

May 2018

PwC Regulatory Update



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Legislative/Government developments

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

- The third round of Public Hearings were held by the Royal Commission during 21 May – 1 June. The hearings focused on the conduct of financial services entities in respect of their dealings with small and medium enterprises (SMEs). The hearings also explored the current legal and regulatory regimes, together with self-regulation under the Code of Banking Practice.

The Commission has published a number of background papers:

- [*The regulatory capital framework for authorised deposit-taking institutions*](#) (ADIs) provides information on the capital prudential framework applying to the banking industry, with particular regard to the current and proposed treatment of residential mortgage lending and lending for SMEs, prepared by APRA.
- [*The regulatory capital framework: Impairment, provisioning and enforcing security*](#) outlines the effect on an ADI Tier 1 capital where a loan is classified as impaired, prepared by APRA.
- [*Financial services and SMEs*](#) provides information about SMEs in Australia, and describes some of the ways in which SMEs interact with providers of financial products.
- [*Credit for small business - An overview of Australian law regulating small business loans*](#) provides an overview of the laws applying to small business credit, perspectives on regulating small business credit, the parties involved in a small business credit, the Code of Banking Practice and other Industry Codes.

- [*Request for Information: Reforms to Small Business Lending*](#) outlines reforms to improve protections for small business consumers, reforms to improve access to finance for small business consumers, and other reforms affecting small business access to finance, prepared by Treasury.

Source: [Royal Commission](#)

Government releases draft legislation, *Treasury Laws Amendment (Protecting Superannuation) Bill 2018*

The Government sought feedback on the [draft legislation](#), *Treasury Laws Amendment (Protecting Superannuation) Bill 2018*, proposing:

- A cap on administration and investment fees charged on superannuation accounts with balances of \$6,000 or less at 3 per cent of the account balance. Superannuation funds are also banned from charging exit fees for any account.
- A requirement on superannuation funds to only offer insurance on an opt-in basis for accounts that have balances below \$6,000; that have not received a contribution for longer than 13; or for new members who are under 25 years old.
- The transfer of all inactive accounts where the balances are below \$6,000 to the ATO Changes in order to strengthen the ATO-led consolidation regime.

Source: [Treasury](#)

ASFA is of the [view](#) that singling out younger people and low account balances may raise unintended consequences.

The FSC [welcomes](#) the Government's package of reforms to reduce the erosion of superannuation balances and promoting consolidation of super accounts.

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Legislative/Government developments

Superannuation: Assessing efficiency and competitiveness

The Productivity Commission (PC) has released a [draft report](#), *Superannuation: Assessing Efficiency and Competitiveness*, highlighting its findings and recommendations on assessing efficiency and competitiveness of the superannuation system.

Some of the findings are:

- There are a significant number of underperforming products, mainly from the retail segment.
- About 10 million or one third of accounts are unintended multiple accounts. These erode members' balances by \$2.6 billion a year in unnecessary fees and insurance.
- Members lack access to comparable information to help them find the best products.
- Regulations focus too much on funds rather than members. Subpar data and disclosure inhibit accountability to members and regulators.

Some of the recommendations made by the PC to improve efficiency and competition includes:

- Upon entering the workforce, members should only ever be allocated to a default product once.
- Stronger governance rules are needed.
- More funds are needed to provide valuable insurance to members.
- The industry's code of practice must be strengthened and made enforceable.

- Regulators need to effectively collect and use more comprehensive and member-relevant data.

Submissions are due by 13 July 2018.

Source: [Productivity Commission](#)

The ASFA [commented](#) that the PC's draft report provides a comprehensive assessment of the superannuation system and if implemented could transform the industry.

The FSC [supported](#) this by stating that modernising the mandatory superannuation system by removing it from the industrial relations system will considerably grow outcomes for consumers.

Government consults on review of superannuation and victims of crime compensation

The Government has released a [consultation paper](#), *Review of superannuation and victims of crime compensation*, seeking feedback on the two draft proposals on access to superannuation for victims of crime:

- The first relates to new claw-back mechanism for 'out of character' superannuation contributions made by criminals to protect their assets from use.
- The second relates to allowing victims of serious, violent crimes to be able to access a perpetrator's superannuation as compensation, where other assets have been exhausted, subject to appropriate limits and thresholds.

Submissions are due by 15 June 2018.

Source: [Treasury](#)

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Legislative/Government developments

Government responds to review into Open Banking

The Government has agreed to the recommendations of the Open Banking review in relation to the framework of the [Consumer Data Right](#) and for the application of the right to Open Banking, with a phased implementation from July 2019.

