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:

- PRA consults on Pillar 2 liquidity regime
- EIOPA kicks off insurer stress test
- CMA reveals retail banking study provisional remedies
- FCA eyes further competition work in mortgage sector
- In-depth analysis of the FCA's investment and corporate banking study interim findings

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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.

The financial services industry will no doubt be holding its breath over the coming weeks, as firms and investors hold off on key decisions until the outcome of the UK's EU referendum is known. But regardless of the decision when the UK goes to the polls on 23 June 2016, what is certain is that regulatory change will continue apace, both in the UK and the EU. And in May, regulators were busy with measures on banking competition, the mortgage market and Pillar 2 liquidity.

Change is on the horizon for the PRA. The Bank of England and Financial Services Act 2016 received Royal Asset last month, which ends the PRA's status as a subsidiary of the BoE and creates the Prudential Regulation Committee.

Meanwhile, the PRA moved a step closer to implementing its new Pillar 2 liquidity regime. It issued a consultation paper outlining its approach to Pillar 2 liquidity risk, intraday liquidity risk and two components of franchise viability liquidity risk: debt buyback and non-margined derivatives risk. The PRA intends to publish a second consultation in due course, which will set out specific proposals on cash flow mismatch risk and overall calibration. It says the implementation of the entire regime will only take place once it has published its final approach following the second consultation.

In the insurance sector, EIOPA kicked off its EU-wide 2016 stress test for insurers. The exercise includes a higher number of small and medium-sized insurers, with EIOPA increasing the participation target from 50% in 2014 to a 75% share of each national market in terms of gross life technical provisions. Firms are due to submit their tests to national supervisory authorities on 15 July 2016, and EIOPA plans to publish the results in December 2016.

In the UK, the CMA's retail banking market investigation is nearing its conclusion. In its provisional remedies published last month, the CMA stopped short of radical proposals such as breaking up banking groups or removing 'free-if-in-credit' current accounts. The CMA argues it is not the size or number of banks which is causing competition problems, but complex charging structures and unengaged consumers. It is proposing a number of measures to help facilitate shopping around, such as a comparison tool for SMEs, as well as grace periods and alerts for overdrafts. The CMA plans to publish its final report in early August 2016, so banks should look out for its conclusions.

There were a number of developments in the mortgage sector in May. The FCA published the findings of a thematic review of how firms are applying the responsible lending rules it introduced in April 2014 following the MMR. The FCA found reasonable outcomes in nearly all of the lending decisions it reviewed, although it said improvements could be made to some aspects of lenders' affordability assessment processes, monitoring and record keeping. And while it did not find the MMR has prevented firms from lending responsibly to older customers or the self-employed, the issue of lending to older borrowers clearly remains high on its agenda – and will be addressed in its wider work on the ageing population. Also last month, the FCA published feedback on a call for inputs on competition in the mortgage sector. It identified commercial relationships (in particular, lender and broker panels) as a potential cause of concern, and plans to carry out follow-up work.

The FCA is also pressing ahead with changes to ensure the pension reforms are working well for consumers. It has set the proposed level for an exit charge cap for existing contract-based personal pensions at 1%. The FCA is consulting on the level of the cap and plans to issue a policy statement in autumn 2016.

But while some legislation is progressing, others are at risk of stalling. A number of EU financial associations called for a one-year delay to the PRIIPs Regulation in a letter to the EC. They claimed that with final RTS not due to be published until Q3 2016,

firms will not have sufficient time to produce the Key Information Document by the 31 December 2016 deadline. As ever with potential delays, firms would be well advised to press ahead with their preparations as far as possible, while keeping a close eye on developments. Also last month, the Council confirmed that MiFID II will be subject to a one-year delay and will now take effect on 3 January 2018. Although the delay has been anticipated for some time, confirmation should give more certainty to firms and national supervisory authorities.

In our feature article this month, we analyse the FCA's recently published interim report of its investment and corporate banking market study. The report indicates the FCA plans to concentrate on a few problematic market activities rather than identify fundamental competition concerns when it publishes its final conclusions in summer 2016. Firms which engage in the particular activities which have caught the FCA's attention – namely allocating initial public offering shares to lucrative clients and privileging 'connected' research – should be steeling themselves for intervention measures.

Later this month, we expect the PRA to set out its areas of focus for the coming year in its annual report and business plan. Also in the coming weeks and months, look out for publication of the EU Benchmarks Regulation in the Official Journal, the FCA's credit card market study report, and final FSB and PRA rules on operational continuity.

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Taking a competition lens to investment banking

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Since the FCA acquired its competition powers in April 2015, many across the industry have wondered how and when it would use them. The interim report on its investment and corporate banking market study, published on 13 April 2016, provides some insight on how it will discharge its competition mandate.

Primary market activities play a key role in the UK financial services industry, comprising about a quarter of revenues for universal banks. In 2014, total gross fees in primary markets generated by investment banks' UK operations amounted to approximately $17bn (£12bn).

The FCA was prompted to consider competition in the investment and corporate banking sector by concerns that arose during more broad work it conducted last year on competition in the wholesale sector. The results of the FCA's wholesale sector competition review, published in February 2015, showed that stakeholders had a number of specific concerns about primary markets. In particular, the FCA wanted to more closely examine choice, transparency, bundling and cross-subsidisation in debt and equity capital markets, and mergers and acquisitions (M&A). In addition, its market study considered what connections there are between competition in these primary market services and related activities, such as corporate lending and broking, and ancillary services.

