or in a disclosure notice, unless the change occurs at an AGM of a public company.

See [media release](#)

## 2

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### ASIC consults on remaking ASIC class orders on financial reporting

ASIC has released a Consultation Paper 233 *Remaking ASIC class orders on financial reporting* ([CP 233](#)), which outlines the class orders to be remade and the rationale for remaking them. CP 233 **proposes to remake five class orders that are due to expire ('sunset')** in 2015 and 2016. The class orders affect the disclosures made in financial reports and the manner in which financial reports are presented to security holders.

The class orders proposed to be remade are:

- Class Order [CO 05/638] *Anomalies preventing certain large proprietary companies from being grandfathered*
- Class Order [CO 05/639] *Application of accounting standards by non-reporting entities*
- Class Order [CO 05/642] *Combining financial reports of stapled security issuers*
- Class Order [CO 05/644] *Disclosing post balance date acquisitions and disposals*
- Class Order [CO 06/441] *Including different registered scheme financial reports in a single document.*

Submissions close on 17 August 2015.

See [media release](#)

### Life insurance industry reform proposals

ASIC has noted the announcement of a life insurance industry reform package by the Financial Services Council, the Association of Financial Advisers and the Financial Planning Association, following a sector-commissioned review chaired by John Trowbridge.

The [review](#), along with ASIC follow-up investigations and ongoing enforcement and regulatory action, found that industry standards need to improve and that high up-front commissions adversely impact on the quality of advice.

See [media release](#)



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### Impairment of non-financial assets : The role of directors

ASIC has released an Information Sheet 203 *Impairment of non-financial assets: The role of directors and audit committees* ([INFO 203](#)). It discusses matters including:

- the need for impairment testing
- the process for assessing impairment
- common issues with impairment calculations
- questions that may be asked of external auditors.

As ASIC continues to find issues with the impairment of goodwill and other non-financial assets by a number of companies. The new information sheet is a resource to assist directors when considering the need for impairment, and the adequacy of impairment work.

See [media release](#)



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### Letter to RSE licensees regarding proposed amendments to governance requirements

APRA has released a [letter](#) to All RSE licensees in relation to proposed amendments to governance requirements for RSE licensees.

The Government has recently released for consultation proposed changes to the *Superannuation Industry (Supervision) Act 1993* (the SIS Act) which set out minimum independence requirements for boards of registrable superannuation entity (RSE) licensees (RSE licensees). The Government has indicated that the legislative changes are expected to take effect on 1 July 2016.

These changes will require RSE licensees to put in place, by the end of a three year transition period, boards with at least one-third independent directors and an independent chair.

See [media release](#)

### Letter to RSE licensees regarding revisions to Superannuation Reporting Standards

APRA has released a [letter](#) to all RSE licensees on revisions to superannuation reporting standards.

APRA released 26 reporting standards as final, pending determination on 28 April 2015. Since the release of these standards, industry and other stakeholders have notified APRA of a small number of areas in some of these reporting standards which would benefit from further clarification.

APRA has updated the following seven reporting standards:

- Reporting Standard SRS 001.0 Profile and Structure (Baseline) (SRS 001.0) has been amended to clarify when data required under SRS 001.0 must be submitted on an ad hoc basis (i.e. on a date other than 30 June each year).
- Reporting Standard SRS 160.0 Defined Benefit Matters, Reporting Standard SRS 330.2 Statement of Financial Performance and Reporting Standard SRS 530.0 Investments have been amended to correct minor typographical errors.
- Reporting Standard SRS 533.0 Asset Allocation has been amended to correct a minor typographical error and to correct an omission in the description of reporting of derivative instruments.
- Reporting Standard SRS 700.0 Product Dashboard (SRS 700.0) has been amended to make clear that information reported under SRS 700.0 is reported on the same basis as information is required to be disclosed in Product Disclosure Statements.
- Reporting Standard SRS 710.0 Conditions of Release has been amended to further clarify the reporting of unrestricted non-preserved pension benefits.

See [media release](#)

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### Letter to CEOs of general insurers and life companies on public disclosure for prudential purposes for insurers

APRA has release a [letter](#) to CEOs of general insurers, Level 2 insurance groups and life companies (including friendly societies) in relation to public disclosure for prudential purposes for insurers.

**APRA's capital adequacy framework for insurers is based on a three pillar approach.** The three pillar approach is well-established in the regulatory world and is used in the International Association of Insurance Supervisors (IAIS) standards, Basel Committee on Banking Supervision's capital framework<sup>2</sup> and in Solvency II in Europe. For the purposes of this letter all references to the three pillars refer to the insurance framework only.

APRA would prefer that the insurance industry and individual insurers take the lead on improving public disclosures. APRA is not proposing to impose any additional Pillar 3 requirements on insurers at this time. This letter draws attention to industry better practice and suggests practical and effective steps that each insurer can take to enhance the quality of its public disclosures for prudential purposes.

See [media release](#)

### Letter to insurers regarding prudential and reporting framework for APRA's supervision of private health insurers in Australia

APRA has released a letter to all private health insurers and other interested parties. This letter outlined APRA's response to submissions made in relation to the [March 2015 consultation paper, Proposed prudential and reporting framework for APRA's supervision of private health insurers in Australia](#).

