

June 2017

PwC Regulatory Update



1

Legislative/Government developments

Reform of the Regulation of Financial Benchmarks

The Government has published two bills, [*Corporations Amendment \(Financial Benchmarks\) Bill 2017*](#) and [*ASIC Supervisory Cost Recovery Levy Amendment Bill 2017*](#). The bills seek feedback on the draft legislation which requires administrators of significant benchmarks to obtain a benchmark administrator license to comply with new regulatory requirements.

Submissions are due by 24 July 2017.

Source: [Treasury](#)

ASIC has [welcomed](#) the passage of *ASIC Supervisory Cost Recovery Levy Amendment Bill 2017* through Parliament.

Review into the efficiency and competitiveness of the superannuation system

The Government has released the [terms of reference](#) for the third stage of a Productivity Commission review into the efficiency and competitiveness of the entire superannuation system.

Stage 3 will use the criteria identified through the Stage 1 study, including group insurance arrangements, to assess the efficiency and competitiveness of the current superannuation system.

Recommendations will also be made on the default fund allocation models, developed as part of Stage 2.

The review is to be completed within 12 months and a draft report is to be provided to the Government by the end of January 2018.

Source [Treasurer](#)

Government comments on consultation papers released by Taskforce

The Government has welcomed the ASIC Enforcement Review Taskforce's release of the following consultation papers:

- [*Harmonisation and Enhancement of Search Warrant Powers*](#), designed to harmonise and enhance ASIC's powers by aligning them with those available to other law enforcement agencies and regulators, such as the ACCC;
- [*Strengthening ASIC's Licensing Powers*](#), allowing them to refuse to grant, or to cancel or suspend a license; and
- [*Industry Codes in the Financial Sector*](#), proposing reforms to ensure codes meet enforceability and governance requirements, set by ASIC, in order to deliver better outcomes for consumers. The codes will be mandatory for participants in certain sectors, such as life insurance and banking.

Submissions are due by 26 July 2017.

Source: [Treasury](#)

1

Legislative/Government developments

GST - Removing the double taxation of digital currency

The Government has released [draft legislation](#), seeking feedback on removing the double taxation of digital currency from 1 July 2017.

Previously, consumers who use digital currencies would effectively bear GST twice: once on the purchase of the digital currency and again on its use in exchange for other goods and services subject to the GST.

This change will make it easier for new and innovative digital currency businesses to operate in Australia.

The draft legislation had a retrospective start date of 1 July 2017.

Submissions are due by 26 July 2017.

Source [Treasury](#)

Bills passed to support the superannuation tax reform package and amend the *Insolvency Law Reform Act*

The *Treasury Laws Amendment (2017 Measures No. 2) Bill* aims to support the fairness, flexibility and sustainability of the superannuation system. It:

- Ensures recipients of existing structured settlements or personal injury orders do not pay tax on their superannuation income; and
- Supports the new transfer balance cap by allowing a repayment of borrowings to be included under Limited Recourse Borrowing Arrangements in certain cases.

As part of this Bill, the Government also refined changes to personal and corporate insolvency law made by the *Insolvency Law Reform Act 2016*. The amendments also assist the Fair Entitlements Guarantee Recovery Program in its work reclaiming funds paid out under the program.

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

2

What have the regulators been up to?

APRA

Australian Prudential
Regulation Authority

ASIC

Australian Securities and
Investments Commission

ASX

Australian Securities
Exchange

AUSTRAC

Australian Transaction
Reports and Analysis
Centre

RBA

Reserve Bank of Australia

APRA releases letter to life insurers setting guidance on the interpretation of LPS 230

APRA has released a letter to all life insurers providing guidance on their interpretation of prudential standard, [LPS 230 – Reinsurance](#), including APRA’s approach to considering applications for approval of reinsurance contracts. The letter lays out the following:

- APRA expects life insurers to consider the guidance letter when preparing the annual reinsurance report. The life insurer should disclose information regarding any existing reinsurance treaties that would require APRA’s prior approval (if not already obtained).
- APRA expects the report to be based on an assessment by the Appointed Actuary, with this information to be included in the annual reinsurance report as soon as practicable.
- APRA does not require insurers to seek retrospective approval for any current reinsurance arrangements.

