

Being better informed

FS regulatory, accounting and audit bulletin



PwC FS Risk and Regulation Centre of Excellence

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In this month's edition:

- EIOPA eyes thematic review of unit-linked life insurance conduct
- FCA concerns on oversight of appointed representatives
- EBA shapes approach to MREL implementation
- Firms face tougher cybersecurity rules under NIS Directive
- In-depth analysis of passporting rights and regulatory equivalence



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Executive summary



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Welcome to this edition of 'Being better informed', our monthly FS regulatory, accounting and audit bulletin, which aims to keep you up to speed with significant developments and their implications across all the financial services sectors.

July was a busy month, as regulators tried to clear their desks in the usual rush before the summer holidays. Of course, continued Brexit developments mean politics is less likely to be quiet over the summer in both London and Brussels. July saw several key appointments which could influence the future shape of financial services regulation. New UK Prime Minister Theresa May announced her cabinet, including major roles for Leave campaigners Boris Johnson, Liam Fox and David Davis. And the EC named Michel Barnier, a French former financial services commissioner, as its chief Brexit negotiator. Barnier has extensive financial services experience and is expected to take a tough stance on single market access for UK firms.

EC Vice President Valdis Dombrovskis took over Lord Jonathan Hill's financial services portfolio last month. It will be interesting to see what impact this has on the shape of EU financial services regulation. Dombrovskis, a former Latvian Prime Minister and Finance Minister, is expected to focus on the banking union (including CRD), the digital single market aspects of the CMU, and financial innovation.

The FPC took action in July after identifying in its Financial Stability Report that certain risks to UK financial stability which emerged prior to the referendum are beginning to crystallise. It reduced the UK

CCB rate from 0.5% to 0% of banks' UK exposures, and expects to maintain this rate until at least June 2017. This means that three quarters of UK banks, accounting for 90% of the stock of UK lending, will immediately have greater flexibility to supply credit to UK households and firms.

And EU banks got a health check at the end of this month when the EBA published the results of its 2016 stress test. The authority gave most EU lenders a relatively clean bill of health, concluding they are in a better position than a year ago. Italian banks were again in the spotlight, with one bank - Monte dei Paschi - seeing its capital ratio drop to a negative figure under the adverse scenario, while there were also some concerning results for Irish and Austrian banks.

Staying with the prudential sector, the EBA issued its interim report on the implementation of MREL. The interim report is intended to inform the EC which is tasked with translating both TLAC, a similar requirement that applies to G-SIBs, and the EBA's review of MREL, into legislation. The EBA suggests aligning with TLAC where this is practical, a similar approach to that proposed by the BoE in its December 2015 consultation on MREL. It will also help to harmonise implementation of MREL across Europe. But the report shows that important differences remain between

countries' insolvency frameworks, complicating the picture for banks and investors alike. We wait to see if the final report expected before the end of October 2016 will address these issues.

The Basel Committee has been busy as well, updating the securitisation framework regarding the capital treatment for simple, transparent and comparable (STC) securitisations. While the alignment of Basel with the EU on lower risk weight is good news for banks, the strict criteria would probably limit the type of transactions qualifying for STC. When the EU implementation is finalised, it will be interesting to see whether or not the combined effect is positive for the securitisation market.

Elsewhere, the FCA is reviewing its rules for the P2P sector, in light of significant market growth in recent years. It published a call for input seeking views on whether it should impose additional protections for consumers - such as mandatory risk warnings and improved tests to check investors' understanding.

Consumer concerns were also high on EIOPA's agenda. It revealed plans for an EU-wide thematic review of unit-linked life insurance market conduct. EIOPA intends to identify potential sources of consumer detriment resulting from relationships between insurers and providers of asset

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management services. In particular, it plans to look at how remuneration paid by asset managers to insurers could influence their choice of investments, and how this might affect policyholders. The review will also focus on conflicts of interest and the structure of unit-linked life insurance products. EIOPA expects insurers to provide information by late September 2016, and plans to publish findings in early 2017. Also in the insurance sector, progress continued on the IDD. EIOPA consulted on technical advice on possible delegated acts, inviting feedback on areas such as measures to prevent and manage potential conflicts of interest between distributors and customers. Following the consultation period, EIOPA plans to submit its technical advice to the EC in February 2017. And closer to home the FCA found significant shortcomings in the control and oversight of appointed representatives (ARs) by many principal firms in a general insurance thematic review. The conduct regulator found almost half the principal firms it reviewed couldn't demonstrate they understood the nature and complexity of the risks arising from their ARs' activities. The FCA plans further work on this and the review is worthy of all firms' attention as its lessons can be applied to other sectors. The retirement income market has also been occupying the FCA's attention recently, with new Chief Executive Andrew Bailey describing it as the biggest challenge		in UK financial services. The FCA outlined its Retirement Outcomes Review, a major review of how firms and consumers have responded to pension freedoms. It plans to prioritise shopping around, non-advised models, competition and the impact of regulation. Financial services firms are facing tougher cybersecurity requirements, after the NIS Directive was published in the Official Journal. The directive aims to improve the cyber resilience of Member States and operators of essential services – which includes banking and credit institutions, and FMIs. Member States must comply with the directive by 9 May 2018 and affected firms should take a close look at the requirements, which include mandatory incident reporting. Our feature articles this month focus on the impact of Brexit on financial services regulation. The first looks at what effect the potential loss of EEA passporting rights for banks, insurers and asset managers might have. We explore the likely timeline of events and the analysis firms should be starting in the coming months to ensure they are prepared for whichever situation the UK finds itself in post-exit. The second article explores a separate, but related topic: regulatory equivalence. Equivalence in some EU directives allows firms based outside the EEA to access the EU market as a 'third country' firm. For this to be possible, in most cases an EU institution must assess the third country in which the firm is			authorised to have a regime that is equivalent to the EU's. These decisions are highly political, so firms should be focusing on effective lobbying and political engagement. In the coming months, look out for the FCA's third consultation paper on MiFID II implementation, and further developments on PAD, including an FCA policy statement on implementation. We hope you will all find time during August for a well-earned holiday from all things risk and regulation.  Laura Cox FS Risk and Regulation Centre of Excellence 020 7212 1579 laura.cox@uk.pwv.com			

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Don't forget your passport



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As we are all aware, passporting allows firms to access clients in other EEA Member States by establishing branches or providing cross-border services, without the need for authorisation in each country. Typical examples include a French bank establishing a branch in London, a financial advice business based in Manchester giving investment advice to a customer in Spain, or a Greek asset manager selling stakes in an exchange traded fund domiciled in Ireland. It's become an ingrained feature, if not revered right and defining characteristic in EU financial services markets.

One of the most pressing post-EU referendum issues for firms to consider is potential loss of EEA passporting rights and thus access to the single market, and the impact on their business. As we delve into the detail of passporting regimes, the inherent complexity faced by firms is becoming clear. Many firms are now reflecting and analysing: what legal entity does what regulated activity, where and for whom? And what do I want to do in the future, what's important to me as a business, tax payer, employer and employee?

These might seem like simple questions, but the answers are often not when it comes to EU cross-border operations. For firms carrying out cross-border business, ground truths will be determined by passport rights.

But passporting is complex. Passport rights exist for certain types of regulated activities which operate under various EU directives. And while media coverage has tended to focus on Brexit's impact on outward passporting (from the UK into the EEA), many EEA-based firms use inward passports to access the UK market and would also be impacted by loss of passporting rights.

Added to that, the various post-Brexit scenarios for the UK all have different impacts on passporting. And while this article does not cover in detail the consequences of each particular model, firms ought to bear in mind these scenarios in their strategic planning (what do I want to do and what's important to me?). Briefly, in the event the UK adopts an-EEA or 'Norwegian-style model', passporting would likely remain available to EEA firms under a large number of directives (including MIFID, CRD, CCD, UCITS, AIFMD, Solvency II, IDD and PSD). But at the other extreme of a harder-Brexit scenario, under a World Trade Organisation model firms could lose passporting rights. In between those two options, the UK could potentially negotiate a bi-lateral agreement with the EU, giving it a status somewhere between a third country and a full member. The impact of this third option on passporting would be strongly dependent on the terms of the agreement. For the benefit of

analysis, many firms are considering a worst-case outcome.

We also can't look at passport rights in isolation. Equivalence is related to, but separate from the passporting regime. Broadly, specific equivalence provisions in some EU directives allow firms based outside the EEA to access the EU market as a 'third country' firm. For this to be possible, in most cases an EU institution (such as ESMA) must assess the third country in which the firm is authorised to have a regime that is equivalent to the EU's. Equivalence regimes often require reciprocal access, to allow trading in both directions. While it may seem logical for the EC to deem the UK an equivalent regime post-exit, the decision will be highly political and is therefore uncertain. It is also important to remember that just because a regime is deemed equivalent, it doesn't mean there are equivalency provisions within the directive under which a firm wishes to trade. We look at some of the key issues around third country access rights in our second feature article.

Banking – not as simple as it seems

Passporting in banking is complicated. While it's easy to simply bundle up 'banking' into retail banks or wholesale banks, the business of banking is in fact far more nuanced and covers a range of

activities. Some activities fall under CRD (like deposit taking, lending, payment services) and some under MiFID (execution of client orders, operating an MTF). Many cross paths too, falling under both directives (such as portfolio management, dealing on own account and securities/derivatives trading).

And while passport rights give access to EU markets, these rights can be limited. For instance, EEA firms may passport CRD banking activities into other EEA countries. But the CRD passport is not available for third countries (countries outside the EU). So banks based in third countries cannot use the passport to access clients in the EEA, even in the presence of 'equivalent' regimes.

This means that third-country banks, like US banks, that currently access EU markets from a UK subsidiary may need to establish another subsidiary which is authorised to carry out CRD banking activities in another EU Member State, and then use the CRD passport to access other parts of the EU. Third-country branches (which have no local presence, in a legal entity sense) are not able to passport. Such operations require separate, local authorisation on a Member State by Member State basis.

There is yet some hope for non-EEA firms wanting passports rights for banking activities in the EU. The re-cast MiFID II and MiFIR rules, which are due to be implemented by January 2018, potentially

allow a passport for third countries. This third country passport can only be used for cross-border services with per se professional clients and eligible counterparties (it is not available for retail clients). So in theory banks could passport certain activities out of the UK post-Brexit via the MiFID II/MiFIR passport, but this would not be possible for major banking activities such as deposit taking which fall under CRD. Further, banks can only access the MiFID II/MiFIR passport if they're deemed to have an equivalent regulatory regime and register with ESMA. If the UK tinkers with regulatory rules post-exit, EU institutions may not deem the UK to be equivalent.

Insurers – a tale of two halves

Insurance firms in the UK would lose their Solvency II and IMD (due to be replaced by the IDD in early 2018) passports if the UK became a third country. Selling insurance into the EU without a passport would not be possible unless a specific treaty was signed between the UK and EU allowing for this. If firms were to lose these passports, the Lloyds market and a number of general insurers which rely on passporting would feel the largest impact. These businesses would be significantly affected – they would need to review their strategy and undertake restructuring, possibly moving operations to other countries.

But many insurance firms (especially small and medium-sized businesses) don't use passports to a great extent since an EU single market for insurance hasn't taken off in the same way as EU cross-border banking or investment activities. From a retail perspective, commentators typically cite the complexities (or perceived complexities) a policy-holder would face in navigating a claim, or a complaint, as a barrier to cross-border insurance business. While the EU's CMU package is looking to address consumer drivers behind poor cross-border insurance provision, the fact remains that the EU insurance market is fragmented and so could be less affected. And for those insurance firms which only operate in the UK, a loss of inbound passporting rights could actually have a positive impact by reducing competition.

Asset managers – one foot in the door

Under the UCITS and AIFM Directives, UCITS management companies ('ManCos') and AIFMs are able to market their products across the EU via a product passport. They can also set up in the UK (or other Member State) and passport their corporate activities across the EEA. But the picture for asset managers isn't so much complicated by regulations than it is by their corporate structure. Typically, the ManCo or the AIFM is a different entity from that which performs the day-to-day portfolio management (which is a MiFID firm). For example, the portfolio

management is often performed from London regardless of where the ManCo, AIFM or fund is located. These structures will be allowed to continue post-Brexit, since the UCITS Directive and AIFMD contain specific provisions for delegating portfolio management to third countries. If the UK becomes a third country, an AIFM or ManCo would still be able to delegate to a UK entity, since these entities must simply be registered for asset management and subject to prudential supervision.

Many UK asset managers will be less impacted by Brexit than other industries. This is because they have a UK fund range (sold to UK investors) and a European fund range (sold across the EEA and often to Asia) established in one of the fund 'hubs' – typically either Luxembourg or Ireland. The regulatory impact of Brexit will be lower for these firms since they will retain access to the passport via their existing EU operations. But other UK asset managers do rely on their UK fund range to access the product passport and sell across the EEA. These firms are already deep into scenario planning and identifying future solutions – which might mean establishing EU mirror funds for the existing UK funds or merging investors into new EU funds.

Under AIFMD there is potential for a third country passport to be available in future, but this is dependent upon ESMA assessing whether the local rules achieve similar aims to the directive. Currently ESMA has deemed Guernsey, Jersey, Japan, Canada,

Australia and Switzerland to have local regulatory regimes similar to AIFMD, with mixed messages for the US, Hong Kong and Singapore. Access to this passport has not yet been switched on and it might be there's a gap between Brexit and the UK getting access as a third country. In this situation UK funds and AIFMs will need to rely on national private placement regimes for individual Member State marketing. Also UK AIFMs wanting to access this passport in future will need to meet the full AIFMD rules, including those on remuneration.

The MiFID picture for asset managers is fairly similar to that for banks. Most large asset managers carry out a lot of discretionary management mandates for pension funds and institutional investors in the UK and Europe. There is a possibility this could continue under MiFID II post-Brexit, but as mentioned above, that would also rely on an equivalence decision by EU institutions.

Sharpening the focus

Understanding the likely timeline of events between now and the UK exiting the EU should help to sharpen the focus of firms' preparations.

The Government will trigger Article 50, which starts the clock on the two-year timeframe for withdrawal. If the UK triggers this in early 2017, it would exit the EU by the start of 2019. The UK and EU will then negotiate a withdrawal agreement specifying the withdrawal date. On that

specified date, or when the two-year period ends, the UK officially becomes a third country under EU regulation, unless EEA membership agreements are reached. The withdrawal process has no timeframe, and the EU has no authority to force the UK to tender notice of withdrawal any sooner.

In the meantime, the UK will need to assess what it wants for its financial services legal and regulatory framework, deciding what to keep, lose or change. This needs to come into force at the point at which the UK leaves the EU, and is no longer subject to EU laws and regulations. EU institutions will then need to make an assessment of regulatory equivalence against this framework. It's not clear how long this will take, yet a decision's unlikely to be made on or by the day the UK exits. And even if the UK is granted equivalence, regulation by regulation, EU institutions need time to process applications from firms. ESMA can take up to 180 working days to approve an application. This shines a spotlight on the potential licensing gap faced by firms.

Firms reliant on passporting may need to consider the possibility of establishing a presence in the EU if they want to continue to benefit from free market access. EEA firms may equally need to establish a presence in the UK to ensure the same access to the UK market.

The authorisation process for a fairly complex firm could easily take 12 to 18 months in both the UK and in EEA

countries (not including time to prepare the application). That means firms would need to be thinking about making an application in the middle of 2017 to guarantee access to the single market in 2019. Clearly, such a decision requires significant prior work to analyse a firm's clients, needs, aspirations and activities, not to mention the merits – or not – of the various alternative jurisdictions. Firms therefore need to think through initial strategy and analysis in the next few months.

When looking at different jurisdictions, key country characteristics like the below need to be factored in:

- business environment: access to skills, supporting infrastructure and access to market
- regulatory and legal environment, including employment laws and legal certainty
- tax regime
- quality of life.

When deciding to move locations, firms (with their different hats on, both as employers and investors) need to consider various business environmental factors, such as workforce availability, cost of salaries, access to and cost of office space, and access to infrastructure. Legal and regulatory environments also vary significantly between different countries. The former includes political stability and

national labour and employment laws. And for the latter, the overall cost of authorisation, including application fees, capital requirements and professional fees can't be ignored. Firms should also bear in mind the time it takes to obtain a licence, as well as regulators' focus areas and supervisory and enforcement regimes. Even the tone and interaction of regulators – from reporting to supervisory style – should be considered.

Different tax rules should be approached with wary optimism, as there will be some advantages – but at what cost? Firms must understand the key tax risks within their business and be able to account for effective and efficient controls to mitigate them and maximise opportunities. Factors here include corporate tax rates, the standard VAT rate, withholding taxes, personal tax rates and taxation of capital gains and dividend income arising on fixed asset investments.

And firms shouldn't lose sight of nor underestimate the importance of quality of life factors such as education, housing and healthcare in getting staff on board with a potential move.

Next steps

The immediate post-referendum response rightly focused on managing market volatility and issuing key communications to staff and external stakeholders. The priority now is on self-assessment and strategic planning. Firms should carry out

an impact analysis to judge what the different post-Brexit scenarios mean for their business, asking the questions we've sought to clarify here: What passports does your business currently use? Where are your clients located? What regulated activities for which products are undertaken by which legal entities? Firms that rely on passporting should seek to influence key stakeholders, to ensure that the UK negotiating teams understand the importance of market access.

After this, firms should seek to understand the impact of each of the post-Brexit outcomes on their business, and plan a strategy for each scenario. This might include undertaking a jurisdictional comparison, reassessing product risks and suitability, looking at the impact on talent and thinking again on target markets and business strategy.

The timeline of events is still uncertain, but many commentators expect the UK will exit the EU by spring 2019. Firms should use this as a starting point and work backwards from that date, identifying key milestones such as when risks are likely to materialise and when to start taking concrete actions to mitigate these risks.

Firms must also continue to implement EU-driven regulatory change, including measures that aren't yet in force; this includes topics as diverse as MiFID II to the Data Protection Regulations and audit reforms.

Understanding the complexity of passporting and the likely timeline of events gives firms an opportunity to review who they are and their aspirations for the future. But firms also need to progress their thinking on the big picture issues of strategy and location, and they don't have much time to do so. Being prepared for whatever eventuality we find ourselves in come 2019 means starting the work now.

Regulatory equivalence: maintaining post-divorce visitation rights



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If the UK lost EEA passporting rights and found itself a third country post-Brexit negotiations, it would be faced with the task of maximising access to the former marital home after a high-profile political divorce. But a starting point without the benefit of an overarching framework – such as EEA membership – would present a real challenge to ensure UK firms can provide services within the single market.

The UK will need to be on its best behaviour to get the most out of the fractured relationship. ‘Best behaviour’ in the regulatory context means equivalence, whereby EU regulation recognises that a third country jurisdiction achieves the same policy objectives (such as investor protection or market stability) through its own rules. But maintaining market access under an equivalence regime is much more complicated than getting access through the EEA. Equivalency is provided for on a regulation-by-regulation basis, though many key regulations fail to provide for it, and it’s a process that is both highly technical and political.

Nevertheless, the UK would be likely to pursue equivalence whenever possible because the long term well-being of the children is vital for both parties after a

divorce. For the UK there are likely to be no more demanding and vocal children than financial services firms, grown accustomed to unfettered access to EU markets. The kids might prefer to have seamless entry via EEA membership, but that may not happen. The UK might have to ask the EU to deem its regulations worthy of equivalence so its firms can operate in the EU on similar terms as EU-based firms.

Defining equivalence

In this context, ‘equivalence’ encompasses two distinct benefits: equivalence of access and equivalence of supervision.

Where a regulation sets out the rules and terms on which firms provide services in a host market, equivalence allows a third country firm to provide those services in the same way a Member State firm does (though there may be limitations, such as on the clients with whom the third country may transact). For instance, CCP recognition under EMIR means firms can only provide clearing services to transactions covered by EMIR (and its mandatory clearing obligation) if they are authorised by ESMA. But ESMA needs to make an equivalence determination proclaiming that the CCP’s home jurisdiction imposes similar requirements as those under EMIR before a

third country CCP can apply for authorisation. This is true today for third countries and while such determinations were straightforward in the cases of Canada and Switzerland, the US only achieved equivalence after extensive political negotiations. Equivalence of supervision, in contrast, allows third country firms to avoid the cost of regulatory complexity and dual oversight. It enables them to rely on their home state regulation and supervision for activities that would otherwise also be subject to EU regulatory oversight, much in the way an EEA firm does when passporting today.

For example, third country firms subject to SFTR because of securities financing activity in the EU can substitute local transaction reporting requirements for EU requirements if ESMA considers those local requirements equivalent with SFTR. It might be hard to see the benefit here since equivalency is based on the premise that the two regulations are comparable. But in practice it matters whether or not a firm is answerable to and supervised by a regulator it knows well and can engage effectively with. Further, an equivalence determination doesn’t usually rely upon word-for-word similarity, so substantive differences between the two regulations might exist

despite ‘equivalency’. It could be that SFTR’s ‘equivalent’ third country regulations have different data fields so an equivalency determination prevents a firm from having to provide the full range of data across both regulations.

Self-certifying ‘soft equivalence’

Equivalence primarily refers to a process whereby ESMA or a competent authority makes a formal assessment. But there are also instances in EU regulation where EU firms can make their own assessments of third country regulatory criteria, as a kind of ‘soft equivalence’. For example, under UCITS V, depositaries for collective investment funds can delegate asset custody to third country entities provided they are subject to prudential supervision and comparable insolvency provisions. And it’s for the firms to determine this.

Soft equivalence therefore allows a third country firm access to the EU market on the basis of a few regulatory criteria, as opposed to a formal equivalence determination of uniformity between regulations. Though it’s less definitive than a formal equivalency determination, access for UK firms post-Brexit is likely to be easier via this route since the UK would already meet most criteria. But this doesn’t reduce the role of EU regulators, who’ll continue to hold EU firms to account for delegation to third country firms if they consider it outside regulatory parameters.

Barriers to equivalence

Should the UK become a third country with a similar EU arrangement to the US or China, equivalency would be the most important mechanism by which it would be able to retain EU market access. While this would likely be less challenging for the UK because it would be starting off with a regulatory framework that already incorporates relevant EU rules, complications could arise. Initially, these would be primarily around directives where the UK’s discretion on transposition has resulted in local specificities that the EU regulators view, perhaps for political reasons, as insufficient from a third country perspective.

In the longer term the UK may deviate from the EU rulebook. And new regulations will require an EU-compliant approach from scratch. The UK may also be tempted to align itself closer to US or Asia-Pacific regulation, gaining equivalence with markets just as large (if not larger) than the EU’s and, conceivably, politically friendlier going forward.

There is also the simple reality that most EU regulations fail to provide for equivalence, underscoring that cross-border access tends to be tightly constrained even by a comparatively open jurisdiction. This is due to EU regulators’ desire to assert supervisory control over EU activity and a judicious stance regarding the competitive pressures posed by overseas firms. In

addition, the existing equivalency landscape is scattered where, for example, AIFMs can benefit from equivalency but UCITS funds need to be domiciled in an EU Member State.

To add to the issues, past EU equivalency determinations have been fraught with inaction, delays and politics. For example, AIFMD has been in force since 2011, and ESMA has only just provided positive advice that some major jurisdictions are eligible for the marketing passport and no longer need to rely on fragmented national private placement regimes. And there’s evidence that competition concerns and seemingly selective analysis of foreign regulation have driven the content and timing of advice.

Such politics appear to be more acute in larger financial services markets, as evidenced by the prolonged assessment of EU-US CCP equivalence for EMIR – made all the more stark given the potential risk derivatives markets fragment.

Notwithstanding legitimate concerns around equivalency of third country regulation to EMIR and AIFMD, the bigger issue for both appears to have been whether or not – from a political standpoint – third country access to the US was comparable.

The power of the UK market, and most notably London, may then complicate equivalency determinations. Instead of carrying out a (relatively) simple and narrow regulation-vs-regulation analysis, the EU might leverage its position as the ‘equivalency determinator’ to seek greater

access for its firms, or maybe even other political aims, like reciprocity.

So far, the EU equivalence regime’s comparative breadth has made it one of the more open jurisdictions across the globe. Were the EU to withhold equivalence for the absence of reciprocity, we could see access closing down. The US, which tends to impose more formidable entry requirements on third country firms, received extremely qualified equivalence determinations under AIFMD because of reciprocity concerns.

While the assumption is that the UK would try its utmost to achieve equivalence, and correspondingly ensure reciprocity of treatment, such dynamics add another layer of complexity.

Negotiating practicalities

Even after a jurisdictional equivalence determination, firms need to consider the practical approach to registering with the appropriate body. ESMA, for example, has 180 working days to make a firm-level determination for MiFID investment firms, even after a given third country has been deemed equivalent. This challenges firms – the terms of the divorce may be amicable, but if it takes 180 days to schedule the first weekend away with the kids, the arrangement may be unworkable. Even with the best will in the world, the influx of notifications to ESMA if a significant number of UK firms need to register would be operationally time consuming for the comparatively small regulator. Many firms

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are now considering this 'licensing gap'. Hopefully, as part of the settlement some element of transitional provisions may be available, which could address this, but like much of the process this is at best untested and unclear; not something to be relied on. Next steps While the terms of the Brexit divorce are a long way from being finalised, firms should be preparing for all contingencies - including whether their existing access to the EU will be compromised by taking on third country status. At this stage, firms should be doing everything they can to prevent such a scenario, which entails engaging with key political players individually, collective lobbying, or both. The message should be clear: equivalence is a complicated and tricky road back to reconciling single market access, and easier routes should be left open if at all possible. If equivalence is the only option left, the substantial economic benefits from maintaining existing EU rules should be stressed, especially for providing investment services in the EU. Just as importantly, firms should continue to ensure they are compliant with all existing and near-coming EU regulations, not only because they're bound by these rules as long as the UK is in the EU but also because regulatory equivalence is only the first step for a third country. Firms will have to apply on an individual basis to provide services in the EU in many cases. If they're not complying		with UK rules that are closely mapped to EU counterpart rules, they might not stand a chance of getting access. But they will be likely to see enforcement action from UK regulators. Further, third country firms will need to be mindful of evolving EU regulation. In many recent cases there's open market access without equivalence, which effectively means EU rules will be directly applicable to EU market players, even though they're third country entities. While firms will avoid the potential barrier of equivalence in these circumstances, they need to be mindful of the extraterritorial application of EU rules. The reach of the short selling regulation and settlement activity covered by CSDR are good examples. The Brexit vote has forced firms into uncertain territory, and we are a long way off from having any real clarity of what the UK's relationship with the EU will look like after leaving. But firms can't simply sit back and let others define the terms of the divorce settlement. They should advocate the scenario that will do the most to bolster themselves and their industry, as well as prepare for all possibilities. Just as the Eagles sang in Hotel California, 'you can check out anytime you want, but you can never leave'. Some relationships are inextricable regardless of formal status, and it's a matter of making it work. Arguably, the economic power of the single market means that the UK-EU relationship falls into that category, even after divorce. While				keeping the passport would be preferable, establishing equivalency to the extent available under the EU is better than outright exile.		