Focusing on specific problems

So what are the FCA's findings so far? Its interim report indicates it is likely to concentrate on a few problematic market activities as opposed to systematic competition concerns. While the feedback statement to the wholesale sector competition review found potential broad structural concerns - around excessive concentration of service providers, fee distortion and poor service quality – the interim conclusions suggest that many of these early concerns appear to be unfounded. Broadly speaking, the FCA seems to believe that competition in the corporate and investment banking market is adequate.

The FCA does highlight some of the wider market concerns around conflicts of interest by identifying a few discrete market practices as warranting closer scrutiny. Issues around allocating initial public offering (IPO) shares to lucrative clients and privileging 'connected' research are of such concern they justified the publication of separate occasional and discussion papers, respectively. Given that such activities raise both conduct and competition concerns, the FCA may well take further regulatory action in these areas. For example, the FCA is seeking stakeholder feedback on different models to encourage firms to publish prospectuses and independent research earlier in the IPO process.

Similarly, the interim report focuses on the potential issues posed by cross-subsidisation, bundling and cross-selling, whereby firms gain capital market transaction work as a quid pro quo for low cost lending, corporate broking or early stage equity and debt services. Although the FCA captured evidence that banks in a position to offer some of these core services for free or at low cost win a disproportionate amount of later stage transactional work, thereby potentially crowding out smaller players, it focuses less on how to address such structural dynamics and more on the use of contractual clauses that exacerbate these problems. Given that cross-subsidisation can provide real benefits to clients, such as lower cost and better informed services, the FCA concludes that attention should be focused on those circumstances where clients feel forced to accept additional services through contractual terms.

Once again, this demonstrates the FCA's tendency to concentrate on discrete activities linked to conduct and conflict of interests concerns, as opposed to systematic competition issues. While this is largely a consequence of the FCA's analysis of the

available data, it also indicates the FCA may employ a 'conduct' lens when using its competition authority.

Weighing up competition issues

While the FCA describes an increasingly concentrated market, it also concludes there are enough service suppliers to ensure all market segments have the potential to meet client needs. In certain areas, specialised players such as corporate brokers have been forced out as larger competitors pitch for mandates on lower value IPOs in search of post-crisis revenue, while in other areas, such as among advisers and investment banks, there has been consolidation. The evidence also indicates that UK lending banks have scaled back their investment banking ambitions and stepped away from additional market activities. But the FCA notes the majority of respondents reported they have been able to increase the size of their current offerings, signifying market health, as well as the expansion of foreign firms into the UK via acquisition.

The FCA identifies a number of structural features which tend to favour larger firms and incumbents. For example, full participation in the equity and debt capital markets requires origination teams, sales and trading capacities, and research resources. Some of these functions involve establishing complex systems, and corresponding IT costs, which can be a barrier to smaller firms. The one area where there has been notable expansion is M&A advice, since this business line 'only' requires qualified and experienced personnel. But the growth of boutique M&A advisories has not been replicated in other areas of the market. Likewise, the FCA observes investment banking clients place a high emphasis on reputation, and therefore larger firms are able to leverage existing reputations while smaller firms may struggle to make a name for themselves.

Although the FCA found strong correlations between the size of the financial institution and that of its clients, it concluded smaller clients were adequately served. And it found that for equity capital market activity there was no single sector in which a bank or adviser held more than an 18% share of all roles, and in which there were fewer than 17 banks or advisers providing services.

Costs and fees

The market study's terms of reference focused heavily on fee transparency and cost predictability, and the FCA found much that was encouraging here. Since fees are typically tied to transaction value, there is an inherent alignment of interests between client and service provider. The FCA also found that while aggregate fees increased with the size of the transaction, the percentage decreased. For the regulator, this indicated that service providers recognise the majority of transaction costs are relatively static despite size.

The FCA noted Europe's lead in introducing discretionary fees, which are only awarded to service providers if the client is content with the outcome. The FCA found this practice is pro-competitive, because it ensures accountability and has the effect of driving down fixed fees. But the FCA also observed that capital market fees were higher in Europe than in Asia (but less than in the US). The FCA is seeking further input on the reasons for this, and if there is any regulatory action that can be taken to reduce fees towards the levels in Asia.

Transparency of costs and fees to clients is important. The FCA was concerned that poor transparency can lead to inefficient choices and distorted competition. The data reviewed by the FCA indicated that transparency of costs and fees is not a material concern. The FCA also noted that upon the introduction of MiFID II in January 2018, firms will be required to make enhanced disclosures to clients on costs and fees in some cases.

Deciding against interventions

The FCA's original terms of reference also focused on the impact of syndication size and the role of reciprocity, which have been shown to be unfounded. The industry feared that syndication sizes were growing and fees were increasing as a result. Syndicates are groups of banks formed to execute equity and debt capital market transactions, with the group providing economies of scale.

But the FCA found no evidence of larger syndicates or higher fees. The data actually supported the conclusion that larger syndicates are an important opportunity for medium-sized banks to gain underwriting experience and market visibility by taking on junior syndicate roles. While the FCA's data indicates that larger banks are overwhelmingly given global co-ordinator and book-running roles (typically the most powerful position in an IPO), it found that smaller and medium-sized banks had opportunities in these areas, albeit on a limited scale. So the FCA's interim conclusion is that intervention would be inappropriate at this point in time.

The FCA accumulated data that supports many stakeholder fears around cross-subsidisation and cross-selling of ongoing relationship business with transactional work. It found a significant portion of ongoing capital market business is awarded to banks that already provide clients with the core relationship services of lending and corporate broking. Since these relationship services can be provided by larger firms at below cost in anticipation of future transaction work, stakeholders expressed concern that smaller firms will be unable to compete. But the FCA arrived at an interim conclusion not to intervene beyond addressing the use of contractual clauses to restrict client choice.