Open Banking will be phased in with all major banks making data available on credit and debit card, deposit and transaction accounts by 1 July 2019 and mortgages by 1 February 2020. By 1 July 2020, data on all products recommended by the review will be available. All remaining banks will be forced to implement Open Banking with a 12-month delay on timelines compared to the major banks.

The Treasury will be consulting on draft legislation, the ACCC will be consulting on draft rules, and Data61 will be consulting on technical standards over the coming months.

Mr Andrew Stevens has been [selected](#) as the interim Chair of the Data Standards Body for the Consumer Data Right.

Source: [Treasury](#)

COBA [supported](#) open banking but has questioned the tight timetable announced for smaller banks.

ABA [welcomed](#) a phased approach for introducing open banking, enabling banks to design a secure system which benefits consumers.

Government consults on the introduction of economy-wide cash payment limit of \$10,000

The Government has released a [consultation paper](#), *Introducing an Economy-Wide Cash Payment Limit*, seeking feedback on its proposal to limit the cash payments made to businesses for goods and services from 1 July 2019 to \$10,000 and that transactions in excess of \$10,000 will need to be made using electronic payments systems or by cheque. This includes identifying further issues and solutions for the implementation of this measure; exemptions applicable; what enforcement and reporting obligations should exist; and what integrity measures are required.

Submissions are due by 24 June 2018.

Source: [Treasury](#)

Government consults on proposed Financial Institutions (FIs) supervisory levies for 2018-19

The Government has released a [discussion paper](#), *Proposed FIs Supervisory Levies for 2018-19*, seeking feedback on the proposed levies that will apply for the financial year 2018–19. The levies are set to recover the operational costs of the APRA, and other specific costs incurred by certain Commonwealth agencies and departments. The includes information on the total expenses for the activities to be undertaken by APRA and certain Commonwealth agencies and departments in 2018–19 to be funded through the levies revenue to be collected in the financial year.

Source: [Treasury](#)

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Legislative/Government developments

Australia-EU trade agreement

The Government has agreed to open negotiations for an Australia-EU trade agreement with the Council of the European Union (EU), thereby benefiting the Australian financial services industry by lowering barriers to Australian firms' access to the EU.

Source: [Minister for Trade, Tourism and Investment](#)

FSC [welcomes](#) the launch of EU trade agreement negotiations

Retirement income covenant position paper

The Government has released a [position paper](#), *Retirement Income Covenant*, seeking feedback on the proposed principles underpinning a retirement income covenant. The new covenant will form the cornerstone of the new retirement income framework. It will be added to the [Superannuation Industry \(Supervision\) Act 1993](#). The covenant will collate the requirements and obligations for superannuation trustees to meet the retirement income objectives of their members. Submissions are due by 15 June 2018.

Source: [Treasury](#)

Second Deputy Chairperson role at APRA

The Government is planning to create a second Deputy Chairperson role at APRA, with the aim to provide greater flexibility in the way in which APRA is governed and the allocation of responsibilities to each APRA member.

See [Treasurer](#)

Government consults on strengthening commonwealth procurement processes

The Government has released a [consultation paper](#), *Increasing the Integrity of the Commonwealth Procurement process*, seeking feedback on the progress of a Procurement Connected Policy (PCP), which would require businesses from 1 July 2019 to provide a statement of tax record from the Australian Taxation Office (ATO). This requirement would apply to Commonwealth contracts through a procurement processes valued at over \$4 million.

Submissions are due by 15 June 2018.

Source: [Treasury](#)

Government establishes new body to boost financial capability across Australia

The Government is establishing a new body to advance financial capability across Australia. The new body will:

- Allocate the \$40 million in community benefit payments that form part of the settlement agreements between the ASIC, ANZ and NAB, relating to the manipulation of the Bank Bill Swap Rate and \$10 million committed by the Government to developing the financial capability of women in the Federal Budget.
- Administer grants and improve capabilities amongst Australians of financial products and services.

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

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Legislative/Government developments

Treasury Laws Amendment (Stapled Structures and Other Measures) Bill 2018

The Government sought feedback on the [draft legislation](#), *Treasury Laws Amendment (Stapled Structures and Other Measures) Bill 2018*, proposing:

- Taxing trading income that is converted to passive income at the corporate tax rate;
- Amending the thin capitalisation rules to prevent foreign investors being able to generate more favourable taxed interest income from using multiple layers of flow-through entities to ‘double gear’;
- Limiting the foreign pension fund withholding tax exemption for interest and dividends to portfolio investments only;
- Creating a legislative framework for the existing tax exemption for foreign governments (including sovereign wealth funds), and limiting the exemption to passive income from portfolio investments.
- Concessions for new, Government-approved nationally significant infrastructure assets; and
- Transitional arrangements for new and existing investments.

