

December 2015  
& January 2016

*PwC Regulatory Update*



## 1

# Legislative/Government developments

## Life insurance reform legislation

The Government has released [exposure draft legislation](#) on life insurance reform legislation for consultation on measures aiming to better align the interests of retail life insurers with consumers. [Explanatory memorandum](#) is also available.

The legislation proposes the following:

- ASIC is given the power to determine in an instrument the acceptable benefits payable in relation to life risk insurance products. It is conducting its own consultation on the contents of the instrument.
- Benefits paid in relation to life risk insurance products may be recovered ('clawed back') by a life insurer from a licensee in the first two years of the policy where the policy is cancelled or not renewed, or the sum insured is decreased. Clawback will not apply in certain prescribed circumstances.

The new legislation comes into effect on 1 July 2016, with transitional provisions until 30 June 2018.

Source: [Treasury](#)

## China-Australia FTA enters into force

The China-Australia Free Trade Agreement ([ChAFTA](#)) has entered into force from 20 December 2015. Minister for Trade and Investment, Andrew Robbs said more than 86% of Australia's goods exports to China worth more than \$90 billion will enter duty free while tariffs have been cut on a range of important Australian exports including dairy, beef, lamb, wine, seafood, fruit and vegetables, processed foods, vitamins and health products.

Source: [Trade Minister](#)

## Crowd-sourced equity funding

The Government has released [exposure draft regulation](#) that provide additional detail to Australia's new crowd-sourced equity funding (CSEF) framework. [Explanatory statement](#) is also available.

On 3 December 2015, the Minister for Small Business and Assistant Treasurer, Kelly O'Dwyer had introduced the [Corporations Amendment \(Crowd-sourced Funding\) Bill 2015](#) to Parliament. The framework will commence within six months of the legislation receiving Royal Assent. [Explanatory memorandum](#) is also available.

The CSEF framework is intended to make it easier and less expensive for small businesses, including start-ups, to raise equity from the general public while ensuring adequate investor protection. It will also be given effect through associated regulations.

The exposure draft regulation sets out the required contents of the CSF offer document, investor's risk acknowledgment and the risk warning. It also sets out additional detail to support intermediaries to carry out gatekeeper obligations.

Source: [Treasury](#)

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# Legislative/Government developments (cont'd)

## Raising professional standards of Financial Advisers

The Government has released [exposure draft legislation](#), *Raising professional standards of Financial Advisers*, for consultation on measures to raise education, training and ethical standards for financial advisers. [Explanatory memorandum](#) is also available.

The legislation proposes the following:

- New financial advisers will require a degree, undertake a professional year and pass an exam.
- The Government will recognise an independent industry-established standard setting body, operational from 1 July 2016, that will develop and set education standards, professional year requirements, continuing professional development requirements and develop a comprehensive code of ethics for financial advisers.
- Existing advisers will be provided a transition process and will be required to complete an appropriate degree equivalent (or have a recognised transition pathway determined by the independent standard setting body) and pass an exam.
- All advisers both new and existing will be required to undertake continuing professional development (CPD) and be party to a code of ethics.
- The new education and training requirement will be effective from 1 July 2017, with the code of ethics requirements coming into force from 1 July 2019.

Source: [Treasury](#)

## Improved superannuation transparency

The Government has released [exposure draft legislation](#) to refine the Corporations Act 2001 provisions that establish the legislative frameworks for choice product dashboards and portfolio holdings disclosure. [Explanatory memorandum](#) is also available.

The existing choice product dashboard and portfolio holdings disclosure requirements were introduced in 2012 but the supporting regulation has not yet been made. ASIC Class Order [CO 14/443] delays the commencement of the requirements until 1 July 2016.

The refinements in the exposure draft legislation limit choice product dashboard to a superannuation fund's top ten (by value) investment options and the disclosure of a superannuation fund's portfolio holdings to assets held directly and by associated entities.

[Exposure draft regulation](#) has also been released to enable consideration to be given to the practical application of the new choice product dashboard and portfolio holdings disclosure regimes.

A [consultation paper](#) has been released for comment to investigate proposed models of comparison as indicated by the consumer testing.

The Government is seeking to introduce legislation in early 2016 with regulations being made after the legislation receives Royal Assent.

Source: [Treasury](#)

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# Legislative/Government developments (cont'd)

## Extending superannuation choice to enterprise agreements and workplace determinations

The Government has released an [exposure draft legislation](#), *Extending superannuation choice to enterprise agreements*, to extend choice of fund to more employees under enterprise agreements and workplace determinations made from 1 July 2016. This is the Government's response to recommendation 12 of the Financial System Inquiry Final Report. [Explanatory statement](#) is also available.

Under the Superannuation Guarantee (Administration) Act 1992 (SGAA), employers must comply with choice of fund requirements when paying superannuation guarantee (SG) contributions. There are some exemptions from an employer being required to offer employees a choice of fund and as a result some employees do not get to choose their superannuation fund.

The Government proposes changes to remove deemed compliance with choice for contributions under enterprise agreements and workplace determinations made from 1 July 2016. The changes will also ensure employers are not penalised with a SG shortfall if they rely on the existing exemptions from choice of fund requirements for employees in certain defined benefit schemes.

Source: [Treasury](#)

## Options to strengthen the misuse of market power law

The *Final Report of the Competition Policy Review* (the Harper Review) made 56 recommendations on Australia's competition framework spanning most sectors of the economy. On 24 November 2015, the Government released its response to all recommendations. In relation to the misuse of market power provision, the Government has decided that further consultation is needed before responding to the Review's recommendation.

The Government has released a [Discussion Paper](#), *Options to strengthen the misuse of market power law*, to seek the views of interested parties on options to strengthen the misuse of market power provision (section 46) of the Competition and Consumer Act 2010 (CCA). Closing date for submissions is 12 February 2016.

Source: [Treasury](#)

## Indicative bids for ASIC Registry tender process underway

The Government has begun the indicative bid phase to test the market on the ability of a private sector operator to upgrade, operate and add value to the registry functions of ASIC (ASIC Registry).

In considering a private operator, the Government is taking into account its strong preference for the ASIC Registry to maintain its existing operations in Traralgon and the Latrobe Valley area.

The Commonwealth will retain ownership of the ASIC Registry's data and make a decision on any further steps following the evaluation of the indicative bids. Indicative bids are now open and due by 4pm, Sydney (Australia) time, 23 February 2016.

Source: [Finance Minister](#)

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# Legislative/Government developments (cont'd)

## Resilience and collateral protection and client money reforms

The Government has released [exposure draft legislation](#) to introduce changes to the Payment Systems and Netting Act 1998 (PSN Act) and certain other Acts, [exposure draft regulations](#) to introduce changes to the Superannuation Industry (Supervision) Regulations 1994 (SIS Regulations) and Life Insurance Regulations 1995 (Life Insurance Regulations) and a [policy paper](#) proposing reforms to the client money under the Corporations Act 2001.

The Financial System Legislation Amendment (Resilience and Collateral Protection) Bill 2016 is intended to:

- Enable Australian entities to enforce rights in respect of margin provided by way of security in connection with certain derivatives in the manner required by international standards.
- Clarify domestic legislation to support globally coordinated policy efforts<sup>1</sup> and provide certainty on the operation of Australian law in relation to the exercise of termination rights (also known as close-out rights) under derivatives arrangements.
- Enhance financial system stability by protecting the operation of approved financial market infrastructure.

The Financial System Legislation Amendment (Resilience and Collateral Protection) Regulation 2016 is intended to enable trustees of regulated superannuation entities and life companies to grant security in the manner required to access certain international capital markets and liquidity.

The proposed reforms set out in the policy paper is intended to enhance the protection provided to retail clients of financial services providers whilst maintaining efficiencies in wholesale markets.

Source: [Treasury](#)

## Terrorism insurance scheme review

Australia's terrorism insurance scheme was designed to protect Australia's commercial property sector from the global withdrawal of terrorism insurance cover in the wake of the terrorist attacks of 2001 in the United States.

The Terrorism Insurance Act 2003 ('the Act') requires that at least once every three years, the Minister must prepare a report that reviews the need for the Act to continue in operation. Previous reviews in 2006, 2009 and 2012 concluded that there was insufficient commercial market terrorism insurance available at affordable rates and that the scheme should continue to operate.

The Government conducted a [review](#) of the terrorism insurance scheme in 2015. The review considered the rationale of the scheme, the continuation of the Act, the ownership structure of the Australian Reinsurance Pool Corporation (ARPC) and ensuring the financial sustainability of the scheme.

The review concluded that market failure still exists in the Australian terrorism reinsurance market and that the ARPC should remain in place under the current ownership structure and administration. The review makes 10 recommendations which provide for a strategic realignment of the depth and breadth of coverage for terrorism risk insurance and the role of the ARPC for both existing activity and emerging coverage and functions.

Source: [Treasury](#)



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# What have the regulators been up to?

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### ASIC consults on implementation of retail life insurance advice reforms

ASIC has released a consultation paper, *Retail life insurance advice reforms* ([CP 245](#)), seeking feedback on proposals to implement reforms to the regulation of the life insurance industry by making a legislative instrument that will set out:

- the maximum levels of upfront and ongoing commission payments to be paid to advisers
- the amount of upfront commissions to be repaid to life insurers under 'clawback' arrangements.

The consultation paper also sets out the information ASIC proposed to obtain from life insurance providers to enable ASIC to monitor the impact of the reforms.

See [media release](#)

### ASIC consults on remaking of class orders for dealing in underlying investments

ASIC has released consultation paper, *Remaking ASIC class orders on dealing in underlying investments* ([CP 244](#)), which proposes remaking three class orders which cover relief for dealing in underlying investments that are due to expire in April 2017 into a single instrument so that the substantive effect of the relief in each class order is continued beyond the expiration date in a new legislative instrument.

The [draft instrument](#) related to CP 244 is also available. Submissions to CP 244 are due by 15 February 2016.

See [media release](#)

### ASIC releases report on professional indemnity insurance market for AFS licensees providing financial product advice

ASIC has released a report, *Professional indemnity insurance market for AFS licensees providing financial product advice* ([REP 459](#)), containing their findings about the state of the professional indemnity (PI) insurance market for Australian financial services (AFS) licensees that provide financial product advice to retail clients on Tier 1 products. ASIC also analysed where there may be a risk of non-compliance with current law and policy, as well as other regulatory risk such as the potential lack of practical availability of adequate PI insurance.

The report found that the market for PI insurance in Australia for financial advisers is stable and generally available, but gaps exist between what ASIC expects and some of the insurance products available.

See [media release](#)

### ASIC consults on remaking class orders related to financial reporting relief for certain small proprietary companies and registered foreign companies

ASIC has released consultation paper, *Remaking ASIC class orders on reporting by foreign entities: [CO 98/98] and [CO 02/1432]* ([CP 248](#)), seeking feedback on the remaking of two class orders which is due to expire in April 2017. The class orders affect financial reporting by small proprietary companies controlled by a foreign company and by registered foreign companies.

The [draft instrument](#) related to CP 248 is also available. Submissions are due by 29 February 2016.