Scrutinising IPO allocations

The FCA unearthed evidence indicating that conflicts of interest might be driving investor allocations in IPOs. For a variety of reasons IPO shares tend to be under-priced, which makes the level of commitment and competence of an underwriting syndicate all the more critical. There is a clear tension between issuer and investor needs, because buy-side clients of the bank would benefit from under-pricing. The underwriting banks which build the issuance books are at the centre of this tension, because they play a key role in pricing and allocating the issuance.

Issuers need to obtain both an accurate price and a well-diversified investor pool, both of which would be compromised if underwriting banks consistently favoured those clients from whom they generate large revenues elsewhere in their business, such as through brokerage commissions. The FCA lays out evidence that this is going on: a book-runner's top clients by revenue receive 60% more IPO allocations than those who have no revenues with the bank. This is especially notable for high-profile IPOs. The FCA notes the scale of revenues earned by investment banks from institutional investors is $37bn (£26bn) a year, which dwarfs the $750m (£519m) they earn from annual IPO fees. The clear concern is that underwriters will resolve the tension between what would benefit their IPO client and investors on the side of client investors as a reward for other business.

Improving IPO transparency

The FCA concludes the current practice of imposing a two-week 'black out' period between the publication of research by 'connected' analysts and the pathfinder prospectus restricts the availability of unbiased research. Ideally, investors should have early access to the prospectus and supporting research from a wide range of analysts. Instead, underwriters publish research conducted by their own analysts alongside the intention to float announcement (ITF) and then wait two weeks before publishing the pathfinder prospectus. This results in a critical period during which investors only have potentially biased information on the IPO to frame their investment decision. This is largely because independent research analysts in non-syndicate banks have no information from which to produce research. In addition, the pathfinder prospectus is often only distributed to a targeted group of potential investors, and the final prospectus is published after the book-building process is complete. The FCA is concerned that the prospectus, the key source of information for investors, is published too late in the process for investors to be able to rely on it in their decision making.

Issuers and underwriters argue the black-out period is justified to manage their legal and regulatory liability. Banks argue that publishing the prospectus at the same time as connected research would increase the risk that such research would be considered an extension of the prospectus. But the FCA concludes there is no legal basis for such concern. Considering the extent of the market practice, and the reality that no market solutions have emerged to address it, the FCA says regulatory intervention is necessary. It is seeking stakeholder input on what form intervention should take.

The FCA proposes various models, all of which incorporate French market practices. In France, a 'registration document' is published very early in the IPO process which provides potential investors with key information about the company, and is followed by documents describing the details of the public offering. French companies are required to have an 'open town hall', which allows unconnected research analysts to access the issuer's management (providing more objective analysis).

Building on this, the FCA is exploring a model that would introduce a provision preventing underwriting firms from publishing connected research until a week after the publication of the approved prospectus. This would likely lead to earlier prospectus publication, since underwriters would want to get their connected research out as early as possible. But connected research would become less critical, since the entire market would then have access to the full, approved prospectus. Likewise, this would produce a wider range of research since unconnected analysts would get earlier access to the prospectus. The second model would build on the first by requiring that any analyst presentations, such as before the ITF, include unconnected research analysts. This would ensure that unconnected research could be obtained at the same time as the prospectus and connected research. The final model would require that any analyst meetings occur after the publication of the prospectus.

The FCA also indicated plans to investigate whether underwriters are being pressured to produce favourable research in exchange for a position on the offering syndicate, and how that implicates conflicts of interest restrictions under COBS and SYSC. The FCA expressed concern that involving analysts in pre-ITF meetings could violate COBS rules around research analyst involvement in pitches.

EU implications

While the FCA's initiative obviously is most relevant for those active in the UK market, firms across the EU would be wise to take more than a passing interest in its interim conclusions. Achieving structural changes to the EU's capital markets through CMU is arguably the number one priority for EU lawmakers at the moment. CMU aims to decrease a perceived dependency on traditional lending, and expand the range of funding options for businesses, particularly

SMEs. Key components of the CMU are the revitalisation of the securitisation markets, evaluating regulatory capital regimes to ensure they promote long-term investment, and modernising the prospectus regime to reduce costs and provide better quality information to investors. The EC is committed to achieving an integrated capital market in the EU by 2019.

Although the CMU is focused on ways of unlocking capital markets to function better across EU borders, an examination of how capital markets are working in the UK should be of interest. In particular, the FCA's examination of how competition is working in the EU's largest capital market centre is relevant to an assessment of the overall health of capital markets in the EU. Competition has not been as much of a focus for other EU regulators as it has for the FCA – which has itself acquired competition powers relatively recently. It's therefore fairly unlikely that we will see other EU regulators replicating the FCA's work elsewhere. But as the EC and ESMA develop CMU policy, they are likely to take a keen interest in the FCA's market study, particularly where it has compared UK practices to those in other Member States.

Next steps

One clear takeaway from the interim report is that firms should be most attentive to the final conclusions if they engage in the specific activities that have caught the regulator's attention. The FCA's interim report closed to comments on 26 May 2016, but its discussion paper on the availability of information in the UK equity IPO process is open until 13 July 2016, so firms to which this is relevant should consider responding.