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Brexit

FPC: Brexit risks starting to crystallise

The FPC published details of its initial response to the EU referendum on 12 July 2016. This took the form of a *Record of the FPC Meetings* held on 28 June and 1 July 2016. The committee agreed its view on the outlook for financial stability following the EU referendum outcome and its intended policy action. The FCA briefed the FPC on the extent of outflows from open-ended property funds and that funds could suspend redemptions in the near term. The FPC also noted that since the referendum, long-term interest rates in the euro area fell further. Between 23 June and 1 July 2016, the equity prices of banks in Italy and Spain fell by 27% and 15% respectively. Overall, the FPC judged that some of the risks to financial stability from the referendum had begun to crystallise. It plans to continue to monitor risks closely, in particular:

- further deterioration in investor appetite for UK assets
- adjustments in commercial real estate markets tightening credit conditions
- increasing numbers of vulnerable households and pro-cyclical behaviour of buy-to-let investors

- the outlook for the global economy
- reduced and fragile liquidity in core financial markets.

The committee also assessed the level of risks against the resilience of the UK financial system. It described the outlook for UK financial stability as 'challenging' and said it intends to focus on reducing any pressure on firms to restrict the provision of financial services, including the supply of credit. It decided to reduce the UK CCB from 0.5% to 0% of banks' UK exposures with immediate effect, to reduce pressure on banks to tighten credit conditions. The FPC also discussed whether to take any action on bank liquidity buffers, but decided no action was appropriate.

The FPC's next policy meeting will be on 20 September 2016, the record of which will be published on 3 October 2016.

FPC stands ready for action

The FPC published its *July Financial Stability Report* which finds the economic outlook has deteriorated since the EU referendum. The report, published on 5 July 2016, reveals that equity prices of UK banks fell by 20% between 23 June and 1 July 2016, with UK-focused banks experiencing the largest shortfalls. It goes on to predict further economic and market volatility as the UK negotiates a new relationship with the EU.

The report notes that during this period of uncertainty and adjustment, the UK financial system is resilient because it is grounded on:

- substantial capital and liquidity buffers, which have been shown in repeated stress tests to enable banks to absorb extremely severe economic and market shocks without amplifying those shocks
- the regulatory framework of the UK that allows capital and liquidity buffers to be drawn on, as needed, to allow the system to cushion shocks and maintain the provision of financial services to the real economy
- an institutional framework that promotes coordinated, evidence-based responses to risks.

At the press conference for the release of the report, the FPC revealed it had reduced the CCB from 0.5% to 0%, which it says should free-up £5.7bn in capital buffers, supporting capacity for lending by up to £150bn.

As the outlook evolves, the FPC says it stands ready to take any further actions appropriate to support financial stability.

ESMA's risk outlook changes post referendum

ESMA announced changes to its risk assessment following the UK's vote to leave the EU. In its *updated risk dashboard*

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published on 13 July 2016, ESMA outlined that its risk outlook for the markets in its remit has deteriorated for the current and next quarter. It says increased uncertainty is reflected in greater market, liquidity and contagion risks as political and event risks have intensified. ESMA notes the market uncertainty triggered by the outcome of the referendum is in addition to an already fragile environment, especially in the securities markets.		change monetary policy because of conditions in financial markets. Weale believes the fall in the exchange rate was probably caused by the expectation the economy will grow more slowly. He said it is also because Britain would have found it hard to continue financing the current account deficit indefinitely at the exchange rate prevailing before the referendum.	Capital and liquidity PRA implements FPC change to CCB The PRA released a <i>statement</i> and sent a <i>letter</i> to firms on 5 July 2016 regarding the changes to PRA buffers to implement the FPC's decision to reduce the UK CCB. The FPC decided to lower the UK CCB to 0% with immediate effect. It made a recommendation to the PRA to reduce its buffers as far as possible and as soon as practicable, by an amount of capital equivalent to a reduction of 0.5% in the UK CCB rate. This is subject to a floor of 0.625% to ensure equity amounting to 1.25% of RWAs will be available to count towards the capital conservation buffer from 1 January 2017. The PRA confirmed its intention to act on these recommendations. The PRA wrote to firms to inform them that from the date of the letter, their notified PRA buffer had been adjusted. And it asked firms to inform the PRA of their new rate by 15 July 2016. As from 1 January 2019 firms are expected to hold the PRA buffer entirely in CET1		capital. The PRA notes the changes do not affect the transitional arrangements regarding the quality of capital held to meet the PRA buffer. The changes also do not affect the phasing-in elements of the CRD IV combined buffer. Firms are not expected to increase dividends or other distributions due to this policy action. This is to allow firms to support the real economy through credit supply and market functioning. For cross-border banking groups any resulting change in their PRA buffer may be subject to the Joint Risk Assessment and Decision process. EBA advises EC on investment firm review The EC issued a further <i>Call for advice to the EBA for the purposes of the report on the prudential requirements applicable to investment firms</i> on 13 July 2016. This follows on from earlier EBA recommendations on prudential requirements for investment firms, where the EBA advised: • investment firms should be split into three categories (to better target risks posed) • simpler prudential regimes should apply to smaller firms – the second and third categories • CRR large exposure and own funds exemptions should be extended to 2020 to avoid unnecessary burdens that	would otherwise apply to certain firms on transition to MiFID II. The EC has now asked the EBA to develop requirements for these categories together with details on reasoning, rationale and impact. This is to include detail on quantitative and qualitative criteria and thresholds to be used to place investment firms in each category. The EC has also asked the EBA to consider whether category one investment firms should be subject to the same prudential regime as banks or if there is a need to relax any components of the requirements. Remuneration and corporate governance requirements will also be considered. The EC requests that the EBA reports on category one firm matters by 30 September 2016 and on the remainder by 30 June 2017. Finalising preferential intra-group liquidity criteria EBA published final draft RTS <i>On the specification of the additional objective criteria referred to in Articles 29(2) and 34(2) of Commission Delegated Regulation (EU) No 2015/61 (the delegated act specifying the liquidity coverage ratio for credit institutions) under Articles 422(10) and 425(6) of CRR</i> on 27 July 2016. The CRR permits preferential LCR treatment for intra-group liquidity flows provided firms meet certain conditions including agreement by relevant supervisory authorities.		

There are three main criteria that firms must meet. Firstly, both liquidity provider and receiver must have a low liquidity profile taking into account both Pillar 1 and Pillar 2 requirements. Secondly, firms must have a legally binding agreement on the credit or liquidity line. The credit or liquidity line must be a committed line available at any time for the duration of the facility. The facility must have a remaining maturity of over six months at all times or a minimum cancellation notice period of six months.

The final criteria is that the liquidity provider must monitor the liquidity position of the receiver daily. The contingency funding plan of the provider must consider the effects of the preferential treatment and any impediments to transferring the liquidity.

Compensation schemes

FSCS 2015/16 annual report

The FSCS published its *Annual Report and Accounts for 2015/16* on 13 July 2016. It paid out over £271m in compensation in response to 45,900 claims from consumers in 2015/16, a decrease from £327m in 2014/15. The cost of running the FSCS fell by almost 8% compared with the previous year. Levies paid by the financial services industry to the FSCS in 2015/16 totalled £1.09bn, compared with £1.08bn in 2014/15.

Competition

FCA competition reflections

The FCA released its first *competition report* on 12 July 2016 covering its activities between 1 April 2013 and 31 March 2016. It summarises its work promoting competition for consumers in seven areas: retail banking, retail lending, general insurance and protection, pensions and retirement income, retail investments, investment management and wholesale financial markets.

The FCA's work is guided by ensuring a 'virtuous cycle of competition' in which well-informed and engaged consumers play a key role in driving effective competition between firms. This in turn incentivises firms to deliver what consumers want and to provide value for money. Supporting consumers in assessing and making decisions plays a large role here. The FCA has taken on the challenge of making markets work better for firms too. For instance, it is helping new firms enter the market (together with the PRA) via a new bank start-up unit and encouraging innovation via Project Innovate.

The FCA issued its report following a request from Government. Future editions will cover its activities from the respective annual reporting year.

CMA recaps on 2015/16 performance

The CMA released its *Annual Report and Accounts for 2015/16* for its second year of operation on 14 July 2016. The report

outlines some key figures along with its strategy and performance over the last year. The CMA notes it opened 13 new

competition and consumer enforcement

cases in 2015/16, and reviewed over 140

mergers in two years. In addition to

conducting its energy and retail banking

market investigations, the CMA highlights

its launch of a study into legal services

markets. Looking to the year ahead, the

CMA aims to conclude its energy and retail

banking market investigations and

implement effective remedies where

necessary. It also notes its role may evolve

further with the Government recently

consulting on refinements to the UK

competition regime, and following the

outcome of the UK referendum on EU

membership.

CDS investigation's outcome

The EC announced it had accepted

commitments by ISDA and Markit on CDS

in a *press release* on 20 July 2016. The EC

raised competition concerns in July 2013

over restrictions on the licensing and use of

intellectual property rights, namely ISDA's

Final Price and Markit's CDS indices iTraxx

and CDX. The commitments, which last for

ten years, include:

- both firms excluding CDS dealers from taking individual licensing decisions and preventing them from influencing such decisions
- ISDA licensing its rights in the Final Price for the exchange on fair,

reasonable and non-discriminatory (FRAND) terms

- Markit licensing its rights in iTraxx and CDX indices on FRAND terms for exchange trade financial products based on the indices it owns.

Independent trustees will monitor ISDA

and Markit's compliance and the

commitments are subject to third-party

arbitration were a dispute to arise.

Conduct

Reviewing insurance and asset management conduct

EIOPA revealed plans for an EU-wide

thematic review of unit-linked life insurance

market conduct in a *press release* on 5 July

2016. EIOPA intends to identify potential

sources of consumer detriment resulting

from relationships between insurers and

providers of asset management services. In

particular, it intends to analyse how

remuneration paid by asset managers to

insurers could influence their choice of

investments, and how this might affect

policyholders. The review will also focus on

conflicts of interest and the structure of

unit-linked life insurance products.

EIOPA says it will carry out the review in

close cooperation with NCAs. NCAs will

identify participating insurance companies,

gather information and serve as a primary

point of contact for insurers. EIOPA's aim is

for the review to cover 60% of each national

market in terms of both gross written

premiums and assets of unit-linked funds. EIOPA expects insurers to provide information by late September 2016, and it intends to publish findings in early 2017.

FCA on assessing culture and conduct
Speaking at the Second Annual Culture and Conduct Forum in London on 12 July 2016, Jonathan Davidson, Director of Supervision at the FCA, described how and why regulated firms need to get 'culture and conduct right'.

He said that while the regulator recognises it cannot prescribe a one-size fits all approach to culture, a good starting point for firms is to have a primary objective of doing the right thing for consumers and the markets.

Davidson confirmed the regulator does not employ fixed metrics for assessing culture. Instead, it builds a picture of what good culture looks like by considering examples of behaviours it encounters in supervision. The FCA also looks closely at the role played by management in shaping culture in organisations. Davidson set out four areas which leaders can use to shape culture and which are 'indicators' for the FCA of a firm's culture:

- 'tone from the top': the message expressed by management and the discussions held at board level
- formal, tangible practices linked to rewards and incentives

- how firms articulate their values in their business plan and mission statements
- the ability of firms to recognise and respond to the needs of customers.

Davidson also spoke of the importance of the SM&CR in influencing good culture across the industry. He welcomed the approach taken by firms to the regime and firms generally embracing the need for a strong conduct culture.

Government responds to mis-selling report

HMT released *Treasury Minutes* on 22 July 2016 setting out the Government's response to the House of Commons Public Accounts Committee's (PAC) report *Financial services mis-selling: regulation and redress*. The Government, the FCA and FOS have accepted the recommendations made by the PAC, except for the recommendation that HMT and the FCA should develop real-time indicators of the extent of mis-selling and assess how effective their actions are in reducing it. HMT believes it isn't feasible to develop real-time indicators, as often mis-selling only becomes apparent to consumers and the supervisor after it has taken place. The minutes set out details of the initiatives taken by the Government, the FCA and FOS to address the other recommendations made by PAC. These include:

- the Government's decision to transfer regulatory responsibility for claims management companies to the FCA

- FOS' publication of a timetable on 1 July 2016 for resolving older PPI complaints, noting a large number of decisions await the FCA's guidance following the Supreme Court's decision in *Plevin*

- the FCA identifying firms' culture and financial advice as priorities in its business plan for 2016/17.

The Government also states it will consider making regulations that would give the National Audit Office access to any information it reasonably requires from financial regulators to fulfil its functions.

Ombudsman reflects on Brexit

The FOS focused on its complaints statistics for the first quarter of the financial year 2016/17 in *ombudsman news issue 134* on 26 July 2016. FOS received 81,709 new complaints in the first quarter of 2016/17. PPI remained the most complained about financial product making up 45% of complaints, with 57% of these complaints upheld. Packaged bank accounts followed in second place making up 8% of complaints, with only 23% of these upheld. FOS also discusses Brexit and notes that for now it remains business as usual for its service until the Government and Parliament decide to make any changes. FOS comments that it will be keeping in touch with the FCA to discuss what the referendum decision could mean for its work. It also reflects that it was UK financial businesses, not the Government or EU, which voluntarily set up

the ombudsman as a free, informal channel for resolving customers' concerns.

Consumer credit

Payday ads avoid TV restrictions

The advertising of payday loans will not be subject to new TV scheduling restrictions, the Broadcast Committee of Advertising Practice (BCAP) concluded in a *statement* on 6 July 2016. But BCAP confirmed its decision to complete a further review of the content of payday loan adverts to ensure its rules remain fit for purpose in the current market and regulatory framework. BCAP *consulted* in 2015 on whether restrictions should be introduced following calls for change relating to TV advertising of payday loans.

CMA announces deadline for payday lenders

Online payday lenders must publish details of their products on at least one price comparison website authorised by the FCA by 26 May 2017. The *CMA's announcement* on 14 July 2016 follows the introduction of the *Payday Lending Market Investigation Order 2015* which prohibits online payday lenders from supplying payday loans unless the lender has published information on an FCA authorised payday loan price comparison website.

FCA's commitment to consumer credit firms

The FCA announced *Our commitments to firms during the authorisation process* for consumer credit firms on 22 July 2016. In

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light of feedback the FCA received on its authorisation process, it makes the following commitments to firms: - the FCA will inform a firm as soon as its application has been assigned to a case officer who will handle all communications - it will acknowledge all communications received from a firm within two working days - the FCA will provide a substantive response within ten working days and, where this isn't possible, an update will be sent within the ten working day period informing the firm when it can expect to receive a full response - the FCA will provide clear deadlines when asking a firm to submit additional information - a firm will receive an update from the case officer on the current status of its application at least once a month. The FCA highlights a number of factors can impact the length of time to determine an application, including the number of complex cases it receives from higher risk sectors, such as the commercial debt management and HCSTC sectors. Consumer issues <i>Gathering retail FS green paper responses</i> The EC published a <u>summary of the contributions</u> it received to its <u>Green Paper</u>		on retail financial services on 14 July 2016. This Green Paper published in December 2015 sought to identify the barriers consumers and firms face when accessing the EU market for retail financial services and to develop remedies to remove those barriers. The EC's feedback statement summarises the key messages drawn from the contributions under the following themes: - helping consumers buy financial products cross-border - creating new market opportunities for suppliers - an innovative, digital world. The summary outlines that consumers were interested in having easier access to simple financial products and saw most need for change in the areas of currency exchange transactions and digital services such as online financial advice. Consumers also raised concerns in relation to cross-border purchasing of financial services, highlighting difficulties with documents in different languages and diverging national legislation. Consumer organisations said simple products would be most appropriate for future cross-border sales. On the other hand, firms indicated there was insufficient demand from consumers wanting to purchase products when sold cross-border. Accordingly, many firms emphasised that they don't provide services cross-border as they don't see a business	case for it. Firms also raised concerns that they face specific obstacles when trying to offer services cross-border such as local financial regulation, consumer protection requirements and supervisory practices which, even when harmonised at an EU level, diverge substantially due to national gold-plating. The summary highlights that a number of respondents called on the EC to ensure there is fair competition between different types of market players, between firms in different Member States and between EU and non-EU firms. Respondents referred to the different regulatory requirements as a key reason for lack of competition. The EC states in the feedback statement it is working on a follow-up initiative, which might take the form of an action plan. FCA reveals rent to own concerns The FCA confirmed its approach to authorising rent to own (RTO) firms in <u>RTO guidance</u> on 19 July 2016. The responsibility for regulating the RTO sector transferred from the OFT to the FCA in April 2014. Firms previously regulated by the OFT may continue to operate if they have interim permissions. RTO firms must demonstrate they meet, and will continue to meet, FCA threshold conditions. Applications will be subject to robust scrutiny because the RTO business model carries a high risk, serving customers who are likely to be financially vulnerable.	The FCA says it has been working closely with the three largest RTO firms after identifying some concerns around: - affordability assessments - arrears handling and forbearance - price transparency. All three firms improved the clarity of their pricing and committed to improvements to their policies and processes. The FCA required each of the firms to appoint an independent skilled person to assess whether the changes they have undertaken were effectively implemented. Each firm has committed to assess whether action should be taken to address any previous consumer detriment. The FCA will take action where there is evidence of consumer detriment. Calling for evidence on financial exclusion The <u>House of Lords select committee on financial exclusion called for evidence</u> on 22 July 2016. The select committee, established on 25 May 2016, has a remit to consider financial exclusion and access to mainstream financial services. The call for evidence focuses on: - definitions and causes of financial exclusion - financial education and capability - addressing financial exclusion - accessing affordable credit - Government policy and regulation				

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FinTech. The call for evidence closes on 14 September 2016. Beware speculative products ESMA cautioned that retail investors are facing significant risks from speculative products, like contracts for difference and binary products, which are being sold aggressively and on a mass market basis online. In a <u>warning</u> published on 25 July 2016, ESMA says it and national supervisors have seen increased offerings together with a surge in the number of complaints from investors who've suffered substantial losses. It adds that national studies show most retail clients lose their money. There is no standardisation across speculative products and many are offered by unauthorised businesses. They're also frequently sold on a non-advised basis, leaving it up to retail clients to determine the risks themselves. While ESMA previously issued an <u>investor warning in 2013</u>, and followed that up in an <u>opinion 2014</u>, and further <u>investor warning in 2014</u>, problems are persisting. The regulator believes changes being brought in via MiFID II will address problems, but in the meantime recommends caution. Financial crime and enforcement Call for stronger action on cybercrime The National Crime Agency published <u>Cyber Crime Assessment 2016</u> on 7 July	2016, outlining the threat cybercrime poses to UK businesses and ways to minimise risks. The organisation's National Cyber Crime unit leads the UK's efforts against cybercrime. The National Crime Agency argues the rate of cybercrime incidents is outpacing efforts to thwart attacks. It outlines the ways in which cybercrime activity is becoming increasingly aggressive and sophisticated. The National Crime Agency says effective cybercrime responses are hampered in many firms by limited board engagement, scarce resources and expertise, and low reporting of incidents. It urges firms to treat cybercrime response as a strategic priority, report all cybercrime incidents and share more intelligence (both with law enforcement agencies and other firms). EC identifies high-risk third countries The EC adopted a <u>Delegated Regulation</u> on 14 July 2016, identifying high-risk third countries with strategic AML and CTF deficiencies, which supplements the AMLD4. High-risk third countries are listed in the <u>annex</u> to the Delegated Regulation, published by the EC on the same day. The Delegated Regulation was issued on the basis of Article 9(2) of AMLD4 empowering the EC to adopt delegated acts identifying high-risk third countries. These are defined as countries with strategic deficiencies in their AML or CTF regimes that pose	significant threats to the EU financial system. The EC, when putting together the list, checked data against various globally-recognised benchmarks, including materials produced by the FATF. Firms are required (under Article 18(1) of AMLD4) to apply enhanced due diligence measures when establishing business relationships or carrying out transactions with natural persons or legal entities established in high-risk third countries. The objective of the high-risk third countries list is to ensure appropriate controls are applied, and increase the confidence of firms in interacting with countries on the list. EC strengthens CTF and transparency rules The EC adopted a proposal for a <u>Directive amending AMLD4 and amending Directive 2009/101/EC - (2016/0208 (COD))</u> on 5 July 2016. The main purpose of the proposed changes is to improve CTF, increase transparency of companies and trusts' ownership and to strengthen the fight against tax avoidance. The proposal includes: enhancing the powers of Financial Intelligence Units (FIUs) and facilitating their cooperation by further aligning the rules for such FIUs with the latest international standards	- enabling FIUs easier access to information on the holders of bank and payment accounts, through centralised registers or electronic data retrieval systems - addressing terrorist financing risks linked to virtual currencies by bringing them under the AML regime - strengthening transparency measures applicable to prepaid instruments, such as prepaid cards, by lowering thresholds for identification and widening customer verification requirements - introducing harmonised checks for high-risk third countries - ensuring full public access to the beneficial ownership registers - facilitating cooperation between Member States by enhancing interconnection of the registers - extending the information available to authorities. This proposal is also the first step to implementing the EC's communication on an <u>Action Plan for strengthening the fight against terrorist financing – (COM(2016) 50 final)</u> published in February 2016. Alongside the proposal the EC also published a <u>press release</u>, <u>AMLD4 questions and answers</u> and <u>factsheet AML and CTF: Stronger rules to respond to new threats</u>, providing more details on the <u>proposed</u> changes. In a separate proposal					

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the EC sets out next steps to increase tax transparency and tackle tax abuse, taking into account the problems highlighted in the recent media leaks known as the 'Panama Papers'. The EC indicates that Member States have committed to implement the CTF and transparency amendments more quickly than initially planned, by the end of 2016 at the latest. ESMA publishes MAR final guidelines ESMA published final guidelines under MAR Article 11(11) and 17(11) on 13 July 2016. The guidelines relate to market soundings and delayed disclosure of inside information. The <i>Final Report: Guidelines on the MAR- market soundings and delay of disclosure of inside information</i> follows a consultation paper ESMA issued in January 2016 and a discussion paper issued in November 2013. Section two of the guidelines relates to persons receiving market soundings. These are communications of information made to potential investors before a transaction is announced, to gauge their interest in a possible transaction and the conditions relating to it, such as its potential size or pricing. ESMA's guidelines detail: the factors potential investors must take into account to assess whether information received as part of a market sounding amounts to inside information	- the steps those persons must take if inside information has been disclosed to them - the records those persons must maintain to demonstrate they have complied with MAR. ESMA also issues guidelines on situations in which issuers have legitimate interests to delay disclosure of inside information and when the delay of disclosure is likely to mislead the public. ESMA says each NCA has to confirm whether it complies or intends to comply with the guidelines, within two months of their publication. If a NCA does not comply or does not intend to comply, it will have to inform ESMA, stating its reasons. ESMA will make this public. Making MAR notifications The FCA published a <i>Guide to submitting a Delayed Disclosure of Inside Information notification via the FCA website</i>, and a <i>Guide to submitting a Person Discharging Managerial Responsibilities and persons closely associated with them notification via the FCA website</i> on 1 July 2016. This follows the issue of draft forms in May 2016. This reporting arises from MAR which took effect from 3 July 2016. Final MAR ITS sanctions and measures ESMA published its <i>final report</i> and a related <i>press release</i> on the draft ITS on sanctions and measures under MAR on 26	- July 2016. It explains how NCAs should notify ESMA annually of the investigations they conduct and the sanctions and measures imposed in their Member States under Article 33 of MAR. MAR provides for two information submissions: - NCAs shall provide ESMA annually with aggregated information regarding all administrative and criminal sanctions and other administrative measures imposed in accordance with Articles 30, 31 and 32 of MAR, as well as administrative and criminal investigations undertaken in accordance with those articles - administrative and criminal sanctions and other administrative measures that are disclosed to the public by NCAs shall simultaneously be reported to ESMA. The text of the draft ITS is set out in Annex II to the final report. In connection with the final report, Steven Maijoor, ESMA Chair, <i>wrote</i> to the Commissioner for Financial Stability, Financial Services and CMU, Valdis Dombrovskis, explaining that ESMA has not conducted an open public consultation on the draft ITS, nor analysed related costs and benefits. His rationale for this approach is the fact the draft ITS are addressed to, and set out obligations for, NCAs and ESMA only.	The letter also reports that ESMA is finalising two other draft ITS and one RTS relating to cooperation within the EU and with third-country authorities, respectively. ESMA has submitted the ITS for endorsement to the EC, which has three months to decide on the request. Independent enforcement decisions The BoE and the PRA jointly consulted on <i>Establishment of the Enforcement Decision Making Committee</i> (EDMC) on 22 July 2016. The EDMC will act as the decision maker with respect to contested enforcement cases relating to the PRA and also the BoE for FMI and resolution. Contested cases are those that are not resolved through its executive settlement processes. The EDMC and its members will be independent of the BoE's executive management structure. The BoE will appoint up to 15 members of the EDMC, who will not be employees of the BoE and will be appointed for a renewable three-year term. At least three members will be legally qualified, subject to review. The consultation also covers the following: - appointment of a panel for a contested enforcement case - jurisdiction of the EDMC and the scope of decision making - the EDMC's procedures in contested cases					