See [media release](#)

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

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### ASIC releases draft guidance on review and remediation programs and proposed changes to record-keeping requirements for advice licensees

ASIC has released consultation paper, *Client review and remediation programs and update to record-keeping requirements* ([CP 247](#)), proposing guidance on review and remediation programs conducted by Australian financial services (AFS) licensees who provide personal advice to retail clients.

CP 247 provides draft guidance on:

- when to establish a review and remediation program
- determining the scope of the program
- designing a comprehensive and effective program
- communicating effectively with clients
- ensuring access to the external review of decisions.

It also proposes changes to the record-keeping requirements for AFS licensees relating to the best interests duty to clarify that AFS licensees must have access to records for the period of time in which the records are required to be kept, even if a person other than the licensee holds the records.

Submissions are due by 26 February 2016 .

See [media release](#)

### ASIC implements clearing regime in Australia for OTC derivatives

ASIC has released rules implementing Australia's mandatory central clearing regime for over-the-counter (OTC) derivatives of financial institutions – the *ASIC Derivative Transaction Rules (Clearing) 2015* ([rules](#)) and [explanatory statement](#).

The rules set out which entities and derivative contracts are covered by the clearing mandate, the eligible central counterparties that may be used, alternative clearing (allowing entities to comply with certain overseas clearing requirements) and certain exemptions from the clearing mandate.

The mandatory central clearing regime is intended to assist in reducing systemic risk in OTC derivatives markets and applies to transactions in OTC interest rate derivatives denominated in Australian dollars (AUD interest rate derivatives), and in US dollars, euros, British pounds and Japanese yen (G4 interest rate derivatives) between OTC derivatives dealers.

The rules follow ASIC's consultation ([CP 231](#)) earlier this year and a Ministerial determination issued in August 2015 that imposed a clearing mandate on AUD and G4 interest rate derivatives, and regulations made in September 2015 that set high-level parameters for the mandatory clearing regime. Response to submissions on CP 231 ([REP 460](#)) and Regulation Impact Statement ([RIS](#)) are also available.

The clearing obligations will commence in April 2016.

See [media release](#)

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### ASIC remakes instruments on takeovers and schemes of arrangement

ASIC has remade six legislative instruments that facilitate takeovers and schemes of arrangements, following public consultation ([CP 234](#)). The relief applies to certain domestic and foreign takeover bids, accelerated rights issues, investor directed portfolio services (IDPS), share buy-backs and downstream acquisitions and is set out in the following new legislative instruments:

- ASIC Corporations (IDPS - Relevant Interests) Instrument [2015/1067](#) (replaces Class Order 04/523)
- ASIC Corporations (Minimum Bid Price) Instrument [2015/1068](#) (replaces Class Order 00/2338)
- ASIC Corporations (Takeovers - Accelerated Rights Issues) Instrument [2015/1069](#) (replaces Class Order 09/459)
- ASIC Corporations (Unsolicited Offers - Foreign Bids) Instrument [2015/1070](#) (replaces Class Order 05/850)
- ASIC Corporations (Approved Foreign Financial Markets) Instrument [2015/1071](#) (replaces Class Order 02/249 and 02/259).

See [media release](#)

### ASIC remakes employee redundancy funds class order

ASIC has remade the ASIC Corporations (Employee Redundancy Funds Relief) Instrument [2015/1150](#), following public consultation ([CP 238](#)). The instrument provides interim relief until 1 October 2018 to employee redundancy funds from the managed investment and associated provisions in the *Corporations Act 2001* (Corporations Act), including the requirements to:

- hold an Australian financial services (AFS) licence with appropriate authorisations
- register the employee redundancy fund as a managed investment scheme
- comply with the managed investment provisions in Chapter 5C of the Corporations Act and other associated provisions.

It replaces ASIC class order [CO 02/314] Employee redundancy funds: relief which is due to expire in October 2016. Response to submissions on CP 238 ([REP 463](#)) is also available.

See [media release](#)



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### ASIC releases report on its work to reduce red tape

ASIC has released a report, *ASIC's work to reduce red tape*, ([REP 466](#)), which outlines ASIC's current deregulation work, reports on progress implementing measures highlighted in *ASIC's deregulatory initiatives* ([REP 391](#)) and responds to new deregulatory ideas received from the market since the report was released.

Examples of ASIC incorporating red tape reduction into its everyday work include:

- Granting waivers from the law, which allows the law to apply flexibly and helps innovation where appropriate.
- Improving systems, such as forms, website and lodgement facilities, for faster and easier public interactions.
- Advocating for international recognition of the laws, which makes cross-border operations easier for business.
- Suggesting changes to the law that will have a deregulatory benefit.

See [media release](#)

### ASIC releases report on debt management firms

ASIC has released a research report, *Paying to get out of debt or clear your record: The promise of debt management firms*, ([REP 465](#)) which aims to better understand the debt management industry and the consumer experience in using debt management firms. The research involved two phases.

Findings from a qualitative analysis and mystery shop of debt management firms include:

- Fees and costs were opaque making it difficult for consumers to assess the cost relative to the purported value.
- Fees were often 'front loaded' i.e. fees were payable before services were provided thereby increasing consumer commitment through sunk costs.
- Some sales techniques create a high-pressure sales environment.
- Little information was given about important risks.

Findings from a survey on the involvement of debt management firms acting for consumers in Ombudsman schemes covering the financial services, telecommunications and energy and water sectors include:

- A growing number of firms are representing consumers at external dispute resolution.
- The disputes brought to EDR schemes by debt management firms relate almost exclusively to arguments about the removal of default listings on consumer credit reports.
- While an increasing number of consumers are being represented at EDR by debt management firms, this is *not* leading to more credit reporting related disputes being found in favour of consumers.

See [media release](#)

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

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### Speech: Deepening global securitisation markets - An IOSCO perspective

Greg Medcraft, Chairman of both ASIC and the International Organization of Securities Commissions (IOSCO) addressed the Australian Securitisation Forum Annual Conference on.

His speech emphasised the importance of sustainable securitisation markets to global economic growth, which has been recognised by FSB and G20 leaders and European policy makers and reflected in recently announced proposals to drive recovery in European securitisation markets as part of the Capital Markets Union project.

IOSCO has been working to support the revival of sustainable global securitisation markets, including work in cooperation with the Basel Committee and other standard setters. The aim had been to restore investor trust and confidence in securitization by focusing on the following three key objectives:

- Ensuring incentives across the securitisation value chain are aligned with the interests of investors, ideally through skin in the game measures.
- Ensuring investors have enough of the right information to be able to make confident and informed decisions about their investments.
- Supporting investors by simplifying and easing the due diligence they need to undertake in making investment decisions.

IOSCO is to continue working with other standard setters to build on its work on simple, transparent and comparable securitisations and extending the simple, transparent and comparable criteria to asset-backed commercial paper as an important source of finance for SMEs in particular in both Europe and the United States. He encouraged industry in Australia and globally to engage in this work with IOSCO.

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

### ASIC comments on the release of IOSCO custody principles

ASIC commented on the recent release of the International Organization of Securities Commissions' (IOSCO) [custody standards](#). ASIC has played a role in developing these international standards and was able to utilise its domestic custody engagement during development of:

- ASIC Regulatory Guide 133 *Managed investments and custodial or depository services: Holding Assets (RG 133)* released in November 2013.
- ASIC Regulatory Guide 166 *Licensing: Financial requirements (RG 166)* mandating new financial requirements for responsible entities and custodians which hold assets, with effect from 1 July 2013.

Compliance with the final requirements from these changes was required by 1 November 2015. ASIC noted that domestic requirements are consistent with the IOSCO standards, such as:

- IOSCO Standards 5 and 6 set out new requirements in relation to the selection and appointment of custodians. Similarly, RG 133 strengthened the requirements regarding the initial selection by a responsible entity of the custodian, and custodian of its sub-custodians.
- IOSCO Standards 7 and 8 require the responsible entity to document the relationship with the custodian and monitor compliance thereafter. The requirements in RG 133 require custody and sub-custodian agreements to contain certain terms and provide the appropriate protection for the client and the underlying investors.

See [media release](#)

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### Margin lenders improve lending standards following ASIC review

ASIC reviewed the lending practices of six margin lenders, covering 90% of the market, and found that five of the six margin lenders approved 'double geared' margin loans. In certain circumstances, four of the five margin lenders who approved double geared margin loans did not take additional steps when approving such loans, despite the additional risks associated with double geared margin loans.

Following ASIC's review, one margin lender decided to cease offering double geared loans. The remaining four lenders have made several commitments to reduce risks, including ensuring that their policies have, or continue to have, the following requirements for double geared borrowers:

- extra buffers to allow for interest rate rises and/or changes in expenses
- lower maximum allowable loan amounts
- lower loan to value ratios.

ASIC's review also identified two lenders that provided double geared margin loans in circumstances where the borrower would not be able to fully service the margin loan relying only on their available income. Instead, such borrowers would need to sell assets in order to meet their ongoing interest payments. While 'asset-lend' margin loans are not prohibited, ASIC considers that such margin loans are significantly more likely to be unsuitable. Following ASIC's review, both margin lenders agreed to cease approving double geared asset-lend margin loans.

See [media release](#)

### ASIC consults on addressing securitisation class order

ASIC has released consultation paper, *Remaking ASIC class order on securitisation special purpose vehicles (CP 246)*. CP 246 proposes to maintain relief from the requirement to obtain an Australian financial services licence for certain entities but to omit one condition requiring an AFS licensee to enter into an irrevocable deed poll agreeing to be liable for the securitisation entity's acts or omissions.

The [draft ASIC instrument](#) related to CP 246 is also available.

See [media release](#)

### ASIC consults on remaking class order about financial calculators

ASIC has released a consultation paper, *Remaking ASIC class order on generic financial calculators: [CO 05/1122] (CP 249)*. CP 249 proposes to continue the relief currently given for providers of generic calculators, which is due to expire on 1 April 2016, with some changes including the proposed adjustment to an estimate of a future return for inflation.

The [draft instrument](#) related to CP 249 is also available. Submissions are due by 12 February 2016.

See [media release](#)

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

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### Letter to all locally-incorporated ADIs other than purchased payment facility providers in relation to countercyclical capital buffer

APRA has released a [letter](#) to all locally-incorporated authorised deposit-taking institutions (ADIs), other than purchased payment facility providers, in relation to countercyclical capital buffer, and draft Prudential Practice Guide Capital Buffers ([APG 110](#)).

A submission on the proposed changes to Prudential Standard Capital Adequacy (APS 110) sought clarity on issues including:

- appropriately specifying that calculation of the 'ADI-specific buffer' is limited to certain exposures to private sector counterparties
- seeking amendments to replace references in APS 110 to the term 'capital charge' with 'risk-weighted amount' to avoid potential confusion with the accounting use of 'charge'.