Together with this letter, APRA has released [prudential standards, APRA Rules and reporting standards](#).

These materials are based on the legislation currently before Parliament. Should amendments be made to that legislation, APRA will consider whether any change is necessary to the prudential standards, APRA rules or reporting standards.

APRA confirmed they will not determine the relevant legislative instruments until after the legislation has received Royal Assent.

See [media release](#)

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### **Opening Statement to the Senate Economics Legislation Committee**

Wayne Byres, Chairman at APRA addressed the Senate Economics Legislation Committee, Canberra. He highlighted on their efforts to reinforce sound standards in lending for housing.

Australian ADIs and the largest lenders have acknowledged the need for collective action to ensure Australian housing loan portfolios remain low risk and a key source of stability for the banking system as a whole. Some lending practices have been removed which were less than prudent. APRA will be watching carefully over the remainder of the year to make sure that revised policies and plans are genuinely being put into effect and maintained by individual lenders.

He also commented on private health insurance. The Government recently introduced a number of bills into Parliament to transfer responsibility for the prudential supervision of private health insurance from the Private Health Insurance Administration Council (PHIAC) to APRA. APRA and PHIAC staff have actively engaged for much of the past year to prepare for this transfer. Both agencies are ready to deliver a seamless and effective transfer of responsibilities on 1 July.

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

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### **Response to Consultation Paper on proposed changes to Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 - 3.1B**

ASX had issued a [consultation paper](#) earlier in 2015 on proposed changes to Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 -3.1B (GN 8) expanding the guidance on earnings surprises, publication of analyst forecasts and consensus estimates, and investor briefings.

ASX has released a detailed [consultation response](#) on 22 June 2015, along with the final version of GN 8 ([Attachment A](#)), a mark-up comparing the final version to the draft version of GN 8 issued with **ASX's consultation paper** ([Attachment B](#)), a mark-up comparing the final version to the current (pre-consultation) version of GN 8 ([Attachment C](#)), and a mark-up of **ASX's Abridged Guide to Continuous Disclosure** reflecting the changes it has made to GN 8 ([Attachment D](#)).

See [media release](#)

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### AUSTRAC to exchange financial intelligence

AUSTRAC signed a Memorandum of Understanding (MoU) with Russia, Bahrain and the Turks & Caicos Islands.

AUSTRAC now has 76 [exchange instruments](#) for sharing financial intelligence with foreign counterparts. The MoUs, set out the agreed terms for information exchange and include protections around

- confidentiality of information exchanged
- the information being used solely for the purpose for which it is communicated to the foreign jurisdiction.

These MoUs **are designed to enhance Australia's** capacity to counter the terror threat and combat transnational crime in the critical regions of the Middle East, Russia and the Caribbean. They set out the terms for exchanging information, with protections around confidentiality and the ways the information can be used.

See [media release](#)

### Amendments to Chapter 4 (customer identification) of the AML/CTF Rules

AUSTRAC has released [amendments](#) to Chapter 4 of the AML/CTF Rules. These amendments provide a further version of the electronic safe harbour procedure for customers, broaden the collection of identification information from sources other than the customer, and extend current customer identification exemptions to include beneficial owners and politically exposed persons.

See [media release](#)

# 3

## Industry bodies

### FSC

Financial Services Council

### ASFA

Association of  
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### ABA

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Association

### APCA

Australian Payments  
Clearing Association

#### Significance of the Investment Manager Regime legislation for financial services trade

The Investment Manager Regime (IMR) legislation which was passed through Parliament are designed to remove uncertainties for foreign investors on how Australia's tax laws apply to foreign funds.

The IMR is intended to provide clarity and certainty for offshore investors regarding their tax treatment when using Australian based managers. Significant tax uncertainty can arise when an Australian based manager is used to manage money for foreign investors, regardless of whether the assets purchased are Australian or foreign.

See [media release](#)

#### Enhanced register of financial advisers is designed to increase transparency for consumers

FSC stated that the significant number of Australians who have accessed the Financial Advisers Register since its launch is a positive sign. It is designed to provide consumers with the relevant and important details of financial advisers so they can make informed choices. More than 100,000 searches have been conducted since the register was launched.

**Australians now have access to information such as advisers' training, qualifications and professional association memberships, product areas they can advise on, the ultimate owner of the licensee and the parent company and any bans or disqualifications.**

See [media release](#)

## 3

## Industry bodies (cont'd)

### FSC

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#### Research Discussion Paper on superannuation and the economy

ASFA has released a [research discussion paper](#), entitled *Superannuation and the economy*. The research shows that compulsory superannuation has substantially diversified the assets Australians hold, reducing risk and increasing returns for people. It also shows that superannuation is reducing the cost of the Age Pension on the Budget, has increased savings and reduced the cost of investment, which have all contributed to economic stability and growth.

The growing superannuation pool has contributed to Australia having a high savings rate, relative to the Organisation for Economic Co-operation and Development (OECD) average, which is reducing Australia's reliance on foreign capital, reducing both the risk and the cost of investment in Australia.

Increased domestic savings reduces reliance on foreign capital, with the latter recognised by the ratings agencies as a key risk to the security of the Australian financial system.