See [letter](#)

Cross-agency approach for innovative retirement income streams

The Government has initiated a cross-agency process involving four government agencies responsible for aspects of regulation of retirement income stream products: Australian Taxation Office, APRA, ASIC, and the Department of Social Services.

The aim of this cross agency approach is to streamline processes and reduce administrative burden.

See [media release](#)

APRA releases letter in response to submissions - reporting requirements for securitisation and the countercyclical capital buffer

APRA has released a letter to all authorised deposit-taking institutions (ADIs) in response to submissions on reporting requirements for securitisation and the countercyclical capital buffer.

Minor amendments have been made to the securitisation reporting forms and instructions and no amendments were made to the countercyclical capital buffer reporting requirement.

On 14 June, APRA released final versions of the reporting standards, which will come into effect on 1 January 2018.

- [reporting standard](#), *ARS 110.0 - Capital Adequacy*
- [reporting standard](#), *ARS 120.1 - Securitisation - Regulatory Capital*
- [reporting standard](#), *ARS 120.2 - Securitisation - Supplementary Items*

See [letter](#)

APRA releases letter to ADIs in relation to proposed ATO major bank levy data collection

APRA has released a letter to ADI in relation to [draft prudential standard](#), *ATO collection for Major Bank Levy Act 2017 (MBLA)*, seeking feedback on the reporting standard intended to collect information relevant to the major bank levy, for provision to the ATO.

See [letter](#)

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ASIC consults on mortgage schemes

ASIC has released a [consultation paper](#), *Remaking ASIC class order on mortgage schemes and proposed relief for multiple withdrawal periods*, seeking feedback from operators of mortgage investment schemes on ASIC's proposal to remake the class order on mortgage investment schemes. It is also seeking feedback on whether they should grant relief to allow the constitution of a registered managed investment scheme to provide for multiple withdrawal periods.

Submissions are due by 4 August 2017.

See [media release](#)

ASIC releases report on review of compliance with asset holding requirements

ASIC has released a [report](#), *Review of compliance with asset holding requirements in funds management and custodial services*, summarising findings from the review of a number of asset holders to assess compliance with regulatory guide, *RG 133 - Managed investments and custodial or depository services: Holding assets*. The report also provides recommendations for improving compliance.

See [media release](#)

ASIC consults on managing conflicts involving sell-side research

On 30 June, ASIC published a [consultation paper](#), *Sell-side research*, seeking feedback from users and providers of sell-side research such as market participants, investment banks, independent corporate advisers, buy-side investors and other interested parties. Feedback is sought on ASICs proposals to provide further guidance on managing conflicts of interest and material, non-public information (MNPI) involving sell-side research.

Feedback is sought on proposals related to:

- The identification and handling of MNPI;
- The management of research conflicts during the capital raising process, including the preparation and production of investor education reports; and
- The structure and funding of research departments.

Submissions are due by 31 August 2017.

2

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ASIC consults on Crowdsourced funding for public companies and intermediaries

ASIC has published a [consultation paper](#), *Crowdsourced funding (CSF): Guide for public companies*, seeking feedback on their proposed guidance for public companies seeking to raise funds through CSF. ASIC has also published a [consultation paper](#), *Crowdsourced funding: Guide for intermediaries*, seeking feedback on their proposed guidance for entities looking to provide crowdfunding services as CSF intermediaries.

Submissions are due by 3 August 2017 for both the CSF consultation papers.

Updates from ASIC

ASIC has [extended](#) relief to exclude multifunds, superannuation platforms and hedge funds from the shorter Product Disclosure Statement (PDS) regime under Part 7.9 of the *Corporations Regulations 2001* until 30 June 2018.

The Japan Financial Services Agency (JFSA), Hong Kong Securities and Futures Commission (SFC) and Malaysia Securities Commission (SC) have all signed cooperation agreements with ASIC to promote innovation in financial services in Malaysia and Australia.