APRA has responded to these issues by:

- amending APS 110 to make clearer that the ADI-specific buffer is limited to exposures to private sector counterparties
- replacing references to 'capital charge' where possible
- confirming that the treatment of subsidiaries that are part of the Extended Licensed Entity at Level 1, should be included for the purposes of calculating the ADI-specific buffer
- confirming that an ADI should follow the requirements relating to transitional arrangements that apply in the relevant jurisdiction. Where a jurisdiction is not applying a phase-in limit to its buffer, an ADI should use the full buffer in its calculations.

Submissions on the draft APG 110 is due by 18 March 2016.

See [media release](#)

### Speech: Future prudential direction of securitisation

APRA's General Manager, Pat Brennan, addressed the Australian Securitisation Forum, Sydney and discussed the future prudential direction of securitisation.

He noted that APRA has been reviewing the prudential framework for securitisation and has released for consultation a second discussion paper, and a draft prudential standard APS 120 Securitisation. This consultation package includes a response to submissions to the 2014 discussion paper and changes to APRA's proposals in a number of key areas. APRA also incorporated the updated Basel Committee securitisation framework which was released at the end of 2014 and relates to capital requirements for ADIs with securitisation exposures.

He outlined some key aspects of APRA's updated proposals on funding-only securitisation, capital relief securitisation, threshold for capital relief, warehouse arrangements and Basel III securitisation, and on how APRA incorporates feedback from industry and other interested parties in its consultation process.

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

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### Letter to all ADIs: Accreditation process of internal ratings-based (IRB) approach to credit risk

APRA has released a [letter](#) to all ADIs in relation to accreditation process of internal ratings-based (IRB) approach to credit risk. APRA has been considering possibilities to modify its IRB accreditation process to make it easier for ADIs to achieve accreditation without weakening the overall standards that accreditation requires. APRA has announced two important changes to the IRB accreditation process:

- Staged IRB accreditation: This is to provide the capacity for an ADI to use accredited IRB models for regulatory capital purposes for some credit portfolios ahead of others. Staged accreditation will require that all key aspects of IRB systems should be in place at the time of initial accreditation.
- Decoupling operational risk modelling from IRB accreditation: APRA is preparing to consider, subject to conditions, that an ADI be accredited to use the IRB approach for credit risk without an accredited AMA model for operational risk.

See [letter](#)

### APRA announces countercyclical capital buffer rate for ADIs

APRA has announced that the countercyclical capital buffer applying to the Australian exposures of ADIs from 1 January 2016 will be set at zero per cent. Although the minimum Basel III requirements were implemented from 1 January 2013, the buffer component of the framework took effect from 1 January 2016.

The capital framework requires ADIs to hold a buffer of Common Equity Tier 1 capital, over and above each ADI's minimum requirement, comprised of three components:

- a capital conservation buffer, applicable at all times and equal to 2.5 per cent of risk-weighted assets
- an additional capital buffer applicable to any ADI designated by APRA as a domestic systemically important bank (D-SIB), currently set to 1.0 per cent of risk-weighted assets
- a countercyclical buffer which may vary over time in response to market conditions. This buffer may range between zero and 2.5 per cent of risk-weighted assets.

APRA has also released:

- an [information paper](#), *The countercyclical capital buffer in Australia*, setting out APRA's approach to assessing the appropriate settings for the countercyclical buffer
- a revised and final version of *Prudential Standard APS 110 Capital Adequacy (APS 110)* that clarifies operational aspects of the countercyclical capital buffer
- a draft version of *Prudential Practice Guide APG 110 Capital Buffers (APG 110)* for consultation.

See [media release](#)



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### Letter to all RSE licensees: Superannuation reporting standards – release of minor amendments to reporting standards

On 31 July 2015, APRA released a package which responded to submissions on the April 2015 reporting standards consultation package, comprising a response letter and five proposed final reporting standards:

- Reporting Standard SRS 532.0 Investment Exposure Concentrations (SRS 532.0)
- Reporting Standard SRS 533.1 Asset Allocation and Members' Benefits Flows (SRS 533.1)
- Reporting Standard SRS 534.0 Derivative Financial Instruments (SRS 534.0)
- Reporting Standard SRS 702.0 Investment Performance (SRS 702.0)
- Reporting Standard SRS 703.0 Fees Disclosed (SRS 703.0).

Following the release of the proposed final superannuation reporting standards in July, industry had requested clarification on a small number of issues in the reporting standards.

APRA has released a [letter](#) to all RSE licensees in relation to release of minor amendments to superannuation reporting standards.

See [letter](#)

### APRA consults on the publication of ADI liquidity statistics

APRA has released a [consultation paper](#) on the proposed publication of liquidity statistics for ADIs.

APRA proposes to expand the current statistics published in the *Quarterly Authorised Deposit-taking Institutions (ADI) Performance* publication to include relevant information on the liquidity of ADIs and to introduce liquidity statistics for banks, and expand the existing liquidity statistics published for credit unions and building societies.

The discussion paper can be found [here](#). Submissions are due by 30 March 2016.

See [media release](#)

### Letter to all RSE licensees: Outcomes of consultation on governance arrangements for RSE licensees

APRA has released a [letter](#) to all RSE licensees summarising the outcome of consultation on the proposed amendments to *Prudential Standard SPS 510 Governance* (SPG 510), *Prudential Standard SPS 512 Governance Transition* (SPG 512), *Prudential Practice Guide SPG 510 Governance* (SPG 510) and *Prudential Practice Guide SPG 512 Governance Transition* (SPG 512). The letter covers governance frameworks, the nomination, appointment and removal of directors, director tenure, and board size.

The attachment to this letter includes relevant sections that reflect the final position that APRA intends to include in SPS 510 and SPG 510 when they are finalised.

See [letter](#)

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### Letter to all ADIs: Classification of retail and qualifying SME deposits for LCR purposes

In early 2015, APRA conducted a consistency review across 14 large ADIs to determine whether they were taking a consistent approach to the interpretation and application of key terms in APS 210 Liquidity (APS 210) relating to the Liquidity Coverage Ratio (LCR). The area that demonstrated the greatest level of inconsistency was the assumptions relating to retail and qualifying SME deposits.

APRA has released a [letter](#) to ADI in relation to classification of retail and qualifying SME deposits for LCR purposes, providing observations of better practice in the approaches taken to determine whether retail deposits are considered stable or less stable. As part of ongoing supervision and the Committed Liquidity Facility 'all reasonable steps' assessment process in 2016, APRA will consider the extent to which ADI's meet the expectations in this letter.

See [letter](#)

## 2

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

## ASIC

Australian Securities and  
Investments Commission

## APRA

Australian Prudential and  
Regulatory Authority

## RBA

Reserve Bank of Australia

## ASX

Australian Securities  
Exchange

## AUSTRAC

Australian Transaction  
Reports and Analysis  
Centre

### RBA consults on changes to the bank's standards for card payment systems

The RBA has released a [consultation paper](#) containing amended draft standards for card payment systems, including changes as to regulation of surcharges on card payments. The proposed standard preserves the right of merchants to surcharge for more expensive payment methods but includes changes to enhance transparency and improve enforcement in cases where merchants are surcharging excessively.

The Government has also announced draft legislation that will insert a ban on surcharging in excess of merchant costs into the Competition and Consumer Act (2010).

The consultation paper also includes changes to interchange payments in card systems such as:

- American Express companion cards to be subject to the same interchange fee regulation that applies to MasterCard and Visa systems
- weighted-average interchange fee cap for debit cards to be reduced from 12 cents to 8 cents
- altering the methodology for capping interchange fees.

Submissions are due by 3 February 2016.

See [media release](#)

### Speech: Some Effects of the New Liquidity Regime

Guy Debelle, Assistant Governor (Financial Markets) at RBA addressed the 28th Australasian Finance and Banking Conference. He discussed a few aspects of the liquidity regime, namely the application of one important aspect of the Basel III standards, the liquidity coverage ratio (LCR). He described some of the features of the LCR regime that have emerged over the past year and some of the market developments that have taken place since its introduction.

He also summarised information that RBA has gathered from a related development, the provision of detailed information on asset-backed securities. This information has resulted from the Bank's stipulation that for an asset-backed security to be repo-eligible in the Bank's operations, or to be usable collateral for the Committed Liquidity Facility (CLF), an issuer needs to provide loan-level data and detailed information on the security.

He concluded his speech by looking at some of the changes that have occurred, stating that there has been repricing of liabilities to reflect the differences in their treatment under the LCR and on the asset side, increased holdings of government paper. The banking system's contingent use of the CLF will decrease in 2016 from 2015 as banks have made adjustments to lower their net cash outflows, which increases their resiliency to funding shocks. This has occurred even as bank balance sheets have continued to expand.

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

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### ASX releases consultation paper to facilitate Equity Sector Futures trading with respect to roll business activity on ASX Trade 24

ASX has released a [consultation paper](#), *Facilitating Equity Sector Futures Roll Business on ASX Trade 24*, seeking customer feedback on options to enhance the roll market structure for equity sector futures contracts to encourage greater liquidity and lower the costs with rolling contracts at expiry.

Participants had approached ASX requesting review and identified some specific options that should be considered through this process, including:

- changing the tick size of the contracts from 1pt to 0.1pt in the last week of an expiry to allow more granular pricing in both the outright contracts and spread markets
- introducing a change to ASX 24 Operating Rule Procedure 4820.13 to allow block trade reporting for roll business on A REIT futures contracts. This would also require a change to the ASIC Market Integrity Rules (ASX 24 Market) 2010
- allowing a combination of the above methods for different Equity Sector futures contracts.

ASX believes the best option is the first option mentioned above. ASX invited submissions from market users on ASX's proposal and the options contained in the paper or any alternative approaches.

See [website](#)

### ASX consults on central counterparty recovery in relation to exposure draft rules for interim replenishment of default funds

ASX has released a [consultation paper](#), *Central Counterparty Recovery – Consultation on Exposure Draft Rules for Interim Replenishment of Default Funds*, seeking feedback on exposure draft [rules](#) to facilitate more rapid replenishment of the default funds of ASX Clear and ASX Clear (Futures) (ASX CCPs) if they are depleted as a result of a participant default loss.

To comply with these regulatory requirements, the ASX CCPs propose to amend their Recovery Rules to provide for more rapid replenishment of the default funds as follows:

- The ASX CCPs must replenish to a minimum fund size of \$100m (ASX Clear (Futures)) or \$37.5m (ASX Clear) as soon as practicable after completion of the default management process, including the next business day when that would be reasonably practicable.
- The ASX CCPs (through funding sourced by the ASX Group) will provide the initial interim contribution to replenish the default fund of up to \$100m (ASX Clear (Futures)) or \$37.5m (ASX Clear).
- The ASX CCPs have discretion to call for participants to make interim contributions up to a further \$100m (ASX Clear (Futures)) or \$37.5m (ASX Clear) to the default fund during the default period.

See [website](#)

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### Working group on remittance account bank closures

In mid-2014, the Government began receiving reports that financial institutions were closing or declining to open bank accounts for registered non-bank or 'alternative' remittance service providers. This practice is often referred to as 'bank de-risking'.

The Working Group was formed to identify practical measures that alternative businesses could undertake to make their businesses more likely to fit within the risk tolerance of banks. Its outcomes are set out in the *Working Group on Remittance Account Closures Outcomes statement*.

