

May 2016

PwC Regulatory Update



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Legislative/Government developments

Embracing FinTech future

The Government has outlined how it intends to support innovation and better services through new products in services and FinTech.

- The Government is looking to establish a regulatory sandbox where FinTech start-ups and businesses can test ideas for up to six months with a limited number of retail clients subject to prescribed investment thresholds and restrictions on the types of services eligible for testing. The Australian Securities and Investments Commission (ASIC) is expected to commence consultation on a 'regulatory sandbox' for FinTech businesses who want to test their early stages ideas with clients. ASIC will consult on how to maintain consumer protections while still allowing innovators to test their ideas and business models.
- Data61, a key provider of leading digital innovation research in Australia, will undertake a review of opportunities for the adoption of Blockchain (distributed ledger) technology in government and the private sector, including testing its application.
- The Government has released a discussion paper seeking public submissions on options to address the 'double taxation' of digital currencies under the GST regime.
- The Government is seeking feedback on the best way to ensure investors in FinTech startup activities are eligible for the venture capital tax concessions.
- The Government has committed \$200,000 in 2016-17 Budget to promote Australia internationally as a FinTech destination and to highlight the commercial opportunities of the regulatory sandbox where innovators can test and refine their ideas.

Source: [Treasurer](#)

Government responses to Senate Economics References Committee Inquiry into digital currency

The Government has released its [response](#) to the recommendations of the Senate Economics References Committee report: Digital currency—game changer or bit player. The Government intends to engage the FinTech Advisory Group – which includes representation from FinTech firms, digital currency businesses, venture capital investors, legal advisers and incumbent financial services firms – to gather further information on the uses, opportunities and risks associated with digital currencies.

- The Government agrees that consumers should not be subject to the GST twice when using digital currency to purchase goods or services.
- The ATO and the Government continue to monitor developments in the digital currency industry in order to consider the most appropriate tax treatment of digital currencies.
- The Government supports the work of the Australian Digital Currency Commerce Association (ADCCA) to continue to improve industry standards for digital currency businesses, including via the development of a self-regulatory model.
- The FinTech Advisory Group will gather further information on the uses, opportunities and risks associated with digital currencies.
- The statutory review of the AML/CTF regime will consider whether AML/CTF regime should be extended to include convertible digital currency exchanges and how to make the obligations under the AML/CTF regime technology neutral.

Source: [Treasury](#)

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Legislative/Government developments (cont'd)

Government responses to the Retirement Income Streams review

The Government has announced its response to the Retirement Income Streams [review](#) and released the [final report](#). The review focused on the minimum drawdown rules for account-based pensions and regulatory barriers to the development of appropriate income stream products in the Australian market. The Government has accepted the Review's recommendation.

The Government will remove tax barriers to the development of new retirement income products from 1 July 2017 by extending the tax exemption on earnings in the retirement phase to products such as deferred lifetime annuities and group self-annuitisation products which do not currently qualify for this exemption. The Government will also clarify how the new retirement income products will be treated under the Age Pension means test ahead of 1 July 2017.

Source: [Treasury](#)

Government responses to the Senate Inquiry into matters relating to credit card interest rates

The Treasurer has released the Government's response to the Senate Economics References Committee Inquiry into matters relating to credit card interest rates for [consultation](#).

The Government's response outlines reforms to provide greater legislative protection to vulnerable consumers, to exert more competitive pressure on credit card issuers and to provide consumers with the information they need to make the best choices about how they use their credit cards.

Submissions are due by 17 June 2016.

Source: [Treasury](#)

New independent expert panel

The Government has announced the new independent expert panel to lead the review on the role, powers, governance and accountability of the existing financial system external dispute resolution and complaints framework. This is to ensure that the framework is working as effectively as possible to meet the needs of users. The expert panel will be chaired by Professor Ian Ramsay, with Alan Kirkland and Julie Abramson as members.

The expert panel will consult with industry, the dispute resolution and complaints schemes, peak bodies, regional and consumer representatives and other stakeholders.

Currently, there are three bodies to help consumers resolve disputes with financial services providers: the Financial Ombudsman Scheme (FOS), Superannuation Complaints Tribunal and Credit & Investments Ombudsman.

Concurrently with this independent review, ASIC will undertake a review of FOS's small business jurisdiction.

Source: [Minister for Small Business and Assistant Treasurer](#)

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What have the regulators been up to?

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Repeal of Prudential Standard APS 240 Risk Management of Credit Card Activities

APRA has written a letter to all authorised deposit-taking institutions (ADIs) in relation to repeal of prudential standard, *Risk Management of Credit Card Activities* ([APS 240](#)).

In 2003, APRA finalised its regulatory arrangements for supervising Specialist Credit Card Institutions (SCCIs). APRA determined APS 240, which required all ADIs to implement prudent measures to monitor and control the risks associated with their credit card activities.

The relevant principles for the risk management of credit card activities are now captured elsewhere in the prudential framework, which has evolved since APS 240 came into effect. APRA has revoked APS 240 with effect from 2 May 2016, given the standard was outdated and contained obsolete provisions.

See [letter](#)

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

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ASIC consults on updated guidance to improve disclosure of historical financial information in prospectuses

ASIC has released a consultation paper, *Improving disclosure of historical financial information in prospectuses: Update to RG 228 (CP 257)*, setting proposals to update guidance in regulatory guide, *Prospectuses: Effective disclosure for retail investors (RG 228)*. CP 257 sets out:

- ASIC's proposals to clarify regulatory settings on the quality and quantity of historical financial information
- worked case studies to illustrate the proposed policy settings in practice
- a draft updated version of Section F of RG 228 incorporating the proposals.

The consultation paper seeks specific feedback on the following proposed clarifications of regulatory settings, including:

- the requirement for audited historical financial information regardless of the issuer's corporate form prior to listing or historical financial reporting requirements
- types of audit opinions that may not be acceptable in a prospectus
- appropriate disclosure of asset acquisitions
- when financial disclosure is considered 'current'
- disclosure of cash flow statements
- circumstances where historical financial disclosures may not be necessary.

Submissions are due by 17 June 2016. See [media release](#)

Further update on Innovation Hub

ASIC has provided further update on its [Innovation Hub](#), operating for over a year and continuing to assist FinTech start-ups navigate the regulatory framework.

In June 2016, ASIC will issue a public consultation paper seeking feedback on proposals to provide:

- greater clarity and guidance on how we assess whether new businesses have the skills and experience required to be granted a licence from ASIC (where that business seeks to rely on Option 5 in *Licensing: Organisational competence (RG 105)*)
- additional flexibility around the skills and experience requirements
- a class-wide licensing waiver for new businesses to run early-stage tests and trials (regulatory sandbox exemption).

Regulatory sandbox exemption features to be consulted will include:

- a six-month window for testing of certain financial services conducted without the need for a licence
- restrictions on the types of services that can be provided in a testing capacity and the products those services can relate to
- an ability for sophisticated investors to participate, along with a limited number of retail clients (e.g. up to 100 retail clients), as well as separate monetary exposure limits for those clients
- consumer protections that should apply
- modified conduct and disclosure obligations that will apply to the testing business.

See [media release](#)

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ASIC launches new corporate governance resource

ASIC has launched significantly enhanced corporate governance content on its [website](#), to improve accessibility of ASIC's corporate governance messages.

ASIC recognises the importance of Australian companies adopting good corporate governance practices. ASIC is making its public messages about corporate governance more easily accessible to provide support for companies and their officers seeking to understand their obligations and also improve their practices.

ASIC regularly comments on corporate governance issues in speeches and published articles, as well as through its more traditional avenues of Regulatory Guides and Information Sheets. The new corporate governance webpage conveniently includes all of these published corporate governance messages in the one location.

See [media release](#)

ASIC releases its third licensing activity report

ASIC has published its third report, *Overview of licensing and professional registration applications: July to December 2015* ([REP 478](#)). It sets out recent regulatory outcomes achieved by ASIC in relation to Australian financial services (AFS) applications, Australian credit licence applications, liquidator registration applications, company auditor and approved SMSF auditor registration applications.

The report outlines ASIC's decisions on applications for the period from 1 July to 31 December 2015 for:

- new AFS licences and licence variations
- new Australian credit licences and licence variations
- the registration of liquidators, official liquidators, company auditors and approved self-managed superannuation fund (SMSF) auditors
- financial markets, clearing and settlement (CS) facilities, and derivative trade repositories (trade repositories).