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co-operation with the FCA on joint or parallel investigations. This consultation is part of a wider process for the BoE to produce a consolidated and comprehensive external policy statement on its enforcement processes. The BoE aims to publish this guidance during 2017. The consultation closes on 21 October 2016. FCA eyes AML tech solutions Christopher Woolard, director of strategy and competition at the FCA, explained how technology could improve the AML regime in a <i>speech</i> on innovation in RegTech on 20 July 2016 (published on 25 July 2016). The FCA is concerned that the AML regime can feel paper-based, so it is scoping work to investigate how technological solutions can make AML processes simpler, slicker and more cost-effective for firms. Woolard explained solutions are likely to include commercially-available tools, Government-backed identification initiatives and technology developed by firms in-house. He said potentially customer due diligence checks could be streamlined, anti-impersonation checks strengthened, and more customer due diligence data shared between firms. FCA clarifies closed periods Following ESMA's updated MAR questions and answers (Q&A) on 13 July 2016, the FCA updated the <i>statement</i> of its supervisory approach to closed period requirements specified in Article 19 (11) of		MAR on 26 July 2016. This follows its initial statement on 26 May 2016. The FCA clarified whether the 30-day closed period requirement means issuers announcing preliminary results need to impose closed periods before the announcement of preliminary results, before publication of the year-end report, or both. ESMA clarified that the announcement made in relation to a year-end financial report is: a public statement where the issuer announces, in advance of the final year-end report, the preliminary financial results agreed by the management body of the issuer (and to be included in the year-end report). This approach can apply only if the disclosed preliminary financial results contain all the key information relating to the financial figures expected to be included in the year-end report. If the information announced in this way changes after its publication, this will not trigger another closed period but should be addressed in accordance with Article 17 of MAR. The FCA, noting that its supervisory approach was similar to that stated by ESMA, updated the statement of its supervisory approach by referring market participants to ESMA's Q&A. FATF's 2016/17 priorities Juan Manuel Vega-Serrano from Spain, assuming the Presidency of FATF, released a paper <i>Objectives for FATF XXVIII (2016-2017)</i> on 1 July 2016. He said that the work	of FATF 'will require a more collaborative approach with the private sector and a greater operational focus of the work of the FATF'. Vega-Serrano indicates that priorities for the year include: - combating terrorist financing - this remains a top priority - improving transparency and the integrity of financial flows - developing a new partnership with the FinTech and the RegTech community to support innovation in financial services - assessing and promoting effective implementation of the FATF recommendations – this continues to be a primary focus - enhancing operational focus and developing a joint task force approach with private sector experts, non-governmental organisations, academia and civil society - playing a more active role in key international forums, in particular the G20. The FATF presidency lasts for a year, commencing on 1 July 2016. Comparing countries' AML/CTF controls The Basel Institute on Governance released the fifth edition of the <i>Basel AML Index 2016 Report</i> on 27 July 2016. The report covers 149 countries and provides risk ratings based on the quality of a country's	framework for AML and CTF, and other related factors such as perceived levels of corruption, financial sector standards and public transparency. The report identifies countries with the highest and lowest AML/CTF risk: the highest being Iran, Afghanistan, Tajikistan, Guinea-Bissau and Mali, and the lowest being Finland followed by Lithuania and Estonia. In the report the institute compares countries' scores to those from previous years. It lists Kuwait, Ecuador, Seychelles and Albania as the countries where the greatest improvements have been recorded. Scores for Chile, Sri Lanka, Slovenia, China, Estonia, Serbia and Turkey have significantly decreased compared to the previous year. The 2016 scores show that high-income countries, including large financial centres such as Luxembourg, Switzerland, Italy and Germany, have not been able to demonstrate significant progress in their ratings. It is worth highlighting that the index does not measure the actual existence of money laundering activity or the amount of illicit financial money within a country but is designed to indicate vulnerabilities to money laundering and terrorist financing. The report is offered in two editions: the public edition as described above and the expert edition providing a more comprehensive data set.				

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Financial stability

Systemic risks rise, survey shows

The BoE released the results of its *Systemic Risk Survey* for H1 2016. The survey is conducted on a biannual basis to track market participants' views of risks to the financial system and their confidence in its stability. The survey shows the perceived probability of a high-impact event occurring in the UK financial system in the short term has risen considerably and the probability in the medium term has increased slightly. Confidence in the stability of the UK financial system has also fallen since the H2 2015 survey.

The report finds the two risk types most cited by respondents were those of an economic downturn (both globally and UK-specific) and those associated with the UK leaving the EU.

The perceived risk of a cyber attack increased for the third consecutive survey. Respondents cited it as the joint second most challenging risk to manage - alongside the risk of an economic downturn and behind UK political risk.

Tackling non-performing loans

Mario Draghi, President of the ECB, and Vítor Constâncio, Vice-President of the ECB, faced off questions about non-performing loans (NPLs) and Brexit in their *Introductory statement to the press conference (with Q&A)* on 21 July 2016. Draghi confirmed the ECB's thinking that Brexit will hit eurozone growth by 0.2% to

0.5% over three years. On NPLs, he noted that on the whole banks were in a better position than they were in 2009 and that CET1 for banks in the SSM was currently 13%, up from 9% in 2012. But he also eyed a revision to existing personal and corporate bankruptcy legislation, together with a possible public backstop in exceptional circumstances, to address NPLs.

MPC impact analysis on referendum vote

The BoE published on 14 July 2016 the *Monetary Policy Summary and minutes of the MPC meeting ending on 13 July 2016*. The majority of members voted to maintain the Bank Rate at 0.5% and the stock of purchased assets at £375bn. Most members expect monetary policy loosening in August 2016 because of the economic impacts of the UK's decision to leave the EU.

The MPC observes that early indicators from surveys point to weak economic activity in the near term. The MPC indicates it is committed to taking whatever action is required to support growth and achieve the inflation target. The exact stimulus will depend upon the committee's updated economic forecast in August 2016.

Financial markets reacted sharply to the MPC's action. Sterling effective exchange rate and short-term and longer-term interest rates declined since the MPC's previous meeting. There are also sharp falls in some measures of business and consumer

confidence and expected housing market activity.

CRA consistency guidelines

ESMA proposed draft guidelines on 13 July 2016 to clarify how CRAs should validate and review their methodologies. Alongside the *consultation paper on guidelines on the validation and review of CRAs' methodologies*, ESMA also published a *feedback statement* in response to its December 2015 *discussion paper*. ESMA decided to consult based on its supervisory experience to achieve a consistent application of validation and review measures across CRAs through the demonstration of the discriminatory power, predictive power and historical robustness of their methodologies. The guidelines also identify the measures CRAs should implement when validating and reviewing their methodologies with limited quantitative evidence. ESMA seeks feedback on the guidelines from users of credit ratings and CRAs.

The consultation closes on **22 August 2016**. ESMA plans to publish a final report in the first quarter of 2017.

FSB focuses on market-based finance

The FSB published its *3rd Annual Report* on 25 July 2016. It says it has agreed the final components of the most important policy tools required to fix the fault lines that led to the financial crisis. A particular milestone was the agreement of the finalised TLAC standards, critical to

mitigating the risk posed by 'too-big-to-fail' institutions.

The FSB also highlights heightened attention to new risks and vulnerabilities in the global financial system. Since the crisis, market-based finance, including asset management activities, has played an increasingly important role in the global financial system. In March 2016, the FSB consulted on policy recommendations to address structural vulnerabilities posed by asset management activities. The FSB aims to finalise these recommendations by the end of 2016. Going forward, other areas of focus include misconduct risk, climate change related disclosure, together with the resilience, recovery and resolvability of CCPs.

The FSB also intends to continue communicating on implementation progress to the G20, assess whether reforms have achieved their intended outcomes and ensure gaps and inconsistencies are addressed. The FSB indicates that where it identifies any material unintended impacts it will adjust the relevant policies.

Reporting on ESRB's activities

The ESRB published its *Annual Report 2015* on 25 July 2016. The report highlights the major areas of ESRB work in 2015.

The ESRB identified four main risks to financial stability in the EU. These are repricing of risk premia, a further weakening of banks' and insurers' balance sheets, a deterioration of debt sustainability

and risks arising from shadow banking. The ESRB raised the risk relating to repricing of risk premia to the highest category as a result of significant market volatility.

In 2015, the ESRB's activities continued to focus on developing policies and guidance for using macroprudential instruments covering the entire financial sector. It also implemented a coordination framework for assessing the cross-border effects of macroprudential policy measures. In reviewing the implementation of its past recommendations, the ESRB found significant progress in the harmonisation of national covered bond frameworks. The ESRB also considered that its recommendation on the funding of credit institutions was successful in fostering risk management practices for the related risks as well as a monitoring framework for asset encumbrance.

Addressing risks outside the banking system

The ESRB published *Macroprudential policy beyond banking: an ESRB strategy paper* on 19 July 2016. The growth in the financial sector has occurred primarily outside the banking system in recent years, which may pose additional risks to financial stability. To address these risks, the ESRB has outlined its policy agenda in this paper.

Risks to financial stability can originate from different sources such as excessive credit growth and leverage and contagion amongst interconnected firms. Outside

banking, activities such as collateralised mortgage financing and lending could create excessive leverage.

In the short to medium term, the ESRB will focus on monitoring market trends and risks using new data available under existing legislation. It intends to contribute to developing a broader financial stability toolkit and new macroprudential instruments to address risks in the wider financial sector.

In the medium to long term, the ESRB plans to develop a macroprudential policy strategy using a consistent set of instruments. It will aim to develop a framework taking into account the systemic risk each part of the system pose and their resilience.

ESRB surveys shadow banking sector

The ESRB published its first *EU Shadow Banking Monitor* on 27 July 2016, surveying market developments in the shadow banking sector. It identifies three key risks arising from:

- financial leverage, particularly in hedge funds and real estate funds
- systemic interconnectedness, especially between money market funds and banks
- maturity and liquidity transformation, especially for some bond funds.

The ESRB defines shadow banking and the approach taken to monitoring it, using both an 'entity-based approach' which focuses on the most systemically important entities

and an 'activity-based approach' which captures activities not restricted to specific entities or which contribute to interconnectedness within the financial system. It intends to align its approach with the FSB as work in this area continues to evolve. On the same day the ESRB also published an accompanying methodological paper *Assessing shadow banking – non-bank financial intermediation in Europe*.

Identifying connected clients for large exposures

The EBA published a consultation paper on *Guidelines on Connected Clients under Article 4(1)(39) of CRR (EBA/CP/2016/09)* for large exposure purposes on 26 July 2016. It reflects a review and update of CEBS guidelines issued in 2009. The EBA has incorporated developments in the area of shadow banking and large exposures at the EU and international level. The guidelines cover both control relationships and economic dependencies or interconnectedness that lead to the formation of groups of connected clients such that the financial difficulties of one could adversely affect others.

The draft guidelines contain an updated non-exhaustive list of indicators of control and situations of economic dependency. Situations where control and economic dependency are interlinked are also clarified as they can lead to the existence of one group of connected clients. The overarching indicator is the existence of a single risk between two or more clients regardless of

the type of connection the single risk is based upon. The consultation closes on **26 October 2016**.

Innovation

Legal certainty for virtual currencies

The FMLC took a look at some of the legal issues surrounding virtual currencies in *Discussion Paper on Issues of Legal Uncertainty Arising in the Context of Virtual Currencies* on 22 July 2016. The paper examines the differing legal treatment for virtual currencies were they deemed choses in action or choses in possession. For the former, in a bankruptcy or insolvency situation, a trustee in bankruptcy, liquidator or secured creditor would need to establish against whom it could take action to realise the value of currency. For the latter, the question would be how to take possession of and transfer the virtual currency as well as converting it for 'real world' currency for distribution to creditors. But the FMLC considers virtual currencies fit better as choses in possession and suggests legislators might want to recognise 'the new reality of the digital world' and extend this legal category to formally recognise virtual currencies.

UK builds FinTech bridge with Korea

HMT *announced* on 22 July 2016 that a FinTech bridge has been established between the UK and the Republic of Korea. It will make it easier for the UK and the Republic of Korea to invest in FinTech, and will help UK FinTech firms and investors to

access the Asian market, as well as attract Korean companies and investors to the UK.

The launch involves the signing of a regulatory cooperation agreement between the FCA and the Korean Financial Services Commission. This agreement will allow the two regulators to share information about innovations in their markets, including emerging trends and regulatory issues.

Industry feeds back on RegTech

The FCA published *FS16/4 Feedback Statement: Call for input on supporting the development and adopters of RegTech* on 20 July 2016. It follows the call for input in November 2015, which sought views on how it should progress and prioritise its RegTech work.

The were four major response themes:

- efficiency and collaboration – creating more flexible reporting methods, sharing services via the cloud or online platforms and using technology to improve FCA engagement with FinTech firms
- integration, standards and understanding – making regulation machine-readable to allow for more automation, using a shared data ontology, greater use of APIs and making the FCA Handbook more interactive
- predict, learn and simplify – using big data analytics, exploring technology that allows an 'always-on' non-invasive

surveillance of transactions and behaviour, using modelling technology and machine-learning technology such as artificial intelligence

- new directions – expanding the use of distributed ledger technology and encoding regulatory requirements into systems.

Respondents said that by clarifying its expectations and helping to drive industry standards and guidance, the FCA could help firms to better integrate their internal data and processes. They also encouraged the regulator to look at certification of RegTech that meet relevant criteria, which could build the credibility of new regulatory tools. Respondents gave feedback on barriers to innovation, which includes uncertainty over regulations.

Over 2016/17 the FCA aims to increase its engagement and collaboration with the RegTech community, and is investigating how improved technology standards and guidance can be developed. But the FCA notes there are limitations to the role it can play.

Market-based finance FCA reviews P2P rules

The FCA called on operators and users of P2P lending platforms, and providers of P2P agreements, to assist with its review of crowd-funding rules. It published *Call for input to the post-implementation review of the FCA's crowd-funding rules* on 8 July

2016. The FCA committed to a full post-implementation review of the 2014 rules and the crowd-funding industry.

There has been significant growth in the industry and the FCA review will consider any necessary changes to reflect the market's scale and status. The FCA identifies two types of crowd-funding platforms:

- loan-based – on which people and institutions lend money to individuals or businesses in expectation of financial return
- investment-based – which involve investment in the unlisted shares or debt securities of businesses.

The FCA has concerns about the operation of the market for both. It is seeking views on the need for improved due diligence standards and whether mandatory risk warnings and improved disclosure standards are required to help customers make informed decisions. More specifically, in relation to loan-based crowd-funding, the FCA considers the need for a standardised appropriateness test and better client assessments to check investors' understanding of what they are investing in. For investment-based crowd-funding, the FCA seeks views on how conflicts of interest between the platform operator and the investors in relation to profit maximisation should be managed.

The call for input signals the FCA's intention to consult on applying the usual mortgage lending standards to P2P platforms to give customers the full benefit of these protections. The FCA confirms that investments made on loan-based crowd-funding platforms are not covered by the FSCS but that the appropriateness of this approach is being considered in its ongoing review of how the FSCS is funded prompted by the *Financial Advice Market Review*.

Comments are invited until **8 September 2016**.

Market infrastructure Second chance for SME designations

HMT *announced* that CRAs and finance platforms have a second chance to apply for designation under the SME (credit information) and SME (finance platform) regulations on 1 July 2016. On the same day, the British Business Bank (which runs the initial stages of the process) released a *call for information for CRAs* and a *call for expressions of interest for finance platforms*.

CRAs have until 10 August 2016 to ask British Business Bank pre-submission questions, but they must submit their applications by 12 August 2016.

Finance platforms had until 5 August 2016 to submit expressions of interest to the British Business Bank.

Executive summary	Don't forget your passport	Regulatory equivalence	Cross sector announcements	Banking and capital markets	Asset management	Insurance	Monthly calendar	Glossary
ESMA considers extending clearing phase-in ESMA consulted on delaying phase-in periods for the EMIR clearing obligation on 13 July 2016. It proposes a two-year delay for application of the clearing obligation for the smallest financial counterparties group. It outlined the idea in its <i>Consultation Paper On the clearing obligation for financial counterparties with a limited volume of activity</i>. The revised deadlines would apply for financial counterparties with aggregate positions of €8bn or less in OTC derivatives. ESMA claims boundaries at this level will capture financial counterparties with limited activity in OTC derivatives. The revised deadlines for compliance with the clearing obligation would be as follows: • interest rate derivatives in G4 currencies from 21 June 2017 to 21 June 2019 • European index CDS from 9 February 2018 to 9 February 2020. ESMA identifies difficulties in accessing clearing arrangements as the key reason behind its proposed delay. It states smaller financial counterparties have struggled to gain access to both direct and indirect clearing arrangements. Cost, risk and legal issues have prohibited firms from becoming direct clearing members. Providers of indirect clearing have restricted access because of increasing capital charges on this type of business. ESMA also notes indirect clearing is not well developed in OTC	markets and has further hindered access to clearing. ESMA requests comments on its proposals by 5 September 2016. Delaying EMIR margin rules The ESAs <i>wrote</i> to the EC on 30 June 2016 (the letter was published on 1 July 2016) criticising its decision to delay finalisation of the EMIR margin rules. The EC indicated the RTS on risk mitigation techniques for non-centrally cleared OTC derivatives are now likely to take effect in mid-2017. The ESAs emphasise that a September 2016 implementation date, with the exchange of variation margin required by March 2017, had been agreed at a Basel Committee-IOSCO level and international coordination of the start date is essential for the rule's effectiveness. While EU firms will be subject to US and Japanese margin rules for cross-border transactions as of 1 September 2016, the EC's proposed delay will mean that intra-EU transactions will not benefit from the risk-mitigating benefits of the bilateral margin requirements. Likewise, cross-border intra-group transactions that might otherwise have benefited from US and Japanese equivalency determinations are unlikely to qualify for exemptions under those regimes. The ESAs express concern that delaying the EMIR margin rules will incentivise firms to seek arbitrage opportunities, thereby increasing systemic risks at both the EU and global levels. The ESAs observe that the EC	had been the entity to set the deadlines and the ESAs had delivered their draft standards on time. The ESAs requested the EC reconsiders the proposed delay, or at least minimise its duration. EMIR equivalence decision for US derivatives <i>Implementing decision (EU) 2016/1073 on the equivalence of designated contract markets in the United States of America in accordance with EMIR</i> appeared in the Official Journal on 2 July 2016. Transactions on US designated contracts markets (DCMs) are now considered to be exchange-traded for EMIR purposes, and EU counterparties need meet only transaction reporting obligations. In contrast, OTC derivatives are also subject to clearing, margin and risk mitigation requirements. The 15 DCMs deemed equivalent include Cantor Futures Exchange, Chicago Board of Trade, Chicago Mercantile Exchange, ICE Futures US, New York Mercantile Exchange and Nasdaq Futures. The implementing decision came into force on 23 July 2016. More clearing classes to come <i>Delegated Regulation (EU) 2016/1178 supplementing EMIR with regard to RTS on the clearing obligation</i> was published in the Official Journal on 20 July 2016. Certain Norwegian Krone, Polish Zloty and Swedish Krona denominated interest rate OTC derivatives have become subject to the EMIR clearing obligation and must be	cleared through the relevant authorised CCP. The regulation came into force on 9 August 2016. Equivalence for US trading venues On 22 July 2016 ESMA published the <i>list of US boards of trade that had been deemed equivalent</i> to EU markets, per the EC's <i>delegated act</i> determining that any board of trade designated by the CFTC as a contract market would be considered an 'on-exchange' trade for EMIR purposes. Consequently, any trades on these venues would be exempt from those EMIR requirements applying to OTC trades, such as mandatory clearing, bilateral margining and other risk mitigation measures. But they would still be subject to EMIR transaction reporting requirements which, unlike the US rules, require transaction reporting of exchange-traded derivatives. Global benchmark reform continues The FSB published its <i>second progress report</i> on the reform of major interest rate benchmarks on 19 July 2016. In its <i>original 2014 report</i>, the FSB made policy recommendations on interest rate benchmarks (IBORs) and risk-free reference rates (RFRs) aimed at addressing structural weaknesses exposed by manipulation scandals. The UK, EU and Japan have taken steps to regulate the administrators of LIBOR, EURIBOR and Tokyo Interbank Offered Rate respectively. But further reform is required for jurisdictions revising IBOR					

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methodologies to base input data on verifiable transactions where available. Firms are working with regulators to identify potential RFRs, promote their use and plan transition and implementation. The FSB argues it is important to identify RFRs because the volume of transactions in the IBORs underlying markets is low and at risk of further decline. In some jurisdictions, overnight secured and unsecured rates have been identified as an alternative to the IBORs. For example, in the UK, the BoE is now the administrator of SONIA and will publish a reformed benchmark starting in Q2 2017. The final choice of RFRs is still pending in many jurisdictions. The FSB plans to issue a final report on reforms to major interest rate benchmarks in 2017. ESMA updates EMIR guidance ESMA updated its <i>EMIR Q&A guidance</i> on 27 July 2016 to clarify that counterparties should not identify clearing houses in the CCP data field if such clearing houses are not in fact CCPs. ESMA also clarifies that the counterparty executing the transaction should request the clearing house that matches the counterparties to disclose the identity of the other counterparty before the reporting deadline. This is to allow counterparties to fill in the applicable data fields correctly.			EC amends EMIR bilateral margin RTS The EC wrote to the ESAs in a letter from the <i>Financial Services DG</i> on 28 July 2016. The EC will be adopting the proposed RTS for EMIR bilateral margin but with significant amendments and a delayed implementation date. The EC confirms that EU implementation of the margin rules would not be line with the start date of similar rules in the US and other major derivatives markets. The FSB had expressed the view that this was necessary to ensure global consistency. But the EC's need to finalise such amendments meant it could not adopt the ESA's RTS by the planned 1 September 2016 start date. The EC intends that the application of RTS should be phased-in over a period commencing one month after its publication in the Official Journal to 1 September 2017 depending on the categorisation of the counterparties and the type of margin being collected (variation or initial). The EC's other amendments to its <i>amended draft RTS</i> and <i>annex</i> include the following: • delayed phase-in of the requirements for equity options • clarification that eligible cash initial margin may be held by credit institutions in equivalent third countries • requirements for FX contracts will be delayed until the MiFID II start date of 3 January 2018		• less stringent diversification requirements for pension schemes around collateral posted. The delayed implementation date is likely to make it more operationally difficult for firms conducting cross-border swaps to meet their obligations under new US rules. But the regulators have signalled that they will work together to ensure that derivatives markets function smoothly during the gap between US and EU implementation. MiFID II EC finalises tick size regime The EC adopted <i>Regulation (EU) supplementing the recast MiFID with regard to RTS on the tick size regime for shares, depositary receipts and exchange traded funds</i> on 14 July 2016. The tick size regime ensures the orderly functioning of markets by establishing the minimum difference between two price levels for orders on a financial instrument in an order book. The RTS provide liquidity bands for the price of an order and the average daily number of transactions in the most relevant market in terms of liquidity. Transitional provisions govern the timeframe for the collection of data to calculate the average daily number of transactions in shares, depositary receipts and exchange traded funds. The delegated regulation enters into force 20 days after publication in the Official Journal and, subject to transitional		provisions, will apply as of the revised application date of 3 January 2018. EC confirms equities transparency requirements The EC adopted <i>Regulation (EU) supplementing MiFIR with regard to RTS on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser</i> on 14 July 2016. The RTS include: • transactions not subject to transparency requirements because they do not contribute to the price discovery process • pre-trade transparency requirements for trading venues, systematic internalisers and investment firms trading outside a trading venue • post-trade transparency requirements for trading venues and investment firms trading outside a trading venue • provisions for pre and post-trade transparency calculations. The delegated regulation enters into force 20 days after publication in the Official Journal. Although the majority of the RTS apply as of the revised application date of 3 January 2018, transitional provisions	

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governing the collection and calculation of data apply from the entry into force date. <i>Finalising MiFID II authorisation details</i> The EC adopted <u>Regulation (EU) supplementing the recast MiFID with regard to RTS on information and requirements for the authorisation of investment firms</u> on 14 July 2016. The RTS set forth the information firms must provide to their competent authority when applying for authorisation to provide investment services and/or perform investment activities. This includes details on the firm's legal entities, sources of capital and financial statements, shareholders, management body and directors, and organisational structure. The RTS also establish requirements applicable to the firm's management body, shareholders and members with qualifying holdings. The delegated regulation enters into force 20 days after publication in the Official Journal and applies as of the revised application date of 3 January 2018 under Article 93(1). <i>EC clarifies reference data standards</i> The EC adopted <u>Regulation (EU) supplementing MiFIR with regard to RTS for the data standards and formats for financial instrument reference data and technical measures in relation to arrangements to be made by ESMA and competent authorities</u> on 14 July 2016.	The RTS establish uniform standards for trading venues and systematic internalisers providing reference data to competent authorities and ESMA. Data must be in an electronic, machine-readable and downloadable format. The International Securities Identification Number must be used to identify financial instruments for the purpose of transaction reporting. Execution venues must also implement systems and controls to provide complete and accurate data, and inform competent authorities of errors. The delegated regulation enters into force 20 days after publication in the Official Journal. It will apply as of the revised application date of 3 January 2018. <i>Finalising trading venue organisational requirements</i> The EC adopted <u>Delegated Regulation (EU) supplementing MiFID II with regard to RTS specifying organisational requirements of trading venues</u> on 14 July 2016, unchanged from the final draft version submitted by the EBA. The RTS cover organisational, capacity and resilience requirements for trading venues. On organisational requirements, it sets expectations on governance, staffing and outsourcing. With respect to capacity and resilience, the RTS cover due diligence over members, testing of systems, controls to avoid disorderly trading conditions and monitoring obligations.	The RTS will come into force 20 days following their publication in the Official Journal. They will apply from the revised MiFIR application date - 3 January 2018. <i>Second FCA MiFID II consultation</i> The FCA published <u>CP16/19: MiFID II Implementation</u> addressing commodity derivative requirements on 29 July 2016. It also reminds firms of their duty to implement MiFID II irrespective of the recent Brexit vote. The FCA requests feedback on: - commodity derivatives - position limits, management controls and reporting - supervision - transitional provisions for transaction reporting and amends passporting notification forms - prudential rules - the new investment service of operating an OTF - senior management - introducing new MiFID II management body requirements - complaint handling - expands the existing provisions to a broader range of clients - remuneration of sales staff - MiFID II remuneration standards, which do not extend beyond non-MiFID II firms. The FCA also requests feedback on minor changes to its CASS handbook, whistleblowing resources and fee schedules for OTFs and MTFs. Firms should review the	proposed changes and provide feedback to the FCA by 28 October 2016 . On its wider MiFID II implementation timeline, the FCA intends to publish a third implementation consultation towards the end of 2016. This will outline amendments to Conduct of Business rules, product governance and the Perimeter Guidance Manual. The FCA expects to publish in full its MiFID II policy statement in July 2017, having previously suggested policy statements could be published in three different parts. <i>Operational resilience Outsourcing to the cloud</i> The FCA finalised <u>FG 16/5 – Guidance for firms outsourcing to the 'cloud' on other third-party IT services</u> on 7 July 2016. The final paper departs in places from the proposed version released for consultation in November 2015. The FCA acknowledges concerns raised by respondents that the requirement for firms to identify all providers in the supply chain is not always necessary or practical. The regulator clarifies that this consideration only applies to services related to the regulated activity being provided. But the regulator declined to heed all concerns raised. It maintains its view that firms need to have the skills and resources to test outsourced activity. It also says 'effective access' means there should be no restrictions on the number of data requests firms make to their outsourcing partners.					