The FCA plans to publish its final report in summer 2016, which will set out its findings and conclusions. If the FCA believes any actions are required, it will consult on these at the same time. Firms should certainly be steeling themselves for interventions in the areas where the FCA has expressed concern. But it seems the FCA is not planning to unleash the full force of its competition powers on the investment banking sector at this stage. For a more significant competition intervention from the FCA, the financial services industry continues to wait.

Cross sector announcements

In this section:

Regulation

Capital and liquidity

FCA provides feedback on recovery plans

The FCA issued *Recovery plans - initial observations* on 19 May 2016 for IFPRU 730k firms. It found that most plans reflected appropriate board and senior management sign-off, and there was a good attempt to identify and assess a set of relevant and feasible recovery options. The FCA also found a few plans clearly stated and assessed progressive (e.g. 'amber' and 'red') early warning risk indicators that were supported by thresholds incorporating both absolute and relative triggers for board and senior management action.

Areas for improvement include:

- demonstrating that the firm's recovery options are comprehensive and credible
- identifying and analysing internal and external interconnectedness, as recovery plans often failed to identify the firm's material intra-group and/or external stakeholders and assess the potential impact of failure on these connected parties
- identifying and calibrating recovery plan indicators - the recovery plans reviewed demonstrated a lack of consideration of *all relevant indicator categories*, limited risk coverage within indicator categories and inadequate evidence to support the associated thresholds for each indicator. The plans also failed to demonstrate that their indicators and thresholds were credible and would provide sufficient time to intervene successfully in situations of financial stress. A number of group recovery plans failed to consider relevant indicators and thresholds at both a group and entity level.

The requirement to write recovery plans is contained in the Recovery and Resolution Directive which the FCA transposed in June 2015.

Moving on Pillar 2 liquidity risks

The PRA published *CP21/16 Pillar 2 liquidity* on 12 May 2016. It outlines part of the PRA's approach to Pillar 2 liquidity risk, intraday liquidity risk and two components of franchise viability liquidity risk - debt buyback risk and non-margined derivatives risk. Enabling a firm to survive a stress period of 30 days is the objective of the LCR, which is part of the Pillar 1 framework. The Pillar 2 framework complements the LCR by addressing risks that are either not captured or inadequately captured in Pillar 1.

Franchise viability risk arises from actions taken by firms to protect their reputation. These actions can cause unforeseen liquidity outflows. The PRA classifies this risk into five components. It addresses two of these risks in this consultation and intends to deal with the remaining three risks in a second consultation.

The PRA identifies eight other Pillar 2 risks. It details the approach to managing one of these, intraday risk, in this consultation. This includes a request for additional data or information on aspects of intraday risk such as methodologies for assessing risk in settlement venues which provide credit facilities. The PRA also provides an early view of its potential approach to cash flow mismatch risk as well as on overall calibration. But further details of this, the six remaining risks and the transition path for implementation will feature in the second consultation.

The PRA intends the implementation of the Pillar 2 liquidity regime to proceed only when it has consulted on all the risk components and finalised its overall approach. The consultation closes on **12 August 2016.**

EBA LCR disclosure coming soon

The EBA *consulted on Draft Guidelines on LCR disclosure to complement the disclosure of liquidity risk management under Article 435 of Regulation (EU) No 575/2013* on 11 May 2016. As part of Pillar 3, CRR Article 435 requires that firms

disclose information on their risk management objectives and policies including 'key ratios and figures providing external stakeholders with a comprehensive view of the institution's management of risk'. The EBA considers that liquidity risk falls within the scope of these requirements and that this extends to LCR disclosure.

The draft guidelines include:

- a qualitative and quantitative harmonised table for the disclosure of information mainly on liquidity risk management in line with CRR Article 435
- quantitative and qualitative harmonised templates, with corresponding reporting instructions, for the disclosure of information on the LCR composition.

The EBA considers that these draft guidelines build on the Basel Committee LCR disclosure standards published in March 2014. It has aligned the templates and instructions with the EU regulatory framework and definitions where necessary. The LCR quantitative template includes a number of additional rows reflecting specific aspects of the EU LCR.

It applies to all credit institutions that are in the scope of the LCR delegated act. But general disclosure requirements on liquidity risk management consistent with CRR Article 435 are applicable to all firms within the scope of the CRD IV Pillar 3 disclosure requirements.

The EBA expects the application of these guidelines to take place no earlier than 30 June 2017. The consultation closes on **11 August 2016.**

Clarifying own funds reporting requirements

The PRA published the *Clarification of procedures for completion of COREP Section C 04.00 (CA4) Row 820: Own funds requirements related to Pillar II adjustments* on 10 May 2016.

The PRA advises firms that they should report only the additional own funds requirement for Pillar 2A in this cell of the COREP return. This additional amount excludes the Pillar 1 own funds requirements, the PRA buffer, the CRD IV buffers and the Basel I floor requirement. The clarification applies with immediate effect.

Relaxing the currency of liquid assets

The EC published *RTS specifying the conditions for the application of the derogations concerning currencies with constraints on the availability of liquid assets (EU) 2016/709* in the Official Journal on 13 May 2016.

CRR Article 419 relaxes the general requirement that the currency of high-quality liquid assets (HQLAs) should match the corresponding outflows in the same currency. Instead firms can use HQLAs of different currencies or credit lines from central banks. The RTS address the conditions and limitations that firms must meet to benefit from this. These include:

- the foreign exchange risk management framework of firms must satisfy the prescribed criteria
- a haircut of 8% applies to the HQLAs denominated in a different currency
- firms must notify the competent authorities 30 days prior to applying it or implementing any material change to it.

The RTS come into force on 2 June 2016.