See [media release](#)

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Further update on Stronger Super regime

ASIC has provided an update on aspects of the Stronger Super regime aimed at providing the superannuation industry with certainty around the start dates for key superannuation reforms.

The start date for portfolio holdings disclosure reporting and choice product dashboard requirements will be deferred until 30 June 2017 to allow time for the *Superannuation Legislation Amendment (Transparency Measures) Bill 2016* to pass and the Federal Government further time to consult on the detail of the requirements.

ASIC has extended previous relief that allows registrable superannuation entities (RSE) licensees to provide a product dashboard with a periodic statement by including a website address for the latest product dashboard, rather than requiring a hard copy.

The start date for certain disclosures required under section 29QB of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) for standard employer-sponsored sub-plans has also been further deferred until 1 July 2017.

ASIC has issued the following instruments to reflect the below deferrals:

- [ASIC Superannuation \(Amendment\) Instrument 2016/351](#), which amends ASIC Class Order [CO 14/443]
- [ASIC Corporations \(Amendment\) Instrument 2016/364](#), which amends ASIC Class Order [CO 14/443] and ASIC Class Order [CO 13/1534]
- [ASIC Superannuation \(Amendment\) Instrument 2016/345](#), which amends ASIC Class Order [CO 14/509].

See [media release](#)

Speech: My time at ASIC and the work of IOSCO and the FSB on asset management and liquidity

Greg Medcraft, ASIC Chairman, addressed the ICI Global Dinner, APAC Chapter. He said in the past five years as Chairman, his vision has focused on three things:

- positioning ASIC as a strong, strategic and proactive regulator ready to meet the ongoing and future challenges
- increasing transparency by making more information publically available about the strategy and operations
- emphasising the importance of stakeholder engagement and public communications.

He then turned to recent Government announcements for ASIC:

- FSI has made a number of recommendations for law reform, namely, a product intervention power, a product governance obligation, and the review of ASIC's enforcement regime.
- ASIC will be moving to an industry funding model.
- The Government has announced a \$127 million reform package, including \$61 million to enhance ASIC's data analytics capabilities and data management systems and \$57 million to enable increased surveillance and enforcement in key areas of risk.
- The Government released the Capability Review report of ASIC, which made 34 recommendations.

He provided an update on the work that the Financial Stability Board (FSB) and International Organisation of Securities Commissions (IOSCO) are currently doing in the asset management space.

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

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

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Speech: Improving business through compliance - A regulator's perspective

Cathie Armour, ASIC Commissioner, addressed the General Counsel Summit. She discussed the topic, *Improving business through compliance* from regulator's perspective. The main points of the speech included:

- Culture and its links to conduct and compliance have become central to discussions of how businesses operate. Poor culture can lead to significant costs for businesses, including remediation costs, fines, and compensation costs.
- Both ASIC, the financial services industry and the corporate community have a role to play in promoting positive culture. ASIC is incorporating cultural indicators into surveillance work.
- Businesses can foster positive culture by focusing on the long-term interests of consumers and taking responsibility when things go wrong. Businesses must continually monitor and assess the impact of culture on conduct and compliance and make changes as necessary.
- A company's board, senior executives and management play a critical role in fostering a positive culture. These groups are responsible for creating a culture where everyone has ownership and responsibility for 'doing the right thing'.
- ASIC expects businesses to use their position to prevent behaviour that has the potential to damage trust and confidence in the financial markets.

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

Speech: Why culture matters

Greg Medcraft, ASIC Chairman, addressed the BNP Paribas Conduct Month. He discussed the topic, *Why Culture matters*.

He started his speech by stating that ASIC sees the influence of culture in the entities it regulates every day, and culture can be the driver of either good or bad conduct within an organisation. Spending time thinking about culture is very crucial as good culture is critical for organisations that want to be around for the long term.

He discussed what culture is and why it matters, the drivers of good culture, and provided an overview of ASIC's work around culture and conduct.

ASIC has outlined in its four-year corporate plan that they are focusing on gatekeepers, including lenders, directors and responsible entities. ASIC is incorporating consideration of an organisation's culture into risk-based surveillance reviews.

He concluded by stating that it is the responsibility of each organisation to look at what steps they can take to improve their culture and sustain a 'customer first' culture over the long term. To improve trust and confidence, companies need to create and nurture a culture that goes beyond maximising profits; companies need to focus on achieving and rewarding good conduct and good outcomes for customers.

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

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Speech: ASIC's focus on culture – digging into the detail

John Price, ASIC Commissioner, addressed the Corporate Governance Forum 2016. He discussed the topic, *ASIC's focus on culture – digging into the detail*.

He started his speech by stating that one of the key priorities of ASIC is to promote investor and financial consumer trust and confidence. Trust and confidence is critical to the operation of the financial system. Poor culture can undermine that trust and confidence.

He then discussed the following:

- what is culture and why does it matter?
- the general features of a positive corporate culture
- an overview of ASIC's work around culture and conduct
- what ASIC considers to be some of the key drivers of culture, and
- some of the current thinking around the practical things that directors and boards can do to promote a more positive culture within an organisation.

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

Speech: Senate estimates – opening statement

Greg Medcraft, ASIC Chairman, together with Deputy Chairman, Commissioners and Senior Executive Leaders addressed the opening statement before the Senate Committee.

He outlined some recent significant changes for ASIC that the Government announced in April 2016.

- The additional funding for ASIC will enable further surveillance and enforcement in areas such as financial planning, responsible lending, life insurance, and misconduct and breach reporting. It will also allow ASIC to build on capacity to better identify and assess risks and misconduct through data analytics.
- There is the Government's support for the introduction of an industry funding model. ASIC has long believed that those who generate the need for regulation should pay for it.
- ASIC has provided an official response to the Capability Review which sets out the positive actions ASIC is already taking or will take to develop its capabilities in areas such as governance, culture and communication.
- ASIC welcome the Government's commitment to ensuring the key recommendations from the FSI are implemented as a matter of priority.
- The Government has decided to appoint an additional Commissioner for ASIC. Chairman's term has been extended by 18 months.

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

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ASIC releases new instrument for dealing in underlying investments to replace 'sunsetting' class orders

ASIC has released new legislative instrument on dealing in underlying investments, replacing a number of class orders that are due to expire on 1 April 2017, following public consultation ([CP 244](#)).

ASIC has replaced without significant changes so that their ongoing effect will be preserved without any disruption, the following class orders into a new legislative [instrument](#), *ASIC Corporations (Superannuation and Schemes: Underlying Investments) Instrument 2016/378*:

- class order [CO 02/1161] Licensing relief (dealing) for public offer superannuation entities
- class order [CO 02/1073] Financial Services Guide: Dealing in underlying investments by responsible entities
- class order [CO 02/1074] Financial Services Guide: Dealing in underlying investments by superannuation trustees.

See [media release](#)

ASIC consults on repealing and remaking class orders on managed investment schemes

ASIC has released a consultation paper, *Repealing ASIC class order on managed investment schemes: No issue required disclosure* ([CP 259](#)), seeking feedback on proposal to repeal class order [[CO 02/226](#)] *Managed investment schemes: No issue required disclosure*, which is due to expire on 1 April 2017. ASIC proposes to repeal this class order as, in its view, it no longer serves a regulatory purpose. Submissions are due by 28 June 2016.

ASIC has also released a consultation paper, *Remaking ASIC class order on differential fees* ([CP 258](#)), seeking feedback on proposal to remake class order [[CO 03/217](#)] *Differential fees* for registered managed investment schemes, which is due to expire on 1 April 2017, into a new [instrument](#). ASIC proposes to remake this class order without significant changes, so that the ongoing effect will be preserved without any disruption. However ASIC is proposing:

- to extend switching facility relief to a managed investment scheme operated by a related body corporate of the responsible entity
- to remove the unnecessary relief extended where members transact electronically.

Submissions are due by 12 July 2016.

See [media release](#) related to repealing of class order on managed investment schemes and [media release](#) related to remaking of class order on differential fees.

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ASX consults on updating ASX's admission requirements for listed entities

ASX has released a [consultation paper](#), *Updating ASX's admission requirements for listed entities*, seeking feedback on proposed changes to its requirements for admission to the ASX official list.

The key changes proposed relate mostly to entities seeking to list in the "ASX listing" category. They are:

- increasing the financial thresholds for listing – both for the profit test and the assets tests
- introducing a minimum free float requirement
- changing the 'spread test' to better demonstrate a sufficient level of investor interest in the entity and its securities to justify listing
- making the minimum working capital requirements consistent across all entities admitted under the assets test
- introducing a requirement for entities admitted under the assets test to provide audited accounts for the last three full financial years.