Amongst other outcomes, the Working Group agrees that decisions by financial institutions about the risks associated with providing services to remittance businesses should be considered on a client-by-client basis, noting that financial institutions are best placed to assess and manage the risk posed by their customers and the products and services they offer.

AUSTRAC also released its *strategic analysis brief*, *Bank de-risking of remittance businesses*. Its key findings included:

- The largest remittance network providers (RNPs) have all been impacted by the bank account closures of some of their affiliate businesses and in some cases the RNP itself. Many have used institution to conduct their remittance business.
- Bank de-risking activities do not appear to have had a significant impact on international funds flows through the remittance sector.

See [media release](#)

### AUSTRAC releases new methodologies brief

AUSTRAC has released a new methodologies [brief](#), *Building a profile - Financial characteristics associated with known foreign terrorist fighters and supporters*. This methodology brief is designed to assist industry in identifying behaviours of foreign terrorist fighters and supporters.

See [media release](#)

### Compliance report for 2015

AML/CTF [compliance report](#) for 2015 is now available. A reporting entity, which offered designated services during any part of the reporting period of 1 January 2015 to 31 December 2015, is required to submit an AML/CTF compliance report to AUSTRAC.

AUSTRAC has introduced a new question (Question 23) into the Compliance Report. This question relates to the increased due diligence requirements that came into effect on 1 June 2014.

See [media release](#)



# 3

## Industry bodies

### FSC

Financial Services Council

### ASFA

Association of Superannuation  
Funds of Australia

### COBA

Customer Owned Banking  
Association

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### FPA

Financial Planning Association of  
Australia

#### FSC statement on superannuation transparency and competition reforms

FSC commented on draft legislation on superannuation transparency and competition reforms released by the Assistant Treasurer. The legislation will allow more Australians to choose their own super fund and provide consumer disclosures on key features and fund holdings.

To enable informed consumer decision-making the Assistant Treasurer announced that superannuation funds will be required to release more information including:

- Product dashboards require trustees to disclose the fees, net returns and risk profile of the investment option. It will enable consumers to make like for like comparisons.
- Portfolio holdings disclosure requires trustees to publish a table of holdings of each investment option on their website. This will enable consumers to identify their investments as well as the value of each investment made under their particular investment option.

See [media release](#)

#### FSC statement on superannuation governance reform

FSC stated that the proposal for independent directors on the superannuation trustee boards is a moderate reform that will apply to all superannuation funds – retail, industry, corporate and public sector.

The Government's Financial System Inquiry and the previous Labor Government's Cooper Review both recommended the appointment of independent directors on superannuation trustee boards.

APRA has made it clear that independent directors play an important role in protecting superannuation consumers from conflicts of interest.

See [media release](#)

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### SMSF Report 2015

FSC has released their joint second annual research [report](#) on the state of Self Managed Super Funds (SMSF) growth in Australia. The report profiles and explores the view of Australians with SMSFs, looking at key trends and motivators behind the continued growth in the sector and key opportunities available to investment firms.

Australia holds assets in superannuation funds of more than \$2 trillion. This includes \$589.9 billion in SMSFs, Retail (\$525.9 billion), Industry (\$432.8 billion) and Public Sector (\$219.3 billion).

Some of the key findings in the report are:

- Achieving greater control and choice of investments (59%) is still the key driver for setting up an SMSF.
- Exchange Traded Funds (ETFs) were used by 20% of fund holders this year, with a further 10% intent on incorporating them into their future SMSF strategy.
- Professional advice plays a key role in SMSF planning across all fund sizes, with 69% of SMSF members in a formal arrangement to receive advice from financial advisors, accountants or banks.

See [media release](#)

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### Draft product dashboard and portfolio holdings legislation

ASFA has welcomed the draft legislation released by the Government on improving superannuation transparency through the implementation of the portfolio holdings and product dashboard regimes.

The proposed reforms will assist consumers while limiting the costs of implementation, which are ultimately paid for by fund members. The addition of more targeted look through provisions to the portfolio holdings disclosure regime will achieve a better balance between transparency and compliance costs. The proposed legislation ensures that trustees will not be required to disclose commercially sensitive information, which recognises the need to ensure diversity of classes of assets in investment portfolios.

ASFA has described the choice product dashboard as an important initiative to enable greater comparability of the top ten investment options of the fund.

See [media release](#)

### Letter to Assistant Treasurer in relation to superannuation governance

ASFA has released a [letter](#) to Assistant Treasurer in relation to governance of super funds. ASFA believes that one third of a trustee's board of directors should be independent, the most significant principle contained in the Bill. However, ASFA remains concerned with the definition of independence and power provided to APRA in deciding the independence of directors.

See [letter](#)

### Submission to the Treasury: Lifting the professional, ethical and education standards in the financial services industry

ASFA has made a [submission](#) to the Treasury in relation to lifting the professional, ethical and education standards in the financial services industry. ASFA is in support in particular the introduction of a code of ethics.

However, ASFA raised some concerns with various aspects of the exposure draft legislation including:

- the difficulties associated with the requirement that existing financial advisers be degree qualified
- transitional timeframes for new and existing advisers
- the need for more flexible arrangements for advisers who are only permitted to provide intra-fund advice
- the need for further consultation on the code of ethics.

See [letter](#)

### ASFA comments on ASX implementation of Distributed Ledger Technology

The ASX will be investing in an upgrade to its trading and post trading platforms. ASFA believes that the ASX's investment in new technology could lead to lower costs for superannuation fund members.

See [media release](#)

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#### COBA ready to engage on pro-consumer agenda for credit cards

The Senate Committee report on the credit card market has delivered a positive set of recommendations.

The Committee has adopted the recommendation for government to consider expanding financial literacy programs.

Recommendations 1 and 2 relate to disclosure of rates and fees and are intended to help steer consumers towards the most competitively-priced credit card products.

See [media release](#)

#### COBA comments on ASIC review on debt management firms

COBA found the review of debt management firms by ASIC as a good step, particularly for vulnerable consumers and would promote greater transparency and accountability. These companies target vulnerable consumers, charging excessively high fees for a service that can actually be obtained free of charge.

If consumers are worried about debt, they should approach their financial institution or a free financial counselling service. COBA is sponsoring CreditSmart training for 200 financial counsellors across Australia.

ASIC's report noted there is no uniform regulatory framework for debt management firms in Australia.

See [media release](#)

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#### **ABA comments on draft legislation to raise professional standards of financial advisers**

ABA welcomed the release of proposed legislation to raise education, ethical and professional standards for financial advisers.

Higher education and competency standards for financial advisers will go a long way towards building trust and confidence in financial advice.

The proposed legislation also contains new standards for financial advisers to meet continuing professional development requirements and subscribe to a code of ethics.

ABA looks forward to working with the Government on the detail of the legislation, including establishing the independent standards setting body and confirming transitional arrangements for existing financial advisers.

See [media release](#)



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### **ACCC approval will transform credit in Australia**

The Australian Consumer and Competition Commission (ACCC) has approved a new principles based industry framework which will transform consumer access to finance in Australia. It came into effect on 25 December 2015. The framework has been developed by the members of ARCA.

The industry developed principles, the Principles of Reciprocity and Data Exchange (PRDE), will encourage Credit Providers and Credit Reporting bodies to share consumer credit information, such as on-time loan repayments, as well as negative data.

The authorisation of the PRDE represents a big step in Australia's transition to comprehensive credit reporting and follows the Australian Government's response to the Financial System Inquiry, which supported the industry approach to credit data sharing.

See [media release](#)

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#### **Overnight Index Swap (OIS) settlement to move to T+2 from 1st January 2016**

The AFMA Swaps Committee has approved a change in settlement for Overnight Index Swaps from T+1 to T+2 with an effective date of the convention change as at 1 January 2016 .

See [media release](#)

#### **Reciprocal Purchase Agreements (Repo) Conventions Amendment**

AFMA's Repo Committee has approved an increase in the minimum cash value per line of bonds or securities delivered under General Collateral (GC) transactions, from \$20 million to \$50 million.

See [media release](#)

# 3

## *Industry bodies (cont'd)*

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#### **FPA maintains push for changes to transition requirements**

FPA made a [submission](#) to the Treasury in response to the proposed draft legislation on the transition to higher education standards for financial planners.

In its submission, FPA maintains its support to increase the education standards of financial planners but submits that the draft legislation should be amended so transition requirements for existing financial planners could be developed by the new independent standards body that will be created to oversee the education framework. FPA is concerned that giving existing financial planners 2 years to complete a degree is not workable.

FPA also supports the Government proposal to have all financial planners subject to a code of ethics, however it is concerned that the exposure draft significantly reduces the role of professional bodies in relation to the new professional standards framework and would compete with existing widely-supporting codes.

See [media release](#)

## 4

# Overseas developments – Global

## FSB: Publishes fourth EDTF report on bank risk disclosures

The Financial Stability Board (FSB) has published two reports and a statement from the Enhanced Disclosure Task Force (EDTF):

- The 2015 [progress report](#) is the EDTF's third progress report on implementation of the EDTF recommendations; it covers 40 global or domestic systemically important banks.
- The EDTF [report](#) on the impact of expected credit loss (ECL) approaches on bank risk disclosures highlights issues with the implementation of new accounting standards on expected credit loss.
- EDTF provided a [statement](#) on the treatment of emergency liquidity provision under the EDTF disclosure recommendations.

Source: [FSB](#)

## FSB: Establishes task force on climate-related financial disclosures

The FSB is establishing an industry-led disclosure task force on climate-related financial risks. The Task Force on Climate-related Financial Disclosures (TCFD) will develop voluntary, consistent climate-related financial risk disclosures for use by companies in providing information to lenders, insurers, investors and other stakeholders.

Source: [FSB](#)

## ISDA: Signs MoU to facilitate cooperation in China with CFA

The International Swaps and Derivatives Association, Inc. (ISDA) and the China Futures Association (CFA) have signed a memorandum of understanding (MoU) in Shenzhen, China.

The MoU sets the framework for a closer working relationship between ISDA and the CFA. The MoU covers the sharing and exchange of information, regular communication to promote understanding and cooperation, the exchange of staff and training, and the co-hosting of educational industry conferences.

The MoU will be in force for an initial term of five years, and will take effect on December 4, 2015.

Source: [ISDA](#)

## 4

# Overseas developments – Global (cont'd)

## BIS: Issues revised framework for market risk capital requirements

The Basel Committee on Banking Supervision (BCBS) has issued the revised [minimum capital requirements for market risk](#) to ensure that the standardised and internal model approaches to market risk deliver credible capital outcomes and promote consistent implementation of the standards across jurisdictions.

The key features of the revised framework include:

- a revised boundary between the trading book and banking book
- a revised internal models approach for market risk
- a revised standardised approach for market risk
- a shift from value-at-risk to an expected shortfall measure of risk under stress
- incorporation of the risk of market illiquidity.

Source: [BIS](#)

## BIS: Harmonisation of the UPI - consultative report issued by CPMI-IOSCO

The Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) have published a [consultative report](#) entitled *Harmonisation of the Unique Product Identifier (UPI)*.