See [media release](#)

ASIC releases report on conduct in funds management

ASIC has released a [report](#), *Responsible entities' compliance with obligations: Findings from 2016 proactive surveillance program*, summarising the findings from the proactive risk-based surveillance program carried out in 2016 which covered responsible entities' compliance with their obligations.

The report found that the responsible entities in the surveillance program demonstrated a commitment to comply with their obligations under the law. These responsible entities have generally established measures for compliance, risk and governance, and disclosure, which have been supported by ongoing reviews to address their obligations.

The report required some responsible entities to take specific actions and made various recommendations on how entities can improve their compliance and meet their obligations.

See [media release](#)

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The ASX consults on equity market closing price and settlement price determination

The ASX has published a [consultation paper](#), *ASX Equity Market Closing Price and Settlement Price Determination*, seeking feedback from stakeholders on the outcomes of an internal review into ASX's cash equity market closing price methodologies, particularly in a market outage scenario.

As ASX-listed securities trade across more than one platform, there are questions as to:

- The role that the ASX market closing price plays in a multi-market environment and when there is a significant disruption to trading on the ASX market;
- Whether the processes for calculating the ASX market and ASX settlement closing prices remain fit for purpose; and
- If these processes are sufficiently clear and transparent to allow users to make informed decisions.

The ASX's internal review concluded that the existing methodology for calculating the ASX market closing price remains fit for purpose, and that the market would benefit from the publication of what the ASX market closing price represents and the process that ASX Clear uses.

See [media release](#)

Speech: The Global FX Code of Conduct

The Deputy Governor at RBA, Guy Debelle, has addressed the Thomson Reuters Industry Event *Examining the FX Code of Conduct* in Sydney. He reiterated the motivation for the work, highlighted the main features of the Code, adherence to the code, summarised how they developed the Code and outlined the way forward.

The Global FX Code of Conduct has been already launched in London and is available on the Global Foreign Exchange Committee's website, www.globalfxc.org.

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

3

Industry bodies

ABA

Australian Bankers'
Association

ASFA

Association of
Superannuation Funds of
Australia

COBA

Customer Owned Banking
Association

FSC

Financial Services Council

The ABA releases Banking Industry Conduct Background Check Protocol

The ABA has released a [Banking Industry Conduct Background Check Protocol](#) to promote good conduct and ethical behaviour. The protocol sets minimum standards for subscribers regarding:

- Their obligation to request the Conduct Background Check for prospective employees, and to respond to those requests for current and former employees;
- A standard format, process and timeframes for requesting and responding to Conduct Background Checks;
- Fact-based, Conduct Background Check questions; and
- Related record keeping and confidentiality obligations.

See [media release](#)

The ABA releases report on fees for banking services

The ABA has released a [report, Fees for Banking Services](#), highlighting that the number of customer transactions, loans and accounts have increased, while the growth in fees paid by households and businesses remained low.

Some of the key findings are as follows:

- Total bank service fees increased slightly to \$12.5 billion in 2016, but increased to a lesser degree than bank activity.
- The ratio of fees to assets and operating income has fallen to record lows.

- Growth in the price of financial services has been below the increase in the price of essentials such as health, education and childcare.

See [media release](#)

The ASFA reports on digital readiness of superannuation funds

The ASFA in conjunction with Decimal has published a [report, Digital readiness of superannuation funds](#), summarising the response from a survey on digital readiness of 15 major Australian super funds, representing about 30% of the assets of APRA regulated funds.

Some of the key findings of the survey are:

- 80% of funds recognised digital advice as an absolute must, but only 20% of them have invested in it.
- The survey also found 80% of funds had been developing a digital program for less than three years and 15% of funds were only just starting that work.
- Investment until now has focused on foundational capability, in areas including new websites, member online experience, calculators, data analytics capabilities and upgrades to administration systems.