While the FCA acknowledges that physical access to data centres may sometimes be impractical and unnecessary, it says there may be circumstances when access to data centres may be needed for a firm to be able to meet its regulatory requirements.

Third-party IT providers looking to work with regulated firms will find the guidance interesting together with firms, their advisers and their auditors.

The PRA flagged the FCA's paper for dual regulated firms on 7 July 2016 too. In a short statement, *Outsourcing functions to the Cloud*, it reminds firms to notify regulators of proposed outsourcing of critical or important functions to third-party IT providers.

Finalising operational continuity rules

The PRA finalised its approach to operational continuity on 7 July 2016 with the publication of its policy statement *PS21/16 Ensuring operational continuity in resolution*, its supervisory statement *SS9/16 Ensuring operational continuity in resolution* and the PRA rulebook section *Operational Continuity*.

In PS21/16, the PRA provided feedback to its consultation *CP38/15* and on the December 2015 *Addendum* to this consultation paper. The PRA's main change is to remove the specific expectation in SS9/16 that a critical services provider located within a group has to be supported by capital equivalent to 25% of its annual fixed overheads. Instead, the BoE as

resolution authority will consider whether the loss-absorbing capacity of critical services should be allocated within groups as part of the MREL regime.

Apart from this, the PRA has not made any significant changes to the proposed rules and supervisory statement save for minor amendments to add clarity. The changes to the PRA rulebook will come into force on 1 January 2019.

Reducing cyber threats through NIS Directive

The EU Official Journal published the *NIS Directive - 2016/1148* on 6 July 2016. The directive aims to reduce the risks posed by cyber threats to EU Member States and their critical infrastructures, in light of increased frequency and severity of cyber crime incidents.

The NIS Directive will strengthen EU defences against cyber threats by:

- harmonising Member States' tactics and improving communication with the formation of a cooperation group
- establishing a network of Computer Security Incident Response Teams (CSIRTs)
- including operators of essential services and digital service providers in its scope.

The inclusion of operators of essential services within the NIS Directive is particularly important because it will cause many financial institutions, including

banking and financial market infrastructure providers, to fall within its scope. While most financial regulators, including the FCA, already include provisions within existing regulations that relate to security of networks, the NIS Directive will add further legislative emphasis to the need for cyber security.

The most onerous aspect of the text will be the requirement for incident notification. Under the directive, financial firms within its scope will have to notify the competent authority or CSIRT in their Member State of any incidents 'without undue delay'. The notice requirement is not intended to expose the notifying party to increased liability, but the competent authority or CSIRT may inform the public to prevent an incident from occurring or aid with an on-going incident.

EU Member States must adopt and publish the laws, regulations and administrative provisions necessary to comply with the NIS Directive by 9 May 2018. These measures set out in the individual Member States' legislation will apply from 10 May 2018.

Implementing EU-US Privacy shield data protection

The EC adopted a *Decision pursuant to directive 95/46/EC of the EP and of the Council on the adequacy of the protection provided by the EU-US Privacy Shield* on 12 July 2016. The Privacy Shield is an augmented version of the previous 'Safe Harbour' which the ECJ deemed inadequate

to protect the fundamental rights of EU citizens in October 2015.

The Privacy Shield, like its predecessor, operates through self-certification with US organisations committing to a set of privacy principles when handling EU personal data. But the Privacy Shield now implements stronger obligations on both the US government and US companies. It requires the US to monitor and enforce more robustly the programme's principles and to cooperate with European data protection authorities. Companies must more rigorously demonstrate their compliance with privacy principles as stipulated by the EC. The new arrangement allows for EU citizens' judicial redress in the US courts.

The Privacy Shield is effective from 12 July 2016 and will be monitored by the EC. In the US it will be administered and monitored by the US Department of Commerce and enforced by both the US Federal Trade Commission and the Department of Transportation. It will also be subject to annual joint review.

Pensions

FCA kicks off retirement outcomes review

The FCA outlined its Retirement Outcomes Review, a major review of how firms and consumers have responded to pension freedoms in *MS16/1: Terms of Reference – Retirement Outcomes Review* on 14 July 2016. The FCA will focus on competition in

the decumulation market, prioritising four areas:

- shopping around and switching – understanding whether consumers can compare products, switch providers and make informed decisions
- non-advised consumer journeys – looking at whether these have become more complex and if consumers are drawn towards certain products or decisions
- business models and barriers to entry – exploring emerging business models and what risks they might pose to competition

- impact of regulation – understanding whether there are examples of FCA regulation that are overly burdensome and may be inadvertently hampering competition.

The FCA asks for comments by **31 August 2016**. As part of the review, as set out in *Policy statement 16/12: Pension reforms – feedback on CP 15/30 and final rules and guidance*, the FCA intends explore commission payments on non-advised sales of retirement income products. The FCA plans to publish its final report in summer 2017.

The FCA also published *findings* on the development of an annuity comparison tool on 14 July 2016. It initially proposed requiring firms to tell customers how their annuity rates compare to competitors'

quotes in its *Retirement income market study* in March 2015. The FCA found a personalised comparison tool was most effective: participants were over three times more likely to shop around for an annuity when shown the difference it could make to them. The FCA expects to consult on the implementation later this year.

The FCA's *findings* of how firms signpost to pensions guidance services found that the majority of firms were meeting its requirements. The FCA gives examples of good and poor practice in areas including staff training, oversight and raising awareness of scams.

CMU drives cross-border pensions

The EC called for information on potential obstacles to the uptake of cross-border personal pension products and how to address them in *Consultation document – CMU: action on a potential EU personal pension framework* on 27 July 2016. The EC identifies a number of challenges to taking up personal pensions, including costs and charges, limited inter-EU portability, diverse tax treatment in Member States and limited competition between providers – both intra and inter Member States. In these circumstances, the EC sees opportunities to create an EU single market for personal pensions to make them more attractive and accessible to potential savers.

The consultation closes to comments on **30 October 2016**. The EC plans to consider the responses when assessing the feasibility

of an EU policy framework to establish an EU market for simple, efficient and competitive personal pensions.

Remuneration More proportionality needed on remuneration rules?

The EC issued a *press release* announcing its *report* on the effectiveness of the remuneration rules for credit institutions and investment firms on 28 July 2016. The rules, introduced under CRD III, address policies and practices that focus on short-term gain and may lead to excessive risk-taking behaviour.

The EC found that the CRD III measures on governance of remuneration processes, performance assessment, disclosure and pay out of variable remuneration contributed effectively to the objectives of curbing excessive risk taking. But cost benefit analysis from the EBA, public consultations and an external study suggest some of the rules are too costly and burdensome for smaller and non-complex firms. The EC will undertake further work and does not draw final conclusions on the maximum ratio between fixed and variable remuneration introduced by CRD IV.

The EC plans to conduct an impact assessment to clarify how remuneration rules could be applied in a more proportionate manner to smaller and non-complex firms. This assessment would be part of the CRD/CRR revisions planned for the end of 2016. The EC will also revisit

remuneration rules for investment firms as part of the investment firms review, a wider exercise to redesign the prudential regime for MiFID investment firms.

Reporting PRA changes to liquidity reporting

The PRA published a *letter* to firms on 4 July 2016 that requests changes to the additional liquidity monitoring metrics (ALMM) data they report. The PRA intends the change to simplify and standardise the ALMM data items for all PRA firms.

The PRA intends to replace existing individual ALMM items (COR006, COR007, COR008) with a new single ALMM data item (COR012). From 30 September 2016 the automated scheduling in GABRIEL for individual ALMM items will be replaced by the single data item. This change takes place alongside an updated version of the EBA COREP data point model and associated XBRL Taxonomy known as Taxonomy 2.4.1 which will apply from 1 October 2016.

PRA updates expectations over market risk

The PRA updated its supervisory statement *SS13/13 Market risk* on 7 July 2016. It amends its expectations on the validation of firms' 'risks not In VaR' (RNIV) frameworks and the reporting of extensions and changes to firms' RNIV frameworks. Firms which have permission to use internal models must have a methodology to identify any risks not captured, or not adequately

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captured, by those models and to calculate additional capital requirements for those risks. This methodology is referred to as the RNTV framework. The PRA also provides clarification on the PRA's reporting requirements around Internal Model Approach model changes and extensions. It clarifies the process for informing the PRA with regard to non-compliance. In addition, the PRA makes changes regarding its expectations for firms applying for: - the use of own estimates of delta in the standardised approach for options - the use of sensitivity models under CRR article 331 - the exclusion of positions from the calculation of net open currency positions under CRR article 352(2). The PRA states it will keep the policy under review to assess any changes in the UK regulatory framework as a result of the EU referendum result. Collecting data for investment firm review The EBA launched <i>data collection to support the new prudential framework for investment firms</i> on 15 July 2016. This follows the call for advice received from the EC on 13 June 2016 on the prudential requirements applicable to investment firms.	The EBA will focus on a specific prudential regime for non-systemic and non-interconnected investment firms. It also addresses the EC's request regarding the application of proportionality for remuneration. There are separate templates for MiFID investment firms and UCITS/AIFMD investment firms conducting MiFID activities or services. The exercise covers only the firms authorised by competent authorities in their jurisdiction. Firms must submit the data on a solo basis using 31 December 2015 as the reference date to their respective supervisory authority by 7 October 2016. The supervisory authorities must forward the data to the EBA by 14 October 2016 after undertaking quality checks. FCA introduces financial crime return The FCA published final rules on its proposal to introduce a financial crime return (REP-CRIM) in <i>PS16/19: Financial Crime Reporting</i> on 29 July 2016. The policy statement summarises responses to <i>Consultation paper 15/42</i>, and sets out the implementation timescale for the reporting requirement. The purpose of the REP-CRIM is to enable the FCA to automate the collection of firm data relating to financial crime. This includes the resources firms allocate to tackling financial crime and the number of suspicious activity reports firms file with the authorities. To ensure the data is	standardised, firms will be required to provide the REP-CRIM via the FCA's electronic reporting system GABRIEL. The FCA made the following key changes to its proposals: - REP-CRIM submitters have the option to submit the return on a group or single regulated entity basis, as long as the firms included share a common financial year end - the remittance period has been extended from 30 to 60 business days - firms can complete their first REP-CRIM on a best endeavours basis, meaning the remittance period will apply from this first submission. Unless exempted by the policy statement, the requirements apply to all firms subject to the Money Laundering Regulations. Appendix 1 to the policy statement includes the Supervision Manual (Financial Crime Report) Instrument 2016, which introduces changes to SUP as of 31 December 2016. Firms captured should complete the REP-CRIM within 60 business days of their accounting reference date. Reporting for structural reform The PRA consulted on <i>Ensuring operational continuity in resolution: reporting requirements – CP28/16</i> on 29 July 2016. The PRA proposes to collect data as part of the operational continuity rules set out in <i>PS 21/16</i>. The requirements apply to	UK banks, building societies and designated investment firms that provide functions that are critical to the economy and need to be continued in resolution. The PRA estimates 65 firms may be in the scope of the proposals but banks with modified insolvency as their preferred resolution strategy may qualify for a waiver or modification. The PRA requires the data to monitor the liquidity adequacy of any group member(s) that provide critical services that enable the provision of these critical functions by the relevant firm. The PRA expects the provider of the critical services to maintain liquidity resources at least equivalent to 50% of annual fixed overheads costs relating to the provision of those critical services. The data includes operating expenses, the type, location and amount of the liquid resources used by the group provider and information on how services are charged back to entities within the group. The PRA proposes that where more than one firm in a group is caught by the proposals the group can allocate one firm to submit the template(s) on behalf of the other group members. The PRA intends the requirements to apply from 1 January 2019 – the first annual submission being 45 business days after the period ending on 31 December 2019. The consultation closes on 28 October 2016.					

Retail products

Addressing PRIIPs KID concerns

The ESAs gave an update on implementation of the KID under the PRIIPs Regulation. In a *letter* published on 1 July 2016 (dated 30 June 2016) to Roberto Gualtieri, Chair of ECON, and Jereon Dijsselbloem, President of ECOFIN, the ESAs addressed the challenging timeframe for implementing the KID. Final RTS are not due to be published until Q3 2016, which financial associations have previously said leaves firms an 'unrealistic' three to four months to meet the 31 December 2016 deadline.

The ESAs say they have therefore focused on developing supporting level three material to aid implementation and consistent supervision of the KID. This material will mainly take the form of questions and answers. It relates mainly to the technical methodologies included in the draft PRIIPs RTS on risk, rewards and cost disclosure requirements. They plan to publish the questions and answers during the course of the summer, possibly before the end of the scrutiny period of the EP and Council of the draft RTS adopted by the EC. But the ESAs say the questions and answers would not pre-empt the results of the scrutiny period.

Intervening in PRIIPs

The EC adopted a *delegated regulation* on product intervention to supplement the PRIIPs Regulation on 14 July 2016. Articles

16 and 17 of the PRIIPs Regulation give NCAs and EIOPA the power to monitor financial products under their supervision. NCAs and EIOPA also have the power, subject to certain conditions, to prohibit or temporarily restrict the marketing, distribution or sale of insurance-based investment products, financial activities or practices. The delegated regulation sets out the criteria NCAs and EIOPA should take into account when intending to use their product intervention powers in the event of: significant investor protection concerns, or a threat to the orderly functioning and integrity of financial markets or EU financial stability.

Some of the factors to be taken into account include:

- the degree of complexity of an insurance-based investment product or type of financial activity or practice of an insurance or reinsurance undertaking
- the size of potential detrimental consequences of the marketing of the insurance-based investment product or type of financial activity or practice
- the type of investors involved in a financial activity or practice or to whom a product is marketed or sold
- whether the financial activity or practice poses a particularly high risk to the resilience or smooth operation of markets, their infrastructure or may threaten investors' confidence.

If neither the Council nor the EP objects, the delegated regulation will enter into force after publication in the Official Journal and apply from 31 December 2016.

UK arrival of KIDs

The FCA set the scene for the UK implementation of PRIIPs in *CP16/18: Changes to disclosure rules in the FCA Handbook to reflect the direct application of the PRIIPs Regulation* on 18 July 2016.

The FCA will change its investment product disclosure rules to take account of the introduction of the KID, to avoid duplication or conflict with requirements to produce a KID. This includes amending certain disclosure rules regarding the provision of additional information to supplement the KID and creating guidance on the use of colours to align with the approach under the regulation.

The FCA will maintain rules that go over and above the requirements of the PRIIPs Regulation where it is in the best interests of customers. Among these will be many of the rules in the FCA's Conduct of Business, Investment Fund and Collective Investment Schemes Sourcebooks. This is because the FCA sees them as relevant outside the scope of the PRIIPs Regulation as they remain relevant to UK UCITS schemes and EEA UCITS schemes or relate to disclosure obligations under the AIFMD.

The FCA also notes the interplay between the PRIIPs Regulation and MiFID II disclosure requirements. MiFID II allows

firms to rely on costs and charges information that the manufacturer or issuer of a financial issuer is obliged to publish under EU law. So firms should be able to rely on the content (but not the completeness) of the costs and charges information published in an approved prospectus, UCITS Key Investor Information (KII) Document or KID.

The PRIIPs Regulation applies from 31 December 2016. But UCITS will not have to comply with the requirement to produce a KID until 31 December 2019. NURSs that are offered to retail investors will have the option to either produce a KID or a document equivalent to the UCITS KII document from 31 December 2016 until 31 December 2019.

The consultation closes on **19 September 2016**. The FCA plans to publish its policy statement containing final rules in November 2016.

Opining on EU retail financial services

The EP's Internal Market and Consumer Protection Committee set out what it wants ECON to include in a motion for a resolution on EU retail financial services in an *Opinion* on 22 July 2016 (dated 19 July 2016).

The committee didn't stray far from the areas the EC highlighted in its December 2015 *Green Paper on retail financial services*. But it was particularly concerned about fragmentation in national third-party liability vehicle insurance, noting some EU

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citizens were paying rates hundreds of times higher than others for the same vehicles. It also requested action against unjustified discrimination based on residence, price and geo-blocking. And it called for the EC to submit measures to enable cross-border portability of pension rights and private health insurance. Supervision <i>Council plans ahead</i> The Council released <i>provisional agendas</i> for its second semester meetings on 1 July 2016 (the document is dated 28 June 2016). Legislative deliberations on enhancing cooperation for the FTT, plus non-legislative updates on CMU are pencilled in for the Economic and Financial Affairs Council (EFAC) on 8 November 2016. EFAC's agenda for 6 December 2016 is packed with possible financial services items, including legislative deliberations on the framework for resolving non-bank institutions, a proposed regulation on EDIS, and a proposed amendment to CRD IV. It remains to be seen how (if at all) the UK's vote to leave the EU might affect these plans. Changing faces at the PRA Former PRA Executive Director of Insurance Sam Woods took the PRA's helm on 1 July 2016, as noted in an update to the regulator's <i>website</i>. As well as PRA Chief Executive, he takes on the role of Deputy Governor of the BoE for Prudential Regulation. Other moves include David	Rule, who takes on Woods' former role, and Sarah Breeden, appointed as Executive Director, International Banks Supervision. Woods replaces Andrew Bailey, who's now the FCA's Chief Executive. Breeden replaces Megan Butler after her secondment to the FCA as Director of Supervision for Investment, Wholesale and Specialists was made permanent in May 2016. ECON backs new commissioner ECON backed EC Vice-President Valdis Dombrovskis to take over the financial stability, financial services and CMU portfolio. In a <i>press release</i> on 7 June 2016, ECON stated its satisfaction with Dombrovskis taking over the portfolio from UK Commissioner Lord Jonathan Hill, who announced his resignation on 26 June 2016. Lord Hill's parting remarks Commissioner Lord Jonathan Hill had a last exchange with the ECON on 12 July 2016, before stepping down on 15 July 2016. In a <i>speech</i>, he urged colleagues to keep up the momentum on the call for evidence he launched in 2015, and set out some next steps for this. Lord Hill noted that many respondents to the call for evidence had expressed concern about the impact of measures being considered by the Basel Committee, such as the leverage ratio and the NSFR. He said he would write to Mario Draghi in his role as Chair of the Basel Committee's governing body to ask for these issues to be looked at again. Lord Hill also identified the need to look at whether the	Basel measures should be adapted to better take account of the nature of trade finance loans. He added that the EC intends to work with the EBA and ESRB to get NSFR and leverage ratio calibrations right. Lord Hill acknowledged respondents' support for increasing the scope for banks to buy SME bonds, and announced the EC plans to extend the supporting factor to loans to SMEs above the current threshold of €1.5m. There will be no upper limit and a capital charge reduction of 15% above €1.5m. Lord Hill also spoke of the importance of proportionate regulation. Specifically, he said the EC needs to respond to criticism that the standardised approach to credit risk and the systemic risk buffer put small and regional banks at a disadvantage. He said the EC should look at whether it can exempt the smallest players, in the same way it is working to do so for credit unions. In the insurance sector, he said Solvency II should be applied in a more proportionate way for small and medium-sized firms. EC Vice President Valdis Dombrovskis will take over Lord Hill's financial services portfolio. Dombrovskis gives insight to FS approach EC Vice President and former Latvian Prime Minister Valdis Dombrovskis gave a <i>speech</i> to ECON on 6 July 2016. Dombrovskis set out his approach to the EU financial sector ahead of taking over Lord Jonathan Hill's financial services portfolio later in the	month. He said he hopes the UK can remain a 'close partner' of the EU, and emphasised that the UK's rights and obligations remain until the point at which it formally leaves the EU. He also reiterated the EU's stance that for the UK to retain access to the single market it must accept all four freedoms: goods, services, capital and labour. Dombrovskis noted that in his current role he has been responsible for coordinating part of the financial services portfolio, including the Banking Union. He said the EU financial sector requires a regulatory framework that: • gives firms a strong and credible prudential basis, to weather difficult times • allows financing of the real economy • is open to new economic, technological and societal developments, and encourages restructuring of the sector where necessary. Dombrovskis also touched on the importance of keeping up the pressure on the BRRD, the DGSD and completing the Banking Union. And he expressed his commitment to continuing Lord Hill's work to build a CMU, noting the EU intends to review progress on this in 2017 to see what follow-up actions are needed to existing proposals. Dombrovskis added he wants to look at the areas of green finance and FinTech more closely.					

The speech gives an initial insight into Dombrovskis' approach. While he created no waves by effectively supporting Lord Hill's priorities, in reality some commentators think he will have to further prioritise, given the scope of his responsibilities.

FCA reflects on 2015/16

The FCA published its third annual report, *Annual Report and Accounts 2015/16*, on 12 July 2016. The FCA gives examples of how it delivered against its 2015/16 business plan priorities, and details its regulatory approach over the 12 months ending 31 March 2016. The regulator says it was more 'proactive' in 2015/16 in communicating with the industry on prudential supervision, for example by hosting a prudential forum for the first time. It says these communications include conveying its ongoing expectation for firms to maintain credible crisis management arrangements and wind-down plans.

The FCA also discloses details of its enforcement action over the year, revealing it issued 34 financial penalties worth £884.6m in 2015/16. This is down from 43 penalties worth £1.4bn in 2014/15. The FCA team dedicated to taking action against firms that have not met basic regulatory standards saw a significant rise in consumer credit cases over the year. The number of cases relating to consumer credit firms increased from 16 referrals in 2014/15 to 218 in 2015/16. The FCA says the vast majority of these firms have been

authorised relatively recently, but despite support failed to meet basic regulatory requirements. In 2015/16 the FCA cancelled the permissions of 22 consumer credit firms.

The FCA also gives details of its financial performance, showing it made a surplus of £21.3m in 2015/16, compared with a loss of £69.8m in 2014/15. This is in part down to increased consumer credit fees and the PSR levying firms for the first time.

Co-ordinating financial supervision in the EEA

A *decision of the Council* on the position to be taken, on behalf of the EU, within the EEA Joint Committee concerning amendments to Annex IX (Financial Services) to the EEA Agreement was published in the Official Journal on 19 July 2016. The decision incorporates the regulations establishing the ESAs, and a number of EU acts relating to the financial sector, into the EEA agreement. These acts include AIFMD, the SSR, EMIR and the CRA Regulations. The purpose of incorporating these acts into the EEA agreement is to ensure strong and co-ordinated financial supervision throughout the EEA.

LEIs for international branches

The LEI Regulatory Oversight Committee (ROC) issued a *policy document* on 11 July 2016, setting out the conditions for issuing LEIs for international branches.

Reference data will be incorporated into the Global LEI System (GLEIS) for international branches that are registered in a publicly accessible business, regulatory or tax registry. The head office must already have an LEI, and the branch reference data must specify that the entity is a branch. The purpose of the separate LEI is to identify the branch where it has distinct reporting requirements from its host regulator.

ROC may require additional branch data in the GLEIS after assessing the post-implementation experience. The committee plans to notify stakeholders of the precise implementation date currently scheduled for early 2017.

Improving EU-US regulatory dialogue

The EC published a statement - *Improvements in EU-US Regulatory Cooperation* on 18 July 2016. This comprises a set of principles and guidelines that will serve as a framework for a new Joint EU-US Financial Regulatory Forum. It's to be a cooperative platform that will seek to better align cross-border regulatory activity.

The US and EU Governments hope the forum plays a key role in identifying and managing any regulatory divergences between the two. This will be facilitated by the forum's work being built around existing regulatory work streams and so enabling cross-border engagement early on in the rule making process. Understandably, improving the recognition of regulatory

equivalence will be a high priority as there have been a number of instances where equivalence determinations have been excessively delayed. Commentators have observed that such delays, often the result of political dynamics, threaten to disrupt the functioning of global markets. This was most powerfully felt in the case of prolonged CCP recognition, whereby derivatives trading could have become restricted within each jurisdiction absent effective equivalence. By prioritising cross-border dialogue, the forum will be a venue where such concerns can be dealt with more promptly.

EC and US Treasury personnel will lead the forum, but all relevant regulatory agencies will be encouraged to participate. Joint statements will be released after each forum meeting to provide appropriate transparency, and the forum will provide debriefings to relevant stakeholders. Further, the US Treasury Secretary and the Commissioner for Financial Stability, Financial Services and CMU have committed to meet once a year, to supplement the engagement at forum level.