Harmonising CRD IV and CRR national discretions

The ECB issued a *Public consultation on a draft Addendum to the ECB Guide on options and discretions available in Union law* on 18 May 2016. The consultation sets out the ECB's approach to the exercise of options and discretions (O&Ds) contained in the CRD IV and CRR. The ECB addresses eight O&Ds complementing the existing *ECB Guide on options and discretions available in Union law and Regulation (EU) 2016/445 of the ECB on the exercise of O&Ds available in Union law (ECB/2016/4)* published on 24 March 2016 which deal with 115 O&Ds. These eight O&Ds cover consolidated supervision, waivers, liquidity, capital requirements, governance and prudential supervision issues.

The ECB's aim is to harmonise supervisory policy for significant credit institutions supervised by the ECB but also to provide an indication of the position other EU supervisory authorities may take on a number of O&Ds. The ECB applies these O&Ds in two ways: a regulation for O&Ds of general application and a guide explaining their policy stance on case-by-case O&Ds. The ECB confirms this consultation does not affect the content of the regulation which will enter into force on 1 October 2016.

In due course the ECB intends to publish a consolidated version of the guide taking into account amendments from this consultation together with amendments arising from its 19 February 2016 consultation on its approach to assessing the eligibility of institutional protection schemes.

The consultation closes on **21 June 2016.**

EBA supports unsolicited credit assessments

The EBA confirmed its *Decision that the unsolicited credit assessments of certain external credit assessment institutions (ECAIs) do not differ in quality from their solicited credit assessments (EBA/DC/2016/151)* on 17 May 2016. This allows firms to use unsolicited ratings in their risk weighted asset capital requirement calculations and applies to 22 ECAIs. The EBA indicates the use of unsolicited ratings aligns with the intention of EU legislators to promote competition in this market.

The decision is supported by a *report* which also concluded the EBA had not identified any use of unsolicited ratings by ECAIs to put pressure on rated entities to place an order for a credit assessment or other services. This is a condition in CRR Article 138 that requires the EBA to refuse or revoke the use of unsolicited ratings of a particular ECAI. The decision comes into force 20 days after it is published in the Official Journal.

Considering market risk proportionality

The EC published *DG FISMA consultation document - proportionality in the future market risk capital requirements and the review of the original exposure method* on 26 May 2016. The EC considers that the future introduction in the EU of the new Basel Committee standards for market risks and the standardised approach for counterparty credit risk provides an opportunity to re-assess proportionality for smaller or simpler institutions. The focus includes:

- the trading activity thresholds that allow firms not to have to apply position risk capital requirements to their trading activities
- the possible development of an EU simplified standardised market risk approach and
- policy options around the possible retention of the current original exposure method (OEM) and other methods for the calculation of counterparty credit risk capital requirements for derivative contracts.

The EC notes the standardised approach within new market risk requirements is viewed by some as more complex than the current one – and that it may not be proportionate to apply this to smaller firms which are above the trading activity threshold. So the EC seeks views on the principle of introducing an EU-specific simplified standard market risk approach together with other possible policy combinations involving the trading activity thresholds.

There are currently three methods for the calculation of counterparty credit risk capital requirements for derivative contracts. These are the OEM, the current exposure method and standardised method. The new standard is set to replace all of these with a single standardised approach. The OEM is currently only available to firms below the trading activity threshold. The EC seeks views on whether to retain, modify or replace these methods in any combination.

The consultation closes on **24 June 2016.**

Commodity firm exemption passes milestone

The European Council *adopted* a regulation extending an exemption granted to commodity dealers on 30 May 2016. It extends an exemption from large exposures and own funds requirements under the CRR until 31 December 2020. This is to allow time for the EC to review the prudential supervision of commodity dealers and investment firms in general as any new resulting legislation would only be adopted after 31 December 2017.

Advising EBA on large exposures

The EC *Called for advice to the EBA for the purpose of revising the large exposure framework as part of the CRR review* on 20 May 2016. The EBA should consider:

- Alignment to April 2014 Basel Committee's revised supervisory framework for measuring and controlling large exposures – to analyse the impact on EU banks.
- Removal of discretionary exemptions to the large exposure regime. The EC has identified five CRR Article 400(2) exemptions under consideration for removal and needs an analysis of the impact by Member State.
- Provision of any additional information relevant to the EC's review. This includes reporting on any other issues or inconsistencies that supervisory authorities have already identified in the Basel Committee's revised framework or in the text of CRR. It also requests consideration of any adjustments or modifications in the context of applying proportionality.

The EC requested the required analysis of the first element and a preliminary analysis of the second element by 1 June 2016. It requested the EBA submit its final report on all elements by 1 October 2016. Separately, the EBA indicated the limitations on what it can provide by these deadlines in a letter to the EC.

EC advises on market risk

The EC published its *Call for advice to the EBA for the purpose of revising the own fund requirements for market risk as part of the CRR review* on 20 May 2016. The EC requested the EBA consider the following elements concerning the introduction of January 2016 Basel Committee's new standard - minimum capital requirements for market risk:

- Overview and small trading book - to analyse the existing market risk requirements and advise on the calibration of the small trading book threshold requirements, application of proportionality and on possible alternatives.
- Impact, standardised and internal models approaches – to analyse overall impact and to analyse and advise on the calibration between the two approaches.
- Operational and capital impact of the standardised approach – to assess the feasibility and potential cost as well as the effect on RWAs.
- Simple, transparent and standardised securitisations (STS) – to assess the

need for any adjustments to adapt the new standard for EU STS principles.