A number of other changes are also proposed to simplify and improve the drafting and operation of the admission rules generally.

The proposed rule changes complement changes that ASX has already made to its admission processes to maintain and enhance the integrity and reputation of the ASX market.

Submissions are due by 24 June 2016.

See [media release](#)

ASX responses to consultation feedback on ASX Settlement 'non-business' days

ASX has released a [response to consultation](#) feedback in relation to the method used to determine ASX Settlement 'non-business' days. ASX proposed to align its methodology with The Reserve Bank of Australia's Reserve Bank Information and Transfer System (RITS) availability.

The consultation feedback provided strong support for ASX Settlement ceasing to observe local public holidays in NSW and Victoria with the majority of respondents citing the benefits of alignment with RITS and other securities settlement facilities in addition to improvements relating to funding liquidity, risk concentration and settlement availability.

Accordingly, ASX Settlement will cease to observe the following local public holidays in NSW and Victoria from 1 January 2017:

- Labour Day (Victoria)
- Bank Holiday (NSW)
- Labour Day (NSW)
- Melbourne Cup Day (Victoria).

See [media release](#)

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AUSTRAC industry contribution 2016–17

AUSTRAC has released a [consultation paper](#), *AUSTRAC Industry Contribution 2016–17*, seeking stakeholder feedback on the proposed arrangements for the AUSTRAC Industry Contribution for the 2016–17 financial year. The paper includes a draft Ministerial Determination, outlining the proposed charging model for determining component amounts of the 2016–17 industry contribution levy.

AUSTRAC's activities as Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regulator and financial intelligence unit will be funded in full through the collection of the AUSTRAC industry contribution from 2016–17.

In response to the consultation processes in 2015, AUSTRAC remains committed to enhancing the transparency of the contribution processes and to communicating effectively with leviable entities about:

- the anticipated amount entities will be levied for the 2016–17 financial year
- a projected estimate of the amount entities will be levied for the 2017–18 financial year
- how AUSTRAC's annual budget allocation is to be expended for the 2016–17 financial year.

Submissions are due by 3 June 2016.

See [media release](#)

AUSTRAC publishes draft amendments to Chapter 22

AUSTRAC has published [draft amendments](#) to Chapter 22 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules*, which provides a conditional exemption from the *Anti-Money Laundering and Counter-Terrorism Financing Act* (AML/CTF Act) for the energy market. It relates to exemption of certain types of transactions in relation to the over-the-counter derivatives market.

AUSTRAC has drafted amendments to Chapter 22 to:

- include all 'Registered Participants' under the National Electricity Rules (NEM rules) as well as Generators which have been exempted from registration under Rule 2.9.3 of the NEM rules
- include all 'Rule Participants' under the Wholesale Electricity Market rules
- include 'Registered Participants' under section 135A of the National Gas Rules (NG rules) for participation in the Declared Wholesale Gas Market
- include 'Registered Participants' under section 135ABA of the NG rules for participation in the Short Term Trading Market
- expand Chapter 22 so that it is not limited to circumstances where the derivatives traded relate to the 'wholesale price of electricity, gas or renewable energy certificates'.

It is considered that the level of Money-Laundering /Terrorism-Financing risk in these markets justify the reduction in regulatory burden that these amendments will allow.

Submissions are due by 7 June 2016.

See [media release](#)

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RBA concludes on review of card payments regulation

RBA's Payments System Board concluded its review of Card Payments Regulation on 20 May. RBA has released the [Conclusions Paper](#) and three new standards which will contribute to a more efficient and competitive payments system.

The new surcharging standard will preserve the right of merchants to surcharge for more expensive payment methods. However, the new standard will ensure that consumers using payment cards from designated systems cannot be surcharged in excess of a merchant's cost of acceptance for that card system. The ACCC will have enforcement powers under the new framework, which will take effect for large merchants on 1 September 2016 and for other merchants on 1 September 2017.

The new interchange standards will result in a reduction in payment costs to merchants, which will place downward pressure on the costs of goods and services for all consumers, regardless of the payment method they use. These tighter compliance requirements will ensure that the regulatory benchmarks are an effective cap on average interchange rates. The new interchange standards will largely take effect from 1 July 2017.

These changes to the regulatory framework are consistent with the direction of reforms suggested in the final report of the FSI and endorsed in the Government's October 2015 response to the report. A summary of the new regulatory framework is provided in [Q&A](#) on the Bank's website.

See [media release](#)

Speech: Launch of Phase 1 of the Global Code of Conduct for the Foreign Exchange Market

Guy Debelle, RBA Assistant Governor (Financial Markets), addressed the launch of Phase 1 of the Global Code of Conduct for the Foreign Exchange Market (Code). The main points of the speech include:

- The Code sets out global principles of good practice in the foreign exchange market to provide a common set of guidance to the market, including in areas where there is a degree of uncertainty about what sort of practices are acceptable, and what are not. This should help to restore confidence and promote the effective functioning of the wholesale FX market.
- The Code is intended to apply to all aspects of the wholesale foreign exchange market across the globe.
- The topics intended to be covered in the Code is split into two parts. The first phase covers areas such as ethics, information sharing, aspects of execution and confirmation and settlement. The second phase will cover further aspects of execution including e-trading and platforms, prime brokerage, as well as governance, and risk management and compliance. The second phase will be completed in twelve months, such that the full Code can be published in May 2017.
- It will be a principles-based code of conduct rather than a set of prescriptive regulatory standards. It will not impose legal or regulatory obligations on market participants, nor will it supplant existing regulatory standards or expectations. But it is expected that the principles in the Code to be understood and adopted across the entire FX market.

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

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Speech: Developments in Global FX Markets and Challenges in Currency Internationalisation from an Australian Perspective

Guy Debelle, RBA Assistant Governor (Financial Markets), addressed the RMB FX Forum. Australia takes a keen interest in the ongoing process of internationalisation and liberalisation of the renminbi (RMB).

He discussed the use of the RMB in Australia, the RMB's increasing role in the global economy and how it is related that to the Global Code of Conduct (Code) for the Foreign Exchange Market. He then provided an Australian perspective on currency internationalisation and capital account liberalisation, reflecting on the challenges that emerged as Australia went through this process in the late 1970s/early 1980s.

He concluded by stating that Australia has a deep interest in following the ongoing liberalisation of China's financial markets and internationalisation of the RMB, given the strong linkages between the two economies. The Code can serve as a useful benchmark for the functioning of the FX market in China as well as the global FX market.

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

3

Industry bodies

ABA

Australian Bankers'
Association

AFMA

Australian Financial
Markets Association .

COBA

Customer Owned Banking
Association

FSC

Financial Services Council

ABA welcomes extending AML/CTF laws

ABA has supported the Attorney General department's [findings](#) to strengthen anti-money laundering (AML) and counter-terrorism financing (CTF) legislation.

Widening the regulatory net will help fight money laundering in Australia and put them in line with international best practice. It would also help businesses that do report under AML/CTF laws to meet their compliance obligations. Australia's banks have a key role in preventing the serious crimes of money laundering and terrorism financing.

See [media release](#)

Banks support review of customer dispute resolution

The Federal Government's announced review into external dispute resolution is important to ensure that there are the right processes in place to handle disputes from individual and small business customers. Banks want to help customers work through any disputes to avoid the need for external intervention.

As part of [new measures](#) to protect customer interests, banks will ensure they have an independent customer advocate to offer guidance and support to customers to resolve complaints quickly.

The banking industry will work with the review to look at increasing the monetary limit of claims that the Financial Ombudsman Service can assess and the amount of compensation it can award.

Banks will also continue to consult with the ASIC on its work to improve customer remediation programs and expand these programs from personal advice to cover all types of financial advice and products.

See [media release](#)

Former Auditor-General to oversee new bank measures

ABA has announced the appointment of Mr Ian McPhee AO PSM to oversee the implementation of recently announced measures by banks to protect consumer interests.

Banks have committed to addressing community concerns about dealing with poor conduct, the handling of customer complaints, the treatment of whistleblowers and how staff are paid.

Mr McPhee's primary role will be to form an independent judgement of whether the banking industry is making appropriate progress towards delivering on its commitments, on the basis of the evidence provided by banks and consultations with a range of other interested groups, including regulators, consumer representatives, community organisations, unions and other finance sector representatives.