See [media release](#)

#### ASFA to work with global investment hub

The Global Infrastructure Hub, chaired by Secretary to the Treasury John Fraser, will be reporting to the G20 and will work with **stakeholders around the globe to drive progress on the G20's infrastructure agenda**, including improving knowledge sharing on infrastructure projects and addressing gaps in knowledge and data.

See [media release](#)



## 3

## Industry bodies (cont'd)

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#### Fees for banking services

The ABA has released a [report](#), entitled *Fees for Banking Services – 2015*. It shows that Australians are using their bank transaction accounts more than ever, while they are paying the lowest average fees in six years. Key highlights of the report are:

- Aggregate bank service fees in 2014 were \$12.0 billion - increasing by \$327 million or 2.8% over the past year.
- Bank service fees from households increased by 1.5% to \$4.2 billion, while for businesses it increased by 3.5% to \$7.8 billion.
- Bank service fees from households are well below the peak of \$5.2 billion in 2009.
- The growth rate for bank service fees from businesses in 2014 continues the subdued growth seen last year (2013). The higher growth in bank service fees paid by businesses over 2009 and 2010 reflected increased bank intermediation as a result of the global financial crisis (GFC).

The report also looks at the growth in bank service channels, such as branches and ATMs, and the improvements in banking products and services.

See [media release](#)

## 3

## Industry bodies (cont'd)

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#### Payments fraud on Australian cards occurring mainly online

APCA has released a [report](#), entitled *Australia Payments Fraud – Details and Data*. It provides new payment fraud data for 2014 and a graphical overview of trends from 2009 to 2014. It shows that fraud on Australian payment cards continues to increase in the online environment reflecting a global trend towards increasing cybercrime risks.

As criminals continue to increase their focus on cyber space, the industry is working to respond with innovative fraud prevention measures e.g. the industry roll out of tokenisation. This is a technique that replaces sensitive information, such as a card number, with a non-sensitive replacement value or token. If captured, the token itself cannot be used for normal card-not-present transactions and as such is of no value to criminals.

The report highlights measures underway to help further reduce counterfeit/skimming fraud and lost and stolen fraud including the roll out of chip on proprietary debit cards, moving to chip-reading at ATMs and mandatory PIN authentication on most cards from November 2014.

See [media release](#)

## 4

# Overseas developments – Global

## Joint Forum: Releases report on credit risk management across sectors

The Joint Forum conducted a survey in February 2015 with supervisors and firms in the banking, securities and insurance sectors to examine and understand the current state of credit risk management against the backdrop of a reformed regulatory framework since the crisis. Comments to this survey were due by 4 March. Based on the analysis of the responses, the Joint Forum issued its final [report](#) on 2 June making four main recommendations for consideration by the supervisors surveyed.

Source: [BIS](#)

## IOSCO: Publishes good practices on reducing reliance on CRAs in Asset Management

The International Organization of Securities Commissions (IOSCO) published its final [report](#) on Good practices on reducing reliance on credit rating agencies (CRAs) in Asset Management, which provides a set of good practices for reducing over-reliance on external credit ratings in the asset management industry.

The report stresses the importance of asset managers having the appropriate expertise and processes in place to assess and manage the credit risk associated with their investment decisions. The reports lists a set of eight good practices to reduce over-reliance on external credit ratings in the asset management industry.

Source: [IOSCO](#)

## IAIS: Consultation on Revision of Insurance Core Principles

The International Association of Insurance Supervisor (IAIS) is presenting for [consultation](#) proposed revisions to the following Insurance Core Principles:

- [ICP 4](#) Licensing
- [ICP 5](#) Suitability of Persons
- [ICP 7](#) Corporate Governance
- [ICP 8](#) Risk Management and Internal Controls
- [ICP 23](#) Group-wide Supervision
- [ICP 25](#) Supervisory Cooperation and Coordination.

Source: [IAIS](#)

## 4

# Overseas developments – Europe

## EBA: Publishes guidelines on triggers for resolution

The European Banking Authority (EBA) has published its final [Guidelines](#) on the circumstances under which an institution **shall be considered as 'failing or likely to fail'** (triggers for resolution). These Guidelines aim at promoting convergence of EU supervisory and resolution practices in relation to how resolution should be triggered.

Source: [EBA](#)

## EBA: Publishes final draft standards on assessment methodologies

EBA has published its [final draft](#) Regulatory Technical Standards (RTS), which specify the criteria that Competent Authorities need to take into account before granting institutions permission to use advanced measurement approaches (AMA) for calculating their capital requirements for operational risk.

These RTS are part of the overall review of internal models undertaken by the EBA and are part of the Authority's efforts to harmonise practices for the approval of internal models in the area of credit, market and operational risk models across the EU banking sector. These RTS will be part of the Single Rulebook aimed at enhancing regulatory harmonisation in the banking sector across the European Union.

Source: [EBA](#)

## EBA: Publishes final report on the monitoring of Additional Tier 1 capital instruments

EBA has published the [final version](#) of its updated report on the monitoring of Additional Tier 1 (AT1) capital instruments issued by EU institutions, following a public hearing held on 18 May 2015. The [slides](#) presented during the public hearing can be found

Source: [EBA](#)

## 4

# Overseas developments – Europe (cont'd)

## European Commission: Extends transitional period for capital requirements

In light of ongoing discussions between the European Commission and the US Commodity Futures Trading Commission on **the recognition of each other's central counterparties under EMIR**, the European Commission has had to postpone the transitional period for capital requirements **for EU banking groups' exposures to central counterparties under the CRR** by another six months. The current transitional period **expires on 15 June 2015**. The Commission's [Implementing Act](#) adopted on 4 June extends this period to December 2015.