Source: [Treasury](#)

Other key developments

The Government has [introduced](#) legislation on the second phase of the ASIC industry funding model – fees-for-service into Parliament. This is the final aspect of the model and will commence from 1 July 2018.

The Government has [introduced](#) legislation to complement the superannuation guarantee (SG) integrity package into Parliament by introducing a one-off, twelve month amnesty for historical underpayment of SG. Employers that do not take advantage of the one-off amnesty will face higher penalties when they are subsequently caught.

The Government has [announced](#) a Productivity Commission (PC) review of the National Disability Agreement (NDA), thereby examining the objectives and outcomes of the NDA in the context of the current policy landscape and assessing the roles and responsibilities of the Commonwealth and State and Territory Governments in the provision of disability services. The Commission will report to the Government within eight months.

The Government will progressively [adopt](#) electronic invoicing (eInvoicing) across all levels of government and has made the following recommendations:

- Encourage government agencies, at a time that aligns with their business plans, to adopt eInvoicing;
- Adopt eInvoicing in a way that is consistent with the Digital Business Council's (DBC) interoperability framework; and
- Implement eInvoicing where possible while working with the Government's Shared and Common Services program.

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What have the regulators been up to?

APRA

Australian Prudential
Regulation Authority

ASIC

Australian Securities and
Investments Commission

ASX

Australian Securities
Exchange

AUSTRAC

Australian Transaction
Reports and Analysis Centre

RBA

Reserve Bank of Australia

APRA reviews its superannuation prudential framework

APRA has released a [discussion paper](#), *Post-implementation review of APRA's superannuation prudential framework*, seeking feedback on the following:

- The effectiveness of the current prudential and reporting standards and supporting guidance material;
- The practical impact of the framework for stakeholders;
- Areas within the framework that could be reviewed to either enhance outcomes or reduce compliance costs; and
- The merits of potential changes to the framework to achieve this.

It has also released two short topic papers, one on [governance](#) and the second one on [risk management](#). APRA will release short papers over the next few months covering various other topics addressed in the framework. Submissions are due by 26 September 2018. A final review report is expected to be released by early 2019.

See [media release](#)

APRA releases findings of thematic review of superannuation board governance practices

APRA has released a [letter](#) to all registrable superannuation entities (RSEs), outlining the findings of its thematic review into board governance practices. APRA has issued a range of recommendations, including that RSE licensees should:

- Consider how their boards are composed in the context of their business and strategic plans;

- Have sound board renewal and succession planning processes that strike an appropriate balance between increasing diversity and new perspectives and ensuring continuity; and
- Develop a sturdy and objective board assessment process that takes into consideration the performance of individual directors, as well as the board as a whole.

See [media release](#)

APRA releases findings of thematic review of related party arrangements (RPA) to manage conflicts of interest

APRA has released a [letter](#) to all RSEs, outlining the findings of review of RPA to ensure greater focus by superannuation licensees on administering outsourcing arrangements with related parties to effectively manage conflicts of interest.

APRA has issued a range of recommendations, including:

- Ensuring related party contracts have clear termination provisions and are only for a set period;
- Conducting market-based benchmarking when engaging or renewing contracts with related party providers to ensure terms and prices are comparable with others available in the market; and
- Proactively considering and documenting how decisions to use related party service providers are in the best interests of superannuation members.

See [media release](#)

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APRA establishes new Restricted ADI licensing framework

APRA has released an [information paper](#), setting out the new Restricted ADI framework, which comes into effect immediately. The framework will assist financial entities to register as an ADI in Australia. Accordingly, eligible entities can seek a Restricted ADI licence, allowing them to conduct a limited range of business activities for two years while they build their capabilities and resources.

The framework establishes the eligibility criteria, minimum initial and ongoing requirements and application of the prudential and reporting standards during the restricted phase of operation.

See [media release](#)

APRA and ASIC release new life claims data

The APRA and the ASIC (agencies) have published new data on life insurance claims and claims related disputes for the period 1 January 2017 to 30 June 2017. Key findings include:

- More than 90 per cent of claims that go to decision are paid in the first instance.
- Different products and distribution channels have different claims and dispute outcomes.

The agencies have published a [response paper](#), seeking feedback on proposals by the agencies to establish public reporting on life insurance claims and disputes. Submissions are due by 5 July 2018.

The two agencies are now moving to establish an ongoing reporting regime to improve the transparency of life insurance claims practices and

the quality of information underpinning public debate and policy-making.