Mr McPhee will report quarterly on the industry's progress, with the first report to be released by 21 July 2016. Mr McPhee's role will continue until the industry's commitments have been substantially implemented.

A copy of Mr McPhee's [letter of engagement](#) is available. A [summary](#) of the banking industry's commitments, announced on 21 April, is also available.

See [media release](#)

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Industry bodies (cont'd)

ABA

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Association

AFMA

Australian Financial
Markets Association .

COBA

Customer Owned Banking
Association

FSC

Financial Services Council

AFMA comments on the Attorney General's report into Australia's AML/CTF Framework

AFMA has welcomed the Attorney-General's Department [report](#) into Australia's AML/CTF Regime, released on 29 April 2016.

A key finding of the report is the recognition that non-financial businesses pose significant money-laundering and terrorism financing risks and need to be brought within the AML/CTF framework. AFMA encourages the Government to expand the AML/CTF framework to include non-financial businesses in a cost-effective and efficient manner that does not impose any additional burden on existing regulated entities.

AFMA welcomes a number of key recommendations, particularly those that operate internationally. Enhanced reliance on customer due diligence undertaken by regulated business will significantly reduce regulatory burden, while allowing information to flow between entities within the same corporate group will facilitate effective disruption of money-laundering and terrorism financing at a global level.

See [media release](#)

AFMA to refocus its support for financial benchmarks

The Bank Bill Swap (BBSW) is a significant short term benchmark rate in the Australian financial markets and is used to provide reference interest rates for the pricing and revaluation of Australian dollar derivatives, business loans and securities such as floating rate bonds.

AFMA is the administrator of BBSW, meaning that it electronically extracts live and executable bids and offers from the approved trading venues, calculates the rate and then publishes it to the market on a daily basis.

The growing complexity of benchmark administration is illustrated by the Council of Financial Regulators' proposal to move to a volume weighted average price (VWAP) methodology as the primary calculation mechanism, which will require development of a trade repository capability, amongst other things.

AFMA has determined that benchmark administration has now evolved to a point where it is appropriate for it as an industry body to step away from the function of being a benchmark administrator. This will provide AFMA with greater capacity to conduct the policy advocacy and market development activities that form the core of its mission.

AFMA will begin the process to identify an alternative benchmark administrator over coming months.

See [notice](#)

3

Industry bodies (cont'd)

ABA

Australian Bankers'
Association

AFMA

Australian Financial
Markets Association .

COBA

Customer Owned Banking
Association

FSC

Financial Services Council

Customer owned partnerships spark growth and innovation

Partnerships in the customer owned banking sector that lead to further growth and innovation are welcomed by COBA.

The recent proposal in Queensland between RACQ and QT Mutual Bank is one example of sharing expertise and resources whilst maintaining ownership by customers and organisational history.

This sector is well positioned to look at ways it can invest and build on its success so it can continue to grow and offer great value for money banking services with outstanding service.

Consolidation in the sector is leading to more investment in technology, enhanced products and customer service while maintaining a customer owned and community focus.

See [media release](#)

3

Industry bodies (cont'd)

ABA

Australian Bankers'
Association

AFMA

Australian Financial
Markets Association .

COBA

Customer Owned Banking
Association

FSC

Financial Services Council

FSC releases statement of policy priorities

The FSC has released a statement of policy priorities for the next Parliament. The statement presents policy positions across financial services and the Australian economy.

Highlights of the FSC policy statement include:

- a new professional framework for financial advisers
- completion of the “Johnson Report” recommendations
- stronger financial services trade policy and FTA implementation
- supporting middle Australians save for retirement by increasing the superannuation guarantee to 12% by 2022
- more choice and competition in the superannuation system
- addressing misaligned incentives in the life insurance industry
- a sustainable, competitive and simpler tax system

See [media release](#)

Government announces introduction of new collective investment vehicles

The 2016 Budget includes a commitment by the government to progress important reforms that will establish Australia as an exporter of financial services to Asia.

The Government has announced introduction of two new collective investment vehicles to Australia’s investment landscape - a corporate collective investment vehicle (CIV) and a limited partnership CIV.

The corporate collective investment vehicle is expected to be operational in the tax year beginning 1 July 2017, with the limited partnership vehicle to follow from 1 July 2018.

A new corporate collective investment vehicle to rival those on offer in other leading funds management centres such as the United Kingdom, will allow Australian fund managers to compete globally.

See [media release](#)

4

Overseas developments – Global

FSB: Publishes thematic review on the implementation of the FSB policy framework

The Financial Stability Board (FSB) has published the [*Thematic Review on the Implementation of the FSB Policy Framework for Shadow Banking Entities*](#), evaluating the progress made by FSB jurisdictions in implementing the FSB policy framework for strengthening oversight and regulation of Shadow Banking Entities. The policy framework sets forth principles that authorities should adhere to in their oversight of non-bank financial entities posing financial stability risks from shadow banking.

The peer review describes the steps undertaken by the FSB in 2015 to enhance its assessment of non-bank financial entities and activities that may give rise to financial stability risks. The peer review makes a number of recommendations to FSB jurisdictions to implement fully the policy framework. The FSB will continue to monitor jurisdictions' implementation of the policy framework.

Source: [FSB](#)

FSB: RCG for Asia discusses FSB priorities and financial reforms

Bank Negara Malaysia hosted the tenth meeting of the FSB Regional Consultative Group (RCG) for Asia in Kuala Lumpur. Members began by reviewing the FSB's work plan and 2016 policy priorities. They considered vulnerabilities in the global financial system, their potential impact on Asia and possible policy responses, and regional financial stability issues.

In terms of new risks and vulnerabilities, members discussed the latest developments in financial technology and implications for financial stability. They exchanged views on the latest trends and challenges in cybersecurity, supervisory approaches to enhance information technology risk management at financial institutions and market infrastructures, and the need for cooperation in cyber intelligence sharing, both domestically and cross-border.

Members next turned their attention to corporate governance and steps being taken by regulators to address weaknesses identified during the financial crisis.

Source: [FSB](#)

IOSCO: Issues report on impact of storage and delivery infrastructure

The International Organization of Securities Commissions (IOSCO) Board has published a [report](#), *The Impact of Storage and Delivery Infrastructure on Commodity Derivatives Market Pricing*, which sets out the findings and conclusions of the review by the IOSCO Committee 7 on Commodity Derivatives Markets (Committee) of the impact of storage infrastructures on the integrity of the price formation process of physically-delivered commodity derivatives contracts traded on regulated exchanges.

The report concludes that, based on the review, an industry survey, and a public roundtable, IOSCO's [principles](#) for the regulation and supervision of Commodity Derivatives Markets (September 2011) provide an adequate framework for implementing effective oversight, governance and operational controls of storage infrastructure, and did not require additional principles or revision of the existing principles.

Source: [IOSCO](#)

4

Overseas developments – Global (cont'd)

IOSCO: Continues to address global challenges to securities markets

The IOSCO opened the public sessions of its Annual Conference in Lima focusing on SME financing, investor protection and education, and the opportunities and challenges of new FinTech.

During the four-day meeting, the IOSCO Board, the Growth and Emerging Markets (GEM) Committee, the four Regional Committees and the Affiliate Members Consultative Committee (AMCC) discussed policy initiatives to strengthen securities market resilience and ensure that securities markets continue to be sustainable sources of finance.

Members discussed how best to make use of the expertise and knowledge of IOSCO's diverse membership, including measures to further the integration and enhance the participation of GEM Committee members.

Source: [IOSCO](#)

BIS: Publishes first phase of a global code of conduct for currency markets

The Foreign Exchange Working Group (FXWG) has released the first phase of the [global code](#) of conduct for the foreign exchange market and [principles](#) for adherence to the new standards. This set of global principles of good practice in the foreign exchange market is being developed to provide a common set of guidelines to promote the integrity and effective functioning of the wholesale foreign exchange market.

It is intended to promote a robust, fair, liquid, open, and appropriately transparent market in which a diverse set of Market Participants, supported by resilient infrastructure, are able to confidently and effectively transact at competitive prices that reflect available market information and in a manner that conforms to acceptable standards of behaviour.

The complete code and the adherence mechanisms will be released in May 2017.

Source: [BIS](#)

BIS: Speech - Financial regulation: cementing the gains of post-crisis reforms

Jaime Caruana, General Manager of the Bank of International Settlements (BIS) addressed the CI Meeting of Central Bank Governors of the Centre for Latin American Monetary Studies at Lisbon.