Bailey's a man on a mission

The FCA needs to establish a 'clear mission' which balances its obligations to consumers and to firms, according to new Chief Executive Andrew Bailey. In a *speech* at the FCA's annual public meeting on 19 July 2016, Bailey said the question of how to balance the duty of care towards consumers, consumers' duty of responsibility for their

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decisions, the role of firms and the role of the regulator lies at the heart of the FCA's mission. He said the question is inherently difficult and has not yet been adequately answered. Bailey stated the UK continues to experience a 'crisis of financial conduct', which he argued has damaging consequences for the economy and society. Establishing the FCA's mission should be the basis of answering a number of questions about how the regulator operates, he continued. He said these include whether the FCA should prioritise some consumers over others and the need to explain and justify how the FCA decides which supervisory or enforcement tool to use. Bailey said the FCA plans to publish a proposal for consultation on its mission in early autumn 2016. He also revealed the FCA is in the early stages of considering the best way to implement the SM&CR across all firms. Bailey said the regulator is conscious of the need to implement a flexible and proportionate regime. Bailey discussed a number of the FCA's priorities, and described the impact of the ageing population on retirement income as the biggest single challenge ahead in the provision of UK financial services. Finally, he spoke of the FCA's thematic review of HCSTC firms, which looked at debt collection practices and the treatment of customers in financial difficulty. Bailey	said some firms were making improvements, for example through staff training or better monitoring of problems. He noted the FCA will now be looking for this practice to become general. Complaints Commissioner annual report The Office of the Complaints Commissioner (OCC) released its <u>annual report for 2015/16</u> on 20 July 2016. The OCC received 84 new complaints about the UK financial services regulators in 2015/16, up from 75 in the previous year. The majority of the complaints were about the FCA, which the Complaints Commissioner notes is to be expected given the nature of the work of the other two regulators – the PRA and the BoE. The OCC upheld the regulator's decision in the majority of complaints, with only 13% of cases resulting in the regulator's decision being partly or fully overturned. The report notes that complaints were submitted exclusively by consumers and small businesses. The FCA <u>responded to the Annual Report 2015-16 of the Office of the Complaints Commissioner</u> on 18 July 2016. It agreed with the Complaints Commissioner's recommendation to pay more attention to internal and external deadlines for handling complaints and has already taken steps to progress individual cases more efficiently. It says the team has service level standards against which it reports, covering initial response times to complainants and time to complete investigations.	PRA proposes rulebook changes On 22 July 2016, the PRA issued <u>CP26/16: Occasional Consultation Paper</u> amending parts of the PRA rulebook and supervisory statements. The PRA is proposing changes relating to: - central bank reserves and designation of a major stock index under the liquidity coverage requirement - the application of the ILAA rules with regard to domestic liquidity sub-groups - clarifications, corrections and consequential changes to PRA reporting rules and guidance notes - Lloyd's rules relating to actuarial opinions, reports and notifications - capital buffers and countercyclical leverage ratio buffer. The PRA is also consulting on an administration instrument to make minor corrections to the PRA rulebook provisions. This is designed to ensure that rules are correct, presented clearly and contain up-to-date references. The deadline for responses on topics covered in chapters two to six of the consultation (as described above) is 21 October 2016. Responses on the administration instrument were due by 5 August 2016.	Industry opinion on FCA The FCA Practitioner Panel revealed its <u>2016 survey</u> findings on 21 July 2016. Most firms were also reasonably satisfied with their regulatory relationship and saw the FCA as an effective regulator. But firms felt FCA staff and supervisors could improve their knowledge. They also called for more transparent and forward-looking regulations that emphasise the FCA's independence. The survey should be considered together with the panel's <u>Annual Report 2015/2016</u>, released on 20 July 2016. Themes identified include consumer responsibility and duty of care, the sustainability of regulation, customer vulnerability, the changing needs of an ageing population, risk pooling and big data. The panel singles out moves to develop a secondary annuity market as an area of concern as it feels very few consumers could benefit from such a market. The panel also wants the FCA to focus on advice in this sector. Supervising cross-selling practices In an attempt to improve consistent implementation of EU rules among Member States, ESMA published <u>guidelines on cross-selling practices (ESMA/2016/574)</u> on 11 July 2016 to support the effective supervision by NCAs of firms engaged in cross-selling practices. ESMA will also clarify to firms the expected standard of conduct and organisational arrangements					

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required to mitigate any associated investor detriment. The guidelines address: - providing clients with information on the price of both the package and its component products - giving a clear breakdown and aggregation of all relevant known costs - making information on price and costs on each of the components available in good time before the client is bound to the agreement, allowing for an informed decision - providing key information relating to the non-price features and risks of both the package as a whole and each of the components - ensuring that clients are properly informed whether it is possible to purchase the component products separately - allowing clients to split out the products grouped in a cross-selling offer without disproportionate penalties. The guidelines apply from 3 January 2018. NCAs must notify ESMA of whether they comply or intend to comply with the guidelines, stating any reasons for non-compliance, within two months of the publication of the translated versions of the guidelines. <i>FCA updates handbook</i> The FCA published <i>CP16/17: Quarterly Consultation No.13</i> on 4 July 2016. It seeks			views on a number of minor proposed changes to its handbook, as follows: - aligning the claims handling rules with the Insurance Act 2015 - minor changes to rules and guidance for firms conducting mortgages and home finance activity - a change to the definition of a prescribed market for the Disclosure and Transparency Rules following repeal of the Prescribed Markets and Qualifying Investments Order on 3 July 2016; and introducing a rule to implement the Non-Financial Reporting Directive requirement for issuers to disclose their diversity policy in the corporate governance statement - changes to the training and competence sourcebook list of appropriate qualifications - disapplication of CASS audit requirements to certain debt management firms - updating rules on distribution and promotion of credit union deferred shares and subordinated debt - introducing a new 'pooled investment vehicle' definition to clarify the scope of the non-mainstream pooled investment rules. - changes to the regulatory reporting requirements set out in SUP		changes to the transparency reporting requirements for certain alternative investment fund managers, to reduce information gaps and allow effective monitoring of their risk-taking. The comment period ended on 1 August 2016 for changes to the list of appropriate qualifications, and ends on 12 August 2016 for the changes to the rules and guidance for firms conducting mortgages and home finance activity. For all other proposals the comment period ends on 1 September 2016. <i>Handling decision to cancel culture review</i> The TC published correspondence between it and the FCA concerning <u><i>FCA on cancellation of its banking culture review</i></u> on 22 July 2016. This relates to follow-up questions arising from the appearance of Tracey McDermott, then Acting Chief Executive of the FCA, and John Griffiths-Jones, Chairman of the FCA, before the TC on 20 January 2016 to give evidence on the FCA's decision. Chair of the TC, Andrew Tyrie, says: 'The FCA's decision to drop its bank culture review could have been better handled. The regulator still has a lot of problems to put right; among them is its communication strategy.' <i>TC quizzes Bailey on FCA approach</i> FCA Chief Executive Andrew Bailey gave some insight into his approach to his new role, in a TC hearing held on 20 July 2016. <u><i>Oral evidence: Appointment of Andrew</i></u>			<i>Bailey as Chief Executive Officer of the FCA</i>, published on 25 July 2016, details Bailey's answers to questions on the impact of the EU referendum vote, how he will approach his role and his qualification for the job. Bailey said the FCA has work to do to make clear how its supervisory and enforcement tools, and competition powers, work together and how it chooses which to use. He said this is important for accountability and transparency. Bailey also highlighted questions about whether the FCA should protect all consumers equally. His personal starting point, he explained, is that the regulator should give more vulnerable consumers greater protections, because they are at a disadvantage. TC Chair Andrew Tyrie said the committee is 'overwhelmingly' supportive of this approach. Also on areas for improvement, Bailey spoke of the need to ensure the FCA is 'run effectively and tightly', avoiding a repeat of incidents in recent years that have 'damaged its reputation'. And he voiced his desire to bring down the FCA's staff turnover rate from its current level of 11.5%. Bailey intends to look at the FCA's role in creating adjudication processes, for example, as it has done for interest rate hedging products outside the FOS' scope. He said creating ad hoc adjudication processes has not been a success, but he does not yet have an alternative.

Bailey told the committee the FCA has set up a Brexit co-ordinating unit of around 12 staff. But he said it's too early to say how much of senior staff's time will be taken up by Brexit over the next few years. Bailey believes the FCA has a responsibility to prevent commercial property funds disposing of assets in a disorderly way post-Brexit vote, due to firms' responsibility to treat customers fairly. The FCA has already issued guidance on this; Bailey said the situation is stabilising and the regulator's focus is now on how firms remove suspensions.

PRA chief on post-Brexit regulation

The TC quizzed PRA Chief Executive and Deputy Governor for Prudential Regulation Sam Woods in an appointment hearing on 19 July 2016. It published details of the meeting in *Oral evidence: Appointment of Sam Woods as Deputy Governor for Prudential Regulation and Chief Executive of the PRA* on 25 July 2016.

TC Chair Andrew Tyrie asked Woods' view on the idea that post-Brexit, the UK could have a regulatory regime that is 'on the margin of equivalence', and the regulators become more competition than oversight regulators. But Woods said he would resist very strongly the concept of the UK regulators focusing on competition with only a secondary interest in safety and policy protection. He added that any trade off in the EU-UK negotiations between access to the single market and the PRA's ability to influence how it writes its rules

and supervises firms 'should be weighed very carefully'. Woods explained: 'Running a leading global financial centre and a massive banking system with a set of rules over which you have no influence is not something you would easily choose to do.'

Woods said he intends to take a fresh look at the issue of disclosure and the extent to which information collected by the PRA should be put into the public domain, which the TC has previously raised. He said it is important for firms to be responsible for their own disclosures, and noted he is 'not convinced that disclosure via the regulator is always a good idea'.

In addition, Woods accepted there is an issue around challenger banks not having access to the IRB credit risk weightings that larger banks do, a problem they have recently raised. To address this, he plans to work with the Basel Committee to achieve a more risk-sensitive standardised approach. Tyrie described the issue as a 'serious problem' and urged Woods to ensure it is high on his agenda.

Separate enforcement body 'needs another look'

The TC called for a re-examination of the case for separating out the FCA's enforcement function into a separate body, in its *Review of the reports into the failure of HBOS* and accompanying *press release* on 26 July 2016. The review draws together the findings of the FCA and PRA's review into HBOS' failure, Andrew Green QC's

review of the enforcement decisions taken by the regulator, the independent review of these two reports by the TC's advisers and oral evidence taken from the publishers of all three reports.

The TC's conclusions include:

- the regulators must inform Parliament if in future they feel under pressure to promote 'light touch' regulation
- the FRC's decision not to investigate the auditing of HBOS in 2013 was a 'serious mistake'
- the TC agrees with Green and the independent reviewers that the HBOS reports should have named some employees below director level – it argues the policy on naming individuals should be flexible
- it is not satisfactory that the bulk of enforcement staff and expertise lies within the FCA, rather than shared between it and the PRA – given the collapse of HBOS was the result of prudential failings.

The case for moving the FCA's enforcement function into a separate body was proposed by the Parliamentary Commission on Banking Standards in 2013 and later rejected by HMT. But the TC says the case has been strengthened by the findings of Green's report. The TC says a separate body would improve the perception of the enforcement function's independence, and give the regulators greater clarity over their

objectives. It says the case for separation merits 'serious re-examination' and HMT should appoint an independent person to carry out a review.

TC Chair Andrew Tyrie says: 'The plain fact is that the FSA did not succeed in protecting consumers from spectacular regulatory failures. The creation of the FCA and the PRA has been an opportunity to build something much better. This is still work in progress, particularly at the FCA.'

Tyrie seeks FCA costs clarity

The TC has sought a further commitment from the FCA not to increase its costs without a clear and adequate explanation to Parliament. In a *letter sent to the Chairman of the FCA* John Griffiths-Jones on 28 July 2016, Andrew Tyrie, Chair of the TC, stated that the FCA's accounts lack clarity and more transparency is required. Specifically, Tyrie requests an explanation as to why the FCA's board set aside the Parliamentary Commission on Banking Standards' recommendation that the FCA should become a smaller, more focused organisation. Tyrie also asks for an assurance from the FCA that its accounts will in future clarify which of its costs relate to pre-existing and which to new activities.

Wholesale markets

Wider FX redress

The FCA published *FX remediation programme: our next steps* on 28 July 2016. The FCA's FX remediation work is complete for its original sample of 30 firms

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and it now expects firms outside of this sample to complete FX remediation activity. The FCA suggests firms should consider: - proactively extending best execution principles to areas of FX - applying lessons from FX remediation to different business areas - introducing clear pricing frameworks for sales staff - separating fixing activity away from wider FX business. Firms should prepare for future global FX developments. In particular, the FCA advises firms to prepare for the FX Global Code of Conduct set to be published in May 2017. <i>FCA shines light on dark trading</i> The FCA published results from its thematic review of UK dark pools on 21 July 2016. It outlined its work in <i>TR16/5: UK equity market dark pools – Role, promotion and oversight in wholesale markets</i>. Dark pools are trading platforms which make use of pre-trade transparency waivers to allow users to trade anonymously. The FCA undertook its review of dark pools in response to allegations of poor conduct in US markets. The FCA advises sell-side firms to focus on: - disclosures to clients around platform design and function		- monitoring of trader activity on the platforms - conflict identification and management - due diligence undertaken on dark pool users - compliance staff's understanding of e-trading. The FCA also reminds buy-side firms of their duty to ensure good outcomes for end clients. It repeats a number of messages from its work on best execution and asks buy-side firms to examine the rationale for using dark pools. In a wider plea to the industry, the FCA reminds firms of the importance of preparing for MiFID II. It prompts firms to continue with preparations, irrespective of the EU referendum vote, and focus on ensuring they are MiFID II compliant by 3 January 2018. <i>Draft binary options standards</i> The FICC Markets Standards Board (FMSB) published draft <i>Binary Options standard for the Commodities markets</i> on 22 July 2016. This is the FMSB's second standard as part of its work to implement FICC market changes proposed in the Fair and Effective Markets Review. The FMSB outlines 11 principles for participants in commodity binary options markets: - adopt policies and procedures ensuring fair and transparent outcomes for clients	- parties to contracts must not trade to purposefully defend or trigger payments - dealers must act in good faith when assessing whether triggers have been met - disclosures around dealer hedging activity should be comprehensive - market participants should not enter transactions if they will disrupt markets - conflicts of interest must be clearly articulated to clients - benchmark contributors must not use submissions to impact trigger prices - terms of contracts must be clearly articulated to clients - information on client activity should be well protected - data on client transactions must be recorded and stored - dealers must ensure staff have been appropriately trained on FMSB standards. The FMSB invites interested parties to comment on its draft standards. The consultation closes on 14 October 2016. <i>Markets get more fair and effective</i> The <i>FEMR implementation report</i>, published by the BoE on 27 July 2016, found significant progress had been made in advancing FEMR's 21 recommendations. But it also notes a continuing lack of trust in	financial markets and institutions. FEMR co-chairs (Charles Roxburgh, HMT, Minouche Shafik, BoE, and Andrew Bailey, FCA) felt market participants need to do more to create individual and collective cultures with integrity, professionalism and high ethical standards at their core. They also expect firms to not limit themselves to behaving within the letter of regulation or law alone. The FEMR chairs add that they expect to stay closely engaged with global standard setters like the FSB, IOSCO and the BIS to drive initiatives to improve fairness and effectiveness in FICC markets. They plan to keep an eye out for failures to coordinate effectively among private sector firms, which they suspect is holding back market-led initiatives.				

Banking and capital markets

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Regulation

Brexit

Looking at Brexit's impact on banks

Andreas Dombret, Executive Board Member of German central bank Deutsche Bundesbank, delivered a speech *What does Brexit mean for European banks?* on 13 July 2016. He discussed the possibility that clearing business and other euro activities would need to move outside of London after the UK leaves the EU. Dombret urged firms to prepare for a scenario in which euro-denominated trading and clearing is 'unlikely to have a future outside the EU'.

He encouraged firms to start considering the potential impact of the UK gaining third country status (becoming a non-EEA and non-EU member) on their business model, especially in the context of passporting. He also underlined that volatility caused by the vote should not be an excuse to delay regulatory reform.

Dombret touched on the proposed merger of Deutsche Borse and the London Stock Exchange, which he said should be re-evaluated in light of the referendum vote. He argued the referendum outcome strengthens the economic rationale for the merger, as it might act as a bridge between the UK and EU economies.

Finally, Dombret urged politicians to conclude negotiations swiftly, emphasising that uncertainty will be costly for the banking industry.

Capital and liquidity
Asset encumbrance remains critical for supervisors

The EBA published its second annual report analysing asset encumbrance across a sample of almost 200 EU banks. The *EBA report on asset encumbrance*, published on 4 July 2016, covers the period from December 2014 to December 2015. It aims to inform EU supervisors on monitoring changes in funding sources and assessing firms' ability to withstand funding stress.

The EBA says there is no indication of a significant increase in the level of asset encumbrance compared to the previous year's report. The analysis shows that in December 2015, the overall risk-weighted average encumbrance ratio was 25.6%, compared to 25.2% in December 2014. But the report shows a wide spread across firms and countries, which is consistent with the previous report.

The EBA found bank loan advances due to covered bond issuance have caused a rise in asset encumbrance levels. The main sources of asset encumbrance (balance sheet liabilities for which banks posted collateral) continue to be repos, covered bonds and

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central bank funding. The data reported by banks for 2014 shows that covered bonds and central bank funding have replaced the dominance of OTC derivatives during the year. The EBA intends to continue monitoring levels of asset encumbrance. In addition, it plans to continue monitoring the availability and use of collateral for central bank funding. This will assist EU banking supervisors in assessing how banks can switch from unsecured to secured funding under stressed conditions. <i>Tinkering with Pillar 2 for ring-fencing</i> The PRA updated its statement of policy, <i>The PRA's methodologies for setting Pillar 2 capital</i> on 7 July 2016 – with corresponding changes to its reporting instructions for <i>FS4078 Pillar 2 Concentration risk minimum data requirements</i> and to the <i>Pillar 2 Reporting schedule</i>. This follows the publication of <i>PS 20/16 The implementation of ring-fencing: prudential requirements, intragroup arrangements and use of financial market infrastructures</i> and <i>SS 8/16 Ring-fenced bodies (RFBs)</i>. The changes reflect the fact that for a RFB sub-consolidation group, exposures to group entities outside the RFB sub-consolidation group are treated as third party exposures for credit concentration risk purposes. These updates will take effect from 1 January 2019.	<i>Assessing institutional protection schemes</i> The ECB took steps to ensure the coherence, effectiveness and transparency of its policy in assessing institutional protection schemes (IPs) in a <i>Guide on the approach for the recognition of IPs for prudential purposes</i> on 12 July 2016. IPs are contractual or statutory liability arrangements between a group of banks which protect the member banks, ensuring their liquidity and solvency. CRR recognises IPs so that member banks benefit from some relaxed prudential requirements, including a 0% risk weight for exposures to counterparties that are members of the same IPS (excluding CET1, Additional Tier 1 and Tier 2 items). The recognition given to an IPS operates in a way that's comparable to how entities in a consolidated banking group are treated. The ECB specifies how its joint supervisory teams will assess IPs' compliance with the conditions in CRR. But decisions are made on a case-by-case basis. The ECB also stresses that its specification doesn't establish new regulatory requirements and shouldn't be construed as legally binding rules. On the same day, the ECB released a <i>feedback statement</i> following its February 2016 consultation on recognising IPs. Here, the ECB clarified that it had redrafted its specifications to avoid the impression it will apply the same requirements to IPs and member banks as applied to	consolidated banking groups applying for a waiver under Article 7(1) of CRR. Currently, the only IPs recognised under CRR in the SSM are based in Austria, Germany and Spain. <i>Recognising simple, transparent and comparable securitisations</i> The Basel Committee updated <i>Revisions to the securitisation framework</i> on 11 July 2016, incorporating the regulatory capital treatment for 'simple, transparent and comparable' (STC) securitisations. This builds on the joint Basel Committee-IOSCO <i>Criteria for identifying STC transactions</i> published in July 2015 and amends the December 2014 standard <i>Revisions to the securitisation framework</i>. Compliance with the expanded set of STC criteria should provide additional confidence in the performance of the transactions, so the Basel Committee recommends a modest reduction in minimum capital requirements for STC transactions. The update sets out additional criteria for differentiating the preferential capital treatment of STC transactions from that of other securitisations. The additional criteria, for example, exclude transactions in which the standardised risk weights for the underlying assets exceed certain levels. The EC is progressing its <i>securitisation initiative</i> with a similar focus, publishing its proposals in September 2015 adopting the similar term 'simple, transparent and standardised transactions'. The Basel	Committee is currently reviewing similar issues related to short-term securitisations. It expects to consult on proposals for this at the end of 2016. This securitisation framework comes into effect in January 2018. <i>Finalising IRB compliance assessment</i> The EBA published its final draft RTS <i>On the specification of the assessment methodology for competent authorities regarding compliance of an institution with the requirements to use the IRB approach in accordance with Articles 144(2), 173(3) and 180(3)(b) of CRR</i> on 21 July 2016. Supervisory authorities need to assess a firm's compliance with the requirements for using the IRB approach for calculating capital requirements for credit risk. These RTS set out the standards for competent authorities to carry out this assessment. The RTS cover the assessment of a firm's application to use the IRB approach, the integrity of the exposure rating assignment process, the regular and independent assessment of risks and the process for estimating the probability of default. The EBA also clarifies that the independence of the validation function from the credit risk control unit should be based on proportionality. When calculating own loss given default estimates, firms should use default-weighted averages. Firms should undertake the calculation of the difference between expected loss	Supervisory authorities need to assess a firm's compliance with the requirements for using the IRB approach for calculating capital requirements for credit risk. These RTS set out the standards for competent authorities to carry out this assessment. The RTS cover the assessment of a firm's application to use the IRB approach, the integrity of the exposure rating assignment process, the regular and independent assessment of risks and the process for estimating the probability of default. The EBA also clarifies that the independence of the validation function from the credit risk control unit should be based on proportionality. When calculating own loss given default estimates, firms should use default-weighted averages. Firms should undertake the calculation of the difference between expected loss				

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amounts and credit risk adjustments separately for defaulted and non-defaulted portfolios. <i>Changing residential mortgage risk weights</i> The PRA consulted on <i>Residential mortgage risk weights (CP29/16)</i> on 29 July 2016. The PRA is revising its expectations about firms' probability of default (PD) and loss given default (LGD) models, as set out in supervisory statement <i>SS11/13</i> – IRB approaches. This is because of the high level of variability identified in the risk weights of residential mortgage portfolios of firms using the IRB approach for calculating credit risk capital requirements. The PRA proposes that firms adopt a PD modelling approach that avoids the deficiencies in risk capture the PRA identified in the point-in-time (PiT) and the through-the-cycle (TtC) models that firms currently use. Instead firms should calibrate their model using a consistent and appropriate assumption for the level of model cyclicity. The PRA expects the PD models under this revision to fall within a spectrum between the PiT and TtC approaches. Assumptions around falling house prices within the LGD calculations are one of the key sources of risk weight variability. The PRA does not consider the widely varying assumptions justified on the basis of historical experience. Under these proposals	the PRA expects firms to apply a house fall assumption of at least 25%. The PRA notes that deficiencies in risk capture may exist in other asset classes for which firms use models. When firms develop and review these models they should 'consider carefully' whether similar shortcomings exist. The PRA proposes to allow firms until 31 May 2018 to submit for approval models adjusted in line with these requirements. It intends for the changes to take effect by 31 March 2019. The consultation closes on 31 October 2016 . <i>Setting the systemic risk buffer</i> The PRA consulted on <i>its implementation of the systemic risk buffer (CP 27/16)</i> on 29 July 2016. This follows <i>The FPC's framework for the systemic risk buffer</i> published in May 2016. In the UK this buffer will apply to RFBs and building societies that hold more than £25bn in deposits. The PRA intends to deviate from the rates set out in the FPC's framework only in exceptional cases, such as where the outcome of the methodology by a firm is not in adherence with the spirit of the FPC's framework (for example a firm deliberately 'gaming' the framework so that its systemic score underestimates its true importance). The buffer will apply on a consolidated basis for building societies subject to consolidated supervision and on an individual basis for all others. The PRA addressed the	applicable level of consolidation of RFBs in <i>The implementation of ring fencing: prudential requirements, intragroup arrangements and the use of financial market infrastructures (PS 20/16)</i> . The PRA expected to announce the initial buffer rates in early 2019, with firms applying the rates after three months. The PRA expects to review the rates annually, usually aligned with the setting of the G-SIB buffer, by 15 December each year. The new rates will apply from 1 January of the second calendar year following the announcement. The consultation closes on 28 October 2016. Conduct <i>Promoting correspondent banking</i> In a <i>report</i> commissioned by BIS, the Committee on Payments and Market Infrastructures (CPMI) examines the trends that are leading banks to reduce their relationships with correspondent banks. The report, published on 13 July 2016, was prompted by concerns that the reduced number of relationships could lead to some banks being cut off from international payment networks - resulting in a threat to cross-border transactions. In the report, CPMI says banks have traditionally maintained broad networks of correspondent banking relationships. But rising costs and uncertainty around the extent of customer due diligence required have led to cut backs. On the other side, correspondent banks have developed	increased sensitivity to the risks associated with the services provided. They have similarly instigated cut backs in relationships with respondent banks where: the volumes generated from the relationship are insufficient to cover compliance costs, the bank is located in jurisdictions perceived as too risky, insufficient information about the customer receiving the payment transaction is available, or the customer is perceived as too risky for AML. In response to the concerns identified, CPMI lists five recommendations: • standardised information to assist with KYC assessments • guidance from the FATF and the AML Expert Group on due diligence recommendations for banks in the payment chain to help banks know their customers' customers • use of LEIs as a means of identification to assist further with due diligence requirements • agreement between banks on information to be included in payment messages • inclusion of the LEI in payment messages for added security. The CPMI plans to work with relevant stakeholders to progress implementation of the recommendations.					