Source: [European Commission](#)

## European Commission: Adopt third country equivalence decisions under Solvency II

The European Commission has adopted its first round of third country equivalence decisions under Solvency II. [Switzerland](#) is granted full equivalence with articles 227 (solvency calculation), 260 (group supervision) and 172 (reinsurance) for an indefinite period. The [other](#) equivalence decision adopted concerns six third countries: Australia, Bermuda, Brazil, Canada, Mexico and the USA. It is granted for a period of 10 years.

After receiving equivalence, EU insurers can use local rules to report on their operations in third countries, while third country insurers are able to operate in the EU without complying with all EU rules. The European Parliament and the Council now have three months to object.

Source: [European Commission](#)

## European Commission: Pension funds granted further 2 year exemption

On 5 June, the European Commission adopted a [Delegated Act](#) in accordance with Article 85(2) of EMIR, extending transitional relief for European pension funds from centrally clearing certain derivatives trades by an additional two years (up to 16 August 2017), giving central counterparties more time to find a technical solution to deal with the fact that pension funds have little cash as margin for central clearing.

Source: [European Commission](#)

## 4

## Overseas developments – Europe (cont'd)

### Teresa Owusu-Adjei (PwC Partner): Performance fees can help 'beat' passives

Teresa Owusu-Adjei, partner at PwC, expects to see active managers increasingly use performance fees to offer pricing models that compete with passive funds. The perception would be that they are fairer for the investor than management fees, according to Ms Owusu-Adjei.

She expects to see increased regulatory scrutiny on the fees as they grow in popularity over the next five years.

Source: Ignites Europe

### ESMA: Launches new strategy and publishes 2014 annual report

ESMA published its [strategy for 2016-2020](#). As ESMA is moving from its formative years to the next phase, a strategic review was conducted to set the new direction and priorities of ESMA within this changing environment. This strategic review also took into account various external evaluations.

In addition, ESMA also published its [annual report for 2014](#), reporting on the achievements of its third year in existence.

**Under its new strategy, ESMA's focus will** now shift from rulemaking towards the implementation of rules and ensuring the convergence of supervisory practices. ESMA also expects that new regulatory work may follow from current initiatives such as the Capital Markets Union.

Source: [ESMA](#)

### EBA: Issues final guidelines and its opinion on mortgage creditworthiness assessments and arrears and foreclosure

EBA has published its final Guidelines on [creditworthiness assessment](#), as well as [arrears and foreclosure](#). These Guidelines support the national implementation by Member States of the forthcoming Mortgage Credit Directive (MCD). They are designed to ensure that consumers are protected consistently across the European Union when interacting with creditors. The Guidelines apply from 21 March 2016, the transposition date of the MCD.

As a further support to the implementation of the MCD, the EBA published their [Opinion](#) on Good Practices for Mortgage Creditworthiness Assessments and Arrears and Foreclosure, including expected mortgage payment difficulties.

Source: [EBA](#)

## 4

# Overseas developments – Europe (cont'd)

## EIOPA: Publishes the updated reporting template and DB reporting spreadsheet tool

EIOPA has published the [updated reporting template](#) and the DB reporting spreadsheet [updater tool](#) for the occupational pensions stress test and quantitative assessment.

Source: [EIOPA](#)

## Official Journal of the European Union: Amending Delegated Regulation with regard to RTS

European Union has released an amending Delegated [Regulation](#) with regard to regulatory technical standards (RTS) for own funds requirements for institutions. This Regulation is based on the draft RTS submitted by the European Banking Authority to the Commission.

EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group. The Delegated Regulation enters into force on 22 June (twenty days following its publication in the OJ) and will directly apply in all member states from that date.

Source: [Official Journal of the European Union](#)

## Official Journal of the European Union: Regulation on information accompanying transfers of funds

European Union has released a [regulation](#) on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006. The implementation and enforcement of this Regulation, including FATF Recommendation, is a means of preventing and combating money-laundering and terrorist financing. This Regulation is not intended to impose unnecessary burdens or costs on payment service providers or on persons who use their services. The preventive approach should be targeted and proportionate and should be in full compliance with the free movement of capital, which is guaranteed throughout the Union.

The full traceability of transfers of funds can be a particularly important and valuable tool in the prevention, detection and investigation of money laundering and terrorist financing, as well as in the implementation of restrictive measures.

Source: [Official Journal of the European Union](#)



## 4

# Overseas developments – Europe (cont'd)

## Official Journal of the European Union: Directive for the purposes of money laundering or terrorist financing

European Union has released a [directive](#) on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. This Directive is the fourth directive to address the threat of money laundering.

The preventive measures laid down in this Directive should address the manipulation of money derived from serious crime and the collection of money or property for terrorist purposes. The misuse of the financial system to channel illicit or even lawful money into terrorist purposes poses a clear risk to the integrity, proper functioning, reputation and stability of the financial system.