He started his speech by highlighting that it is time to cement the gains of the post-crisis regulatory reform. The immediate task is to complete the regulatory agenda. The overall calibration of capital regulation will need to recognise the fundamental importance of equity capital for financial intermediation. Regulatory risk weights will need to be rid of excess variability while maintaining risk sensitivity.

In performing this task and in looking forward, policymakers should adopt a holistic view that takes account of the constant evolution of the financial system and the morphing of attendant risks. Such a view also demands that proactive supervision play a more prominent role, complementing regulation and corporate governance, in order to sustain the gains of the post-crisis reforms in the long run.

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

4

Overseas developments – Europe

EBA: Issues amended standards on supervisory reporting for institutions

The European Banking Authority (EBA) has published its final [guidelines](#) on stress tests for deposit guarantee schemes (DGSs). The guidelines provide a systematic methodology for planning, running and reporting on stress tests conducted by DGSs to assess their resilience to various types of scenarios in times of banking stress. In line with the Deposit Guarantee Schemes Directive (DGSD), these guidelines will promote the quality and the consistency of these stress tests. The resulting data will also facilitate future peer reviews by the EBA, contributing to a safe and sound EU framework for the benefit of depositors and financial stability.

They establish a small core of harmonised priority tests to be run by DGSs and reported to the EBA with a view to running a comparable EU-wide peer review. The first stress test should take place by 3 July 2017.

Source: [EBA](#)

EBA: Confirms the use of unsolicited credit ratings for determining capital requirements

The EBA has published a [report](#) accompanying the [decision](#) confirming the use of unsolicited credit assessments assigned by certain External Credit Assessment Institutions (ECAIs) for calculating institutions' capital requirements. The decision is part of the Single Rulebook in banking and will ensure regulatory harmonisation across the European Union (EU) regarding the use of unsolicited credit ratings for determining institutions' own funds requirements.

Institutions may use unsolicited credit assessments of an ECAI for determining their capital requirements only if the EBA has confirmed that those unsolicited ratings do not differ in quality from solicited ratings of that same ECAI. The decision published allows the use of unsolicited credit assessments for a number of ECAIs in the context of the Capital Requirements Regulation (CRR).

Source: [EBA](#)

EBA: Seeks views on the use of consumer data by financial institutions

The EBA has published a [discussion paper](#) on innovative uses of consumer data by financial institutions, in line with its mandate to monitor financial innovation.

The paper identifies risks and benefits for consumers and financial institutions, as well as for financial integrity in general.

The EBA has identified a preliminary list of risks and potential benefits that the innovative uses of consumer data may bring for consumers, financial institutions and financial stability more widely. Institutions may obtain continuous insight into purchasing habits and preferences, as consumers engage in payment transactions through their accounts or cards. The work of the EBA focuses on the use of consumer data in the banking sector, including retail payments.

Submissions are due by 4 August 2016.

Source: [EBA](#)

4

Overseas developments – Europe (cont'd)

EBA: Agrees with the Commission on changes to the amended technical standards

The European Banking Authority (EBA) has issued an [opinion](#) to the European Commission (EC) expressing agreement with its proposed amendments to the EBA Implementing Technical Standards (ITS) on [benchmarking](#) of internal approaches. These amendments, which were agreed with the EBA building on the experience of the 2014-15 benchmarking exercise, aim at ensuring a better quality of the submitted data and at strengthening the benchmarking analysis performed by the EBA and Competent Authorities.

The EBA plans to annually update the ITS and to maintain them on a regular basis to ensure the success and quality of future benchmarking exercises.

All EU institutions using internal approaches to calculate capital requirements will be subject to an assessment of their internal approaches and are required to submit to their Competent Authorities the data on those portfolios by close of business on 30 June 2016.

Source: [EBA](#)

EBA: Provides guidance for computing Financial Soundness Indicators

The EBA has published a [guidance document](#) to assist competent authorities in compiling IMF Financial Soundness Indicators (FSI) for deposit takers using statistical input derived from the EBA ITS on supervisory reporting.

Authorities are encouraged to use this guidance and the comprehensive mapping between the FSI forms and the EBA ITS templates to foster harmonised FSI reporting by the EEA authorities. It provides transparency to FSI users on how they have been computed for EEA countries.

The FSIs are aggregated statistical measures for monitoring the current financial health and soundness of a country's financial sector, and its corporate and household counterparts. They also intend to support economic and financial stability analysis.

Source: [EBA](#)

EBA: Consults on LCR disclosure

The EBA has launched a [consultation](#) on its draft guidelines on the Liquidity Coverage Ratio (LCR) disclosure. These guidelines harmonise and specify both the qualitative and quantitative information that institutions are required to disclose on liquidity and namely on the LCR.

These draft guidelines provide uniform tools for the liquidity disclosure framework. They include:

- a qualitative and quantitative harmonised table for the disclosure of general information on liquidity risk management – already laid down in the CRR
- qualitative and quantitative templates and relative instructions for the disclosure of information on the LCR composition. They specify the key figures and metrics in the context of liquidity risk.

The application of these guidelines is expected to take place after 30 June 2017.

Submissions are due by 11 August 2016.

Source: [EBA](#)

4

Overseas developments – Europe (cont'd)

EBA: Amends HLBA method for calculating additional collateral outflows

The EBA has issued an [opinion](#) to the EC supporting its proposed amendment to the draft Regulatory Technical Standards (RTS) on additional collateral outflows with regard to the historical look-back approach (HLBA) calculation method. The amendment follows the EC'S request to amend the draft RTS using the specifications provided by the Basel Committee on Banking Supervision (BCBS).

The EBA has amended the draft RTS on additional collateral outflows to include the BCBS's HLBA approach. The BCBS approach focuses on the largest net difference in collateral posted instead of the largest gross difference.

Source: [EBA](#)

ECB: Euro area systemic stress contained despite bouts of global financial market turbulence

The European Central Bank (ECB) has released the Financial Stability Review ([FSR](#)), which assesses developments relevant for financial stability. The ECB highlighted four systemic risks to financial stability over the next two years:

- Further increase of risk premia and financial turmoil, triggered by emerging market stress and persistently low commodity prices
- Weak profitability prospects for banks and insurers, with banks' intermediation additionally constrained by unresolved problems in reducing non-performing loans
- Rising debt sustainability concerns in sovereign and non-financial private sectors amid heightened political uncertainty and low nominal growth
- Prospective stress in the investment fund sector amplified by liquidity risks and spillovers to the broader financial system.

Source: [ECB](#)

EIOPA: Launches the EU-wide insurance stress test 2016

The European Insurance and Occupational Pensions Authority (EIOPA) has launched an EU-wide stress test for the European insurance sector. This regular exercise aims to assess insurers' vulnerabilities and should not be interpreted as a pass-or-fail test. It is designed to assess the resilience of the European insurance sector to severe adverse market developments based on a common analytical framework. This stress test will examine the potential increase of systemic risks in situations of stress.

The Stress Test 2016 focuses on two major market risks:

- the prolonged low yield environment
- the double-hit, i.e. a negative market shock to asset prices combined with a low risk free rate.

Submissions are due to the national competent authorities (NCAs) by 15 July 2016.

Source: [EIOPA](#)

4

Overseas developments – Europe (cont'd)

ESAs: Clarify their position on technical standards for ECAIs credit assessments

The Joint Committee of the European Supervisory Authorities (EBA, EIOPA, European Securities and Markets Authority (ESMA) (ESAs) has published its [opinion](#) on the European Commission's (EC) intention to amend the draft Implementing Technical Standards (ITS) on the mapping of ECAIs credit assessments under the CRR and Solvency II directive. The opinion was produced in response to the EC's proposed amendments to these draft ITS.

In these ITS, the ESAs had particularly proposed "less conservative" quantitative requirements to apply for a phase-in period of three years. The ECAIs could receive the best mapping based on their past performance, irrespective of how many ratings they have already produced. Upon expiry of the phase-in period, from 2019 onwards, the Joint Committee intended to apply a "more conservative" approach, requiring ECAIs to issue a minimum number of ratings in order to receive the best mapping.

Source: [EBA](#)

ESMA: Amends MiFID II standards on non-equity transparency and position limits

The European Securities and Markets Authority (ESMA) has issued two opinions proposing amendments to its draft RTSs under the Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR).