See [media release](#)

FSC [welcomes](#) APRA and ASIC's support for life insurance data collection and improvement in claims handling by life insurers.

ASIC consults on approval and oversight of compliance schemes for financial advisers

ASIC has released a [consultation paper](#), *Approval and oversight of compliance schemes for financial advisers*, seeking feedback on the following:

- The process of applying for approval of a compliance scheme;
- Ongoing operation of compliance schemes, expectations for the governance and administration, monitoring and enforcement processes;
- Proposal to grant the power to deny the approval of a compliance scheme and to impose or vary conditions on the approval;
- Proposal to modify the law to ensure that monitoring bodies can gather the information from Australian Financial Services (AFS) licensees and authorised representatives that they need to carry out proactive monitoring activities; and
- Draft guidance about the notifications that monitoring bodies must make to ASIC.

Submissions are due by 28 June 2018.

See [media release](#)

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ASIC consults on short selling

ASIC has released a [consultation paper](#), *Short Selling*, seeking feedback from short sellers on the following proposals:

- Grant legislative relief from the naked short selling prohibition to market makers of certain exchange traded products;
- Grant legislative relief from the naked short selling prohibition in the context of corporate actions and initial public offering sell-downs;
- Change the relevant time short positions are calculated; and
- Remake a number of class orders on short selling which are due to expire under the *Legislation Act 2003*.

ASIC propose to consolidate the relief into a single instrument, [ASIC Corporations \(Short Selling\) Instrument 2018/XX](#).

Submissions are due by 20 June 2018.

See [media release](#)

ASIC consults on foreign financial services providers (FFSPs) relief proposals

ASIC has released a [consultation paper](#), *Foreign financial services providers*, seeking feedback on its proposals to:

- Repeal [ASIC Corporations \(Repeal and Transitional\) Instrument 2016/396](#) and [ASIC Corporations \(Foreign Financial Services Providers—Limited Connection\) Instrument 2017/182](#), with a 12-month transitional period; and

- Implement a modified AFS licensing regime for FFSPs to enable FFSPs to apply for and maintain a modified form of AFS licence

It is applicable for FFSPs and other relevant stakeholders, such as users of the services provided by FFSPs.

Submissions are due by 31 July 2018.

See [media release](#)

ASIC revises licensing regime for domestic and overseas market operators

ASIC has released updated [regulatory guide](#), RG172 - *Financial markets: Domestic and overseas operators*, provides guidance about the licensing regime and regulatory obligations for operators of financial markets. RG172 introduces a two-tiered market licence regime, applying a risk-based assessment to reduce red tape and assist the operation of financial markets.

The updated RG172 incorporates and supersedes two existing regulatory guides:

- *RG177 - Australian market licences: Overseas operators*
- *RG223 - Guidance on ASIC market integrity rules for competition in exchange markets*

See [media release](#)

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ASIC consolidates guidance on market integrity rules for market participants

ASIC has published two regulatory guides to consolidate and replace guidance in seven regulatory guides for securities and futures markets participants.

- [Regulatory Guide](#), RG265 - *Guidance on ASIC market integrity rules for participants of securities markets* consolidates relevant guidance in:
 - RG214 - *Guidance on market integrity rules for ASX and ASX 24 Markets*
 - RG215 - *Guidance on ASIC market integrity rules for IMB, NSXA and SIM VSE markets*
 - RG223 - *Guidance on ASIC market integrity rules for competition in exchange markets*
 - RG224 - *Guidance on market integrity rules for Chi-X and APX markets*
 - RG226 - *Guidance on ASIC market integrity rules for capital and related requirements: ASX, ASX 24, Chi-X and APX markets*; and
 - RG238 - *Suspicious activity reporting*.
- [Regulatory Guide](#), RG266 - *Guidance on ASIC market integrity rules for participants of futures markets* consolidates relevant guidance in RG214, RG223, RG226 and RG250 - *Guidance on ASIC market integrity rules for risk management and other requirements: ASX 24 market*.

As part of the consolidation process ASIC has:

- Sought guidance from the various regulatory guides where appropriate;
- Made minimal changes to reflect updated market integrity rule references as contained in the four consolidated market integrity rulebooks;
- Removed information that is purely descriptive or is not relevant;
- Added new guidance on management structures; and
- Tailored information to make guidance market neutral or more appropriately related to relevant markets and participants.

RG 223 for market operators has been consolidated into [RG172](#). ASIC has also reissued [regulatory guide](#), RG241 - *Electronic trading*, which has been updated to reflect the consolidated market integrity rule books.