Source: [Official Journal of the European Union](#)

## European Commission: Proposal on new data protection rules to boost EU Digital Single Market supported by Justice Ministers

Ministers in the Justice Council have sealed a general approach on the Commission proposal on the Data Protection Regulation. Trilogue negotiations with the Parliament and the Council started in June -the shared objective is to reach a final agreement by the end of 2015.

The aim of the data protection reform launched by the Commission in 2012 ([IP/12/46](#)) is to enable people to better control their personal data. Modernised rules are designed to allow businesses to make the most of the opportunities of the Digital Single Market by cutting red tape and benefiting from reinforced consumer trust.

Source: [European Commission](#)

## Council: More transparency for securities financing transactions

The Council and the European Parliament reached an agreement on 17 June 2015 on a regulation to improve the transparency of securities lending and repurchase transactions. The regulation is designed to enhance financial stability by ensuring that information on so-called securities financing transactions is efficiently reported to trade repositories and investors in collective investment undertakings.

Source: [Council of the European Union](#)

## 4

# Overseas developments – Europe (cont'd)

## FIA Europe: Publishes review of European regulatory reform

FIA Europe has published a [white paper](#), *A review of the cumulative effect of European derivatives law reform*, to assist key legislative and regulatory bodies in addressing inconsistencies and unintended consequences brought about by a range of derivatives regulations.

Among the core recommendations in the paper are:

- amending the Leverage Ratio under Basel III to recognise the exposure-reducing effect of segregated margin
- allowing indirect clearing clients to opt out of the 'leapfrog' payment regime
- exempting exchange-traded derivatives from the pre-execution and straight-through processing checks under MiFIR
- greater harmonisation of cross-border regulation.

Source: [FIA Europe](#)

## EBA: Issues amended technical standards on leverage ratio disclosure and reporting

EBA published its updated Implementing Technical Standards (ITS) on disclosure and supervisory reporting of leverage ratio for EU institutions. As part of the EU Single Rulebook in the banking sector, these standards aim at harmonising reporting and disclosure of the leverage ratio across the EU by providing institutions with uniform templates and instructions.

Source: [EBA](#)

## ISDA: European Bank Recovery and Resolution Directive Implementation Monitor

The European Bank Recovery and Resolution Directive (BRRD) is the **European Union's (EU) implementation of the [Financial Stability Board's Key Attributes on Effective Resolution Regimes for Financial Institutions](#)**. The EU directive is designed to provide a minimum harmonization regime for resolution of banks and investment firms in the EU. The implementation date for EU member states was 1 January 2015.

The implementation of the BRRD is currently ongoing in all EU member states, and is at different stages of the respective legislative process. In order to keep track of the status of implementation, ISDA has launched the BRRD Implementation Monitor that covers all EU/EFTA/EEA member states.

Source: [ISDA](#)

## 4

# Overseas developments – UK

## CMA: Gains power to make written recommendations on proposals for legislation

The Competition and Markets Authority (CMA) has additional powers to make and publish written recommendations to ministers on the impact of proposals for Westminster legislation on competition within any UK market(s) for goods or services from 26 May 2015. The existing powers of the CMA under section 7 of the Enterprise Act 2002 have been revised by section 37 of the *Small Business, Enterprise and Employment Act 2015*.

Source: [CMA](#)

## PRA: The implementation of ring-fencing: legal structure, governance and the continuity of services and facilities - PS10/15

PRA released a [policy statement](#) for banks, which will be required to ring-fence their core activities. This will include banking groups with core deposits greater than £25 billion.

The policy statement provides feedback on the responses received to [Consultation Paper 19/14](#) published in October 2014. The policy statement covers three areas:

- legal structure arrangements of banking groups subject to ring-fencing
- governance arrangements of ring-fenced bodies
- arrangements to ensure continuity of services and facilities to ring-fenced bodies.

The Government has stated its intention for ring-fencing to take effect from 1 January 2019.

Source: [PRA](#)

## PRA: Depositor and policyholder protection - technical amendments - CP21/15

PRA has released a [consultation paper](#) (CP) on depositor and policyholder protection. It sets out proposed changes to the Depositor Protection Part in the PRA Rulebook and to the FEES transitional provisions and schedules in the PRA Handbook. The proposed rule changes arise partly as a result of issues identified with the rules consulted on in [CP20/14](#) 'Depositor protection', [CP4/15](#) 'Depositor, dormant account and policyholder protection – amendments' and [CP15/15](#) 'Depositor and dormant account protection'.

PRA published [PS6/15](#) 'Depositor and dormant account protection' and [PS9/15](#) 'Depositor and dormant account protection – further amendments' containing amended rules in April and May 2015 respectively.

Source: [PRA](#)

## 4

# Overseas developments – UK (cont'd)

## FRC: Publishes Audit Quality Inspections Annual Report 2014/15

The Financial Reporting Council (FRC) has published its 11th [annual report](#) on its inspections of audit quality in the UK and individual reports on five of the largest firms, noting that overall the quality of auditing in the UK is improving. There is room for further improvements in the **quality of auditing and at the FRC's request** a number of initiatives are being undertaken by firms to address recurring issues including undertaking root cause analysis; developing action plans to address weaknesses; and, in some instances, performing additional work to remedy significant deficiencies.