- Provision of any additional information relevant to the EC's review. This includes reporting on any interpretational issues or inconsistencies that supervisory authorities have already identified in the Basel Committee's new standard.

The EC requested an analysis of the first element and a preliminary analysis of the second element by 1 June 2016. It requested the EBA submit its final report on all elements by 1 October 2016. Separately, the EBA indicated the limitations on what it can provide by these deadlines in a letter to the EC.

Advising EC on counterparty credit risk

The EC published its *Call for advice to the EBA to assist the EC's implementation of the standardised approach for counterparty credit risk under the CRR review* on 20 May 2016. The EC requested that the EBA consider the following elements:

- Introduction of the March 2014 Basel Committee's standardised approach to measuring counterparty risk exposures – to analyse the impact on firms' capital requirements, leverage ratio and if possible the large exposures framework. The EC also requested the EBA advise on the appropriate calibration of the standardised approach as well as on its operational burden and its impact on the level playing field of firms with different business models.
- Use of original exposure method – review its usage and materiality in the capital requirements calculation and determine whether it would be appropriate to retain it in its current form or replace it with a modified approach.
- Provision of any additional information relevant to the EC's review. This includes reporting on any other issues or inconsistencies that supervisory authorities have already identified in the Basel Committee's standardised approach.

The EC requested a preliminary analysis of the first and second element by 1 June 2016 and the final report on all elements by 1 October 2016. Separately, the EBA indicated the limitations on what it can provide by these deadlines in a letter to the EC.

Competition

CMA releases redress guidance

The CMA published new *guidance* on 3 May 2016 explaining the redress options available to victims of competition law breaches. The guidance reflects changes in the law as a result of the Consumer Rights Act 2015 which make it easier for individuals and businesses to seek redress for breaches of competition law. These changes include a new power enabling the CMA or a sector regulator to approve voluntary redress schemes, to compensate those who have suffered loss as a result of competition law infringements, without having to go to court.

The guidance covers:

- when a claim can be brought
- where to seek compensation or redress
- time limits for bringing a claim
- types of relief available to a successful claimant
- the costs of bringing successful action.

The CMA notes that its guidance isn't intended to cover all competition-related private actions that can be brought.

ESAs reject EC's credit ratings proposal

The ESAs rejected EC proposals on credit ratings and reflected this in their opinion *on the EC's intention to amend the draft ITS on the mapping of external credit assessment institutions' (ECAIs') credit assessments under Article 136(1) and (3) of Regulation (EU) No 575/2013, and under Article 109a(1) of Directive 2009/138/EC* published on 12 May 2016.

The ESAs submitted the draft ITS to the EC on 5 November 2015. The ITS specified the mapping between the risk weights of exposures and ECAIs' credit ratings for capital requirement calculation purposes.

The initial draft ITS included provisions to promote competition by treating smaller and new entrant ECAIs more favourably over a phase in-period.

The EC informed the ESAs of its intention to amend the draft ITS on 29 March 2016. This extended temporary 'less conservative' quantitative requirements that favoured smaller and new entrant ECAIs indefinitely. The ESAs considered this would create an 'unlevel playing field' and leave risk weights prone to underestimation. They believed that favouring competition over prudential considerations increases the risk to financial stability and is not in line with their mandates. The ESAs noted that the initial draft ITS represented a good balance of prudential objectives but also sufficiently promoted competition in the credit rating industry.

Switching: a remedy for all?

DFBIS wants to know how consumers could be better served by switching, or removing barriers to switching. In its call for evidence *Improving the consumer landscape and quicker switching* published on 25 May 2016, DFBIS asks for views and evidence on whether more can be done to make switching quicker and easier to improve consumer choice, noting that the current account switching service in banking is a good example of how to achieve these goals (notwithstanding the enhancements the CMA proposes to make).

The DFBIS highlights the following areas of interest: auto-renewal in contracts, fixed price and fixed term contracts, as well as other contract issues (such as not being able to cancel contracts online when the contract was concluded online). Though the first section of the paper doesn't apply to financial services, these areas of improvement – together with the ways to speed up and ease switching – do. In a related *press release*, DFBIS specifically referred to mortgage account switching, and it is easy to see how auto-renewal changes could impact the insurance sector.

The call for evidence closes on **23 June 2016.**

Refreshing the UK competition framework

The Government is exploring enhancements to UK competition regulation two years after creating the CMA. In its consultation paper *Options to refine the UK competition regime* on 25 May 2016, DFBIS looks at measures relating to markets and mergers, the CMA's enforcement powers and changes to the Competition Appeals Tribunal (CAT), as well as changes to the PSR's competition process.

For markets and mergers, DFBIS wants to streamline processes by tweaking the statutory timeline, modifying the CMA's powers to revisit remedies and introducing a statutory duty for the CMA to make only proportionate information requests during phase 1 for mergers.

Proposed changes to the CMA's powers include introducing a new fining power based on the civil standard of proof to strengthen undertaking and commitment enforcement. DFBIS is also considering empowering the CMA to apply administrative penalties where it's given false or misleading information. Other proposals explore raising the level of fines the CMA can impose and making the CMA a designated prosecutor under the Serious Organised Crime and Police Act 2005. This latter measure would enable the CMA to reach agreements with 'assisting offenders' in criminal cartel cases where the leniency regime doesn't apply.

Proposals for the CAT include merging it with the Competition Service, expanding its jurisdiction to hear claims for damages stemming from the parallel competition provisions in the EEA Agreement and giving it extra powers. The powers relate to the hearing of judicial review applications for matters under Competition Act 1998 cases, issuing declaratory judgments in private actions for damages and (ultimately) exercising judicial supervision over warrants in competition investigations.