The consultative report makes proposals for the harmonised global UPI, aiming to uniquely identify over-the-counter derivatives products that authorities require to be reported to trade repositories.

The UPI would consist of a product classification system and associated code. The focus of this report is the product classification system.

Submissions are due by 24 February 2016.

Source: [BIS](#)

## BIS: Releases consultative document on revisions to the approach for credit risk.

The BCBS has released a second [consultative document](#) on revisions to the standardised approach for credit risk. The revised proposals differ in several ways from the initial set of proposals published in December 2014. The revised proposals:

- reintroduce the use of ratings in a non-mechanistic manner for exposures to banks and corporates and include alternative approaches
- modify proposed risk weighting of real estate loans with the loan-to-value ratio as the main risk driver
- include proposals for exposures to multilateral development banks, retail and defaulted exposures and off-balance sheet items.

Submissions are due by 11 March 2016.

Source: [BIS](#)

## 4

# Overseas developments – Global (cont'd)

## BIS: Proposes guidance for the regulation and supervision of institution

The BCBS has proposed guidance for the regulation and supervision of institutions relevant to financial inclusion.

The [consultative document](#) elaborates additional guidance in the application of the Committee's *Core principles for effective banking supervision* to the supervision of financial institutions engaged in serving the financially unserved and underserved.

This includes a report of the [Range of practice in the regulation and supervision of institutions relevant to financial inclusion](#), and expands on [microfinance activities and the core principles for effective banking supervision](#).

Source: [BIS](#)

## IOSCO: Publishes report on liquidity management tools in CIS

The International Organization of Securities Commissions (IOSCO) has published a [report](#) on liquidity management tools in Collective Investment Schemes (CIS) that maps existing liquidity management frameworks in 26 member jurisdictions with a particular focus on tools to help deal with exceptional situations.

This report sets out, for a large number of jurisdictions, the various frameworks and policy tools currently at the disposal of asset managers and the scope of funds to which they apply and provides a jurisdictional level reference point on the liquidity management tools available globally.

Source: [IOSCO](#)

## IOSCO: Publishes report on implementation monitoring of PFMI for Australia

The Committee on Payments and Market Infrastructures (CPMI) and IOSCO have published a [report](#) on Implementation monitoring of PFMI: Level 2 assessment report for Australia.

This report presents the findings of the CPMI-IOSCO level 2 assessment of whether, and to what degree, the legal, regulatory and oversight frameworks for systemically important payment systems (PSs), central securities depositories (CSDs), securities settlement systems (SSSs), central counterparties (CCPs), and trade repositories (TRs) in Australia, are complete and consistent with the Principles for financial market infrastructures (PFMI).

The assessment found that Australia has consistently adopted most of the principles across financial market infrastructure types with the remaining principles adopted in a broadly consistent way.

Source: [IOSCO](#)

## 4

# Overseas developments – Global (cont'd)

## IOSCO: Reports on business continuity plans for trading venues and intermediaries

The Board of the IOSCO has published two reports that seek to enhance the ability of financial markets and intermediaries to manage risks, withstand catastrophic events, and swiftly resume their services in the event of disruption.

The [report](#), *Mechanisms for Trading Venues to Effectively Manage Electronic Trading Risks and Plans for Business Continuity*, provides a comprehensive overview of the steps trading venues take to manage the risks associated with electronic trading and the ways they plan for and manage disruptions through BCPs.

The [report](#), *Market Intermediary Business Continuity and Recovery Planning*, sets two standards for regulators and sound practices that regulators could consider as part of their oversight of market intermediaries.

Source: [IOSCO](#)

## IAIS: Adopts revisions to the insurance core principles

The International Association of Insurance Supervisors (IAIS) has adopted [revisions](#) to the insurance core principles.

Revisions were adopted to ICP 4 (Licensing), ICP 5 (Suitability of Persons), ICP 7 (Corporate Governance), ICP 8 (Risk Management and Internal Controls), ICP 23 (Group-wide Supervision) and ICP 25 (Supervisory Cooperation and Coordination). These changes were initiated following conclusion of comprehensive Self-Assessments and Peer Reviews (SAPR) of the related ICPs.

They also take into account recent developments in group supervision, corporate governance and risk management as well as principles, standards and guidance issued by other standard setting bodies.

Source: [IAIS](#)



## 4

# Overseas developments – Europe

## EBA: Consults on separation of payment card schemes and processing entities under the IFR

The European Banking Authority (EBA) has released a [consultation paper](#) on its draft technical standards on the separation of payment card schemes and processing entities under Article 7(6) of the Interchange Fee Regulation (IFR). The technical standards introduce specific requirements related to the independence of payment card schemes and processing entities.

The EBA draft technical standards requires payment card schemes and processing entities to have accounting processes in place to produce annual audited information related to separated balance sheets, and profit & loss accounts; to separate workspaces; and to ensure the independence of senior management, management bodies and staff.

It also sets out requirements related to the use of shared services and a shared information management system; the treatment of sensitive information; a code of conduct; and the separation of annual operating plans.

Source: [EBA](#)

## EBA: Consults on assessment methodology on the use of internal models for market risk

The EBA has launched a [consultation paper](#) on its draft Regulatory Technical Standards (RTS) that specify the conditions under which competent authorities assess the significance of positions included in the scope of market risk internal models, as well as the methodology that competent authorities shall apply to assess an institution's compliance with the requirements to use an Internal Model Approach (IMA) for market risk.

Source: [EBA](#)

## EBA: Issues final guidelines on institutions exposures to shadow banking entities

The EBA has published its final [guidelines](#) regarding limits on institutions' exposures to 'shadow banking entities' that carry out bank-like activities outside a regulated framework. These guidelines introduce an approach that will allow EU institutions to set internal limits for their exposures to 'shadow banking entities', hence addressing in a proportionate way the risks that these exposures pose to the EU banking sector.

The guidelines were informed by a [report](#) published on the exposures of a sample of EU institutions to 'shadow banking entities' and the impact of setting limits.

The EBA Guidelines will apply as of 1 January 2017.

Source: [EBA](#)

## 4

# Overseas developments – Europe (cont'd)

## EBA: Publishes revised final draft technical standards for G-SIIs

The EBA has published revised final draft implementing technical standards ([ITS](#)) and regulatory technical standards ([RTS](#)) and [guidelines](#) on the further specification of the indicators of global systemic importance and their disclosure.

The need for this revision was prompted by the new data template and some minor changes introduced by the BCBS for the identification of global systemically important banks (G-SIBs).

The revised guidelines stipulate that other large institutions with an overall exposure of more than EUR 200 billion Euro and which are potentially systemically relevant, will be subject to the same disclosure requirement as the G-SIIs.

The EBA will act as a central data hub in this disclosure process, providing a platform to aggregate data across the whole EU.

Source: [EBA](#)

## EBA: Consults on draft guidelines on stress testing

The EBA has launched a [consultation paper](#) on its draft guidelines on stress testing. The proposed guidelines provide guidance that institutions should follow when designing and conducting their stress testing programmes. They also describe the range of supervisory stress tests and support competent authorities in their qualitative assessment of stress testing programmes as well as in the use of stress test quantitative outcomes for the implementation of the supervisory review and evaluation process (SREP).

The guidelines provide greater detail on issues that have gained importance, including liquidity risks, conduct risk and litigation costs, FX lending risks, business models, data aggregation, and the use of reverse stress testing.

Source: [EBA](#)

## ESMA: Consults on transaction reporting, record-keeping and clock synchronisation

The European Securities and Markets Authority (ESMA) has published a [consultation paper](#) (CP) on guidelines regarding the Markets in Financial Instruments Regulation (MiFIR) under which ESMA has to develop the implementing details, seeking stakeholders feedback on future guidance regarding:

- transaction reporting
- reference data
- order record keeping
- clock synchronisation.

The CP also provides clarifications on the application of the relevant MiFID II requirements which were requested by market participants during earlier consultations but could not be addressed by the final technical standards due to the level of detail of such requests.

Source: [ESMA](#)

## 4

# Overseas developments – Europe (cont'd)

## ESMA: Publishes MiFID II guidelines on cross-selling practices

ESMA has published its [guidelines](#) on cross-selling practices under MiFID II to ensure investors are treated fairly when an investment firm offers two or more financial products or services as part of a package.

The guidelines include principles on:

- improving disclosures when different products are cross-sold with one another
- requiring firms to provide investors with all relevant information in a timely and clear manner
- addressing conflicts of interest arising from remuneration models
- improving client understanding on whether purchasing the individual products offered in a package is possible.

The guidelines apply from 3 January 2017.

Source: [ESMA](#)

## EIOPA: Solvency II is going live

The new risk-based European supervisory framework for insurance, Solvency II, has become applicable from 1 January 2016.

Source: [EIOPA](#)

## EIOPA: Publishes its strategic approach to preventive conduct of business supervision

The European Insurance and Occupational Pensions Authority (EIOPA) has published its [strategy](#) towards a comprehensive risk-based and preventive framework for conduct of business supervision.

A key element of the strategy is "smart regulation", focusing on outcomes that are relevant to consumers and moves away from a legalistic, "tick-box" approach. It is based on a two pronged approach:

- Risk-based, i.e. identifying the depth and scale of issues and focuses priorities and resources where they matter most.
- Preventive, i.e. anticipating consumer detriment early and, thereby, tackling the problems of the future, rather than of the past.

Source: [EIOPA](#)

## 4

# Overseas developments – Europe (cont'd)

## EIOPA: Addresses key financial stability risks

The EIOPA has published its second biannual [report](#) on financial stability in the (re)insurance and occupational pension fund sectors of the European Economic Area.

The key findings of the report are:

- Low interest rates environment and a “double-hit” scenario remain the biggest concerns for financial stability.
- Sustained profitability of insurers results in a challenging “search-for-yield” behaviour.
- Resilience of the insurance sector will be reinforced thanks to the upcoming Solvency II regime.
- Insurance stress test 2016 will focus on the main identified risks - shocks from the protracted low yield environment and the possible “double-hit”.

Source: [EIOPA](#)

## European Council: Adopts insurance distribution rules

The Council has adopted a [directive](#) establishing new rules on insurance distribution, improving consumer protection for insurance products. More specifically, the new directive is aimed at:

- extending the scope of application to all distribution channels
- identifying, managing and mitigating conflicts of interest
- strengthening administrative sanctions, as well as measures to be applied in the event of a breach of key provisions
- enhancing the suitability and objectiveness of insurance advice
- ensuring that sellers' professional qualifications match the complexity of the products they sell
- clarifying the procedure for cross-border market entry.

Source: [European Council](#)

## ESRB: Publishes report on systemic risks in the EU insurance sector

The European Systemic Risk Board (ESRB) has published a [report](#) on the systemic risks arising from the activities of European insurers and re-insurers.