Audit Quality Inspection Report 2014/15: [Deloitte LLP](#); [Ernst & Young LLP](#); [KPMG LLP and KPMG Audit Plc](#); [PricewaterhouseCoopers LLP](#); [BDO LLP](#)

Source: [ESC](#)

## FRC: Provides aid to Audit Committees in evaluating audit quality

The FRC has issued a [practice aid](#) to assist audit committees in evaluating audit quality in their assessment of the effectiveness of the external audit process. The FRC is responding to requests for guidance in this area, in light of the UK Corporate Governance Code provision (Code), introduced in 2012. The Code states that the audit committee report should include an explanation as to how it has assessed the effectiveness of the external audit process.

The aid sets out practical suggestions on how audit committees might tailor their **evaluation in the context of the company's** business model and strategy; the business risks it faces; and the perception of the **reasonable expectations of the company's** investors and other stakeholders.

Source: [FRC](#)

## 4

# Overseas developments – US

## OCC: Federal Bank Regulatory Agencies seek further comment on interagency effort

*The Economic Growth and Regulatory Paperwork Reduction Act of 1996* ([EGRPRA](#)) requires the Federal Financial Institutions Examination Council, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Board of Governors of the Federal Reserve System to review their regulations at least every 10 years.

The third [notice](#) seeks comment on regulations in three additional categories: consumer protection; directors, officers, and employees; and money laundering. Comments will be accepted within 90 days after publication in the Federal Register. This is part of their review to identify outdated or unnecessary regulations applied to insured depository institutions.

Source: [OCC](#)

## MSRB: Require additional post-trade data for display on EMMA

The Municipal Securities Rulemaking Board (MSRB) [received approval](#) from the Securities and Exchange Commission (SEC) to enhance the transparency of municipal securities transactions by collecting additional post-trade data for display on the **MSRB's [Electronic Municipal Market Access \(EMMA®\) website](#)**. Municipal securities dealers will soon be required to use a new indication for trades that occurred on an alternative trading system (ATS), among other changes.

The new data reporting requirements for dealers are included in amendments to MSRB Rule G-14 on trade reporting and the **MSRB's facility for its Real-Time Transaction Reporting System (RTRS)**. The requirements take effect on 23 May 2016, giving dealer firms one year to implement the necessary system changes. The MSRB will provide updated technical documentation to assist firms with this process.

Source: [MSRB](#)

## Treasury Department: Publishes National Money Laundering and National Terrorist Financing Risk Assessment

The Treasury Department has published [National Money Laundering Risk Assessment](#) and [National Terrorist Financing Risk Assessment](#). The purpose of these assessments is to help the public and private sectors understand the money laundering and terrorist financing methods used in the United States, the risks that these activities pose to the U.S. financial system and national security, and the status of current efforts to combat these methods. In doing so, these assessments enable the US Government and financial institutions to more effectively detect and combat illicit finance.

Source: [Treasury Department](#)

## 4

# Overseas developments – US (cont'd)

## CFPB: Agencies issue Final Standards for assessing diversity Policies and Practices of Regulated Entities

Federal agencies issued a final interagency [policy statement](#) establishing joint standards for assessing the diversity policies and practices of the entities they regulate, as required by the Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The final standards, which are generally similar to the proposed standards, provide a framework for regulated entities to create and strengthen their diversity policies and practices—including their organizational commitment to diversity, workforce and employment practices, procurement and business practices, and practices to promote transparency of organizational diversity and **inclusion within the entities' U.S. operations.**

Source: [CFPB](#)

## Federal Reserve: Agencies finalise revisions to the capital rules

The Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency have finalised revisions to the regulatory capital rules adopted in July 2013.

The final rule corrects and updates certain aspects of the advanced approaches rule, including the calculation requirements for risk-weighted assets for advanced approaches banking organizations. Many of the changes enhance consistency of the advanced approaches with international capital standards.

The final rule will be effective 1 October 2015.

Source: [Federal Reserve](#)

## 4

# Overseas developments – Asia (cont'd)

## China: Opens door for Visa and MasterCard

China will open its market for clearing domestic bank card transactions allowing foreign firms to apply to the central bank for a license for bank card clearing business from 1 June 2015.

All bank cards issued in China will have to comply with a technical standard known as **PBOC 3.0, named for the People's Bank of China**.

Source: [Financial Times](#)

## China: Regulator to tighten rules on investment-linked products in Macau

The Monetary Authority of Macau is issuing new guidelines on investment-linked assurance products (ILAS) so as to enhance market conduct and ensure the fair treatment of customers.

The rules prescribing the sales procedure for ILAS products are to come into effect in October, the Monetary Authority of Macau announced in the Official Gazette in April. They require insurance intermediaries to understand customers' financial and insurance needs, as well as their risk preferences, before recommending an ILAS product. The guidelines also set out the requirements for remuneration disclosure to ILAS customers, along with requirements for product feature disclosure to prospective customers.

Source: [Asia Insurance Review](#)

## Singapore: Proposals to Strengthen Singapore's OTC Derivatives Market

The Monetary Authority of Singapore (MAS) published a [consultation paper](#) on measures **to strengthen Singapore's over-the-counter (OTC) derivatives market** and to enhance the provision of financial advisory services. The paper contained the following:

- proposed regulatory framework for capital markets intermediaries dealing in OTC derivative contracts
- proposed refinements to rules governing financial advisory services.