ESMA proposes to revise the [RTS](#) on non-equity transparency, which includes requirements in respect of bonds, structured finance products, emission allowances and derivatives and the [RTS](#) on the methodology for the calculation and application of position limits for commodity derivatives.

The opinions were produced in response to proposed amendments by the European Commission to these draft RTSs.

Source: [ESMA](#)

ESMA: Issues technical standards on indirect clients

The ESMA has issued two final draft RTS on indirect clearing under the MiFIR and the European Market Infrastructure Regulation (EMIR) respectively. The draft RTS clarify provisions of indirect clearing arrangements for OTC and exchange-traded derivatives.

The draft RTS provide provisions on the following key points:

- propose an obligation of means in order to take into account that there can be a conflict of law between EU regulation and certain national insolvency regimes
- provide a choice of possible account structures that reflect the current practice in the OTC derivative and the exchange traded derivative markets in terms of level of segregation
- allow indirect clearing chains longer than the standard chains of four entities.

ESMA has sent its draft RTS to the EC which has three month to accept or reject them, which will be followed by a non-objection period by the European Parliament and Council.

Source: [ESMA](#)

4

Overseas developments – Europe (cont'd)

ESMA: Consults on technical advice on Benchmarks Regulation

The EC proposed a draft Regulation on indices used as benchmarks in financial instruments and financial contracts (Benchmarks Regulation) in 2013 during the manipulation of various benchmarks.

The ESMA has launched a [consultation paper](#), *Draft technical advice under the Benchmarks Regulation*, the follow-up of the discussion paper on the Regulation published in February 2016 with respect to technical advice to the Commission, and it is based on the Regulation text published by the European Parliament after the vote. A separate CP on the draft technical standards only will be published by ESMA in due time.

ESMA will consider responses and finalise the technical advice to the Commission within four months after the entry into force of the Regulation, as requested by the Commission to ESMA. The Regulation is currently expected to enter into force in June 2016, and therefore the final report containing the (final) technical advice is planned to be submitted to the Commission in October 2016.

Source: [ESMA](#)

4

Overseas developments – UK

Bank of England: Parliament has passed the Bank of England and Financial Services Act 2016

Parliament has passed the *Bank of England and Financial Services Act 2016* ([Act](#)). The Act will mean the Bank of England is better equipped to fulfil its vital role of overseeing monetary policy and financial stability for the whole of the UK. It includes the following measures:

- strengthening the governance and accountability of the Bank, by ending the subsidiary status of the Prudential Regulation Authority (PRA) and allowing the National Audit Office to undertake value for money reviews of the Bank for the first time
- taking further steps to protect tax payers from firm failure, by updating resolution planning and crisis management arrangements between the Bank and Treasury
- ensuring that senior managers across the financial services industry can be held to account for failings that occur on their watch, through the extension of the Senior Managers and Certification regime to all authorised persons.

Source: [Bank of England](#)

Bank of England: Speech - culture in financial services – a regulator’s perspective

Andrew Bailey, Deputy Governor for Prudential Regulation and Chief Executive Officer of the Prudential Regulation Authority, addressed the City Week 2016 Conference.

In his last speech as Chief Executive of the Prudential Regulation Authority, Andrew Bailey explained the importance of culture to both prudential and conduct financial regulators and the challenges for supervisors when looking at the culture of firms.

He sets out risks to good governance of firms, which can lead to bad outcomes. He clarifies the role of regulators when dealing with the question of culture.

He also discussed his views of the new Senior Managers Regime. He will take up his new role as CEO of the Financial Conduct Authority on 1 July.

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

FCA: Embedding the mortgage market review - responsible lending review

The Financial Conduct Authority (FCA) has published a thematic review, *Embedding the Mortgage Market Review: Responsible Lending Review* ([TR16/4](#)), summarising the key findings of how firms are applying the responsible lending rules introduced in April 2014 following the MMR. FCA has also published Feedback Statement on competition in the mortgage sector ([FS16/3](#)), summarising the work and themes emerging from the FCA’s call for inputs on competition in the mortgage sector.

The review found:

- firms have implemented responsible lending rules in line with the FCA’s expectations
- some firms need to make process improvements to help them consistently assess and record their lending decisions
- some firms could be more proactive and consistent in making use of flexibilities and exceptions to the responsible lending requirements for existing customers

Source: [FCA](#)

4

Overseas developments – UK (cont'd)

FCA: Regulatory sandbox opens to applications

The FCA has opened its [regulatory sandbox](#) to firms. The sandbox is a 'safe space' in which businesses can test innovative products, services, business models and delivery mechanisms while ensuring that consumers are appropriately protected.

The regulatory sandbox is part of Project Innovate, an initiative kicked off in October 2014, to encourage innovation in the interests of consumers and promote competition through disruptive innovation.

The sandbox will offer a range of options for eligible firms: a tailored authorisation process for new firms in the testing phase; individual guidance for firms testing ideas that do not easily fit into the existing regulatory framework and in some cases waivers or no enforcement action letters.

Firms have until 8 July 2016 to apply to be in the first cohort of the sandbox.

Source: [FCA](#)

FCA: Market-based finance - its contributions and emerging issues

The FCA has published an [occasional paper](#), *Market-Based Finance: Its Contributions and Emerging Issues*, providing an overview of the evolution as well as recent innovations in market-based finance (MBF). It argues that MBF is not merely an alternative way of providing banking-like services; it is in many ways a more efficient means of creating, distributing, and managing money, credit and risk globally. Properly regulated and supervised MBF can contribute to a dynamic and competitive financial services sector, develop new and innovative products to meet customers' needs.

The paper concludes that MBF has grown in response to advances in financial engineering and the globalisation of funding and capital markets, enhancing efficiency through specialisation, giving it comparative advantages over the traditional (bank-based) model of finance.

Source: [FCA](#)

PRA: Consults on Pillar 2 liquidity

The Prudential Regulation Authority (PRA) has published a consultation paper, *Pillar 2 liquidity (CP21/16)*, proposing a statement of policy on its approach to three aspects of Pillar 2 liquidity (Pillar 2): intraday risk, debt buyback and non-margined derivatives. The paper also outlined the PRA's Pillar 2 objectives and scope. It provides an early overview of planned future work to develop the Pillar 2 approach where the PRA is not yet setting out proposals. This paper constitutes the first of two planned papers on Pillar 2.

The implementation of the entire Pillar 2 regime will only take place once all individual elements have been consulted on and the PRA has published its final approach following the second paper on Pillar 2.

Submissions are due by 12 August 2016

Source: [Bank of England](#)

4

Overseas developments – UK (cont'd)

PRA: Solvency II consultation paper

The PRA has released consultation paper, *Solvency II: Monitoring model drift and standard formula SCR reporting for firms with an approved internal model* ([CP22/16](#)), proposing a supervisory statement setting out the PRA's approach to monitoring model drift and expectations on firms with an approved internal model for the reporting formula Solvency Capital Requirement (SCR).

The statement sets out an expectation that firms with an approved internal model should privately report their standard formula SCR information on an annual basis. A [template](#) is provided to provide the information.

CP22/16 is relevant to all PRA regulated solo insurance and reinsurance undertakings within the scope of Solvency II which have approval to calculate their solo SCR by internal model, and to the Society of Lloyd's in respect of each of their syndicates and in respect of outputs of the Lloyd's internal model.

Source: [Bank of England](#)

PRA: Recalculation of the 'transitional measure on technical provisions' under Solvency II

The Solvency II directive allows for a recalculation of the transitional measure on technical provisions (TMTP) every 24 months, or more frequently where the risk profile of the firm has materially changed. These directive provisions have been transposed by HM Treasury's Solvency 2 Regulations 2015 ([2015/575](#)).

The PRA has released a supervisory statement, *Recalculation of the 'transitional measure on technical provisions' under Solvency II* ([SS6/16](#)), providing clarity with respect to the PRA's expectations, and proposed process, for recalculations of the TMTP.

This statement sets out the PRA's expectations and proposed process for:

- requesting that a firm carry out a recalculation of the transitional measure
- assessing a firm's application for a recalculation on the basis of a material change in risk profile.

Source: [Bank of England](#)

4

Overseas developments – US

CFTC: Approves amendments to the swap portfolio reconciliation requirement

The U.S. Commodity Futures Trading Commission (CFTC) has approved a [final rule](#) to amend a requirement that swap dealers (SD) and major swap participants (MSP) exchange the terms of swaps with their counterparties for portfolio reconciliation so that SDs and MSPs need only exchange the “material terms” of swaps. This requirement is found in CFTC Regulation 23.500(i).