See [media release](#)

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ASX: Recent submissions

ASX has made a [submission](#) to a Treasury consultation on draft regulations amending the *ASIC Supervisory Cost Recovery Levy*, emphasising that the authorities should carefully consider the impact on markets of the mechanism used to share costs amongst equity and futures market participants.

ASX has made a [submission](#) to the Treasury consultation on the exposure draft of the *Treasury Law Amendment (ASIC Fees) Regulations 2018*, supporting an appropriate fee-for-service model to recover the costs of demand driven services. However, further clarity was necessary to explain how it will apply in practice.

AUSTRAC industry contribution 2018–19

AUSTRAC has released a [consultation paper](#), *AUSTRAC Industry Contribution 2018–19*, seeking stakeholder feedback on the proposed arrangements for the AUSTRAC Industry Contribution for the 2017–18 financial year. The paper includes a draft Ministerial Determination outlining the proposed charging model for determining the 2018–19 industry contribution levy.

In response to the consultation processes in prior years, AUSTRAC remains committed to enhancing the transparency of the contribution process and to communicating effectively with relevant entities about:

- The anticipated amount entities will be levied for the 2018–19 financial year;

- A projected estimate of the levy components for the 2018–19 financial year; and
- How AUSTRAC's annual budget allocation is to be expended for the 2018–19 financial year.

Submissions are due by 22 June 2018.

See [media release](#)

Assessment of the Reserve Bank Information and Transfer System

RBA has published a [report](#), *Assessment of the Reserve Bank Information and Transfer System (RITS)*, presenting an assessment of the RITS against the Principles for Financial Market Infrastructures. The report covers the period from April 2017 to March 2018.

The assessment identified that RITS observed all the relevant Principles. The Payments Policy Department will monitor progress to ensure that RITS remains resilient in the face of evolving cyber-security threats in these two areas:

- Implementing recommendations arising out of the completed reviews of RITS's cyber security and cyber resilience; and
- Evaluating current and emerging technology that could enable improved enhancements to the ability to recover RITS from cyber attacks in a timely manner.

See [media release](#)

3

Industry bodies

ASFA

The Association of
Superannuation Funds of
Australia

FSC

Financial Services Council

ASFA releases paper on women's economic security in retirement

ASFA has released a [paper](#), called the *Women's Economic Security in Retirement*, identifying that there still remains a significant disparity between the retirement incomes of men and women. Some of the key findings are:

- Both the prevalence of having superannuation and average account balances are higher for men than for women.
- The average superannuation balances achieved in 2015/2016 for persons approaching retirement (age 55 to 59) were \$237,022 for men and \$123,642 for women.
- For women in particular this is considerably short of the \$545,000 required for an individual to establish a comfortable retirement.
- At the moment more than 80 per cent of women are retiring with insufficient superannuation savings to fund a comfortable retirement.

ASFA recommends the following in regards to reducing disparity:

- Superannuation Guarantee (SG) should apply in every circumstance where income is replaced as a result of a workplace or legislative entitlement to receive a salary or wage.
- Consideration could be given to extending the scheme to help address the issue of small superannuation balances through some form of 'top up' payment to low income individuals.
- The threshold of \$450-a-month should be removed for the superannuation guarantee.

- Employers should be permitted to contribute more for women without being considered to have breached anti-discrimination legislation.
- Compulsory superannuation should be included for the self-employed.
- Unpaid SG entitlements be included in the definition of unpaid employment entitlements for the purposes of the Fair Entitlements Guarantee.
- ATO should have adequate systems, processes and people to ensure employers comply with their superannuation obligations.
- The rate of SG should be increased from 9.5 percent to 12 percent as soon as possible.

See [media release](#)

FSC and AIST team up to help fund managers tackle new operational due diligence

The FSC and the Australian Institute of Superannuation Trustees (AIST) have released further guidance tools to help fund managers prepare their operational due diligence (ODD) reports for the superannuation industry. The agencies are promoting ODD framework to closely monitor and assess the management of operational risk controls by investment fund managers.

See [media release](#)

4

Overseas developments – Global

BIS: Recent announcements

The Basel Committee on Banking Supervision (BCBS) and the International Organisation of Securities Commissions (IOSCO) has issued the [criteria](#) for identifying simple, transparent and comparable short-term securitisations (STC) to assist the financial industry in its development of transparent, simple and comparable short-term securitisations.

The BCBS has concurrently issued the [capital treatment](#) for short-term securitisations outlining how the short-term STC criteria could be incorporated into the regulatory capital framework for banks. The standard sets out additional guidance and requirements for the purpose of applying preferential regulatory capital treatment for banks acting as investors in or as sponsors of STC short-term securitisations, typically in asset-backed commercial paper (ABCP) structures.