Finally the Government wants to introduce a statutory time limit on when appeals to the CMA against PSR decisions can be brought. It proposes a two-month limit.

The consultation closes to comments on **24 June 2016.**

CMA consults on consumer powers guidance

The CMA *consulted* on *draft guidance* on its consumer powers on 26 May 2016. The purpose of the draft guidance is to set out how the CMA uses its consumer powers to address problems in markets including its approach to compliance and enforcement of consumer law. The draft guidance will consolidate and replace a number of the CMA's existing guidance documents. The CMA asks for views on whether the guidance is sufficiently comprehensive and whether further clarity or additional content is required. The consultation closes on **21 July 2016.**

Conduct

MPs urge more action on mis-selling

MPs are urging the FCA and HMT to take further action to prevent the mis-selling of financial services products. In *Financial services mis-selling: regulation and redress* published on 13 May 2016, the Public Accounts Committee warns there are substantial and continuing risks that products will be mis-sold. The committee sets out six conclusions and recommendations in the report:

- expressing disappointment that claims management companies have made up to £5bn from PPI claims – and recommending HMT and the MoJ report on the effectiveness of their actions in reducing the role of claims firms in PPI compensation
- recommending that by the end of July 2016, the FOS should set out a clear timetable for eliminating its backlog of PPI claims
- stating the FCA has not done enough to tackle the cultural problems that lie behind mis-selling – and suggesting the FCA outline the actions it will take to improve firms' culture, and report on progress in a year's time
- claiming the FCA does not do enough to ensure consumers understand the products they buy and their rights to claim compensation – and recommending the FCA takes steps to address this and report on this work in a year's time
- stating the FCA and HMT do not have enough information on current levels of mis-selling – and recommending they develop 'real-time' indicators of the extent of mis-selling, and assess regularly how effective their actions are in reducing it
- recommending the Government introduces legislation to give the National Audit Office access to more information held by the FCA, so it can carry out a fuller assessment of the effectiveness of the FCA's actions to reduce mis-selling.

Meg Hillier, Chair of the Public Accounts Committee, says: 'It is vital the Government and regulators take fresh action now to

better protect taxpayers' interests, both in reducing the potential for mis-selling and, when it does occur, to ensure those affected get their due compensation.'

Health check for EU consumer laws

The EC kick-started its fitness check of EU consumer and marketing laws on 12 May 2016 when it released a *public consultation* seeking to evaluate whether seven directives are 'fit for purpose'. Specifically, the EC is looking at the effectiveness, efficiency, coherence, relevance and EU added value of each measure.

Fitness checks comprehensively evaluate policy areas by looking at how well a number of different but related legislative acts help the EC achieve its policy objectives. They tend to highlight inconsistencies, overlaps and synergies as well as drawing out the cumulative impact of regulation in the given area. The results of the consultation will feed into future policy initiatives and so some of the questions included are forward-looking.

In this review, six directives are specifically covered by the fitness check:

- Unfair Contract Terms Directive 93/13/EEC (UCTD)
- Consumer Sales and Guarantees Directive 99/44/EC
- Unfair Commercial Practices Directive 2005/29EC
- Price Indication Directive 98/6/EC
- Misleading and Comparative Advertising Directive 2006/114/EC
- Injunctions Directive 2009/22/EC.

But the Consumer Rights Directive 2011/83/EU is also covered here, although this is subject to its own evaluation.

Firms providing retail financial services may take an interest in these proceedings. Many financial regulations incorporate or are subject to EU consumer protection laws. For instance, the UK court action disputing the fairness of bank charges was founded on UK regulations that implemented UCTD. Added to that, the FCA took over responsibility for unfair terms from the OFT for regulated financial services when it was set up in 2013.

The EC welcomes responses via an online *survey*. The consultation closes for comments on **2 September 2016.**

FCA consults on UCITS and SFTR

The FCA published *CP16/14: UCITS V Level 2 Regulation, SFTR and consequential changes to the Handbook* on 19 May 2016. It outlines potential amendments to the CASS and Collective Investment Schemes (COLL) sourcebooks following adoption of UCITS V level 2 regulation. It also sets out prospective SYSC and Investment Funds (FUND) Sourcebook changes to be introduced as a result of the SFTR.

The FCA is consulting on amending CASS 6 to better align it with UCITS V. It states its intention to disapply certain CASS requirements to remove overlap between existing requirements. The FCA proposes revisions with respect to organisational requirements, records and accounts and reconciliation of records. It also confirms that UCITS depositories delegating custody of assets can rely on custodian records to meet CASS record keeping requirements.

With respect to COLL changes, the FCA suggests retaining existing independence requirements for UCITS management companies and depositories. It concludes COLL 6.9 independence requirements are of a higher standard than proposed UCITS V ones and so suggests retaining the existing text. The FCA indicates it plans to include language around common management, decision making processes for appointing depositories and delegation of safe keeping in its revised COLL text.

Regarding SYSC, the FCA recommends revising the text around remuneration committees for UCITS management companies. The revisions would confirm UCITS management companies need to meet all criteria outlined in SYSC 19E.2.9R before needing to establish a remuneration committee.

On SFTR, the FCA proposes adjusting COLL and FUND text around SFT disclosure requirements to match those set out in SFTR. It also confirms firms not authorised to use SFTs, or total return swaps, will not be expected to make SFTR disclosures. Finally, it confirms the proposed handbook text on periodic reporting requirements will not come into force until 13 January 2017.