MAS also proposes to allow financial advisers to help customers transact in collective investment schemes (CIS) when an investment recommendation on CIS has been accepted by their customers. Submissions close on 3 July 2015.

Source: [MAS](#)



## 4

## Overseas developments – Asia (cont'd)

### Hong Kong: Reforms needed to build on Shanghai-Hong Kong Stock Connect success

The Shanghai-Hong Kong Stock Connect (SHSC) link has made significant in-roads in **the opening of China's capital markets to international trading**. Barriers to participation, including restricted trading strategies, introduce risk and create operational complexity.

SHSC is the result of a deal last year between **China's Hong Kong and Shanghai stock exchanges** that allows non-resident investors to invest in Chinese companies whose shares are listed on the SSE and denominated in renminbi only – so-called China A-shares – without having to apply for to be a Qualified Foreign Institutional Investor or Renminbi Qualified Foreign Institutional Investor.

Source: [Banking Technology](#)

### Hong Kong: SFC and CSRC sign agreement on Mainland-Hong Kong Mutual Recognition of Funds

The Securities and Futures Commission (SFC) and the China Securities Regulatory Commission (CSRC) have signed a [Memorandum](#) of Regulatory Cooperation on Mainland-Hong Kong Mutual Recognition of Funds, which will allow eligible Mainland and Hong Kong funds to be distributed in **each other's market through a streamlined** vetting process. The scheme was implemented on 1 July 2015.

The Memorandum has established a framework for exchange of information, regular dialogue as well as regulatory cooperation in relation to the cross-border offering of funds.

Source: [SFC](#)

### Hong Kong: Concludes consultation on supervisory assistance to regulators outside Hong Kong

SFC has released [consultation conclusions](#) on proposed amendments to the Securities and Futures Ordinance (SFO) for providing assistance to regulators outside Hong Kong. These proposals are designed to improve the **SFC's ability to enter into reciprocal** supervisory arrangements with regulators outside Hong Kong that will include two-way exchanges of relevant supervisory information.

Source: [SFC](#)

## 4

# Overseas developments – Asia

## Korea: Revision to Regulation on Financial Institutions' Outsourcing of Data Processing Business & IT Facilities

The Financial Services Commission announced a 20-day notice of [revision](#) to the Regulation on Financial Institutions' Outsourcing of Data Processing Business & IT Facilities. The revision intends to reduce **financial institutions' burden related with outsourcing of data processing business by shifting regulatory focus from the current 'ex ante' to 'ex post' regulations.**

Source: [FSC](#)

## Korea: FSS implements D-SIB framework for the domestic banking sector

The Financial Supervisory Service (FSS) has **decided to implement the Basel Committee's** domestic systemically important bank (D-SIB) regulatory framework (published in October 2012) starting January 2016, which **is also the Basel Committee's scheduled date** for adoption of the D-SIB framework.

FSS has announced that it will later this year identify and announce the first group of banks that will be required to hold an additional capital buffer to prevent potential global financial crises.

Source: [FSS](#)

## Korea: Seoul to make cross-border money transfers easier

South Korea plans to push for financial deregulation to make it easier for people to transfer money across borders without going through banks. The move aims to allow securities firms, insurers and FinTech companies to handle transfers that can help lower fees and benefit ordinary consumers.

The expansion of money transfer services, which are currently restricted to banks, is also expected to help scale back the often complicated process of sending and receiving money.

Source: [The Korea Herald](#)

# 4

## *Overseas developments – Asia*

### Japan: Adopted corporate governance code

Japan has adopted a corporate governance code. Issuing timely, market-sensitive information in both English and Japanese, **acting in investors' interests by redeploying** cash more effectively, and whistleblower protections are among the other changes.

Source: [Pakistan Defence](#)

## 5

# PwC publications

## PwC China: Female millennials in financial services

Diversity and inclusiveness are now competitive imperatives within an evolving financial services (FS) marketplace - investors want it, boards want it and clients demand it.

More than three-quarters of these CEOs believe that diversity has enhanced innovation, customer satisfaction and overall business performance. PwC had carried out a survey of more than 8,000 female millennials (women born between 1980 and 1995) from around the world, of which nearly 600 are working in FS (banking and capital markets, insurance and asset management). The findings provide valuable insights into the perceptions, aspirations and characteristics of women in FS, which can help business to define and refine strategies for recruitment, retention and career development.

See [Publication](#)

## PwC China: Mainland and Hong Kong Mutual Recognition of Funds (MRF)

On 22 May 2015, the China Securities Regulatory Commission (CSRC) and the Securities and Futures Commission (SFC) in Hong Kong signed the Memorandum of Regulatory Cooperation on Mutual Recognition of Funds between Mainland China and Hong Kong (Memorandum). The Memorandum sets out the key principles and operational requirements under the Mutual Recognition of Funds (MRF) which will be implemented on 1 July 2015 and lays a foundation for the strengthening of financial and regulatory ties towards greater integration of the Asian asset management industry.

In this newsletter, PwC share insights into how one can prepare market entry and expansion strategies, and outline some of the key areas needed to be considered when planning for MRF.