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Replacing the Lending Code with standards

The Lending Standards Board released its new Standards of Lending Practice on 20 July 2016. They replace the Lending Code from 1 October 2016. The standards set out good practice in respect of credit cards, overdrafts and unsecured loans provided to personal customers (not including micro-enterprises) across the product's lifecycle. The new standards are less prescriptive than the lending code. They set out a customer outcome and overall statement of how firms can achieve this in relation to seven topics:

- financial promotions and communications
- product sale
- accountant maintenance and services
- money management
- financial difficulty
- customer vulnerability.

In an accompanying *press release*, the Lending Standards Board explains it is working on Standards of Lending Practice for business lending with an expected launch in early 2017. These standards would be extended to businesses with an annual turnover of up to £6.5m. The current Lending Code, which applies to micro-enterprises with turnover of up to £2m, will remain in place in the interim.

Clarifying approach to mortgage complaints

The FOS published technical notes on *mortgage shortfalls* and *mortgage arrears and charges* on 19 July 2016. The notes give additional insight into how the FOS approaches complaints relating to these issues. For example, the FOS says in complaints about mortgage shortfalls (where a lender repossesses a property and sells it for less than the money owed under the mortgage, asking the borrower to pay the difference), some consumers believe their house was sold for too little. In these cases, the FOS will look into how the house was valued and marketed, and whether the lender got a fair price in the circumstances. Other consumers complain their lender harassed them to try to recover a shortfall, in which case the FOS will consider how often and in what way the firm contacted the customer.

On arrears, the FOS says if a customer tells their mortgage company they are struggling, the firm has a responsibility to respond sympathetically and constructively. The FOS will check it has taken the customer's individual circumstances into account rather than taking a 'one size fits all' approach.

The technical notes add to the FOS's online resources that aim to give firms more detailed information on its approach to complaints.

Using compensation to mitigate misconduct risk

The FSB released a summary of its *Round Table on Compensation Tools to Address Misconduct in Banks* on 25 July 2016. The purpose of the event was to consider the processes for governing and applying compensation (i.e. remuneration) and related risk management tools to help better identify, mitigate and redress misconduct risk. Some of the points discussed at the event were:

- compensation tools are just one part of the toolkit used in reducing the risks of misconduct and are less relevant in markets that don't have high levels of compensation
- firms recognise there is a direct link between compensation and conduct, and increasingly look to manage conduct through compensation tools
- participants emphasised the importance of 'tone from the top' and that a holistic approach to culture, conduct and reward systems must be developed, which takes time
- supervisory authorities have an important role to play in identifying better practices and conveying them to the industry so that firms know whether they are on the right track.

The participants at the round table included senior executives responsible for risk and remuneration functions at 22 large

internationally active banks. The FSB welcomes feedback on the topics outlined in its summary by **21 August 2016**.

Competition

Coming clean over overdraft charges

The TC wants to know more about overdraft charges for personal banking accounts as part of its work observing the CMA's retail banking market investigation. On 7 July 2016, the Government *announced* that TC Chair, Andrew Tyrie, had written to the chief executives of 13 banks requesting information on paid and unpaid charges applied in respect of authorised and unauthorised overdrafts, for each type of personal banking account they offer.

The TC's request follows research published by consumer organisation Which? that claimed overdraft charges could be more expensive than payday loans (aka HCSTC) for customers. Which? called for a cap on overdraft charges in its response to the CMA's provisional remedies for the retail banking market investigation in April 2016. The FCA applied a cap to charges for HCSTC in January 2015.

Challengers challenge CMA

The Chief Executive Officers (CEOs) of seven challenger banks *wrote* to the Chair of the TC, Andrew Tyrie, on 30 June 2016 (the letter was published on 20 July 2016) to outline their views on barriers to competition in the retail banking market. The CEOs explain that capital rules,

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differences in funding and tax rules are impediments to competition. In a stark reality check, they set out how small banks are at a 960% disadvantage from differing capital treatment for owner occupied mortgages with a loan-to-value ratio of less than 50% (where small banks apply a 35% risk weight against the big banks' 3.3% average weight). One of the solutions proposed here for the CMA to consider as part of its retail banking market investigation involves opening up access to data on bank lending (currently held by the big banks) so that smaller banks can build their own internal models. On funding, the challengers say that big banks' domination of the current account and inert deposit market provides very cheap funding that can lead to aggressively priced introductory rates for mortgages. They want to see the CMA direct HMT and the BoE to amend the Funding for Lending Scheme so it provides cash to established small banks. With taxation the CEOs cry foul at the implicit sovereign guarantees too big to fail banks have which, together with the bank corporation surcharge, creates an unequal playing field. Here, the CEOs ask that the CMA highlights the imbalance and competition implications of the taxation system as well as recommend a substantial increase to the level at which the surcharge is payable (currently £25m). In <i>response</i>, Tyrie comments that a UK exit from the EU creates opportunities to re-jig rules for smaller banks by breaking free	from the 'one size fits all' approach to banking regulation. He notes it is for the BoE and Government to consider the opportunity provided by Brexit to create a regulatory regime that's less prejudicial to small and challenger banks. The CMA's final report in the retail banking market investigation is due by 12 August 2016. More evidence for CMA The CMA is after more information for its retail banking market investigation. In <i>Notice of intention to conduct qualitative research</i> on 21 July 2016, the CMA asks interested bidders to submit proposals for carrying out qualitative research to support two remedies proposed so far in the investigation: the service quality measures remedy and the maximum monthly charge (MMC) for unarranged overdrafts remedy. The main objective of the research is to inform communications around the two possible remedies, focusing on core service quality indicators and MMC terms and descriptions for customers. The CMA requested responses by 1 August 2016. Disclosure EBA outlines 2016 transparency exercise The <i>EBA announced details of its 2016 transparency exercise</i> on 6 July 2016. It concerns the annual public disclosure of balance sheet related data covering over 100	EU banks. The disclosure will include data on regulatory capital, RWAs, market and credit risk, securitisations, sovereign exposures, non-performing exposures and forbore exposures. In contrast to prior years, the EBA will not require banks to provide additional data beyond what they already submit. This means that disclosure on sovereign exposures will be simplified and it won't include any leverage ratio data. This year the EBA intends to run this separately from the EU-wide stress test to ensure appropriate coverage across all countries in the EU. The EBA intends to align, to the extent possible, the sample of banks in this exercise with the banks included in its semi-annual Risk Assessment Report. The process will start in September 2016 and the EBA expects to publish the disclosure in December 2016 alongside its Risk Assessment Report. Financial stability EBA dashboard indicates heightened risk The EBA published its <i>Risk dashboard data as of Q1 2016</i> on 7 July 2016, which summarises the main risks and vulnerabilities in the banking sector based on a set of risk indicators across the EU. The EBA notes that increased market volatility, following the results of the UK's vote to leave the EU, indicates a significantly heightened risk outlook for EU banks. The dashboard shows that capital levels remain	stable while the ratio of non-performing loans remains too high, although this has decreased ten basis points since 2015 year end. The EBA comments that, looking forward, banks and market analysts have assumed a deterioration in asset quality mainly for asset finance. It states that more than half of the banks plan to increase their volumes of corporate and SME financing portfolios as well as residential mortgage and consumer loans. It comments that profitability remains squeezed. The EBA also notes that the large majority of banks continue to rely on retail deposits funding, and nearly half of them intend to increase their senior unsecured funding. SRB reports on progress The SRB published its <i>2015 Annual Report</i> on 13 July 2016. The report sets out the main operational areas of focus and achievements of the SRB in 2015. As an independent EU agency the SRB has been operational since January 2015. It works closely with the national resolution authorities, the EC, the ECB, the EP and NCAs. In 2015 the SRB focused on setting up the single resolution fund and building its capacity. It worked with the national resolution authorities to set up resolution planning, crisis management, cooperation and contributions committees. The first three committees helped the SRB to prepare the draft resolution planning manual, the draft crisis management manual and the					

draft cooperation framework. The SRB also successfully prepared the transitional resolution plan.

EU non-performing exposures remain high

The EBA published its *report on the dynamics and drivers of non-performing exposures in the EU banking sector* on 22 July 2016. The EBA indicates that the overall level of non-performing exposures remains high by historical standards – albeit uneven across countries. This conclusion is based on a sample of 166 EU banks covering the period September 2014 to March 2016.

Across the EU the weighted average non-performing loans ratio was 5.7% in March 2016. This is up to three times higher than in other global jurisdictions. The highest ratios were primarily for banks from countries that experienced significant economic adjustments.

The EBA highlights the importance of strengthening the judicial system to improve the insolvency timeline. It also identifies that action should be considered to improve the secondary market to facilitate the disposal of non-performing loans. And the EBA indicates that enhancing the transparency of real estate values could facilitate collateral valuation and lower the discounts in secondary market transactions.

Operational resilience

Attack! Testing cyber resilience for payments

The ECB reported on its November 2015 simulated cyber attack on major systemically important payment systems (SIPS) on 29 July 2016. In *TITUS – Crisis communication exercise for euro area FMIs* report the ECB stressed the exercise was to enhance the financial sector's ability to respond by rehearsing procedures, rather than reaching a 'pass' or 'fail' outcome for any participant. The test looked to:

- help the Eurosystem evaluate how prepared it is to carry on its operational and oversight responsibilities effectively during crisis events
- give assurance to and feedback on stakeholders' crisis management procedures, like information flows, decision making and external communications
- confirm stakeholders' and national crisis management procedures are compatible when dealing with a crisis' cross-border effects.

The results show the Eurosystem could better define its role as an overseer during a crisis. They also reveal weaknesses in the SIPS' contingency arrangements, showing a need for more clarity over the activation criteria. For stakeholders, attention landed on crisis communication frameworks. The ECB suggests these need to be aligned so

appropriate information is cascaded to national central banks and the ECB in an efficient, timely, consistent and well-coordinated way.

The test was unprecedented in scale. It saw input from more than 300 staff members and technical experts from a range of institutions, including the 24 central banks connected to TARGET 2, SIPS, 29 banks acting as FMIs, the US Federal Reserve, the New York Fed and the New York-based Continuous Linked Settlement System.

Participants called for regular, repeat performances with more complexity and regulator or other public authority involvement.

Payments

Authorities confirm payments MoU

The BoE, PRA, FCA and PSR reviewed the *MoU* that sets out the high-level framework the authorities use to cooperate with one another in relation to payment systems in the UK. Publishing the MoU on 7 July 2016, the BoE's Deputy Governor for Financial Stability, the PRA's Deputy Governor for Prudential Regulation, the FCA board and the PSR board confirm that following a review (which considered the views of industry and staff), cooperation and coordination under the MoU are working well.

The authorities signed the first MoU in March 2015. Under the Financial Services (Banking Reform) Act 2013 the organisations are required to undertake an

annual review of the MoU and publish a summary of findings.

Payments forum consults on innovation

The Payment Systems Forum (PSF) released its draft strategy *Being responsive to user needs* on the future of payment systems in the UK on 13 July 2016. The draft strategy sets out 81 detriments to the development of payments in the UK and proposes a number of solutions. Among the solutions are proposals for:

- New architecture for retail payments to replace or run in conjunction with Bankers' Automated Clearing Services (BACS), Faster Payments Services (FPS) and Cheque and Credit. The proposed solution is based on layered technology splitting clearing and settlement processes. It has transfer of value at its core and is overlaid by the Application Programming Interfaces (APIs) - this potentially will allow hundreds of organisations to connect directly to the architecture. The PSF proposes a migration period of several years.
- Common standards and a central repository with pooled data, analytical and intelligence sharing capabilities to combat financial crime. The PSF calls for financial crime to be treated as a 'social not a competitive issue'.
- The consolidation of FPS, BACS and Cheque and Credit and standardisation between schemes and aggregator

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solutions to help challengers gain access to payment schemes more easily. - Enhanced data capability and assurance of data through the adoption of internationally recognised messaging standards ISO20022. The PSF also proposes the development of common governance for the APIs and the ability to send more data with payments. The PSF is seeking comments on the proposals by 14 September 2016. <i>Intervening in payment systems' indirect access</i> The PSR asked for input on how it proposes to exercise its powers to require a payment system operator or an indirect access provider to grant access or vary the terms of access to a regulated payment system. In <i>Draft guidance on our approach to handling applications under sections 56 and 57 FSBRA</i> on 21 July 2016 the PSR sets out a substantive test for assessing if access is impeded. It involves evaluating whether the terms, conditions, fees and charges applied to access: - are proportionate, objective and non-discriminatory - do not inhibit access more than necessary to safeguard against specific risks, like settlement risk, or the operational stability of the payment system. The consultation closes to comments on 16 September 2016.								
<i>Effective indirect access to payment systems</i> The PSR broadly concluded that there are good outcomes in the supply of indirect access in its final report <i>Market review into the supply of indirect access to payment systems (MR15/1.3)</i> on 21 July 2016. It found the market sees investment and innovation in new service offerings and large indirect payment service providers (IPSPs) have a number of options in accessing payment systems. But the PSR also found some problems. Smaller IPSPs seem to have limited or no choice in accessing payment systems, all IPSPs report quality issues (including technical access) in respect of the faster payments scheme, and there are barriers to switching indirect access providers (IAPs). The PSR points the finger at financial crime regulation (which appears to warn off IAPs from some IPSPs), a low rate of IAP entry and expansions, and increased demand for real-time payments as the root cause of issues. But it declines to take much action beyond monitoring the impact of external developments over the next 12 months. The PSR notes a number of developments have already taken form since its interim report was published which mute the significance of its concerns. These include the publication of the IAP Code of Conduct, reviews of financial crime regulation, improved IAP offerings for access to the faster payments schemes, the BoE extending settlement account access to non-								
bank PSPs and the FCA's research into the drivers and impacts of de-risking. But the PSR did launch one follow-up piece of work: a consultation exploring how to exercise its powers to require a PSP operator or IAP operator to grant or vary the terms of access to a payment system in <i>Draft guidance on our approach to handling applications under sections 56 and 57 FSBRA</i>, which closes to comments on 16 September 2016. <i>Revamping payments infrastructure</i> The PSR has concluded there is no effective competition for the provision of UK payments market infrastructure for the three main interbank payment systems: Bacs, the Faster Payments Scheme (FPS), and LINK. In its <i>Final report – Market review into the ownership and competitiveness of infrastructure provision (MR15/2.3)</i> on 28 July 2016 the PSR blames the lack of competition on shared ownership and control between operators and infrastructure providers, together with barriers to entry preventing or deterring competing providers from entering the market. Payments infrastructure comprises the hardware, software, secure telecommunications network and operating environments supporting payments clearing and settlement. The PSR proposes a package of remedies including: encouraging (or mandating) competitive procurement exercises for central								
infrastructure services to encourage innovation and more efficient service offerings for service users - enhancing system interoperability to bring down the barrier caused by the absence of common international messaging standards in the UK and help increase the choice of provider - directing the four largest shareholders in Vocalink to divest their interests to address the PSPs' lack of incentive to consider alternative service providers. The PSR's paper closes to comments on 26 September 2016. <i>Interchange fee regulation gets real</i> The EBA published its final draft <i>RTS On separation of payment card schemes and processing entities under Article 7(6) of Regulation (EU) 2015/751</i> on 27 July 2016. The EBA wants to promote greater competition among processing service providers to create a single market for card payments across the EU. The RTS set out requirements on using shared service centres and shared information management systems, as well as a requirement to have a code of conduct and to separate annual operating plans. Card schemes and processing entities need to: - have accounting processes in place to produce annual information related to separate profit and loss accounts which								

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are reviewed by an independent and certified auditor

- have separate workspaces
- ensure their senior management, management bodies and staff are independent.

This final draft departs from the *RTS consulted upon* in December 2015 in three main areas: accounting independence, organisational independence and decision-making independence.

Recovery and resolution

Finalising a bumper RRP RTS

Regulation (EU) 2016/1075 supplementing the BRRD with regard to RTS specifying the content of recovery plans, resolution plans and group recovery plans, the minimum criteria the competent authority is to assess for recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements appeared in the Official Journal on 8 July 2016.

The EC decided to combine eight final draft RTS issued by the EBA under the BRRD because it considered the RTS were closely linked and firms, authorities and market participants would all benefit from the consolidation into a single regulation. The regulation came into force on 28 July 2016.

Specifying information for resolution plans

Regulation (EU) 2016/1066 laying down ITS with regard to procedures, standard forms and templates for the provision of information for the purpose of resolution plans for credit institutions and investment firms pursuant to the BRRD appeared in the Official Journal on 6 July 2016.

Firms subject to the BRRD must provide information to resolution authorities to enable them to draw up and implement resolution plans at an individual and group parent level. The ITS set out procedures and templates to ensure that EU resolution authorities collect information in a consistent manner and can easily exchange this information with other authorities.

Resolution authorities must first confirm with the authority in charge of prudential supervision of a firm what information is already held to avoid duplicated information requests. If there is no relevant information or it is not held in a satisfactory format, then resolution authorities can request information direct from firms.

Resolution authorities should use the templates set out in the annexes to the regulation to request minimum sets of information from firms. But if resolution authorities need other information, they can provide their own request and must specify if this is to be completed on an individual or group level and whether the scope is local,

EU wide or global. The ITS came into force on 26 July 2016.

Planning for a recovery?

The EBA undertook its third thematic analysis of BRRD recovery plans issuing its *Comparative report on governance arrangements and recovery indicators* on 5 July 2016. Its aim is to support supervisory authorities in identifying the crucial elements for designing credible governance arrangements and effective indicator frameworks.

The EBA compares the recovery plans submitted during 2015 by 26 banks with parents based in 12 different Member States. Although the EBA sees clear improvements in the governance arrangements and recovery indicators, challenges remain.

Parent companies have sought input from a broad range of internal specialist and corporate functions as well as senior management sign-off. But the EBA indicates that banks need to involve subsidiaries more in drawing up the plans and align escalation and decision making processes.

On recovery indicators, most banks focused on capital and liquidity. They considered other categories (asset-quality, profitability, market-based and macroeconomic indicators) as early warning signals which do not trigger recovery escalation procedures. Again, the review shows a lack of involvement on recovery indicators at a local level. Only one of the plans reviewed

included a complete indicator framework for all material entities as part of the group recovery plan.

The EBA concludes that recovery plans are still a work in progress and its report is required reading for those responsible for drawing them up.

Designing the MREL framework

The EBA published its *Interim report on MREL – Report on implementation and design of the MREL framework* on 19 July 2016. The report should inform a future EC legislative proposal reviewing MREL and implementing the TLAC standard in the EU. The EBA does not address all the required issues in this report. It expects to incorporate the remaining issues in its final report which it aims to produce by 31 October 2016.

The EBA makes provisional recommendations on which it seeks input from other stakeholders, recognising that further analysis is necessary. These include:

- changing the reference base of the MREL requirement from total liabilities and own funds to RWA with, in time, a leverage exposure backstop
- preventing CET1 from counting towards both capital buffers and MREL – albeit the interaction with maximum distributable amount restrictions needs consideration

- extending and enhancing the existing powers available to address breaches of MREL
- linking MREL calibration with a firm's resolution strategy – while also taking into account a firm's business model
- introducing mandatory subordination of MREL liabilities for at least some banks, while more generally enhancing transparency and disclosure for all creditors in the creditor hierarchy
- reducing the burden of compliance by introducing third country recognition requirements in relation to MREL liabilities.

The EC aims to publish a legislative proposal by the end of 2016. The EBA invites comments on elements of the provisional recommendations by **30 August 2016**.

Targeting resolution financing

The EBA launched a consultation on its *draft Report on the appropriate target level basis for resolution financing arrangements under BRRD* on 25 July 2016. Under BRRD, the EBA must prepare a final report recommending the appropriate target level basis by 31 October 2016. In particular, it must consider whether total liabilities is a more appropriate basis than the current one of covered deposits.

The report reviews various bases for calculating total liabilities as well as total

risk exposure amount, available own funds and covered deposits. It measures these options against set criteria including consistency with the regulatory framework and contributions methodology, simplicity and transparency.

The EBA recommends changing the basis for the target level of the resolution funding arrangement to one of:

- total liabilities (excluding own funds) less covered deposits
- total liabilities (including own funds)
- total liabilities (excluding own funds).

It also suggests that the EC considers changing the ratio of the target level in accordance with the chosen option. The target level is currently defined in BRRD as 1% of the covered deposits in each of the Member States. The EBA will hold a public hearing on 16 August 2016 and the consultation closes on **2 September 2016**.

Reporting

PRA electrifies credit union reporting

The PRA proposed changes to credit unions' reporting requirements in *CP24/16: Credit union regulatory reporting* on 4 July 2016. It proposes replacing the existing quarterly and annual returns with new electronically submitted returns. The PRA also updated its notes on completing the returns to align them to the recently introduced Credit Unions Rulebook. The PRA says the

proposed returns are less complex and will take effect from 3 January 2017.

The consultation closes on **5 September 2016**.

BoE delays buy-to-let reporting

The BoE delayed proposals for collecting loan-level buy-to-let data in response to feedback it received to its *April 2016 consultation*. In *A loan-level data collection for buy-to-let lending* on 29 July 2016, the BoE delays the start until October 2017 for Q3 2017 data, and plans to implement the rest in two further phases: in April 2018 for Q1 2018 data and October 2018 for Q3 2018 data.

The BoE will also raise the reporting threshold so that only firms or groups of firms carrying out new buy-to-let mortgage lending exceeding £20m annually across at least 60 loans have to report. And it agreed to amend some definitions to better align data attributes with the product sales data firms already capture to report to the FCA. But the BoE held fast on sharing information with the FCA, noting firms wouldn't be obliged to gain consent from individuals under data protection rules since the sharing would be necessary for the BoE, PRA and FCA to perform their statutory functions.

Retail products

Update on cash savings study

Ahead of new rules entering into force in December 2016, the FCA published *Cash*

Savings: Sunlight remedy second report on 18 July 2016 as part of its review into how firms treat long-standing customers. The data shows the lowest interest rates offered by 32 providers of easy access cash savings accounts and easy access cash ISAs. Under the new rules, firms will have to provide easy-to-understand key information in a summary box to help consumers compare savings accounts, as well as clearly remind consumers about changes in interest rates or the end of an introductory rate ('the sunlight remedy'). The rules are intended to help customers make informed decisions about their savings where alternative or better deals are available.

The sunlight remedy is one element of a broader package of remedies aimed at delivering better outcomes for customers of cash savings accounts. The remedies arose out of the FCA's cash savings market study published in January 2015. Alongside the data, the FCA published *MS14.2.4 Cash Savings Market Update* which provides an update on the remaining work of the study.

In addition to the sunlight remedy, firms must provide a quicker and easier switching process. But FCA's solution of a 'switching box' to give customers information on the potential financial gains from shopping around, and a template switching instruction were not well received. The FCA intends to investigate alternative options to encourage more shopping around. It plans to report again on the study at the end of 2016.

Executive summary	Don't forget your passport	Regulatory equivalence	Cross sector announcements	Banking and capital markets	Asset management	Insurance	Monthly calendar	Glossary
FCA reveals credit card study findings The FCA published <i>MS14/6.3: Credit card market study final findings report</i> on 26 July 2016. It sets out a package of remedies that it hopes will enable consumers to shop around more effectively, budget more efficiently and repay debt faster where appropriate. The FCA found competition in the credit card market is working well for most consumers, but is less effective for higher risk customers. The main barrier to serving this segment is the perceived reputational and regulatory risks associated with high risk and higher cost lending. Particular concerns about the scale and nature of problem debt, and firms' incentives to manage it, include: • a significant group of consumers carry potentially problematic debt for a number of years • a separate group of consumers move rapidly from acquiring a credit card into potentially problematic debt – this pattern is particularly pronounced in the higher risk segment • firms have fewer incentives to address consumers with persistent levels of debt or who repeatedly make minimum payments as these consumers are profitable. The FCA's measures will be delivered through a combination of regulatory rules, industry voluntary agreements and	supervisory work. The measures focus on credit card shopping around and switching, higher risk customers, borrowing and repayments, and potentially problematic debt. The FCA says industry-led actions will include timely prompts and giving consumers the ability to choose the payment due date. The FCA intends to publish further information on proposed rules and voluntary remedies later in 2016. It also plans to carry out wider work on other issues such as open access to data, price comparison websites, assessing creditworthiness and facilitating credit searches. Ring-fencing <i>PRA finalises ring-fencing rules</i> The PRA published a policy statement: <i>The implementation of ring-fencing: prudential requirements, intragroup arrangements and use of financial market infrastructures</i> – <i>PS20/16</i> on 7 July 2016 which updates existing supervisory statements to reflect the new rules on ring-fenced banks. The PRA says it designed the policy in the context of the current UK and EU regulatory framework, but it will keep the policy under review in light of the result of the EU referendum. The policy will come into effect on 1 January 2019. The PRA published supervisory statement: <i>Ring-fenced bodies (RFBs)</i> – <i>SS8/16</i> on the same day. The PRA sets out its expectations in relation to the legal structure of RFB	groups, RFB group prudential standards and the notification that must be made in relation to distributions to group entities that are not members of an RFB group. The PRA also addresses accessing FMI's and receiving services from other group entities or third parties. In addition, the PRA released a webpage: <i>Structural reform – authorisations</i> providing guidance on applying for the approval of a skilled person in relation to the ring-fenced transfer scheme and for permission for indirect participation in inter-bank payment systems. The PRA also published consultation paper <i>The implementation of ring-fencing: reporting and residual matters</i> – <i>CP25/16</i>. As well as regulatory reporting the PRA addresses: double leverage, reverse stress testing, recovery planning, operational continuity and financial market infrastructures. The consultation closes on 7 October 2016. <i>Tweaks to the ring fence</i> HMT published the <i>draft FSMA (RFBs, Core Activities, Excluded Activities and Prohibitions) (Amendment) Order 2016</i> on 21 July 2016 together with a <i>draft Explanatory Memorandum</i>. The order will amend secondary legislation introduced in 2014 to support the ring-fencing regime due to apply on 1 January 2019. HMT explains that, as banks have started implementing ring-fencing, it has become aware of technical issues that need to be	addressed. There are 18 amendments including: • changes to the categories of high quality liquid assets that RFBs can buy • allowing RFBs to undertake activities required as part of being a member of payments systems and of central counterparties • letting RFBs hedge risks of entities within their sub-group. HMT approached affected banking groups and the BBA on the proposed changes and drafted them in consultation with the PRA and FCA. The draft order is due to come into force on 1 December 2016. <i>Changing large exposures rules</i> The PRA updated its supervisory statement <i>SS 16/13 Large exposures</i> on 7 July 2016. This is prompted by the issuance of <i>PS 20/16 The implementation of ring-fencing: prudential requirements, intragroup arrangements and use of financial market infrastructures and SS 8/16 Ring-fenced bodies (RFBs)</i>. It changed the statement to take into account the PRA's objectives with respect to RFBs, and added a paragraph to set out expectations for RFBs wishing to apply for permission to apply a 0% risk weight to certain exposures under CRR article 113(6). The updated statement will take effect from 1 January 2019.					