The ESRB has identified four main ways in which insurers and re-insurers can be the source of systemic risks and amplify these:

- Insurers can amplify shocks owing to their involvement in so-called non-traditional and non-insurance activities.
- Certain asset allocation behaviour may have a pro-cyclical impact, thus aggravating already falling prices.
- Life insurers in parts of Europe could create disruption by failing collectively under a scenario with prolonged low risk-free rates and suddenly falling asset prices (“the double hit”).
- Underpricing by an insurer, if left unnoticed in micro-prudential supervision, could lead to a lack of substitutes in those classes of insurance that are vital to economic activity.

Source: [ESRB](#)

## 4

# Overseas developments – Europe (cont'd)

## European Council: Agrees its negotiating stance on securitisation

The Permanent Representatives Committee has approved, on behalf of the Council, a negotiating stance on proposals aimed at facilitating the development of a securitisation market in Europe. The agreement covers two draft regulations:

- One [draft regulation](#) sets rules on securitisations and establishes criteria to define STS securitisation.
- The [other draft regulation](#) amends regulation 575/2013 and sets out capital requirements for positions in securitisation. It provides for a more risk-sensitive regulatory treatment for STS securitisations.

Source: [European Council](#)

## European Council: Confirms agreement with EP on tougher rules

The Permanent Representatives Committee has approved a [compromise](#) agreed with the European Parliament on new rules aimed at ensuring greater accuracy and integrity of benchmarks in financial instruments on behalf of the Council.

The regulation will introduce a legally-binding code of conduct for contributors (of data) requiring the use of robust methodologies and sufficient and reliable data.

The scope of the regulation is broad, although benchmarks deemed to be critical will be subject to stricter rules, including the power for the relevant competent authority to mandate contributions of input data. The regulation will not apply to the provision of benchmarks by central banks, and, in certain circumstances, by central counterparties and public authorities.

Source: [European Council](#)

## 4

# Overseas developments – UK

## PRA: Proposes tougher rules on bonus buy-outs

The Prudential Regulatory Authority (PRA) has released a [consultation paper](#) for the introduction of a new rule on buy-outs of variable remuneration, relating to the practice whereby firms recruiting staff ‘buy-out’ deferred bonus awards that have been cancelled by their previous employer.

The PRA proposes a model that allows for the possibility of malus and clawback to be applied to bought-out awards, based on a determination by the old employer.

The principal mechanism would be a contract between the new employer and employee. It would involve the old employer notifying the new employer of the determination and that a certain amount should be applied to the employee’s deferred variable remuneration by way of malus and/or clawed back where the variable remuneration has already vested.

Source: [Bank of England](#)

## PRA: Grants Solvency II internal model approvals

From 2016, insurers in the United Kingdom will operate under a new regulatory regime – Solvency II.

Under Solvency II, an insurer can apply for use of an internal model in order to calculate the amount of capital it needs to hold, in recognition of the risks it faces. Insurers that do not use an internal model will have their capital requirements set using the standard formula, which is appropriate for the majority of insurers.

The PRA has published a [list](#) of 19 insurers whose full or partial internal models have been approved for use under Solvency II from 1 January 2016.

Source: [Bank of England](#)

## PRA: The Bank’s approach to setting a MREL

The PRA has released a [consultation paper](#) on its approach to setting a minimum requirement for own funds and eligible liabilities (MREL) for all UK banks, building societies and certain investment firms.

The purpose of MREL is to require these firms to maintain sufficient equity and liabilities that are capable of credibly bearing losses in resolution and recapitalise the businesses that need to continue operating.

Source: [Bank of England](#)

## 4

# Overseas developments – UK (cont'd)

## PRA: Power to direct institutions to address impediments to resolvability

The PRA has published [responses to a consultation and its final policy](#) for exercising its statutory power to direct institutions to address impediments to their resolvability. The new power of direction was introduced into the UK special resolution regime following transposition of the Bank Recovery and Resolution Directive (2014/59/EU).

The Bank of England's power of direction applies to:

- banks, building societies and certain investment firms (i.e. those that deal as principal and are required to hold initial capital of €730,000), that are authorised by the PRA or Financial Conduct Authority (FCA)
- parent companies of such institutions that are financial holding companies or mixed financial holding companies
- PRA or FCA-authorized financial institutions that are subsidiaries of such institutions or such parent companies.

Source: [Bank of England](#)

## FCA: Strengthening accountability in UK branches of foreign banks

The Financial Conduct Authority (FCA) has released a policy statement ([PS15/30](#)), setting out final rules for the new accountability framework for individuals working in the UK branches of overseas banks (incoming branches).

This policy statement will be relevant to:

- all incoming branches of non-UK firms that have permission to accept deposits or deal in investments as principal (where that activity is PRA regulated) in the UK
- most individuals working in those branches, including their existing Approved Persons
- some individuals who work for the firm, but are not based in the UK, if they are managing the affairs of the incoming branch
- UK firms that have permission to accept deposits and PRA-designated investment firms, as some of the modifications to the near final rules are relevant to all firms subject to the new regime.

Source: [FCA](#) –

## FCA: Consults on aspects of the MiFID II implementation

The FCA has published its [consultation paper](#) on the implementation of the new European Markets in Financial Instruments Directive II (MiFID II) in the UK (CP15/43)

The FCA's first consultation paper focuses on areas where it has sufficient certainty about the MiFID II legislation to be able to make proposals for implementation in the UK and seeks views on changes to the FCA Handbook.

The proposals mainly cover changes to the trading of financial instruments. These include issues affecting trading venues, transparency of trading and algorithmic and high frequency trading. There are also proposals covering changes to the scope of the application of the FCA's Principles for Businesses and the supervision of the new Data Reporting Service Providers category of firms.

Source: [FCA](#)



## 4

# Overseas developments – UK (cont'd)

## FCA: Final rules on changes to the APR for insurers not subject to Solvency II

The FCA has released a policy statement ([PS15/31](#)), providing feedback on responses to CP15/251 'Changes to the Approved Persons Regime (APR) for insurers not subject to Solvency II' (i.e. Non-Directive Firms or NDFs) and setting out the final consequential changes to the handbook.

This policy statement affects all firms with permission to effect or carry out insurance contracts that fall outside of the scope of the Solvency II directive and their approved persons.

The changes to the APR for insurers will pave the way for the proposed application of the SM&CR to insurers that will result from the Bank of England and Financial Services Bill of October 2015.

Source: [FCA](#)

## 4

# Overseas developments – US

## Federal Banking Agencies: Seek comment on interagency effort to reduce regulatory burden

The federal banking agencies have approved a [notice](#) requesting comment on the fourth and final set of regulatory categories as part of their review to identify outdated or unnecessary regulations applied to insured depository institutions under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ([EGRPRA](#)).

The agencies have divided their regulations into 12 categories. The fourth and final notice seeks comment on regulations in three additional categories: rules of procedure; safety and soundness; and securities.

Source: [OCC](#)

## MSRB: Seeks SEC approval of pay-to-play regulations for municipal advisors

The Municipal Securities Rulemaking Board (MSRB) has filed new [proposed federal regulations](#) with the Securities and Exchange Commission (SEC) to safeguard the municipal securities market against pay-to-play practices, and the appearance of those practices, when state and local governments hire outside financial professionals.

The proposed regulations would extend the MSRB's well-established municipal securities dealer pay-to-play rule to all municipal advisors, including those acting as third-party solicitors. These would be the first MSRB rule provisions specifically tailored to the activities of those that solicit business from municipal entities on behalf of third-party municipal securities dealers, municipal advisors and investment advisors.

Source: [MSRB](#)

## MSRB: Implement core conduct rule for municipal advisors

MSRB will implement the core conduct [rule](#) for municipal advisors. Firms and individuals that advise state and local governments on municipal finance transactions and products will be subject to detailed regulations on their professional conduct, including rules furthering the federal fiduciary duty to their municipal entity clients established under Dodd-Frank Wall Street Reform and Consumer Protection Act, effective from June 2016.

Certain provisions of the rule apply to municipal advisors in their work with both municipal entity clients and others obligated to support payments on municipal securities. These provisions include requirements to provide written disclosure of conflicts of interest, and conduct reasonable diligence to support the suitability of recommendations, among other duties.

Source: [MSRB](#)

## 4

# Overseas developments – US (cont'd)

## FRB: Issues final rule on revised capital rules for non-traditional stock corporations

The Federal Reserve Board (FRB) has issued a [final rule](#) providing information about how to apply the Board's revised capital framework issued in June 2013 to depository institution holding companies that are not organised as traditional stock corporations.

The final rule provides examples to clarify how instruments issued by non-traditionally structured firms may qualify as regulatory capital.

The final rule is generally similar to the proposed rule, issued in December 2014 and extends the applicable compliance date with the Board's revised capital framework to July 1, 2016.

Source: [FRB](#)

## FRB: Consults on the framework the Board would follow in setting the CCyB

The FRB has released a [consultation paper](#) on a proposed policy statement detailing the [framework](#) the Board would follow in setting the Countercyclical Capital Buffer (CCyB).

The CCyB would be available to help banking organisations absorb shocks associated with declining credit conditions. Implementation of the buffer could also help moderate fluctuations in the supply of credit.

The proposed policy statement provides background on the range of financial-system vulnerabilities and other factors the FRB could take into account as it evaluates settings for the buffer.

Source: [FRB](#)

## CFPB: Seeks public input on mortgage lending information resubmission guidelines

The Consumer Financial Protection Bureau (CFPB) has released a [consultation paper](#), seeking public feedback on what changes to its resubmission guidelines may be needed for mortgage lending data submitted under the Home Mortgage Disclosure Act (HMDA).

In October 2015, the Bureau finalised a rule updating the reporting requirements of the HMDA regulation, to improve information reported about the residential mortgage market.

The rule finalised in October increases the number of data points that financial institutions are required to report to federal regulators, to include new information such as property value, the term of the loan, and the duration of any teaser or introductory interest rates.

Under the final rule, lenders will collect the new information beginning in 2018 and report it to federal regulators by March 1, 2019.

Source: [CFPB](#)

## 4

# Overseas developments – US (cont'd)

## CFTC: Issues order of exemption from registration as a DCO to OTC Clearing Hong Kong Limited

The U.S. Commodity Futures Trading Commission (CFTC) has issued an [order](#) of exemption from registration as a derivatives clearing organisation (DCO) to OTC Clearing Hong Kong Limited (OTC Clear).

Source: [CFTC](#)

## CFTC: Approves proposed enhanced rules on cybersecurity for DCO and others

The CFTC has unanimously voted to approve two proposals for amendments to existing regulations addressing cybersecurity testing and safeguards for the automated systems used by critical infrastructures.

The proposals identify five types of cybersecurity testing as essential to a sound system safeguards program:

- vulnerability testing
- penetration testing
- controls testing
- security incident response plan testing
- enterprise technology risk assessments.

The two proposals would require all DCOs, designated contract markets, swap execution facilities, and swap data repositories to conduct each of the five types of cybersecurity testing, as frequently as indicated by appropriate risk analysis.

A [fact sheet](#) is also available along with the proposed rules.

Source: [CFTC](#)

## CFTC: Approves final rule on margin requirements for uncleared swaps

The CFTC has approved the [final rule](#) on margin requirements for uncleared swaps for swap dealers and major swap participants.