The final rule also amends the definition of “material terms” in CFTC Regulation 23.500(g). The final rule benefits SDs, MSPs, and their counterparties by enabling them to focus on reconciling data fields that impact swap valuation and counterparty obligations, without impairing the CFTC’s ability to oversee and regulate the swaps markets.

Source: [CFTC](#)

CFTC: Issues proposed amendment to the 2013 final order regarding RTOs and ISOs

The CFTC has issued a proposed [amendment](#) to a final order the CFTC issued on March 28, 2013 that exempted certain specified transactions of six Regional Transmission Organisations and Independent System Operators (RTO-ISO Order) from certain provisions of the *Commodity Exchange Act* (CEA) and CFTC regulations.

The proposed amendment to the RTO-ISO order would explicitly state that the exemption also does not apply to actions pursuant to CEA section 22 with respect to those specified provisions. The comment period on the proposed amendment will be open for 30 days after publication in the Federal Register

Source: [CFTC](#)

CFTC: Issues final cross-border margin rule

The CFTC has adopted a [final rule](#) implementing a cross-border approach to the CFTC’s margin requirements for uncleared swaps. Published in January 2016, the CFTC’s margin rule applies to CFTC-registered swap dealers and major swap participants for which there is no Prudential Regulator (collectively, covered swap entities or CSEs). The rule is closely aligned with the cross-border margin requirements already adopted by the Prudential Regulators.

The rule generally requires CSEs to comply with the CFTC’s margin requirements for all uncleared swaps in cross-border transactions, with a limited exclusion for certain non-U.S. CSEs. The exclusion is not available to non-U.S. CSEs that are consolidated with a U.S. parent (foreign consolidated subsidiaries).

Source: [CFTC](#)

4

Overseas developments – US (cont'd)

CFTC: Approves supplement to position limits proposal to permit exchanges

The CFTC has voted unanimously to issue for public comment a [supplement](#) to its December 2013 position limits proposal that will modify the procedures proposed for persons seeking exemptions from speculative position limits for non-enumerated bona fide hedging. The proposal would define procedures for recognition of certain anticipatory bona fide hedge positions.

The supplement would provide a new process for exchanges to recognise certain positions in commodity derivative contracts as non-enumerated bona fide hedges or enumerated anticipatory bona fide hedges, as well as to exempt from federal position limits certain spread positions, in each case subject to CFTC review.

The proposal also includes corresponding changes to certain regulations proposed in 2013 regarding exemptions from position limits and exchange-set position limits to take into account this new process.

Source: [CFTC](#)

FRB: Proposes rule to support U.S. financial stability

The Federal Reserve Board (FRB) has proposed a [rule](#) to support U.S. financial stability by enhancing the resolvability of very large and complex financial firms.

The proposal would require U.S. global systemically important banking institutions (GSIBs) and the U.S. operations of foreign GSIBs to amend contracts for common financial transactions to prevent the immediate cancellation of the contracts if the firm enters bankruptcy or a resolution process. This change should reduce the risk of a run on the solvent subsidiaries of a failed GSIB caused by a large number of firms terminating their financial contracts at the same time.

Submissions are due by 5 August 2016.

Source: [FRB](#)

FRB: Agencies propose Net Stable Funding Ratio (NSFR) rule

The federal banking agencies have proposed NSFR [rule](#) to strengthen the resilience of large banking organisations by requiring them to maintain a minimum level of stable funding relative to the liquidity of their assets, derivatives, and commitments, over a one-year period.

The proposed rule would be tailored to the risk of the banking organisations. The most stringent requirements would apply to the largest firms, those with \$250 billion or more in total consolidated assets or \$10 billion or more in on-balance sheet foreign exposure, as well as those banking organisations' subsidiary depository institutions that have assets of \$10 billion or more.

The NSFR would become effective on 1 January 2018, and is consistent with the liquidity standard agreed to by the BCBS.

Submissions are due by 5 August 2016.

Source: [FRB](#)

4

Overseas developments – US (cont'd)

FRB: Agencies consults on proposed rule to prohibit incentive-based pay

Six federal agencies are inviting public comment on a [proposed rule](#) to prohibit incentive-based compensation arrangements that encourage inappropriate risks at covered financial institutions.

Section 956 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* requires the agencies to jointly prescribe such regulations or guidelines. The proposed rules would apply to covered financial institutions with total assets of \$1 billion or more. Much of the proposed rules would address requirements for senior executive officers and employees who are significant risk-takers at Level 1 and Level 2 institutions.

All institutions that would be covered by the proposed rules would be required to annually document the structure of incentive-based compensation arrangements and retain those records for seven years.

Submissions are due by 22 July 2016.

Source: [FRB](#)

SEC: Adopts amendments to implement changes for Exchange Act registration requirements

The Securities and Exchange Commission (SEC) has approved [amendments](#) to revise the rules related to the thresholds for registration, termination of registration, and suspension of reporting under Section 12(g) of the *Securities Exchange Act of 1934*. These amendments implement provisions of the *Jumpstart Our Business Startups Act (JOBS Act)* and the *Fixing America's Surface Transportation Act (FAST Act)*.

To implement the JOBS Act, the Commission proposed amendments to Exchange Act rules 12g-1 through 4 and 12h-3 to reflect the new thresholds. The Commission also proposed to establish thresholds for savings and loan holding companies consistent with those for bank holding companies. The FAST Act revised the thresholds for savings and loan holding companies and the statutory changes were effective upon enactment of the act.

The final rules will become effective 30 days after publication in the Federal Register.

Source: [SEC](#)

SEC: Proposes rule to support U.S. financial stability

The U.S. Department of the Treasury and the SEC are working together to explore efficient and effective means of collecting U.S. Treasury cash market transaction information. The agencies are requesting that the Financial Industry Regulatory Authority (FINRA) to consider a proposal to require its member brokers and dealers to report Treasury cash market transactions to a centralised repository.

Treasury's recent request for information (RFI) on the evolution of the U.S. Treasury market structure sought views on the most effective means of obtaining more comprehensive official sector access to U.S. Treasury cash market data on a regular and ongoing basis. The responses to the RFI expressed broad support for more comprehensive reporting to regulators.

Any proposal by FINRA to require reporting of Treasury cash market activity would be subject to review and approval by the SEC, in consultation with Treasury.

Source: [SEC](#)

4

Overseas developments – Asia

Hong Kong: SFC signs MoU with FINRA to enhance supervision of cross-border regulated entities

The Securities and Futures Commission (SFC) has entered into a memorandum of understanding ([MoU](#)) with the FINRA of the United States concerning mutual assistance in the supervision and oversight of regulated entities that operate on a cross-border basis in Hong Kong and in the United States.

Through the MoU, which covers financial market participants or other entities that are regulated by the SFC or FINRA, the SFC and the FINRA express their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates.

The MoU came into effect on 9 May 2016.

Source: [SFC](#)

Japan: Agenda for the first meeting of the panel of experts on FinTech start-ups agenda

Agenda for the first meeting of the panel of experts on FinTech start-ups held on 16 May 2016:

- opening of the panel, introduction of the members
- explanation by the secretariat
- presentation by Joichi Ito, director, MIT Media Lab
- discussion
- closing of the panel

The following materials are available:

- [list of members](#)
- [procedures for running the panel \(draft\)](#)
- [Secretariat's explanatory material](#)
- [Joichi Ito's explanatory material](#)

Source: [FSA](#)

Japan: FSA consults on “Working Group on Financial Markets”

On 19 April, the Financial System Council was inquired to discuss various issues, taking account of the changes in circumstances surrounding Japanese markets and exchanges including the development of information technology etc., so as to support the sustainable growth of the economy and stable wealth formation of the nation. The first [discussion](#) of the “Working Group on Financial Markets” was held on the basis of the above-mentioned inquiry.

The received comments will be used for the Working Group's discussion, although the secretariat of the Working Group will decide on the handling of the comments and will not respond to them individually.

Source: [FSA](#)

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Overseas developments – Asia (cont'd)

South Korea: FSC launches test operation of omnibus account

The FSC/FSS and relevant agencies will launch a test operation of 'omnibus account' starting from 25 May with four standing proxies, two securities firms and one global investment company. The test run is:

- to have foreign investors engage in devising detailed procedures
- to prevent technical errors in electronic and settlement system in advance of a full operation of the omnibus account in 2017.