Source: [Bank for International Settlements \(BIS\)](#)

FSB: Recent consultations

The FSB has released a [consultation paper](#), *Recommendations for consistent national reporting of data on the use of compensation tools to address misconduct risk*, seeking feedback on recommendations for consistent national reporting of data on the use of compensation tools to address misconduct risk.

Collecting and evaluating compensation data on a regular basis can provide important insights into the effectiveness of compensation programmes and potential areas of weakness. Currently, the gathering and analysis of compensation data varies significantly across jurisdictions and firms.

Submissions are due by 6 July 2018.

Source: [FSB](#)

4

Overseas developments – Europe

EBA: Recent consultations

The European Supervisory Authority (ESA) has published [two joint consultations](#) to amend the current regulation on the clearing obligation and risk mitigation techniques for over-the-counter (OTC) derivatives not cleared by central counterparties (CCPs). in order to provide a specific treatment for simple, transparent and standardised (STS) securitisation and ensure a level playing field with covered bonds.

Submissions are due by 15 June 2018.

The European Banking Authority (EBA) has published consultation papers relating to draft regulatory technical standards ([RTS](#)) specifying an economic downturn and a set of [guidelines](#) detailing the estimation of loss given default (LGD) appropriate for conditions of an economic downturn. The draft RTS specifies the severity, nature and duration of an economic downturn, while the guidelines focus on the appropriate estimation of the LGD in a situation of downturn. Submissions are due by 22 June 2018.

Source: [EBA](#)

ECB: Recent announcements

The European Central Bank (ECB) has published *Threat Intelligence-based Ethical Red Teaming [framework](#)* for testing financial sector resilience to cyber attacks in order to help entities gain insight about their detection, protection and response capabilities. The framework also aims to help them fight against cyber attacks.

Source: [ECB](#)

4

Overseas developments – UK

FCA: Recent consultations

The Financial Conduct Authority (FCA) is seeking feedback on proposed [guidance](#) outlining factors financial services firms should consider under the *Consumer Rights Act 2015* (CRA) when drafting and reviewing variation terms in their consumer contracts.

The draft guidance outlines a number of areas that the FCA believes firms should consider when drafting and reviewing variation terms. This includes:

- The validity of the reason(s) for using the variation term;
- The transparency of the variation term;
- Provision for notice in the variation term; and
- Provision for the freedom to exit the contract should a consumer not wish to accept the variation.

Source: [FCA](#)

PRA: Recent consultations

The Prudential Regulation Authority (PRA) has released a [consultation paper](#), *Securitisation: The new EU framework and Significant Risk Transfer*, setting out the PRA's proposals on its approach to the EU's securitisation regulation and certain aspects of the revised Capital Requirements Regulation (CRR) banking securitisation capital framework. The paper also proposes to update firms on the PRA's expectations with regard to Significant Risk Transfer (SRT) securitisation.

Submissions are due by 22 August 2018.

Source: [PRA](#)

PRA: Recent supervisory statements

PRA has released a [supervisory statement](#), *SS4/18 - Financial management and planning by insurers*, which sets out the PRA's expectations concerning:

- The development and maintenance of a risk appetite statement by insurers;
- How insurers apply their risk appetite when developing and monitoring their medium term business and financial plans; and
- The assessment of the suitability and sustainability of capital distribution plans in the context of their risk appetite.

It is applicable to all UK firms and groups that fall within the scope of the Solvency II Directive.

Source: [PRA](#)

4

Overseas developments – US

CFTC: Recent consultations

The Commodity Futures Trading Commission (CFTC) is seeking [feedback](#) on the proposed rule to reduce regulatory burdens for U.S. market participants by bringing certain CFTC requirements in line with other U.S. regulators. The rule amends the CFTC's margin requirements for uncleared swaps for dealers and other major swap participants.

The CFTC has announced the approval of Australian Securities Exchange Limited's (ASX 24) application to permit direct access for U.S. customers to trade on its platform.

Source: [CFTC](#)

OCC: Recent announcements

The Federal Reserve Board and the Office of the Comptroller of the Currency (OCC) has [extended](#) the comment period for the proposed rule tailoring leverage ratio requirements until 25 June 2018.

The proposed rule relates to modifying the enhanced supplementary leverage ratio standards for U.S. top-tier bank holding companies identified as being global and systemically important. It also includes their insured depository institution subsidiaries together with modifications to the Board's total-loss absorbing capacity and long-term debt rules.

Source: [OCC](#)

SEC: Recent consultations

The Securities and Exchange Commission (SEC) has [proposed](#) rules and amendments, promoting research on exchange-traded funds, mutual funds, registered closed-end funds, business development companies, and similar covered investment funds. This aims to reduce some of the obstacles involved in providing research on investment funds by harmonising the treatment of such research with research on other public entities.