See [Publication](#)

## PwC China: Alternative asset management 2020

Rapid developments in the global economic environment have pushed asset management to the forefront of social and economic change.

Alternative firms, with their emphasis on investment outcomes rather than products, and specialisation rather than commoditisation, will increasingly attract investors seeking customisation, diversification and genuine long-term alpha. Alternatives will increasingly occupy a **prominent allocation in the world's** economies, both established and emerging. Fast-forwarding to 2020, alternatives will have a centre stage role to play in the investment universe and in the global economy.

To help alternative asset managers plan for the future, PwC has considered the likely changes in the alternative asset management industry landscape over the coming years and identified six key business imperatives for alternative asset managers.

See [Publication](#)

## 5

## *PwC publications (cont'd)*

### **PwC Global: Insurance 2020 and beyond - Necessity is the mother of reinvention**

In 2010, PwC began carrying out scenario analysis around the trends reshaping insurance and what the industry would look like by 2020. Ideas were drawn on interviews with more than a thousand executives worldwide. PwC has released several publications over the last four years that describe their findings.

Insurers and industry stakeholders have been using Insurance 2020 to help them judge the implications of these trends for their particular organisations and determine the strategies needed to respond. Insurance **2020's central message is that whatever** organisations are doing in the short-term – whether dealing with market movements or just going about day-to-day business – they need to be looking at how to keep pace with the sweeping social, technological, environmental, economic and political (STEEP) developments ahead.

See [Publication](#)

### **PwC Hong Kong: Courting China Inc. - Expectations, pitfalls and success factors of Sino-foreign business partnerships in China**

*Courting China Inc.* is a report commissioned by PwC and written by the Economist Intelligence Unit. 300 senior executives from nine geographies and 19 industries were surveyed on issues related to the formation and operation of joint ventures and strategic alliances in China. A series of in-depth interviews with senior executives and experts were also conducted.

**Despite China's slowing economy, recent** scrutiny of foreign companies, and rising labour costs, forming business partnerships through joint ventures remains an attractive way to do business in China. However, establishing and operating a successful business partnership is not getting easier, and the ability to anticipate, prevent and resolve challenges associated with partnerships is more important than ever.

See [Publication](#)

### **PwC UK: CBI/PwC Financial Services Survey - June 2015**

Optimism continues to strengthen in financial services in the second quarter of 2015. Supported by strong domestic growth, firms forecast a rise in activity across commercial companies, financial institutions and private individuals. Overall capital investments plans have, however, been scaled back. Banks, in particular, are struggling to find the capacity to maintain their current levels of technology expenditure.

Official ONS data shows that productivity has slumped across financial services since the crisis. The survey echoes that perception. Banks, building societies, life insurers and **insurance brokers said an increase in “non-productive” activities such as regulatory compliance** was the most important explanation for this trend.

See [Publication](#)

## 5

## *PwC publications (cont'd)*

### PwC UK: UK final liquidity regulation has landed

The PRA finalised its new approach to supervising liquidity and funding risk on 8 June 2015 in supervisory statement ([SS 24/15](#)), and provided feedback on responses to [CP 27/14](#) in Policy Statement ([PS 11/15](#)).

The new policy embeds the Liquidity Coverage Ratio (LCR) in the UK liquidity supervisory regime, while redefining the Individual Liquidity Guidance (ILG) which remains the overall requirement for UK banks and PRA-designated investment firms. The PRA also makes clear that it will retain its ability to tailor its requirements to **individual banks' risks, adjusting not just the size of the buffer but also the quality if needed.**

The new UK regime is more onerous than the EU regime in a number of areas. This new regime is similar to the current regime in a lot of areas, while being more onerous for smaller firms and reporting but generally less so on Pillar 1 and third country **branches' requirements.**

For a copy of the publication, please contact Lynn Ko ([lynn.ko@au.pwc.com](mailto:lynn.ko@au.pwc.com))

### PwC UK: PRAs initial feedback on Own Risk Solvency Assessments (ORSAs)

On the 15 June 2015 the PRA published some common [findings](#) based on their initial review of insurance firms Own Risk and Solvency Assessment (ORSA) reports.

Overall the PRA have concluded that the ORSAs that they have seen are generally of a **reasonable quality, but in line with PwC's** view they have identified a number of areas including Stress and Scenario Testing (SST), Forward Looking Assessments and Board sign off and embedding to be common areas of weakness.

It will be important for all insurance firms to consider these areas of feedback against their own ORSA processes and reports to ensure they are fully implementing and subsequently embedding them during 2015, and then adequately capturing and demonstrating their use and impact in their 2015 ORSA reports.

For a copy of the publication, please contact Lynn Ko ([lynn.ko@au.pwc.com](mailto:lynn.ko@au.pwc.com))

# 6

## Contacts

### Sydney



#### **Nicole Salimbeni**

Partner  
nicole.salimbeni@au.pwc.com  
(02) 8266 1729



#### **Edwina Star**

Partner  
edwina.star@au.pwc.com  
(02) 8266 4940

### Melbourne



#### **Rachael Phelan**

Partner  
rachael.phelan@au.pwc.com  
(03) 8603 0155



#### **Shari Emin**

Director  
shari.emin@au.pwc.com  
(03) 8603 3050