See [media release](#)

3

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FSC

Financial Services Council

Life Insurance Code of Practice strengthened with new minimum medical definitions

Effective 1 July 2017 onwards, the Financial Services Council (FSC) members will be subject to the [Life Insurance Code of Practice for consumers](#). The Code has been strengthened with new minimum standard medical definitions for cancer, heart attack and stroke for use in trauma/critical illness policies.

The Code covers all aspects of interactions with consumers from product design, buying insurance, regular communications and making claims. The Code requires insurers to:

- Improve disclosure to customers;
- Provide greater transparency in communications;
- Decide claims within set timeframes;
- Limit the use of surveillance; and
- Provide additional support for vulnerable consumers.

The FSC has appointed the Life Code Compliance Committee (LCCC) as the independent body responsible for ensuring member compliance with the Code. The Committee comprises a representative from industry, a consumer representative and an independent chair and is administered by the Financial Ombudsman Service.

See [media release](#)

Mortgage industry comes together to progress ASIC proposals

In response to ASIC's report on mortgage broker remuneration, the COBA, ABA, the Mortgage and Finance Association of Australia (MFAA) and the Finance Brokers Association of Australia (FBAA) held a discussion forum with key industry participants to progress reform. The forum aimed to ensure that incentives and governance arrangements are aligned with delivering good outcomes for customers.

Further discussions will be held in the coming months, with all participants committing to work in consultation with Treasury and Government stakeholders on an industry led response.

See [media release](#)

4

Overseas developments – Global

BIS: Recent announcements

The Basel Committee on Banking Supervision (BCBS) has issued a [consultation paper](#), seeking feedback on the Committee's proposal for a simplified alternative to the market risk standardised approach. Significant simplifications relative to the sensitivities-based method (SbM) include:

- Removal of capital requirements for vega and curvature risks;
- Simplification of the basis risk calculation; and
- Reduction in risk factor granularity and the correlation scenarios to be applied in the associated calculations.

Submissions are due by 27 September 2017.

FSB: Recent announcements

The Financial Stability Board (FSB) has published three reports, setting out progress on reforms to OTC derivatives markets:

- [Review of OTC derivatives market reforms: Effectiveness and broader effects of the reforms](#), providing a comprehensive review of the reforms and their effects;
- [OTC Derivatives Market Reforms: Twelfth Progress Report on Implementation](#), providing an update on implementation of reforms to OTC derivatives markets; and
- [Progress report on FSB members' plans to address legal barriers to reporting and accessing OTC derivatives trade data](#), reporting on actions by FSB member jurisdictions to address barriers to accessing trade reporting data.

The FSB has released a [consultation paper](#), *Supplementary Guidance to the FSB Principles and Standards on Sound Compensation Practices*, seeking feedback on compensation practices and tools to reduce misconduct incidents.

Source: [FSB](#)

IOSCO: Recent announcements

The International Organization of Securities Commissions (IOSCO) has published a [report](#), *IOSCO Task Force Report on Wholesale Market Conduct*, describing the tools and approaches that IOSCO members use to discourage, identify, prevent and sanction misconduct by individuals in wholesale markets.

The IOSCO has published a [report](#), *Order Routing Incentives*, providing a review of the approaches and practices used by regulators regarding incentives for order routing and execution that may influence the behaviour of intermediaries. The report also includes intermediary practices and planned reforms.

The CPMI and IOSCO have issued a [consultation paper](#), seeking feedback on the framework designed to support supervisory stress tests (SST) conducted by one or more authorities that examine the potential macro-level impact of a common stress event affecting multiple central counterparties (multi-CCP SSTs).

Submissions are due by 22 September 2017.

Source: [IOSCO](#)

4

Overseas developments – Europe

EBA: Recent consultations

The European Banking Authority (EBA) has released a [consultation paper](#), seeking feedback on draft regulatory technical standards (RTS) which specifies:

- The criteria for determining when the appointment of a central contact point under the PSD2 (second Payment Service Directive) is appropriate.
- The functions that these contact points should have.

Submissions are due by 29 September 2017.

The EBA has launched a [discussion paper](#) on the application of the structural FX provision. The paper considers both accounting and regulatory perspectives and outlines the rationale behind the treatment of structural positions as well as broader issues related to the structural FX concept.