PRA tweaks consolidation rules

The PRA updated its supervisory statement *SS 15/13 Groups* on 7 July 2016. This is prompted by the issue of *PS 20/16 The implementation of ring-fencing: prudential requirements, intragroup arrangements and use of financial market infrastructures* and *SS 8/16 Ring-fenced bodies (RFBs)*.

The PRA changed the statement to set out its expectations concerning its approach to applications by RFBs for permission to use individual consolidation – pre CRD IV, the solo consolidation regime. The updated statement takes effect from 1 January 2019.

Stress testing

Stressing EU banks

The EBA's *2016 EU-wide stress test - results* on 29 July 2016 revealed EU banks had built up a capital base of 13.2% CET1 at the end of 2015, which dropped to 9.4% by the end of 2018 under the hypothetical stress scenario. The EBA attributed the impact to credit risk losses of €349bn, operational risk costs of €105bn (€71bn of which stem from conduct risk losses) and market risk losses of €98bn.

This year's EU-wide tests saw a change in approach, with the EBA retiring 'pass' or 'fail' labels. Yet, the results show Italy's Banca Monte dei Paschi di Siena fared the worst, followed by the UK's Royal Bank of Scotland and Ireland's Allied Irish Bank.

The BoE, commenting in a *press release* on the same day, stated the EBA's results were consistent with its own stress tests. But it

emphasised methodological differences in between EU and UK tests, with the EBA testing a static balance sheet through the stress period while the UK's is dynamic, allowing banks to dispose of assets. The EBA's test also restricts banks from assuming they can take action to reduce costs and boost income, whereas the BoE permits these assumptions if they are plausible.

Additional guidance on EU stress test

The EBA published *Information update on the 2016 EU-wide stress test* on 1 July 2016. In the update, the EBA explains how

supervisors intend to use the stress test results in the SREP. It says the update acts as a general guide and does not establish restrictions on any existing supervisory powers. The update focuses on the employment of capital guidance to cover potential shortfalls in own funds based on the outcomes of supervisory stress tests.

The test is designed as a critical input for the SREP. The EBA says NCAs should use the results to assess whether the quantity and composition of available own funds would allow (under the assumed scenarios) a firm to meet the total SREP capital requirements. The update sets out in further detail what is involved in incorporating the results into SREP assessments.

Supervision

PSR publishes report card for 2015/16

The PSR published its *Annual Report for 2015/16* on 12 July 2016 reviewing its first

year as the payments systems regulator. The PSR assesses how it has performed against the objectives set out in its annual plan and policy work programme.

The PSR cites two market reviews – how to improve indirect access to payment systems offerings for financial institutions and how to reduce barriers to competition and effective innovation, as achievements. In response to its objective to promote innovation, the PSR's most significant action was to establish the Payments Strategy Forum and the Payments Community, which supports the work of the forum. The forum comprises experts from across the payments industry tasked with identifying and developing strategic initiatives that promote innovation. The forum published its draft initiatives for consultation in July 2016. The PSR also assisted the FCA with Project Innovate.

The PSR is the designated competent authority in relation to the Interchange Fee Regulation (IFR) and the PAD. It has produced guidance in relation to the new IFR. It is also responsible for access requirements under the Payment Services Directive, which is expected to continue under PSD2. PSD2 is due to be implemented in the UK by January 2018.

The report reviews the regulator's financial position where it reports a surplus of £17.6m as at 31 March 2016, drawn from fees levied.

Progressing supervisory convergence

The EBA published its *EBA report on the convergence of supervisory practices* on 14 July 2016. It reports significant progress in 2015 in implementing the new common SREP. The EBA says: 'Most competent authorities established SREP processes that can be considered adequate to the specificities of their markets.' The EBA also observes that 'competent authorities showed a fair degree of convergence in identifying the main deficiencies in the group recovery plans'. But there are still challenging areas for SREP convergence. These include institution-specific capital requirements and common scoring of risk and viability.

Looking ahead, the EBA indicates it will continue to monitor and promote the consistent application of the single rulebook by working with colleges of supervisors. It identifies two main challenges for 2016 and beyond. These are the consistent application of automatic restrictions on distributions and using stress testing to determine the capital and buffer requirements.

Establishing dialogue between supervisors and auditors

The EBA published the final report *Guidelines on communication between competent authorities supervising credit institutions and the statutory auditor(s) and the audit firm(s) carrying out the statutory audit of credit institutions* on 26 July 2016.

Regulation (EU) 537/2014 on specific requirements regarding statutory audit of public interest entities (audit regulation) requires that supervisory authorities of credit institutions establish an effective dialogue with the statutory auditors of those institutions. These guidelines are issued under Article 12(2) of this audit regulation.

The guidelines include an underlying general framework to underpin effective communication at all times. It also specifies the main elements of effective communication, such as the scope of information shared, the form of communication, the participants in the exchange of information, frequency and timing, together with the communication between supervisory authorities and auditors collectively.

The guidelines include a requirement that for G-SIIs, O-SIIs and other credit institutions where a greater supervisory effort is applied, supervisory authorities should meet with the audit firms at least annually. For other firms, supervisory authorities should apply proportionality. In the UK a similar framework already exists by way of codes of practice issued by the PRA and the FCA.

The guidelines will apply from 31 March 2017.

Accounting

Accounting

Providing guidance on expected loss accounting

The EBA published the consultation paper *Draft Guidelines on credit institutions’ credit risk management practices and accounting for expected credit losses (EBA/CP/2016/10)* on 26 July 2016. It follows Basel Committee guidance on the same matter issued in December 2015. It is relevant to firms that apply IFRS accounting standards, in particular IFRS 9 – financial instruments. The EBA considers that these guidelines should be viewed as the ‘supervisory approach to support the appropriate application of those standards [IFRS 9]’.

‘IFRS 9 - financial instruments’, replaces for financial accounting purposes ‘IAS 39 - financial instruments recognition and measurement’, for accounting periods beginning on or after 1 January 2018. It requires firms to measure the impairment loss allowances based on an expected credit loss accounting model rather than on an incurred loss accounting model.

There are four main sections in the guidelines. The first two sections contain principles on the application of proportionality and materiality and on the accounting for expected credit loss. The other two sections have specific guidance for firms reporting under IFRS and for

supervisory authorities on their supervisory evaluation.

The EBA aims to finalise the guidelines either in Q4 2016 or Q1 2017. The consultation closes on **26 October 2016**.

Asset management

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Regulation

Client assets

Seeking views on asset segregation models

ESMA called for evidence on Asset segregation and custody services (ESMA 2016/1137) on 15 July 2016. It will determine the appropriate segregation models for funds' assets under AIFMD and UCITS. Stakeholders had vigorously pushed back on ESMA's December 2014 AIFMD consultation paper as they argued the two models presented would increase the probability of operational errors and impact settlement efficiency without improving the recoverability of funds' assets in an insolvency. Since then, the UCITS V Directive and its implementing measures introduced asset segregation rules which are broadly aligned to the AIFMD. So ESMA is consulting further, aiming to:

- gather further evidence on the arguments set out by stakeholders in their responses to the earlier consultation paper
- broaden the scope of its work to cover asset segregation under UCITS V as well as any residual uncertainty on how

depository delegation rules should apply to CSDs.

Overall, ESMA seeks to identify any asset segregation regime which ensures assets are clearly identifiable as belonging to the AIF/UCITS and ensure investors are protected. ESMA welcomes comments by **23 September 2016**, to allow it to finalise its work by the end of 2016.

Conduct

Protecting investors during redemption suspensions

The FCA issued guidance on fund suspensions on 8 July 2016, reminding fund managers they are responsible for protecting investor interests even during periods of market turbulence. This is in response to the recent redemption gates and suspensions imposed by open-ended funds facing liquidity pressures, most notably for property funds.

The FCA reiterates that any redemption restrictions must be aligned to the policies laid out in the fund prospectus. Further, fund managers need to make sure that valuations and subscriptions are imposed accurately and fairly, and the disposal of assets is conducted in a way that does not disadvantage remaining investors. The FCA

- highlights that managers need to be especially careful when redemption suspensions are lifted and investors are provided with revised valuations, specifically in terms of:
- ensuring the revised redemption price and opportunity to cancel are clearly communicated to investors
 - presenting the relevant options to investors
 - giving investors sufficient time to make the decision.

While the specific stresses facing UK property funds are related to the EU referendum vote, regulators have been expressing increasing concern at the liquidity mismatches caused by open-ended funds investing in illiquid assets, such as property. Consequently other jurisdictions could follow the US lead in overhauling their requirements for regulated funds.

Investment funds

Encouraging EU venture capital funds

The EC advanced its CMU priority of expanding the role of venture capital and social entrepreneurship funds through proposals in a *Regulation amending EUVVECA and Regulation (EU) 346/2013 on European social entrepreneurship funds* on 14 July 2016. These categories of investment funds benefit from pan-

European branding and passporting if criteria around eligible investments and investors are met.

Lamenting the relative lack of interest in such funds and the anaemic size and growth of the industry when compared to the US, the EC seeks to strengthen these funds by:

- allowing involvement of larger fund managers
- broadening the range of companies that can be included in fund portfolios
- taking steps to reduce Member State divergence around ‘sufficient own funds’, cross-border distribution fees and gold plating of regulations.

The EC confirms that fund managers with more than €500m assets under management can manage European venture capital funds and small mid-caps can qualify as eligible investments. Concerns around Member State divergence will be addressed in future RTS, with the EC not reducing the threshold of €100,000 for minimum investments by non-professional investors, thereby restricting access to retail investors. Strengthening venture capital is a pillar of the CMU agenda, and the publication of the proposed regulation signals that CMU remains an initiative with European institutional support.

Supervision

Advising on AIFMD passporting equivalence

ESMA published *ESMA’s advice to the EP, the Council and the EC on the application of the AIFMD passport to non-EU AIFMs and AIFs* on 19 July 2016. It addresses whether to extend equivalence to 12 major asset management jurisdictions. This would enable asset managers from those jurisdictions to market their funds across the EU without having to conduct private placements on a country-by-country basis. ESMA concludes that five jurisdictions, including Canada and Japan, have equivalent regimes on an unqualified basis. But for other major jurisdictions such as the US and Hong Kong, ESMA considers them equivalent for some types of fund activity but not others. Notably, ESMA seems more concerned about ensuring reciprocity of access than whether there is a match between AIFMD and third country regimes regarding investor protection provisions.

The decision to grant equivalence via a delegated act lies with the EC. The EC could either adopt ESMA’s proposals around narrower and tailored equivalence determinations for those regimes or it could wait for unqualified equivalence. Similarly, the EC may determine that there haven’t been enough positive determinations to justify extending the passport to any of the

jurisdictions, because to do so might create imbalanced access. Last year ESMA provided positive advice on two jurisdictions, Jersey and Guernsey, but the EC has not initiated a delegated act for these.

Insurance

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Regulation

Capital and liquidity

IAIS progresses global insurance capital standard

The IAIS published a consultation on Risk-based Global Insurance Capital Standard (ICS) Version 1.0 on 19 July 2016. This is the second of three consultations to develop the ICS, a group-wide, consolidated insurance capital standard applicable to internationally active insurance groups (IAIGs) and G-SIIs. The first consultation paper (CP), published in December 2014, looked at an example of a standard method for determining the ICS capital requirement, as well as other potential methods for determining the ICS capital requirement, valuation and capital resources. This CP seeks feedback on the following key components of a standard method of calculation of the ICS capital requirement (ICS Version 1.0):

- valuation methodologies, covering two standard valuation approaches (market-adjusted valuation and GAAP with adjustments)
- qualifying capital resources

- a standard method to determine the ICS capital requirement
- the scope of the group and perimeter of the ICS.

The CP does not address some matters on the ICS which will remain to be dealt with in future consultations, including the use of internal models, variations on the standard method, the use of the ICS in supervision, and transitional arrangements.

The comment period ends on **19 October 2016**.

PRA confirms capital extractions rules

The PRA published an update to SS 4/14 Capital extractions by run-off firms within the general insurance sector on 28 July 2016. This follows its consultation (CP42/15) in November 2015 setting out draft proposals to update SS4/14 for the introduction of Solvency II. Among the changes from the original supervisory statement is: additional details of the issues the PRA expects senior management to consider before making a request to extract capital from a general insurer in run-off, including consideration of the solvency needs set out in the firm's ORSA. It also updates details of the approach the PRA plans to take when considering such

requests. The final update implements these proposals with a few minor drafting changes.

Reporting

PRA makes minor reporting amendments

The PRA updated *SS11/15 - Solvency II: Regulatory reporting and exemptions and SS40/15 - Solvency II: reporting and public disclosure - options provided to supervisory authorities* on 6 July 2016. It updates the template reference numbers used in SS11/15 and addresses supervisors' opinions regarding accident or underwriting year reporting and disclosure in SS40/15.

PRA publishes market trends analysis

The PRA published *Analysis and observations from regulatory returns and monitoring the market questionnaire* on 18 July 2016. In this letter to general insurers, Chris Moulder, Director of General Insurance at the PRA, considers market trends based on a review of general insurers' regulatory returns and responses to the monitoring of the market questionnaire recently completed by London market insurers. Its headline observations include:

- reserve releases in 2015 were at their highest level for over 30 years - the PRA questions whether this is sustainable.

- implied future claim inflation is, in some cases, lower than that inherent in historic data.

The PRA also makes a number of observations on pricing. It finds most insurers consider current market rates to exceed internal technical rates, implying that rates may continue to fall in 2016.

The PRA is planning to increase its use of analytics in the future, including using new data available under Solvency II, such as Solvency II technical provisions.

Retail products

EIOPA consults on IDD delegated acts

EIOPA published *Consultation Paper on Technical Advice on possible delegated acts concerning the IDD* on 4 July 2016. This follows a request from the EC on 24 February 2016. EIOPA invites feedback on the following areas:

- product oversight and governance arrangements requiring manufacturers of all insurance products to establish processes for internal approval of each product before it is distributed to customers
- organisational arrangements to prevent and manage potential conflicts of interest between distributors and customers (e.g. inappropriate sales

incentives) for insurance-based investment products

- inducements which carry a high risk of detrimental impact on customer service quality (e.g. commission paid by manufacturers to distributors in connection with insurance-based investment products)
- the information distributors should obtain from their customers to assess the suitability of insurance-based investment products.

The consultation closes on **3 October 2016**. EIOPA plans to submit its technical advice to the EC in February 2017.

Solvency II

Upgrading Solvency II volatility adjustments

EIOPA published updated representative portfolios that will be used to calculate the volatility adjustment (VA) to the relevant risk-free interest rate term structures for Solvency II. In a *press release* on 1 July 2016, EIOPA says it will start using these data for the calculation of the VA with the reference date of 30 September 2016, which will be published on 10 October 2016. The VA is a measure to ensure insurance products with long-term guarantees are treated appropriately under Solvency II. EIOPA issues the updated representative

portfolios three months in advance to allow insurers and reinsurers sufficient time to prepare for the change.

The updated portfolios are based on data reported by EU insurance and reinsurance companies to their national supervisory authorities during the preparatory phase of Solvency II in 2015. EIOPA says the new portfolios more accurately reflect the impact of market volatility under the Solvency II framework, because they are based on more up-to-date and granular data.

EIOPA intends to revise the representative portfolios on an annual basis, with the next update scheduled for the second half of 2017.

EIOPA modifies volatility adjustment representative portfolios

EIOPA published *updated representative portfolios for the calculation of the volatility adjustments (VAs) (applicable from 30 September 2016 onwards)* on 1 July 2016. It updates the representative portfolios of assets that it uses to derive the VA to reflect the current impact of market volatility more accurately.

Under the Solvency II Long Term Guarantee package, EIOPA is required to publish the VA on a currency and country basis. The VA is an uplift in the discount rate aimed at reducing the impact of

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volatility on the solvency position of insurers with long-term liabilities, subject to approval by their supervisor. EIOPA plans to use these updated portfolios to calculate the VA from 30 September 2016 until it revises them again in the second half of 2017 and annually thereafter. <i>PRA proposes amended audit requirements</i> The PRA published <u>CP23/16 Solvency II: external audit of the public disclosure requirement</u> on 4 July 2016. It seeks feedback on some minor amendments to draft rules following responses to its November 2015 consultation, <u>CP43/15 Solvency II: external audit of the public disclosure requirement</u> . It also proposes amendments to clarify the auditor's duty of care to the PRA by including: a specific duty on auditors that their reasonable assurance report must be 'prepared with due skill, care and diligence'; and a clear statement as to the auditing standards and guidance the PRA expect auditors to use to meet its rules. The PRA decided to defer the requirement for external audit of the public disclosure from years ending on or after 30 June 2016 to years ending on or after 15 November 2016.		The PRA has not changed the broad policy approach set out in CP43/15. It requires the following areas of the Solvency & Financial Condition Report to be subject to external assurance: - the Solvency II balance sheet and own funds, including technical provisions, risk margin and the impact of the long term guarantee measures and transitional provisions - reporting of the SCR calculated using the standard formula (where applicable), and the minimum capital requirement - narrative disclosures on the valuation of the Solvency II balance sheet, capital and own funds - reporting of the entities within the scope of the group. External audit assurance is not required of the SCR if this is calculated using a full or partial internal model or of the capital requirements of non-insurers included in reporting on a PRA or other EU sectoral basis. See our <u>Hot Topic PRA consults on audit requirements for Solvency II public reporting</u> for a summary of the new requirements and their impact. The comment period ended on 4 August 2016.		<i>EIOPA plans final T4U release</i> EIOPA announced on 8 July 2016 that it will issue a <u>Final release of the XBRL Tool for Undertakings (T4U)</u> in October 2016. It plans to update T4U to reflect the latest version of the XBRL Taxonomy (published on 15 July 2016), including changes related to investments in infrastructure projects. It designed T4U to help small and medium sized insurers implement the Solvency II XBRL quantitative reporting requirements for 2016. But it has announced plans to stop supporting T4U in July 2017 as it expects firms to have alternative approaches in place by then. <i>FRC consults on auditing standards</i> The FRC is developing a framework to help auditors apply the PRA's external audit proposals for Solvency II. The FRC published <u>consultation document and impact assessment: Proposal to adopt (in the UK) ISA 800 (Revised)</u> and ISA 805 (Revised) on 12 July 2016. It wants feedback on whether the UK should adopt the revised standards. The FRC would also like views on whether it would be appropriate to make UK-specific adaptations to these standards and any risks associated with the proposal. The consultation period ends on 3 October 2016.		<i>EIOPA July updates</i> In July 2016, EIOPA updated its <u>questions and answers</u> on: <u>guidelines on reporting for financial stability purposes</u> <u>guidelines on reporting and public disclosure</u> <u>guidelines on valuation of technical provisions</u> <u>guidelines on the supervision of branches of third-country insurance undertakings</u> <u>risk-free interest rate – Matching adjustment</u> <u>final report on the ITS on the templates for the submission of information to the supervisory authorities (CP-14-052)</u>. <i>EIOPA releases full-year reporting taxonomy</i> EIOPA released version 2.1.0 of its <u>XBRL taxonomy and validations</u> on 15 July 2016. It applies for the first full-year Solvency II public reporting period. EIOPA also updated <u>The list of known issues for version 2.0.1 of its XBRL taxonomy</u>. <i>EC requests advice on implementing measures</i> The EC published a <u>Formal request to EIOPA for technical advice on Solvency II</u>		

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<i>implementing measures</i> on 20 July 2016. It asks EIOPA for advice on how the Solvency II implementing measures could be made simpler and more proportionate, particularly for small insurers. It also asks for EIOPA's advice on the removal of unintended technical inconsistencies in a number of areas. The EC asks EIOPA to provide this advice by 31 October 2017. Supervision <i>Revealing concerns with insurance ARs</i> The FCA found significant shortcomings in the control and oversight of appointed representatives (ARs) by many principal firms in the general insurance sector. The FCA sets out its findings in its thematic review, <i>TR16/6: Principals and their ARs in the general insurance sector</i>, released on 22 July 2016. The regulator conducted a review due to concerns about principal firms' understanding of their regulatory obligations for their ARs and the level of oversight of their activities. Under the theme of business models and risk management, the FCA found almost half of the principal firms reviewed couldn't demonstrate they had considered and understood the nature and complexity of the risks arising from their ARs' activities. This resulted in some ARs conducting activities outside their principal firm's core		areas of expertise. In relation to governance and oversight, the FCA found that over half of the principals reviewed couldn't consistently demonstrate they had effective risk management, oversight and control frameworks to identify and monitor the risks arising from their ARs' activities. And in relation to customer outcomes, the FCA found that in a third of the principal firms reviewed, there were examples of potential mis-selling and customer detriment as a result of the ARs' actions, with most of these issues not previously identified by the principal. In addition to taking early intervention action with some of the principal firms reviewed, the FCA intends to send a Dear CEO letter to principal firms with ARs operating in the general insurance sector. The FCA indicates it will perform additional work, focusing on principal firms it believes to be higher risk, as well as firms where it has concerns about the quality of data provided to it. <i>FCA writes to CEOs over concerns</i> The FCA voiced its concerns to CEOs about appointed representative (AR) arrangements in the insurance sector in a 'dear CEO letter', <i>FCA expectations of principal firms operating in the general insurance sector</i> dated 26 July 2016.		The FCA draws attention to its rules and guidance relating to ARs and the continuing obligations of the principal firm that should be adhered to. Principals should ensure that clients dealing with their ARs are afforded the same level of protection as if they had dealt with the principal firm itself. The FCA reiterates that the principal will remain fully responsible for the acts or omissions of its ARs. The FCA reminds firms that where examples of mis-selling are identified within an AR, it will be the principal that will be contacted for the purposes of regulatory intervention. The principal firm would then need to consider its contractual arrangements with its AR to make any recovery. The FCA expects firms to consider the contents of its thematic review and review whether they can demonstrate how they meet the requirements regarding ARs. It also expects firms to identify and address any shortcomings in their risk management frameworks, processes and practices in relation to meeting their regulatory obligations regarding ARs. <i>IAIS consults on supervision for intermediaries</i> The IAIS published a <i>Draft application paper on approaches to supervising the conduct of intermediaries</i> on 1 July 2016. It		The FCA reminds firms that where examples of mis-selling are identified within an AR, it will be the principal that will be contacted for the purposes of regulatory intervention. The principal firm would then need to consider its contractual arrangements with its AR to make any recovery. The FCA expects firms to consider the contents of its thematic review and review whether they can demonstrate how they meet the requirements regarding ARs. It also expects firms to identify and address any shortcomings in their risk management frameworks, processes and practices in relation to meeting their regulatory obligations regarding ARs. <i>IAIS consults on supervision for intermediaries</i> The IAIS published a <i>Draft application paper on approaches to supervising the conduct of intermediaries</i> on 1 July 2016. It	builds on the IAIS' Insurance Core Principles (ICPs), ICP 18 'Intermediaries' and relevant parts of ICP 19 'Conduct of Business (COB)'. It contains advice, illustrations, recommendations and examples of good practice for supervisors implementing COB supervisory frameworks for intermediaries. The IAIS published a similar application paper on approaches to COB supervision for insurers in October 2014. The comment period ended on 1 August 2016. The IAIS plans to hold a public discussion on the feedback in October 2016. <i>PRA reminder for run-off firms</i> The PRA published a <i>Dear CEO letter to insurance firms in run-off: engagement with the PRA</i> on 18 July 2016. It reminds insurers in run-off that they are expected to notify the PRA at an early stage of anything about which the regulator would reasonably expect notice. This includes: any breach of PRA rules, proposed restructuring, reorganisation or business expansion that could have a significant impact on the firm's risk profile or resources. The PRA also expects notification of proposed actions that may result in a material change in capital adequacy or solvency.	

Accounting

Accounting

FRC concludes review of FRS 101

Following the latest annual review of FRS 101 - Reduced Disclosure Framework, the FRC published Amendments to FRS 101 - 2015/16 cycle and FRED 65 Draft amendments to FRS 101 - Notification of shareholders on 8 July 2016. It proposes limited amendments to FRS 101 and a number of exemptions from the disclosure requirements of IFRS 15 - Revenue from Contracts with Customers.

In FRED 65, the FRC is proposing to remove the requirement to notify shareholders before applying the disclosure exemptions in FRS 101. It is also proposing a similar amendment to FRS 102 - The Financial Reporting Standard. The comment period ends on **14 October 2016**. The FRC aims to finalise the amendments in December 2016 for application to accounting periods beginning on or after 1 January 2016.

PwC publications

Insurance contracts project update

The IASB met on 18 July 2016 to discuss the 'Amendments to IFRS 4: Applying IFRS 9 Financial Instruments with IFRS 4 Insurance Contracts' project. It agreed on

an amendment to the previously made tentative decision about the scope of fair value disclosures when an entity applies the temporary exemption from IFRS 9. The board expects to issue final amendments to IFRS 4 in September 2016. See our notes on the IASB meeting on 18 July 2016 for more details.

Accounting implications of UK's Brexit decision

Our In depth - 'Accounting implications of UK's Brexit decision - Volume 1' considers the immediate impact of the UK's decision to leave the EU. It is volume 1 of an expected series of guidance on the financial reporting consequences of Brexit. This guide will be particularly relevant to those entities with a 30 June 2016 year end and those finalising interim reports.