The new regulation addresses margin requirements for uncleared swaps entered into by swap dealers (SDs) or major swap participants (MSPs) that are not subject to regulation by the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Farm Credit Administration or the Federal Housing Finance Agency (CSEs).

The margin requirements aim to protect the safety and soundness of CSEs and the integrity of the financial system. Margin collection is to provide them with collateral to cover the risk posed by counterparties with open uncleared swap positions. Requiring parties to post margin aims to reduce the ability of firms to take on excessive risk.

Source: [CFTC](#)

## 4

# Overseas developments – Asia

## Singapore: MAS consults on RPT requirements for banks

The Monetary Authority of Singapore (MAS) has released a [consultation paper](#), *Related Party Transaction (RPT) Requirements for Banks*, to address industry feedback received on the requirements.

The key changes to the requirements in the notice are:

- Arm's length dealing.
- Scope of Notice - Transactions below a nominal threshold with all related parties and transactions with subsidiaries can be excluded from the Notice requirements.
- Prior board approval for material RPTs - Certain transactions not caught as exposures under the BA (“non-exposure transactions”) that are deemed less likely to be the subject of a conflict of interest may be exempted from this requirement.
- The requirements will be extended to include transactions that are booked in the overseas branches or subsidiaries of the bank incorporated in Singapore, where they are entered into with the related parties of the bank in Singapore.

Source: [MAS](#)

## Singapore: MAS consults on amendments to the SF(RDC)R

MAS has released a [consultation paper](#), *Proposed Amendments to the Securities & Futures (Reporting of Derivatives Contracts) Regulations (SF(RDC)R)*, on proposed amendments to the SF(RDC)R to implement reporting of commodity and equity derivatives contracts, as well as other revisions to complete the implementation of the OTC derivatives trade reporting regime in Singapore.

Source: [MAS](#)

## Singapore: Releases Capital Markets Enforcement monograph

MAS has released a [monograph](#) entitled “Capital Markets Enforcement”. This monograph sets out the aims of MAS’ enforcement function, MAS’ enforcement approach and how the three principles of MAS’ enforcement philosophy is applied in its enforcement work. It also describes how MAS works with other agencies in Singapore and foreign regulators to enforce the law against offenders who commit misconduct in the capital market.

Source: [MAS](#)

## 4

# Overseas developments – Asia

## Japan: Confirmation of the start date of the extension of the operating hours of the BOJ-NET

The Bank of Japan (BOJ) has confirmed that the extension of the operating hours (until 21:00) of the BOJ-NET will start on 15 February 2016 as scheduled.

This extension aims at enhancing the safety and efficiency of payment and settlement activities through promoting effective use of the BOJ-NET.

Source: [BOJ](#)

## Japan: Interim report of the WG on shortening stock settlement cycle

The Working Group on Shortening Stock Settlement Cycle (WG) has published “Interim Report of the Working Group on Shortening Stock Settlement Cycle”, which included results of the discussions at the WG to date and the target schedule for the change of settlement cycle to T+2.

Items for continuous study includes:

- Speed-up of loan transaction flow, improvement of the trade environment
- Rules on settlement failure and streamlining the settlement
- Study of operation flow related to stock lending application for bidding

Source: [JSDA](#)

## Hong Kong: HKMA announces CCyB

The Hong Kong Monetary Authority (HKMA) has announced that the countercyclical capital buffer (CCyB) for Hong Kong will increase to 1.25% with effect from 1 January 2017, from 0.625%. This increase is consistent with the Basel III phase-in arrangements for the CCyB.

The HKMA has considered a series of quantitative indicators and qualitative information including an “indicative buffer guide” in setting the CCyB rate.

The Basel III regulatory framework provides for the CCyB to be phased in over a period of 3 years (from 2016 to 2018) becoming fully effective on 1 January 2019.

Under this phase-in arrangement, the maximum CCyB under Basel III will begin at 0.625% of banks’ risk-weighted assets on 1 January 2016 and increase each subsequent year by an additional 0.625% to reach its final maximum of 2.5% on 1 January 2019.

Source: [HKMA](#)

## 4

# Overseas developments – Asia

## Hong Kong: Enhanced Competency Framework (ECF) for Banking Practitioners

HKMA has issued a [circular](#) to all authorised institutions, *Enhanced Competency Framework (ECF) for Banking Practitioners*, providing an update on a current initiative to develop professional standards and qualifications in banking as part of the continuing efforts to maintain Hong Kong's status as an international financial centre.

A Steering Committee chaired by the HKMA, comprising representatives from The Hong Kong Association of Banks (HKAB) and Hong Kong Institute of Bankers (HKIB), has been set up to advise on the development of the ECF for banking practitioners. The HKMA will shortly be consulting the industry on proposals for the ECF on AML/CFT, with the aim of rolling out the framework by the fourth quarter of 2016.

HKMA strongly encourages all AIs to become a corporate member of HKIB, as a first step to contribute to the ECF initiative and keep abreast of developments relating to the qualifications framework.

Source: [HKMA](#)

## Hong Kong: FSTB releases consultation conclusions on open-ended fund companies

Financial Services and the Treasury Bureau (FSTB) has released [consultation conclusions](#), *Open-ended Fund Companies*, summarising the submissions received from the consultation conducted in March 2014 on the proposed open-ended fund companies ("OFC") regime, and setting out the Government's responses, which will form the basis of the establishment, management and operation of OFCs and the regulation of such companies.

The respondents were generally supportive of the primary objective to introduce an OFC structure in Hong Kong. Overall, comments received focused on four key issues:

- the investment scope of privately offered OFCs
- the requirement for a Hong Kong-incorporated custodian
- the requirement for at least one Hong Kong-resident OFC board member
- the requirement for an investment manager licensed by or registered with the SFC.

Source: [FSTB](#)

## Hong Kong: Letter to all issuers in relation to liquidity provision interruptions and pricing issues

The Stock Exchange of Hong Kong Limited (HKEx) has issued a [letter](#) to all issuers in relation to liquidity provision interruptions and pricing issues.

The listing rules require structured products issuers (issuers) to appoint liquidity providers (LPs) to provide liquidity in each structured product issue.

Issuers and LPs should ensure adequacy and reliability of liquidity provision systems to provide uninterrupted liquidity for trading of structured products in the market at prices that largely reflect the value of the products.

HKEx has provided this guidance to assist Issuers/LPs in achieving the following objectives:

- reduce liquidity provision interruption and mispricing
- minimise negative market impact in the event of occurrence
- raise performance standards generally.

Source: [HKEx](#)



## 4

# Overseas developments – Asia (cont'd)

## Hong Kong: SFC publishes consultation conclusions on client agreement requirements

The Securities and Futures Commission (SFC) has released [consultation conclusions](#) on the further consultation on the client agreement requirements.

The SFC has decided to proceed with the proposal to require the incorporation of a new clause into client agreements after carefully considering all response.

All intermediaries' client agreements must comply with the new Code of Conduct requirements on or before 9 June 2017.

The SFC emphasises that the transitional period is mainly to cater for circumstances where intermediaries encounter practical difficulties when re-executing agreements with existing clients. However, it is expected that intermediaries should be able to comply well before the end of the transitional period.

Source: [SFC](#)

## Hong Kong: Circular to applicants of SFC authorised MPF products related to DIS

SFC has issued a [circular](#) to applicants of SFC authorised mandatory provident fund (MPF) products related to Default Investment Strategy (“DIS”), providing guidance to applicants seeking the SFC’s authorisation of new constituent funds (CFs) of mandatory provident fund schemes (MPF Schemes) and pooled investment funds (PIFs) related to DIS-related applications that are subject to the 6-month application lapse policy and the concurrent review by the MPFA and SFC.

This circular is supplemental to the SFC’s circular on “Application lapse policy” issued on 9 October 2015.

Source: [SFC](#)

## Korea: FSC announces policy direction for household debt management

The Financial Services Commission (FSC) announced its [policy direction](#) for household debt management and a guideline to encourage banks to strengthen their mortgage application screening so that borrowers take out loans within their repayment ability and repay in installments from the beginning.

The government is taking comprehensive measures to

- increase household income to boost borrowers’ repayment ability
- improve household debt structure
- support low-income households.

The government is working towards minimising potential risks in household debt, consistently upholding the principle that household debt should be borrowed within the borrower’s repayment ability and paid back in installments from the beginning.

Source: [FSC](#)

## 4

# Overseas developments – Asia (cont'd)

## Korea: FSC approves changes to the enforcement decree of the FSCMA

Crowdfunding rules has taken effect from 25 January 2016s. Relevant amendments to the enforcement decree of the Financial Investment Services & Capital Markets Act (FSCMA) detail scope of issuers, registration requirements for crowdfunding intermediaries and investor protection.

Key provisions include:

- Smaller and startup companies with their business operations less than 7 years are to be allowed to issue securities through crowdfunding.
- To be registered as an intermediary for a crowdfunding offering, a company must have a minimum capital of KRW500 million and meet requirements similar with those of investment advisory services and discretionary investment services.
- A company is allowed to raise up to KRW 700 million per year through funding.
- Investors are prohibited from selling securities within a year of issuance in principle.

Source: [FSC](#)

## Korea: FSC identifies D-SIBs for 2016

The FSC has identified four bank holding companies and one bank as domestic systemically important banks (D-SIBs) for 2016: Hana Financial Group, Shinhan Financial Group, KB Financial Group, NH Financial Group and Woori Bank.

Those identified as D-SIBs are to be required to set aside an additional capital of 1% if deemed needed, by 0.25% per year in the next four years from 2016 to 2019.

The average BIS ratio for banks and bank holding companies - 13.99% for banks and 13.68% for bank holding companies – at the end of September 2015 exceeds the minimum capital adequacy ratio and therefore, there is no actual burden at present for the identified D-SIBs to set aside additional capital.

The FSC will identify D-SIBs every year in accordance with assessment criteria proposed by the BCBS.

Source: [FSC](#)

## Korea: FSC approves amendments to the regulation on supervision of banking business

The FSC has approved amendments to the regulation on supervision of banking business and the supervisory regulation on financial holding companies.

The amendments are intended to implement the Basel Committee recommendations such as D-SIBs and CCyB and ease capital requirements for Internet-only banks in their early years.

Key amendments:

- The FSC should select D-SIBs considering their importance to the financial system.
- The FSC should decide on a quarterly basis whether to impose a CCyB and levels of such capital requirements, considering domestic economic conditions.
- Internet-only banks are to be subject to the Basel 1 rules by 2019, while the Basel III rules are to be phase in for them from 2020 to full implementation in 1 January 2023.

Source: [FSC](#)

## 4

# Overseas developments – Asia (cont'd)

## Korea: 2016 financial policy focus on economic risk management in the first round

The FSC set out its policy plan to manage economic risks facing the Korean economy in a first round of 2016 policy report to President Park Geun-hye.

Policy focus will be on:

- managing household and corporate debt proactively
- increasing stability of Korea's financial market and financial sector
- expanding policy support for microfinance
- strengthening financial consumer protection.