Source: [SEC](#)

4

Overseas developments – Asia

Hong Kong (HK): Recent announcements

The Hong Kong Monetary Authority (HKMA) has published a [revised guideline](#) on the authorisation of Virtual Banks, following consultation. All respondents [supported](#) the introduction of virtual banking in HK. Most of them agreed that virtual banks should be subject to the same supervisory requirements applicable to conventional banks. No respondents raised any objection to allowing both financial and non-financial firms to operate a virtual bank in HK, and there was broad support for virtual banks to operate in the form of a locally-incorporated entity with no physical branches.

The Securities and Futures Commission (SFC) has released the [consultation conclusions](#) on proposed disclosure requirements for intermediaries providing discretionary account management services. Under the proposed requirements, these intermediaries will be required to disclose the benefits receivable from product issuers as well as trading profits they make from products purchased from, or sold to third parties for their clients.

Source: [SFC](#)

Korea: Recent announcements

The Financial Services Commission (FSC) has [proposed](#) amendments to the Enforcement Decree of the Act on reporting and the use of certain financial transaction information in order to improve regulatory consistency with international AML/CFT standards. The amendments relate to stricter AML/CFT regulations, enhanced currency transaction reporting (CTR), and clearer rules on customer due diligence.

Submissions are due by 26 June 2018.

The FSC has outlined its plan on regulatory reform on entry barriers relating to financial services businesses, in order to overhaul entry requirements which will tailor to the needs of each sector and encourage innovative players to enter the market. Plan includes:

- Expanding participation of private-sector experts;
- Lowering regulatory barriers to entry; and
- Enhancing transparency in business approval procedure.

Source: [FSC](#)

Singapore: Recent announcements

The Monetary Authority of Singapore (MAS) will require investors to report their short positions and short sell orders in securities listed on the Singapore Exchange (SGX), with effect from 1 October 2018 to improve transparency. Investors with short positions above a specified threshold will have to report through a new online portal, the [Short Position Reporting System](#).

The MAS has implemented revised reporting standards for banks to reduce duplicate data submissions, effective from 1 October 2020, which includes:

- Collecting more granular data of banks' assets and liabilities by currency, country and industry;
- Rationalising the collection of data on RMB business activities and deposit rates; and
- Removing the Domestic Banking Unit and Asian Currency Unit and for banks to report their regulatory returns in Singapore dollar and foreign currency instead.

Source: [MAS](#)

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PwC publications

PwC HK: Asset & wealth management tax highlights - Asia Pacific

PwC HK provides a roundup of key regulatory activities around the region in the past few months:

- Australia: Federal Court considers Australia's right to tax gains of foreign limited partnerships; *Asia Region Funds Passport Bill* and tax framework for CCIVs;; Australia's hybrid mismatch rules updated draft law released.
- China: China is again offering opportunities for asset managers by re-launching the Shanghai QDLP Programme; Positive signals to foreign investors: China issues tax policy to support the opening of the commodity futures market.
- HK: Non-renminbi sovereign bonds will be exempted from profits tax; Implementation of the Multilateral Convention in HK; Launch of the CbC reporting portal.
- Singapore: GST reverse charge; Singapore variable capital company.

See [publication](#)

PwC HK: A guide to strong risk culture and risk management in the MPF industry

The Mandatory Provident Fund (MPF) Schemes Authority, are firm on matters related to risk culture as well as risk management and internal control frameworks. PwC HK has released a guide to assist MPF trustee directors and executive management in assessing where they are on their risk management journey. This includes:

- Examining the roles and responsibilities of MPF trustees as well as highlighting some established and emerging cultural and operational issues within the industry;
- Providing some thoughts on future actions and industry best practices which can be undertaken by MPF trustees to enhance and strengthen their risk culture and risk management frameworks
- Touching on the role that MPF sponsors play in the MPF industry and the support that they can provide to MPF trustees.

See [publication](#)

PwC UK: Being better informed

PwC UK has issued a monthly update, *Being better informed*, covering the below topics:

- Analysis of an in-depth look at the FCA and PRA's business plans;
- PRA proposes changes to audit requirements for smaller insurers;
- FCA issues 'Dear CEO' letter on irredeemable preference shares; and
- EBA consults on non-performing exposures disclosure

See [publication](#)

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PwC publications

PwC UK: Dynamic Volatility Adjustment

The PRA has published a consultation paper seeking feedback relating to the modelling of the volatility adjustment (VA) for internal model (IM) firms, which proposes a new supervisory statement addressing the application of a dynamic VA in the modelling of Solvency II (SII) market risk stresses.