Submissions are due by 22 September 2017.

Source: [EBA](#)

EBA: Recent announcements

The Joint Committee of the three European Supervisory Authorities has published its final [guidelines](#) on anti-money laundering (AML) and countering the financing of terrorism (CFT). The guidelines promote a common understanding of the risk-based approach to AML/CFT and sets out how it should be applied. The guidelines provide credit and financial institutions with the tools they need to make informed, risk-based decisions on the effective management of individual business relationships and on occasional transactions for AML/CFT purposes.

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

The EBA has published its draft amending [Regulatory Technical Standards](#) (RTS) on credit valuation adjustment (CVA) proxy spread, ensuring more adequate calculation requirements for CVA risk.

Source: [EBA](#)

ECB: Recent announcements

The Governing Council of the European Central Bank (ECB) has decided to develop a new service, [TARGET instant payment settlement](#) (TIPS), enabling citizens and firms to transfer money between each other in real time, instantly, around the clock, 365 days a year.

It is scheduled to start operating in November 2018.

Source: [ECB](#)

4

Overseas developments – UK

FCA: Recent consultations

The Financial Conduct Authority (FCA) has issued a [consultation paper](#), seeking feedback on the following proposals related to pension transfers:

- Replacing the current transfer value analysis requirement with a comparison showing the value of the benefits being given up;
- Introducing a rule to require all advice to be provided as a personal recommendation;
- Updating guidance on assessing suitability when giving a personal recommendation to convert or transfer safeguarded benefits; and
- Introducing guidance on the role of a pension transfer specialist.

The FCA has issued a [consultation paper](#), seeking feedback on how consumers with cancer or those in recovery can access the travel insurance market.

Source: [FCA](#)

PRA: Recent consultations

The Prudential Regulation Authority (PRA) has released a [consultation paper](#), seeking feedback on:

- Proposed amendments to the Senior Insurance Managers Regime;
- The proposal to strengthen governance through requiring insurers to take steps to encourage board diversity; and
- Proposed consequential amendments to the Senior Managers Regime forms.

Submissions on the first two are due by 22 September and third by 14 August 2017.

The PRA has issued a [consultation paper](#), seeking feedback on the proposed new supervisory statement on recovery planning that would supersede *SS18/13 - Recovery Planning* and that sets out additional expectations of firms. The paper also includes a proposal to clarify the PRA's expectations on the approach to recovery planning for groups containing a ring-fenced body (RFB).

Submissions are due by 21 September 2017.

Source: [PRA](#)

PRA: Recent consultations

The PRA has issued a [consultation paper](#), setting out the Financial Policy Committee's (FPC) proposed recommendation to the PRA to:

- Exclude claims on central banks from the leverage exposure measure in the UK leverage ratio framework; and
- Compensate for the resulting reduction in capital required by the leverage ratio framework, by increasing the minimum requirement from 3% to 3.25%.

The same consultation paper also seeks feedback on PRA's proposals for implementing the FPC's proposed recommendation in case it is adopted by the FPC.

Submissions are due by 12 September 2017.

Source: [PRA](#)

4

Overseas developments – Asia

Hong Kong: Recent announcements

The Hong Kong Monetary Authority (HKMA) and SFC have published [conclusions](#) on a joint consultation paper which proposed adjusting the scope of OTC derivative products under the OTC derivatives regulatory regime. After consultation, the HKMA and SFC have concluded that the proposed adjustments should be implemented.

The SFC has issued a [circular](#), providing further guidance to licensed corporations and individuals seeking to be licensed for Type 9 regulated activity (asset management) under the *Securities and Futures Ordinance* (SFO); in particular on the applicability of certain competence requirements.

The SFC has released a [consultation paper](#), seeking feedback on the detailed legal and regulatory requirements applicable to the new open-ended fund company (OFC) structure.

Submissions are due by 28 August 2017.