Source: [FSC](#)

## Korea: 2016 financial policy focus on promoting competition and innovation in the second round

The FSC's second announcement for 2016 financial policy focused on promoting competition and innovation in the financial sector to maintain the momentum for financial reform drive.

Policy focus will be on:

- financing innovative businesses to boost the "creative economy"
- promoting fintech and financial industry as key growth driver
- enabling more convenient and innovative financial services.

Source: [FSC](#)

## China: CBRC issues provisional measures of the CBRC on On-site Examination

The China Banking Regulatory Commission (CBRC) has issued the Provisional Measures of the CBRC on On-site examination (Measures). On-site examination is an important duty of supervisors, and together with market entry and off-site surveillance, constitute three major tools of banking supervision.

The Measures consists of 68 articles in eight chapters. Its major contents are as follows:

- positioning on-site examination clearly
- ensuring all-around support for on-site examination
- categorising on-site examinations
- standardising project set-up procedures
- diversifying the approaches of inspection
- highlighting the disposal of identified problems.

The issuance of the Measures are intended to improve on-site examination as a tool of law enforcement and enhance the effectiveness and authority of supervision.

Source: [CBRC](#)

## 4

# Overseas developments – Asia (cont'd)

## China: PBC normalises deposit reserve requirement on offshore FI's onshore deposits

The People's Bank of China (PBC) has decided to normalise deposit reserve requirement on offshore financial institutions' onshore deposits. The offshore financial institutions do not include foreign central banks and similar institutions such as other official reserve management institutions, international financial institutions, and sovereign wealth funds.

Normalising deposit reserve requirement on offshore financial institutions' onshore deposits introduces a long-term, counter-cyclical mechanism for regulating China's cross-border capital flow in RMB.

Source: [PBC](#)

## China: The launch of RMB index helps to guide public view of RMB exchange rate

The China Foreign Exchange Trade System (CFETS) has published the CFETS exchange rate index on its website. This is intended to help bring about a shift in how the public and the market observe RMB exchange rate movements.

The CFETS will regularly publish the RMB exchange rate index. This aims to help guide market participants to shift their focus from the bilateral RMB/USD exchange rate to the effective exchange rate, which is based on a basket of currencies, in their efforts to observe exchange rate movements.

The CFETS will also publish RMB exchange rate indices based on the SDR currency basket and the BIS currency basket.

Source: [PBC](#)

## China: Second group of foreign institutions entering the Chinese inter-bank FX market

The second group of foreign central banks and similar institutions (foreign institutions) have completed registration with the CFETS, and officially gained access to the Chinese inter-bank foreign exchange (FX) market effective 12 January 2016. There are now in total 14 foreign institutions who have officially entered the Chinese inter-bank FX market.

The second group of foreign institutions included the Reserve Bank of India, the Bank of Korea, the Monetary Authority of Singapore, the Bank Indonesia, the Bank of Thailand, the Bank for International Settlement, and the International Finance Corporation.

Source: [PBC](#)

## 5

## PwC publications

### PwC AUS: Superannuation – inspiring excellence

PwC Australia has published a report, *Superannuation – inspiring excellence*. This is the fourth annual ASFA/PwC CEO superannuation survey, which captures the opinions of more than twenty industry's leaders across a range of topical issues. As in prior years, this survey covered the matters on the minds of the CEOs in relation to:

- strategic priorities over the coming years
- investment approach and management
- operational matters including the impact of regulatory reform, data quality and member advice.

Consistent with the 2014 CEO Survey, post retirement products and digital strategy remain at the top of funds' three year strategic plan and are consistently considered as emerging risks within the industry.

See [publication](#)

### PwC AUS: XVA explained - valuation adjustments and their impact on the banking sector

PwC Australia has published a report, *XVA explained: Valuation adjustments and their impact on the banking sector*.

One of the less well understood changes is a revision to the fundamentals of trading book fair value measurement and pricing, through the gradual introduction of various valuation adjustments. These are far from minor tweaks to banks' balance sheets; instead they are having a genuine impact on earnings across the industry.

The publication describes the origins of FVA and the many related adjustments which go under the umbrella name of 'XVA'. It then discusses how XVA affects auditors and look at how these are driving change in banks' front office teams.

See [publication](#)

### PwC China: The changing faces of billionaires

The UBS/PwC billionaire report, *The changing faces of billionaires*, explores the role of women in building lasting financial legacies and how wealth is preserved across multiple generations.

The report's findings revealed that the number of female billionaires is growing faster than the number of their male counterparts. Women have been controlling greater average wealth than men and becoming more influential in family businesses, philanthropic enterprises and governance.

The report also highlights the fleeting nature of great wealth, finding that only 126 billionaires, or 44% of the class of 1995, are billionaires today. It underscores the strategies these continuing billionaires have employed to build and preserve lasting legacies.

See [publication](#)

## 5

## PwC publications (cont'd)

### PwC China: Capitalisation of exchange losses of FCB arising from the Renminbi devaluation

PwC China has published a report, *Capitalisation of exchange losses of foreign currency borrowings arising from the devaluation of the Renminbi*, providing insights into the accounting treatment of exchange losses arising from the foreign currency borrowings.

Key highlights include:

- Certain portion of the exchange losses arising from the devaluation of Renminbi (RMB) in August 2015 is considered as an adjustment to interest costs and is eligible for capitalisation in the qualifying assets of the entities.
- Entities need to choose an accounting policy between "discrete annual period approach" and "cumulative approach" for capitalising the exchange losses in the qualifying assets when construction of the qualifying assets takes more than one accounting period.

See [publication](#)

### PwC China: Global hedge fund distribution survey 2015: Distribution disrupted - spotlight on alternatives

PwC China and the Alternative Investment Management Association (AIMA) have published a report, *Distribution disrupted – spotlight on alternatives*. The report assesses the impact of regulatory reforms and changed investor behaviour on hedge fund distribution models and capital-raising efforts and opportunities.

Increased regulation has helped focus minds in the hedge fund industry. Today, many hedge funds have sophisticated processes to decide which investor channel or channels, and which markets and regulatory regimes they want to target.

See [publication](#)

### PwC Hong Kong: Insurance 2020 – Are actuaries being replaced by algorithms

PwC Hong Kong has published a report, *Insurance 2020: Are actuaries being replaced by algorithms?*

The emergence of sophisticated algorithms is fundamentally changing how insurance is priced and sold. The role of the actuary needs to adapt to these changes as demands on insurers keep pace with consumer expectations.

With the proliferation of data and a smarter, interconnected world, specifically in Asia; actuaries should embrace the paradigm shift of digital which will allow insurers to offer products more tailored to customer needs, applying self-learning algorithms which adapt in-step with human interactions.

See [publication](#)

## 5

## PwC publications (cont'd)

### PwC US: One step ahead - how banks can anticipate what customers will want next

PwC US has published a report, *One step ahead: How banks can anticipate what customers will want next?* This publication discusses how banks can understand changing consumer expectations and stay one step ahead.

In 2015 Consumer Banking Survey, PwC asked a representative sample of US consumers about what they want and expect from their primary financial institution. In very broad terms, consumers appear to be pretty happy with what they're getting today. This is the very paradox of disruption: the more you satisfy your current customers, the more likely you are to miss the very thing that will rock your industry.

This paper examine how consumers feel about their banks today, what bank CEOs see for the road ahead, and how banks that focus too much on the present may thwart their future success.

See [publication](#)

### PwC US: What's next for blockchain in 2016?

PwC US has published a report, *What's next for blockchain in 2016?* Blockchain may result in a radically different future for financial services.

PwC sees three trends related to blockchain to be important in 2016:

- incumbents focus on protecting their intellectual property as they explore new collaborative opportunities with customers, suppliers, and competitors
- large financial institutions will need strategic plans to set parameters for technology risk taking
- market participants will start to develop the processes that surround the transactional layer.

See [publication](#)

### PwC US: Digital banking - a tale of two cities

PwC US has published a report, *Digital banking: A tale of two cities*. This publication discusses how many financial institutions are stuck in the past, delivering a customer experience centered around the institution's own products and services, rather than on customer needs. Until recently these institutions seemed well protected by the industry's high barriers to entry. However, as these barriers disappear, traditional institutions find themselves challenged by disruptors' customer-centric business models.

The future belongs to institutions that nimbly embrace customer centricity, leverage deep analytics, and deliver on a digital platform, all under a unifying business philosophy, which we call the CAD Triangle (i.e., Customer, Analytics, and Digital).

Transitioning to a new business model is not a simple task. However, for institutions that are ready for change, the paper discusses the CAD Triangle whereby each institution can choose a path that leverages its existing strengths.

See [publication](#)



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## PwC publications (cont'd)

### PwC US: The future of wholesale funding markets

PwC US has published a report, *The future of wholesale funding markets*. This paper discusses the future of Repo markets post Tri-party reform using the views of market participants (via interviews and a survey) to draw conclusions: regulation's effect, the Fed's continued involvement and the development of cleared repo.

The paper discusses that while regulation and reform are not complete and will likely continue as mainstays of wholesale funding, strong market forces and the underlying structure and profitability of the business will likely begin to affect repo volumes, participant interactions, and views of risks in the system. The paper discusses that it is time to change the narrative on wholesale funding away from the pure macro effects of reform to include firm specific strategies for implementation and the re-emergence of market driven change.

See [publication](#)

### PwC US: Devil in the data - how banks can improve data management

PwC US has released a report, *Devil in the data - how banks can improve data management*. This publication discusses how building better data management capabilities is key to meeting the informational demands of regulators and other stakeholders. This paper focuses on how risk and finance can collaborate to improve data management in four key components:

- data ownership and stewardship
- data architecture
- metadata management
- data delivery.

See [publication](#)

### PwC US: Share and share alike - meeting compliance needs together with a KYC utility

PwC US has released a report, *Share and share alike: Meeting compliance needs together with a KYC utility*. This publication explores the factors that a financial institution should consider when choosing a KYC utility:

- the regulatory impact
- any legal implications of using a KYC utility
- how operations will need to change
- the governance and engagement model
- the selection of the most appropriate KYC utility or utilities
- technology integration.

See [publication](#)

## 5

## *PwC publications (cont'd)*

### PwC UK: The UK's approach to setting MREL

PwC UK has published a report, *The UK's approach to setting MREL*. This publication summarises the implications of MREL and discusses the Bank of England's (BoE) proposed approach to settling the Minimum Requirement for own funds and Eligible Liabilities (MREL), setting out the resolution strategies it will select for various sizes/types of firms, which applies to all firms in the scope of the Bank Recovery and Resolution Directive (BRRD), namely deposit takers and 730k investment firms.

Designed to create the potential for loss absorbency where a firm is failing or likely to fail, the MREL requirement is broadly aligned with the Total Loss-Absorbing Capacity standards proposed by the Financial Stability Board for all Global Systemically Important Banks (G-SIBs). The BoE intends to set MREL on a case by case basis during 2016 and proposes a 4-year transition period (3 years for G-SIBs) to enable firms to restructure their debt and/or equity issuance.

See [publication](#)

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