IFRS news

Our IFRS news for July 2016 covers:

- Alternative performance measures: Do's and don'ts
- Definition of a business: What will change?
- Interim reporting reminders
- IFRS 2 amendments: What will change for share-based payment accounting?
- Cannon Street Press:

- Insurance contracts
- Previously held interests
- Conceptual Framework
- Income taxes
- Leases lab: Impact on systems and processes.
- IC rejections: IAS 21.
- Appendix: 'Brexit' Alert.

Monthly calendar

Open consultations

Closing date for responses	Paper	Institution
10/08/16	<u>CP16/16: Minor Handbook changes related to mortgage borrowers with a payment shortfall</u>	FCA
10/08/16	<u>GC16/6: Primary market bulletin no. 16</u>	FCA
11/08/16	<u>Consultation on LCR disclosure</u>	EBA
12/08/16	<u>Consultation on SEPA Cards Standardisation Volume</u>	EPC
12/08/16	<u>CP21/16: Pillar 2 liquidity</u>	PRA
16/08/16	<u>Capping early exit charges for members of occupational pension schemes</u>	Department for Work and Pensions
17/08/16	<u>CP22/16: Solvency II: Monitoring model drift and standard formula SCR reporting for firms with an approved internal model</u>	PRA
18/08/16	<u>CP16/15: Capping early exit pension charges</u>	FCA
22/08/16	<u>Consultation on guidelines on the validation and review of Credit Rating Agencies' methodologies</u>	ESMA
30/08/16	<u>Report on implementation and design of the MREL framework</u>	EBA
31/08/16	<u>MS16/1: Retirement Outcomes Review: terms of reference</u>	FCA
01/09/16	<u>CP16/17: Quarterly Consultation No. 13</u>	FCA

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Closing date for responses	Paper						Institution	
01/09/16	<u>Consultation on updated white paper on mobile payments in Europe</u>						EPC	
02/09/16	<u>Consultation on the appropriate target level basis for resolution financing arrangements under BRRD</u>						EBA	
02/09/16	<u>Consultation for the fitness check of EU consumer and marketing law</u>						EC	
02/09/16	<u>Discussion paper: the Distributed Ledger Technology applied to securities markets</u>						ESMA	
05/09/16	<u>CP24/16: Credit union regulatory reporting</u>						PRA	
05/09/16	<u>Consultation on the clearing obligation for financial counterparties with a limited volume of activity</u>						ESMA	
08/09/16	<u>Reference price transactions standard for the fixed income markets</u>						FICC Market Standards Board	
08/09/16	<u>Call for input to the post-implementation review of the FCA's crowdfunding rules</u>						FCA	
14/09/16	<u>Consultation on unlocking payments competition and innovation</u>						Payments Strategy Forum	
16/09/16	<u>CP16/4: Draft guidance on our approach to handling applications under sections 56 and 57 FSBRA</u>						PSR	
19/09/16	<u>CP16/18: Changes to Handbook disclosure rules to reflect the direct application of PRIIPs Regulation</u>						FCA	
20/09/16	<u>Consultation on the supplementary supervision of financial conglomerates</u>						EC	
21/09/16	<u>Proposed policy recommendations to address structural vulnerabilities from asset management activities</u>						FSB	
29/09/16	<u>Guidelines on disclosure requirements under Part Eight of Regulation (EU) 575/2013</u>						EBA	

Executive summary	Don't forget your passport	Regulatory equivalence	Cross sector announcements	Banking and capital markets	Asset management	Insurance	Monthly calendar	Glossary
Closing date for responses		Paper	Institution					
30/09/16	<u>Green paper: Basel Art Trade Principles on AML</u>			Basel Institute on Governance				
30/09/16	<u>PRA annual report and accounts 2016</u>			PRA				
02/10/16	<u>Consultation on cross-border distribution of funds across the EU</u>			EC				
03/10/16	<u>Consultation on technical advice on possible delegated acts concerning the IDD</u>			EIOPA				
03/10/16	<u>Consultation and impact assessment: Proposal to adopt (in the UK) ISA 800 (Revised) and ISA 805 (Revised)</u>			FRC				
07/10/16	<u>CP25/16: The implementation of ring-fencing: reporting and residual matters</u>			PRA				
14/10/16	<u>FRED 65: Draft Amendments to FRS 101 Reduced Disclosure Framework - Notification of Shareholders</u>			FRC				
14/10/16	<u>Binary options standard for the commodities markets</u>			FICC Markets Standards Board				
16/10/16	<u>Establishment of the Enforcement Decision Making Committee</u>			PRA				
19/10/16	<u>Consultation on Risk-based Global Insurance Capital Standard (ICS) Version 1.0</u>			IAIS				
21/10/16	<u>CP26/16: Occasional Consultation Paper</u>			PRA				
26/10/16	<u>Consultation on Guidelines on Connected Clients under Article 4 (1) (39) of Regulation (EU) No 575/2013</u>			EBA				
26/10/16	<u>Draft guidelines on credit institutions' credit risk management practices and accounting for expected credit losses</u>			EBA				
28/10/16	<u>CP16/19: MiFID II implementation</u>			FCA				
28/10/16	<u>CP27/16: The PRA's implementation of the systemic risk buffer</u>			PRA				

Closing date for responses	Paper	Institution
28/10/16	<u>CP28/16: Ensuring operational continuity in resolution: reporting requirements</u>	PRA
31/10/16	<u>Consultation on a potential EU personal pension framework</u>	EC
31/10/16	<u>Feedback on FRS 102</u>	FRC
31/10/16	<u>CP29/16: Residential Mortgage Risk Weights</u>	PRA

Forthcoming publications in 2016

Date	Topic	Type	Institution
Accounting			
TBD 2016	RTS on consolidation methods	Technical standards	EBA
TBD 2016	Communication between supervisors and auditors	Guidelines	EBA
TBD 2016	Developments in the market with regard to providing statutory audit services to public interest entities	Advice	EBA
TBD 2016	Accounting for expected credit losses	Guidelines	EBA
Asset management			
Summer 2016	UCITS V implementation and other changes to the Handbook affecting investment funds – PS to CP15/27	Policy statement	FCA
TBD 2016	UCITS V Level 2 Regulation, SFTR and consequential changes to the Handbook – PS to CP16/14	Policy statement	FCA
Authorisations			
TBD 2016	ITS and RTS on authorisation of credit institutions under CRD IV	Technical standards	EBA
TBD 2016	ITS on common procedures, forms and templates on authorisation under CRD IV	Technical standards	EBA
CASS			
Q4 2016	Asset segregation under AIFMD	Guidelines	ESMA
TBD 2016	Client money rules for insurance intermediaries – PS to CP 12/20	Policy statement	FCA

Date	Topic	Type	Institution
Conduct			
Autumn 2016	Smarter consumer communications: removing certain ineffective requirements in our Handbook – PS to CP15/32	Policy statement	FCA
Q4 2016	MAR	Guidelines	ESMA
TBD 2016	Internal governance under Article 74 CRD IV	Guidelines	EBA
TBD 2016	Suitability of members of the management body and key function holders under Article 91(12) CRD IV	Guidelines	EBA
TBD 2016	The collection exercise of approved higher maximum ratios for variable remuneration under Article 94(1)(g)(ii) CRD IV	Guidelines	EBA
TBD 2016	Remuneration provisions under Article 161(2) CRD IV	Report	EBA
TBD 2016	Diversity practices benchmarking under Article 91(11) CRD IV	Report	EBA
TBD 2016	Remuneration benchmarking and high earners data under Articles 75(1) and (3) CRD IV	Report	EBA
TBD 2016	Strengthening accountability in banking: a new regulatory framework for individuals – PS to CP 14/13	Policy statement	FCA
TBD 2016	Fair, reasonable and non-discriminatory access to regulated benchmarks – PS to CP 15/18	Policy statement	FCA
February 2017	Implementation of the Benchmarks Regulation	Consultation	FCA
Financial crime, security and market abuse			
August 2016	Risk factors under AMLD4	Guidelines	EBA
August 2016	Risk-based supervision under AMLD4	Guidelines	EBA

Date	Topic	Type	Institution
September 2016	Consultation paper on RTS on central contract points under AMLD4	Consultation	EBA
TBD 2016	Enhanced due diligence under AMLD4	Guidelines	EBA
TBD 2016	Simplified due diligence under AMLD4	Guidelines	EBA
TBD 2016	RTS on central contract points under AMLD4	Technical standards	EBA
TBD 2016	RTS on mitigating the risk of third countries prohibiting the application of equivalence for anti-money laundering or financing of terrorism standards under the AMLD4.	Technical standards	EBA
Insurance			
August 2016	Increasing transparency and engagement at renewal in general insurance markets – PS to CP 15/41	Policy statement	FCA
September 2016	Fees tariff data for insurers in 2017/18	Consultation	FCA
Mortgages			
August 2016	Application of MCD rules for passporting firms – Handbook notice to CP16/8	Handbook notice	FCA
Payments			
August 2016	RTS on strong authentication and communication under PSD2	Technical standards	EBA
TBD 2016	ITS regarding a standard presentation format of a fee information document, statement of fees and common symbols	Technical standards	EBA
TBD 2016	RTS on standardised terminology for payment account services	Technical standards	EBA
TBD 2016	RTS on central contact points under PSD2	Technical standards	EBA

Date	Topic	Type	Institution
TBD 2016	The minimum monetary amount of professional indemnity insurance under PSD2	Guidelines	EBA
TBD 2016	RTS on standardised terminology for banking services under PAD	Technical standards	EBA
TBD 2016	ITS on the standardised format of documents and symbols (including consumer testing) under PAD	Technical standards	EBA
Pensions			
Q4 2016	Secondary annuity market – PS to CP16/13	Policy statement	FCA
Prudential			
TBD 2016	Money Market Funds Regulation – advice and technical standards	Advice	ESMA
TBD 2016	Impact of LCR	Report	EBA
TBD 2016	Disclosure of LCR	Guidelines	EBA
TBD 2016	Intraday liquidity risk	Guidelines	EBA
TBD 2016	Report and advice on NSFR	Report	EBA
TBD 2016	Downturn loss given default (LGD) calculation	Guidelines	EBA
TBD 2016	LGD in default ELBE and IRB shortfall calculations	Guidelines	EBA
TBD 2016	PD computation	Guidelines	EBA
TBD 2016	RTS on eligible collateral within the CRM framework	Technical Standards	EBA
TBD 2016	RTS on conditional guarantees	Technical Standards	EBA
TBD 2016	RTS on the definition of default thresholds for past due items	Technical Standards	EBA

Date	Topic	Type	Institution
TBD 2016	Default of an obligor, including QIS	Guidelines	EBA
TBD 2016	Corrections to the modified duration of debt instruments	Guidelines	EBA
TBD 2016	RTS on assessment methodology	Technical Standards	EBA
TBD 2016	Incremental default and migration risk	Guidelines	EBA
TBD 2016	Stress in correlation trading portfolios	Guidelines	EBA
TBD 2016	RTS on exclusion of CVA for third-country NFCs	Technical Standards	EBA
TBD 2016	Stressed VaR	Guidelines	EBA
TBD 2016	Implicit support with regard to securitisation	Guidelines	EBA
TBD 2016	The Supervisory Formula Method on securitisation under Article 262(3) of CRR	Guidelines	EBA
TBD 2016	Securitisation retention rules	Guidelines	EBA
TBD 2016	Proposals for simple, standard and transparent synthetic securitisation	Guidelines	EBA
TBD 2016	RTS on disclosures of unencumbered assets	Technical Standards	EBA
TBD 2016	Stress testing	Guidelines	EBA
Recovery and resolution			
September 2016	Report on reference point for setting the target level for resolution financing arrangements	Report	EBA
September 2016	CP on the FCA's implementation of the Recovery and Resolution Directive resulting from supervisory feedback and EBA Guidelines/Binding Technical Standards	Consultation	FCA

Date	Topic	Type	Institution
TBD 2016	The reference point used for setting the target level for resolution financing arrangements	Report	FCA
Securities and markets			
Q3 2016	MiFID II/MiFIR topics	Guidelines	ESMA
Autumn 2016	Implementation of the MiFID II directive – CP 3	Consultation	FCA
Q4 2016	SFTR RTS and ITS	Technical standards	ESMA
Q4 2016	RTS on the clearing obligation	Technical standards	ESMA
Q4 2016	RTS on CCP requirements	Technical standards	ESMA
Q4 2016	CCPs stress test recommendations	Report	ESMA
TBD 2016	Policy statement to CP 15/43 on MiFID II implementation	Policy statement	FCA
Early 2017	MiFID II implementation – policy statement to CP16/19	Policy statement	FCA
H1 2017	MiFID II implementation – policy statement to CP15/43	Policy statement	FCA
Structural reform			
TBD 2016	RTS, ITS and guidelines on core credit institutions and trading entities	Technical standards	ESMA
TDB 2016	Ring-fencing: disclosures to consumer by non-ring-fenced bodies – PS to CP 15/23	Policy statement	FCA
Supervision, governance and reporting			
Summer 2016	Remuneration requirements for sales staff	Guidelines	EBA
Q3 2016	Report on trends, risks and vulnerabilities	Report	ESMA

Date	Topic	Type	Institution
October 2016	Statement on the common enforcement priorities for 2016 year-end financial statements	Statement	ESMA
October 2016	Updating and clarifying consumer credit reporting provisions	Consultation	FCA
Q4 2016	Proposed implementation of the Enforcement Review and the Green Report – PS to CP16/10	Policy statement	FCA
Q4 2016	RTS on European Single Electronic Format	Technical standards	ESMA
Q4 2016	Advice to the EC on depository frameworks of non-EU jurisdictions under Article 21(6) of AIFMD	Advice	ESMA
Quarterly	Risk dashboard	Report	ESMA
TBD 2016	IT risk supervision	Guidelines	EBA
TBD 2016	UCITS V Level 2 Regulation, SFTR and consequential changes to the Handbook	Policy statement	FCA

Main sources: ESMA 2016 work programme; EBA 2016 work programme; EC 2016 work programme; FCA policy development updates.

Glossary

ABC	Anti-Bribery and Corruption	BCR	Basic capital requirement (for insurers)
ABI	Association of British Insurers	BIBA	British Insurance Brokers Association
ABS	Asset Backed Security	BIS	Bank for International Settlements
ACER	Agency for the Cooperation of Energy Regulators	BoE	Bank of England
AIF	Alternative Investment Fund	BMR	EU Benchmarks Regulation
AIFM	Alternative Investment Fund Manager	BRRD	Bank Recovery and Resolution Directive 2014/59/EU
AIFMD	Alternative Investment Fund Managers Directive 2011/61/EU	CASS	Client Assets sourcebook
AIMA	Alternative Investment Management Association	CCA	Consumer Credit Act 1974 (as amended)
AML	Anti-Money Laundering	CCB	Countercyclical capital buffer
AMLD3	3rd Money Laundering Directive 2005/60/EC	CCD	Consumer Credit Directive 2008/48/EC
AMLD4	4 th Money Laundering Directive 2015/849/EU	CCPs	Central Counterparties
AQR	Asset Quality Review	CDS	Credit Default Swaps
ASB	UK Accounting Standards Board	CEBS	Committee of European Banking Supervisors (predecessor of EBA)
Banking Reform Act (2013)	Financial Services (Banking Reform) Act 2013	CESR	Committee of European Securities Regulators (predecessor of ESMA)
Basel II	Basel II: International Convergence of Capital Measurement and Capital Standards: a Revised Framework	CET1	Common Equity Tier 1
Basel III	Basel III: International Regulatory Framework for Banks	CFTC	Commodities Futures Trading Commission (US)
Basel Committee	Basel Committee of Banking Supervision (of the BIS)	CGFS	Committee on the Global Financial System (of the BIS)
BBA	British Bankers' Association	CIS	Collective Investment Schemes

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CMA	Competition and Markets Authority				CSMAD	Criminal Sanctions Market Abuse Directive 2014/57/EU		
CMU	Capital markets union				CTF	Counter Terrorist Financing		
CoCos	Contingent convertible securities				DFBIS	Department for Business, Innovation and Skills		
Co-legislators	Ordinary procedure for adopting EU law requires agreement between the Council and the European Parliament (who are the 'co-legislators')				DG FISMA	Directorate-General for Financial Stability, Financial Services and Capital Markets Union		
COREP	Standardised European common reporting				DG MARKT	Internal Market and Services Directorate General of the European Commission		
Council	Generic term representing all ten configurations of the Council of the European Union				DGS	Deposit Guarantee Scheme		
CRA1	Regulation on Credit Rating Agencies (EC) No 1060/2009				DGSD	Deposit Guarantee Schemes Directive 2014/49/EU		
CRA2	Regulation amending the Credit Rating Agencies Regulation (EU) No 513/2011				Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act (US)		
CRA3	proposal to amend the Credit Rating Agencies Regulation and directives related to credit rating agencies COM(2011) 746 final				D-SIBs	Domestic Systemically Important Banks		
CRAs	Credit Rating Agencies				EBA	European Banking Authority		
CRD	'Capital Requirements Directive': collectively refers to Directive 2006/48/EC and Directive 2006/49/EC				EC	European Commission		
CRD II	Amending Directive 2009/111/EC				ECB	European Central Bank		
CRD III	Amending Directive 2010/76/EU				ECJ	European Court of Justice		
CRD IV	Capital Requirements Directive 2013/36/EU				ECOFIN	Economic and Financial Affairs Council (configuration of the Council of the European Union dealing with financial and fiscal and competition issues)		
CRR	Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms				ECON	Economic and Monetary Affairs Committee of the European Parliament		
CSD	Central Securities Depository				EDIS	European Deposit Insurance Scheme		
CSDR	Central Securities Depositories Regulation (EU) 909/2014				EEA	European Economic Area		
					EEC	European Economic Community		

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EIOPA	European Insurance and Occupations Pension Authority				FCA	Financial Conduct Authority		
ELTIF	European long-term investment fund				FDIC	Federal Deposit Insurance Corporation (US)		
EMIR	Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (EU) No 648/2012				FiCOD	Financial Conglomerates Directive 2002/87/EC		
EP	European Parliament				FiCOD ₁	Amending Directive 2011/89/EU of 16 November 2011		
EPC	European Payments Council				FMI	Financial Market Infrastructure		
ESA	European Supervisory Authority (i.e. generic term for EBA, EIOPA and ESMA)				FMLC	Financial Markets Law Committee		
ESCB	European System of Central Banks				FOS	Financial Ombudsman Service		
ESEF	European Single Electronic Format				FPC	Financial Policy Committee		
ESMA	European Securities and Markets Authority				FRC	Financial Reporting Council		
ESRB	European Systemic Risk Board				FSA	Financial Services Authority		
EU	European Union				FSB	Financial Stability Board		
EURIBOR	Euro Interbank Offered Rate				FSBRA	Financial Services (Banking Reform) Act 2013		
Eurosystem	System of central banks in the euro area, including the ECB				FS Act 2012	Financial Services Act 2012		
EUVECA	European Venture Capital Funds Regulation (EU) 345/2014				FSCP	Financial Services Consumer Panel		
FAMR	Financial Advice Market Review				FSCS	Financial Services Compensation Scheme		
FASB	Financial Accounting Standards Board (US)				FSI	Financial Stability Institute (of the BIS)		
FATCA	Foreign Account Tax Compliance Act (US)				FSMA	Financial Services and Markets Act 2000		
FATF	Financial Action Task Force				FSOC	Financial Stability Oversight Council		
FC	Financial counterparty under EMIR				FTT	Financial Transaction Tax		
					G30	Group of 30		

Executive summary	Don't forget your passport	Regulatory equivalence	Cross sector announcements	Banking and capital markets	Asset management	Insurance	Monthly calendar	Glossary
GAAP	Generally Accepted Accounting Principles							
G-SIBs	Global Systemically Important Banks							
G-SIFIs	Global Systemically Important Financial Institutions							
G-SIIs	Global Systemically Important Institutions							
HCSTC	High Cost Short Term Credit							
HMRC	Her Majesty's Revenue and Customs							
HMT	Her Majesty's Treasury							
IA	Investment Association							
IAIS	International Association of Insurance Supervisors							
IASB	International Accounting Standards Board							
IBA	ICE Benchmark Administration							
ICAAP	Internal Capital Adequacy Assessment Process							
ICAS	Individual Capital Adequacy Standards							
ICOBs	Insurance: Conduct of Business Sourcebook							
IDD	The Insurance Distribution Directive (EU) 2016/97 – also known as IMD ₂							
IFRS	International Financial Reporting Standards							
ILAA	Internal Liquidity Adequacy Assessment							
ILAAP	Internal Liquidity Adequacy Assessment Process							
ILS	Insurance-Linked Securities							
IMAP	Internal Model Approval Process							
IMD	Insurance Mediation Directive 2002/92/EC							
IMF	International Monetary Fund							
IORP	Institutions for Occupational Retirement Provision Directive 2003/43/EC							
IOSCO	International Organisations of Securities Commissions							
IRB	Internal Ratings Based							
ISDA	International Swaps and Derivatives Association							
ITS	Implementing Technical Standards							
JCESA	Joint Committee of the European Supervisory Authorities							
JMLSG	Joint Money Laundering Steering Committee							
JURI	Legal Affairs Committee of the European Parliament							
KID	Key Information Document							
KYC	Know your client							
LCR	Liquidity coverage ratio							
LEI	Legal Entity Identifier							
LIBOR	London Interbank Offered Rate							
MA	Matching Adjustment							
MAD	Market Abuse Directive 2003/6/EC							
MAR	Market Abuse Regulation (EU) 596/2014							
Material Risk Takers Regulation	Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the EP and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile							

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MCD	Mortgage Credit Directive 2014/17/EU								
MCOB	Mortgages and Home Finance: Conduct of Business sourcebook								
Member States	countries which are members of the European Union								
MiFID	Markets in Financial Instruments Directive 2004/39/EC								
MiFID II	Markets in Financial Instruments Directive (recast) 2014/65/EU – also used to refer to the regime under both this directive and MiFIR								
MiFIR	Markets in Financial Instruments Regulation (EU) No 600/2014								
MLRO	Money Laundering Reporting Officer								
MMF	Money Market Fund								
MMR	Mortgage Market Review								
MoJ	Ministry of Justice								
MoU	Memorandum of Understanding								
MPC	Monetary Policy Committee								
MREL	Minimum requirements for own funds and eligible liabilities								
MTF	Multilateral Trading Facility								
NBNI G-SIFI	Non-bank non-insurer global systemically important financial institution								
NCA	National competent authority								
NDF	Non-Directive Firms – firms that do not fall within Solvency II								
NFC	Non-financial counterparty under EMIR								
NIS Directive	Proposal for a directive of the EP and Council concerning measures to ensure a high common level of network and information security across the EU								
NSFR	Net Stable Funding Ratio								
NURS	Non-UCITS Retail Scheme								
OECD	Organisation for Economic Cooperation and Development								
Official Journal	Official Journal of the European Union								
OFSI	Office of Financial Sanctions Implementation								
OFT	Office of Fair Trading								
Omnibus II	Second Directive amending existing legislation to reflect Lisbon Treaty and new supervisory infrastructure (2014/51/EU). Amends the Prospectus Directive (Directive 2003/71/EC) and Solvency II (Directive 2009/138/EC)								
ORSA	Own Risk Solvency Assessment								
O-SIIs	Other systemically important institutions								
OTC	Over-The-Counter								
OTF	Organised trading facility								
PAD	Payment Accounts Directive 2014/92/EU								
PIFs	Personal investment firms								
PPI	Payment Protection Insurance								
P2P	Peer to Peer								
PERG	Perimeter Guidance Manual								

Executive summary	Don't forget your passport	Regulatory equivalence	Cross sector announcements	Banking and capital markets	Asset management	Insurance	Monthly calendar	Glossary
PRA	Prudential Regulation Authority				Securitisation Regulation	Proposal for a Regulation of the EP and Council laying down common rules on securitisation and creating a European framework for simple, transparent and standardised securitisation and amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (COM(2015)472/F1)		
Presidency	Member State which takes the leadership for negotiations in the Council: rotates on 6 monthly basis				SEPA	Single Euro Payments Area		
PRIIPs Regulation	Regulation on key information documents for investment and insurance-based products (Regulation 1286/2014)				SFT	Securities financing transaction		
PSD2	The revised Payment Services Directive (EU) 2015/2366				SFTR	Securities Financing Transactions Regulation (EU) 2015/2365		
PSP	Payment service provider				SFO	Serious Fraud Office		
PSR	Payment Systems Regulator				SIMF	Senior Insurer Manager Function		
QIS	Quantitative Impact Study				SIMR	Senior Insurer Managers Regime		
RAO	Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544)				SM&CR	Senior Managers and Certification Regime		
RDR	Retail Distribution Review				SME	Small and Medium sized Enterprises		
REMIT	Regulation on wholesale energy markets integrity and transparency (EU) 1227/2011				SMF	Senior Manager Function		
RFB	Ring-fenced body				SOCA	Serious Organised Crime Agency		
RONIA	Repurchase Overnight Index Average				Solvency II	Directive 2009/138/EC		
RRPs	Recovery and Resolution Plans				SONIA	Sterling Overnight Index Average		
RTS	Regulatory Technical Standards				SPV	Special purpose vehicle		
RWA	Risk-weighted assets				SREP	Supervisory Review and Evaluation Process		
SCR	Solvency Capital Requirement (under Solvency II)				SRB	Single Resolution Board		
SCV	Single customer view				SRF	Single Resolution Fund		
SEC	Securities and Exchange Commission (US)							

SRM	Single Resolution Mechanism
SSM	Single Supervisory Mechanism
SSR	Short Selling Regulation (EU) 236/2012
SUP	FCA supervision manual
T2S	TARGET2-Securities
TC	Treasury Committee
TLAC	Total Loss Absorbing Capacity
TR	Trade Repository
TPR	The Pensions Regulator
UCITS	Undertakings for Collective Investments in Transferable Securities
UCITS V	UCITS V Directive 2014/91/EU
UKLA	UK Listing Authority
UTI	Unique Trade Identifier
XBRL	eXtensible Business Reporting Language

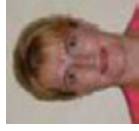
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