Source: [SFC](#)

Singapore: Recent announcements

The Monetary Authority of Singapore (MAS) and the Association of Supervisors of Banks of the Americas (ASBA) have [signed](#) a Memorandum of Understanding (MOU) to further improve FinTech ties between Singapore and the Americas, exploring potential joint innovation projects on technologies and facilitating discussions on issues of mutual interest.

The MAS and the Danish Financial Supervisory Authority have [signed](#) a FinTech Cooperation Agreement, aiming to help FinTech companies in Singapore and Denmark to expand into each other's markets.

The MAS has released a [consultation paper](#), seeking feedback on the proposals to facilitate the provision of digital advisory services (also known as robo-advisory services) in Singapore. The proposals seek to support innovation in financial services by recognising the unique characteristics of digital platforms.

Source: [MAS](#)

5

PwC publications

PwC: Asset management 2020 - taking stock

The pressures on Asset Managers are changing and intensifying. This is happening at a time when firms must invest in building outcome-based solutions and applying transformational technologies, both internally and externally. Moreover, the drive to improve transparency continues unabated.

Regulation, investor pressure and tax legislation are all driving more openness. In addition to creating a more fee competitive market, this is also leading to greater costs related to data and reporting.

PwC has released a report, *Asset Management 2020*, setting out six likely game changers that would impact the competitive environment. Understanding, analysing and acting on these will prepare firms for the opportunities the changing landscape presents.

See [publication](#)

PwC: IFRS 17 - redefining insurance accounting

The International Accounting Standards Board (IASB) finished its long-standing project to develop an accounting standard on insurance contracts and published IFRS 17, 'Insurance Contracts' in May 2017. IFRS 17 replaces IFRS 4, which currently permits a wide variety of practices. IFRS 17 will fundamentally change the accounting by all entities that issue insurance contracts and investment contracts with discretionary participation features.

The standard applies to annual periods beginning on or after 1 January 2021.

PwC has published a report, *IFRS 17: Redefining insurance accounting*, providing details on various aspects of IFRS 17 such as the scope, presentation model, disclosure and transition.

See [publication](#)

PwC China: Global FinTech Survey Summary 2017

This global survey identifies the top three areas to be disrupted by FinTech in China over the next five years as consumer banking, investment & wealth management, and fund transfers & payments.

The biggest sources of disruption will be e-retailers, financial institutions and large technology companies.

As the economy evolves to a digital, smart and personalised business model and lifestyle, financial services needs to transform to a 3.0 model. This means FinTech needs to evolve from a product and channel-oriented model to a customer-centred one, with technologies as a central pillar.

PwC China has issued a report, *Global FinTech Survey China Summary 2017*, summarizing the survey and what the new financial services business model will include.

See [publication](#)

5

PwC publications

PwC Hong Kong: *Inland Revenue (Amendment) (No. 4) Bill 2017*

The Hong Kong Government has published the *Inland Revenue (Amendment) (No. 4) Bill 2017* to provide profits tax exemption to privately offered Hong Kong open-ended fund companies (OFCs).

PwC has published a news flash, summarising the conditions an OFC would need to fulfil for the profits tax exemption under the Bill, and highlighting some areas market players should be aware of.

See [publication](#)

PwC US: Five key points from the Fed's 2017 CCAR

The Federal Reserve (Fed) has published its 2017 Comprehensive Capital Analysis and Review (CCAR) results.

No bank holding companies (BHCs) received capital plan objections, and one BHC received a conditional non-objection on qualitative grounds.

PwC US has published a report, highlighting five key points from the Fed's CCAR results:

- Markets cheer big payouts;
- G-SIBs' close shave;
- Qualitative objection overruled;
- Qualitative cheat sheet; and
- A look ahead at IHCs.

• See [publication](#)

PwC US: Ten key points from Treasury's first financial regulation report

The Treasury Department has released its highly anticipated report on financial regulation in response to President Trump's Executive Order. The report analyses regulatory requirements against the Administration's core principles and makes recommendations to streamline and rationalise post-crisis regulations that have cast a wider-than-desired net over the financial system.

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See [publication](#)

6

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