The test operation will be in two stages:

- **Mock Trading (25 May~Sept. 2016):** Participants will process a whole procedure of order, settlement and ex-post reporting through a mock trading system to check detailed operation process and stability of electronic system.
- **Real Trading (Sept. 2016~2017):** A limited number of participants who participated in mock trading will conduct real trading through an 'omnibus account'. The FSC/FSS will gather their suggestions in this process and amend until the full operation in 2017.

Source: [FSC](#)

Singapore: First ever FinTech bridge established between Britain and Singapore

Singaporean officials and FinTech companies gathered with UK FinTech companies in Downing Street to celebrate the launch of the UK's first ever FinTech Bridge, which included the signing of a Regulatory Cooperation Agreement between the FCA and the Monetary Authority of Singapore (MAS).

The agreement will enable the regulators to refer FinTech firms to their counterparts across the globe. It also sets out how the regulators plan to share and use information on financial services innovation in their respective markets.

This is in line with the government's commitment to ensure the UK remains the global FinTech Capital of the world. The announcement underscores the Singapore government's commitment to build a Smart Financial Centre that is among the best globally for innovation and dynamism

Source: [MAS](#)

Singapore: MAS makes it easier for retail investors to buy corporate bonds

The MAS has introduced two new [regulations](#) to facilitate corporate bond offerings to retail investors. Corporate issuers will now find it easier and cheaper to tap the retail market by issuing plain-vanilla bonds through two new frameworks:

- Under the Bond Seasoning Framework, wholesale bonds issued by issuers that meet eligibility criteria stipulated by the Singapore Exchange (SGX) can be offered to retail investors after the bonds have been listed on SGX for six months. These "seasoned" bonds can be re-denominated into smaller lot sizes and offered to retail investors on the secondary market.
- Under the Exempt Bond Issuer Framework, issuers that satisfy specified thresholds that are higher than the eligibility criteria under the Bond Seasoning Framework can offer bonds directly to retail investors at the start of an offer without a prospectus.

Source: [MAS](#)

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PwC publications

PwC Australia: Major banks analysis May 2016

PwC Australia has released a biannual *Major Banks analysis*, highlighting that Australia's four major banks delivered combined cash earnings of \$14.9 billion for the first half to March 2016, a decrease of 2.8 per cent on the same period last year. The result was helped along by a slight improvement in margins, which rose from record lows in 2015, up barely a basis point on the prior half to 2.04 per cent.

Increased funding costs and regulatory requirements delivered a four basis-point hit to margins, offset by adjustments to retail lending and deposit pricing over the half, which returned a five basis-point uplift.

Domestic lending growth was 6.4 per cent on an annualised basis, driven by the continued appetite for residential mortgages and business lending.

The banks are set to enter a period of enhanced regulatory focus and increased scrutiny of customer outcomes. A number of regulatory changes are expected to impact capital requirements and funding decisions.

See [publication](#)

PwC Australia: Insurance facts and figures - May 2016

PwC Australia has published a report, *PwC's Insurance Facts and Figures - May 2016*. The insurance industry is as competitive as ever with all elements grappling with the effects of various drivers of change, including changes in social behaviour, developments in technology, long term low economic growth prospects, volatile weather patterns and events, and a continually evolving political and regulatory environment.

PwC summarises how these drivers have impacted the general insurance, life insurance, private health insurance and insurance intermediaries sectors in calendar year 2015. This commentary is supplemented by a summary of financial statistics for the larger players in each sector.

See [publication](#)

PwC China: Analysis of China listed banks' results for the first quarter of 2016

PwC China has published a banking newsletter, *Analysis of China listed banks' results for the first quarter of 2016*. The analysis covers 18 listed banks that released their 2016 first quarter results. Key findings of the newsletter:

- The listed banks' earnings are more and more affected by the macro environment.
- This newsletter predicted that listed banks' net profits will reach the peak in the short term in the previous issue, which has been closer to the reality in 1Q 2016.
- Listed banks' credit risk continues to rise in 1Q 2016, with both non-performing loan balance and ratios on the rise. As a result, their provisions were under greater pressure, with the provision coverage ratios of some Large Commercial Banks fell below the regulatory minimum.
- This newsletter discussed the VAT reform implications for banking sector.

See [publication](#)

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PwC publications (cont'd)

PwC UK: The SMR - what it really takes to sleep soundly at night

PwC UK has published a report, *The Senior Managers Regime (SMR): What it really takes to sleep soundly at night*, providing insights into the SMR. After years of planning and preparation, SMR has finally gone live in the banking and insurance industries and will soon be rolled out to the wider financial services sector.

The SMR seeks to boost personal accountability by putting the onus on you as an individual to demonstrate that you're taking reasonable steps to do the right thing. Each senior manager needs to be confident with their personal narrative. The challenges come down to four very fundamental and personal questions:

- What are your responsibilities?
- How do you discharge them?
- How can you be confident in your judgements?
- How do you trust people to do the things that are done in your name and flow through to your area of responsibility?

See [publication](#)

PwC US: SEC's business conduct standards for swap entities

PwC US has published a report, SEC's business conduct standards for swap entities, providing insights into business conduct standards finalised by the SEC for security-based swap dealers (SBSDs).

The completion of this rule by the SEC is significant because few security based swap rules have been finalised as compared to numerous rules completed by the CFTC that govern other types of swaps. These business conduct standards represent the first of four rulemakings that must be finalised before SBSBs will have to register with the SEC.

See [publication](#)

PwC US: Protecting elderly customers - CFPB and FINRA step in

PwC US has published a report, *Protecting elderly customers: CFPB and FINRA step in*. The report discusses how elder financial exploitation is perpetrated, analyses the regulatory response, and provides view on what financial institutions should be doing now.

Regulators have increased their focus on protecting elderly customers from financial exploitation. The Consumer Financial Protection Bureau (CFPB) released recommendations in March for how banks and credit unions can detect and prevent the perpetuation of fraud on this population, while the Financial Industry Regulatory Authority (FINRA) proposed a regulation in 2015 requiring broker-dealers to take action in response to suspected fraud attacks.

To prepare for increased regulation and to better protect their customers, financial institutions should go beyond existing regulatory guidance and implement a program to proactively combat elder financial exploitation.

See [publication](#)

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PwC publications (cont'd)

PwC US: Governor Tarullo's speech on insurance capital standards

PwC US has published a report, *Governor Tarullo's speech on insurance capital standards*, discussing five key points from Governor Tarullo's speech on insurance capital standards.

- The Fed's capital valuation frameworks diverge from global standards.
- The Building Block Approach for measuring regulatory capital is welcome news to SLHCs.
- Non-bank SIFIs will face more challenging requirements than SLHCs.
- Stress testing for non-bank SIFIs, but maybe not for SLHCs.
- The message on liquidity risk management is largely similar to stress testing.

The speech was significant as it was the Fed's most detailed regulatory description to date regarding insurance companies since it gained authority to regulate insurers under the *Dodd-Frank Act*.

See [publication](#)

PwC US: CFTC's proposed algorithmic trading rules

The CFTC is on the path to finalising Regulation Automated Trading (Regulation AT), which was proposed to enhance oversight of algorithmic trading in derivatives products. Recent growth in automated trading has improved efficiency, but has also raised some challenges.

The CFTC is deploying some standard tools in Regulation AT such as mandatory risk oversight, examinations, and compliance reporting. However, there has already been a strong industry response to some of the more controversial requirements, the ability for regulators to inspect repositories which routinely contain proprietary source code.

PwC US has published a report, *CFTC's proposed algorithmic trading rules*, providing an analysis of the scope of trading and market participants affected by Regulation AT, the most significant requirements, and PwC's expectations of upcoming developments.

See [publication](#)

PwC US: AML: Who is your customer? FinCEN wants you to know

PwC US has published a report, *AML: Who is your customer? FinCEN wants you to know*. The report analyses the final rule's requirements and provides advice on what financial institutions should be doing now.

The Financial Crimes Enforcement Network (FinCEN) has published its final customer due diligence rule. The final rule is intended to help financial institutions avoid illicit transactions by improving their view of their clients' identities and business relationships.

The final rule requires that financial institutions verify the identity of the beneficial owner of legal entity customers and imposes baseline requirements for customer due diligence procedures. While larger banks have already been strengthening such procedures as a result of regulatory enforcement actions, smaller banks, broker-dealers and mutual funds will need to significantly enhance their programs.

See [publication](#)

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