PwC UK has released a report, *Dynamic Volatility Adjustment: Balance Sheet Protection Under Stress*, summarising the content of the paper and its potential implications for UK insurance firms.

See [publication](#)

PwC US: Variable annuity blocks - deal activity

PwC US has released a report, *Variable annuity blocks: Deal activity*, bringing out the following key points on deal activities in variable annuity blocks:

- In the last few months, several large insurance companies have divested their variable annuity blocks and PwC expect this trend to continue through 2018 and the future.
- In most of the divestitures, the announcements were well received and sellers were rewarded via significant increases in their market capitalisation.
- Investors now perceive an opportunity to acquire these legacy blocks and transition them out of a publicly-traded, short-term-earnings focused entities and run them off as privately held entities away from the scrutiny of public shareholders and the analyst community.

See [publication](#)

PwC US: AICPA releases draft accounting and valuation guide

PwC US has released a report detailing the guidelines issued by the American Institute of Certified Public Accountants (AICPA) for investment companies clarifying how to fairly value portfolio companies.

The proposed guide includes chapters addressing fair value-related concepts, including valuation approaches and techniques, the consideration of control and marketability, investment strategy overviews and market participant assumptions.

It also addresses and seeks to clarify many of the accounting and valuation issues such as those related to the unit of account, complex capital structures and calibration.

See [publication](#)

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PwC publications

PwC US: New risk governance models for insurance

PwC US has published two papers on the theme of new risk governance models:

- [The case for improvement](#); and
- [Improving the three lines of defense](#).

The papers are based on a recent survey conducted by PwC over board members and CROs on risk strategy and organisation.

Key findings include:

- Respondents noted a shift in focus to strategic risk and using risk to improve company performance, as well as taking advantage of newfound bandwidth to combine these new areas of focus with traditional solvency and regulatory ones.
- Many insurers have significantly reduced their market risk-taking, shifting more of their risk profile away from credit and market risk and toward insurance risk.
- Respondents agreed that enterprise risk management should focus more on using risk knowledge in future to improve insurance company performance.

PwC US: Digital intelligence

PwC US has released a report, *Digital intelligence*, outlining the key takeaways on the top digital developments influencing financial services:

- Omni-channel capabilities are critical for digital sales success.
- Utilising retail branches to further enhance digital engagement in a hybrid model.
- No single approach for digital onboarding and know your customer (KYC).

See [publication](#)

PwC US: Financial regulation relief law

The President has recently signed the *Economic Growth, Regulatory Relief, and Consumer Protection Act*. The Act makes several technical changes like raising the threshold at which a bank is considered systemically important from \$50 billion to \$250 billion, while keeping the main pillars of post-crisis regulation intact. Mid-size banks will be the biggest winners as they will now be able to make plans for growth without considering any added compliance costs. Smaller community and rural banks will see plenty of benefits, including relief from the Volcker rule and a number of lending and mortgage requirements.

PwC US has published a report, bringing out the five key points from the financial regulation relief law:

- Mid-size banks win big
- Focus on the Fed
- Foreign bank limbo
- What about other thresholds?
- Freedom for Main Street.

See [publication](#)

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PwC publications

PwC US: Basel's proposed FRTB revisions

The BCBS has published a consultative document proposing updates to its guidance on minimum capital requirements for market risk, also known as the Fundamental Review of the Trading Book (FRTB). The BCBS has extended the implementation date to January 2022 in order to accommodate adoption by local jurisdictions and to align with the implementation timeframes for implementing credit and operational risk measure enhancements.

PwC has released a report, highlighting the key points from proposed FRTB revisions:

- More lenient standardised approach;
- More objectivity for internal model tests;
- P&L attribution test changes to provide greater leeway to recalibrate internal models;
- Clarification for the risk factor eligibility test; and
- Revised trading book/banking book boundary definitions and capital exemptions for structural FX.

See [publication](#)

PwC AUS: ASIC's proposed licensing changes for FFSPs

PwC Australia has released a LegalTalk article describing the proposed changes by ASIC to the licensing regime for FFSPs. The article compares the current regime with the proposed solution and outlines the key impacts on financial service providers:

- FFSPs will need to consider whether they will be required to go through the process of obtaining an Australian or foreign financial services licence. Alternatively, they may consider entering into an arrangement with an existing Australian Financial Services Licence (ASFL) holder;
- FFSPs should continue to monitor the progress of new licensing laws, if they are currently relying on the existing relief and subsequently plan for potential changes in the future.

See [publication](#)

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