Firms wishing to respond to the consultation have until **19 July 2016** to do so. The FCA intends to publish a policy statement in Q3 2016. It plans to publish final guidance prior to the application of UCITS V Regulation on 13 October 2016.

FCA warns on misleading FX communications

The FCA wrote to all firms carrying out currency transfer services over concerns about potentially misleading marketing communications. In an *email* sent to firms on 26 May 2016, the FCA said it is concerned about how some firms are using the interbank rate in currency converter tools, on their websites and in other promotional and marketing material. It indicated currency converter tools or other communications may give consumers the impression that the rates shown (based on the interbank rate) are available to them, rather than the materially inferior rate they may actually receive. It set out the relevant legal and regulatory provisions which firms need to comply with, and said firms should take legal advice where necessary.

The FCA also noted some firms claim that consumers can make specific savings by using their services, rather than those of their competitors. The FCA makes it clear that firms should only make such claims if they are not misleading for the purposes of the Consumer Protection from Unfair

Trading Regulations 2008 and the FCA's financial promotion rules. Firms should review their marketing materials to ensure they are not misleading. The FCA emphasised that it may take action if it considers firms are not acting in line with its expectations.

FOS' year in review

FOS *published* its annual review for 2015/16 on 26 May 2016. The review highlights that FOS investigated over 340,000 complaints during the year, an increase of 4% from the previous year. Overall, FOS received over 1.6 million enquiries in 2015/16, a decrease from 1.7 million in 2014/15. It outlines that 56% of the complaints it received were about the sale of PPI, while packaged bank account complaints more than doubled to over 44,000 cases. FOS notes that for these two products, it continues to sees a significant proportion of complaints referred by claims management companies (CMCs). For PPI and packaged bank accounts, CMCs represented over 80% and 60% of consumers respectively. Outside of these areas, over 80% of consumers represented themselves. FOS also highlights that it upheld an average of 51% of complaints, although uphold rates vary significantly by product. For instance, it upheld 66% of complaints about PPI and only 14% of complaints about packaged accounts.

FCA updates Handbook

The FCA published *Handbook Notice 33* on 27 May 2016, amending the Handbook and responding to consultations *CP15/33* and *CP15/42*.

The key changes are:

- a new section *CONC 2.5A* applying from 1 December 2016 requiring HCSTC price comparison websites to enable consumers to compare HCSTC loans more effectively
- changes from 27 May 2016 to the glossary and SUP 11 in relation to *controllers* to ensure consistency between the FSMA definition of 'controllers' and the Handbook
- changes from 31 May and 1 July 2016 to *CONC and PERG 2* to make deregulatory changes to some financial promotion rules and to correct or clarify existing rules
- *administrative changes* to the Handbook to correct or clarify existing provisions which were not consulted on.

The feedback on CP15/33 is set out in *PS16/15 Feedback on CP15/33, Consumer credit: proposals in response to the CMA's recommendations on HCSTC*.

The feedback on CP15/42 is set out in chapter 3 of the Handbook Notice. The FCA made minor changes to the revised rules on controllers as a result of feedback. The feedback on the changes to CONC and PERG 2 was mostly positive and the FCA implemented the changes as consulted on.

Consumer credit

EC turns down radio appeal

The EP published a *clarification* from the EC on 27 May 2016 in response to a *written question* concerning *Article 4 of the CCD* and radio advertising. The EC clarifies that Article 4 triggers the requirement to include standard warnings in adverts only where the advert mentions an interest rate or cost of credit. If these are not mentioned, the standard warnings do not need to be included.

Daniel Dalton, a UK MEP, raised the question at the request of Radiocentre on behalf of the UK commercial radio industry. He appealed for the axing of long terms and conditions from radio ads for consumer credit, citing UK research that consumers 'switch off' and don't recall the gabbled warnings at the end of radio ads.

Dalton's aim was to get Article 4's impact on radio adverts included in the EC's better regulation programme (*REFIT*) because the CCD did not include an impact assessment and has no revision clause.

But the EC's response dampens any hope of a fundamental review. It points out that the CCD provisions were reviewed as part of the MCD impact assessment. This concluded that the benefits of standard information for consumers outweigh the costs to credit providers.

But the FCA has now addressed this issue to a limited extent. Its *Handbook Notice 33*, also published on 27 May 2016, sets out changes to its rules from 31 May 2016. These do away with the standard information and representative example where: the credit is not secured on land and the APR is 0%; or the APR is 0% and the advert contains incentives, or favourable comparisons relating to the credit or is intended to appeal to sub-prime borrowers.

FCA issues payday lending policy statement

The FCA published a policy statement on 26 May 2016, in response to feedback to its consultation paper setting out proposals to implement the CMA's recommendations on HCSTC. In *PS16/15 Feedback on CP15/33, Consumer credit: proposals in response to the CMA's recommendations on HCSTC*, the FCA explains that most of the responses it received were supportive of its proposals to take forward the CMA's remaining recommendations. As a result, the FCA decided to only make minor changes to the rules it consulted on, to ensure its policy intention is reflected more clearly. The final rules will come into force on 1 December 2016. The policy statement also provides an update on the FCA's current and planned consumer credit policy work. This includes conducting research to better understand how consumer credit lenders assess creditworthiness, including affordability. The FCA expects to produce a report on its findings later in 2016.

Consumer issues

Exploring solutions to financial exclusion

The FCA is seeking to improve access to financial services for excluded customers. It published *Occasional Paper 17: Access to Financial Services in the UK* on 24 May 2016, through which it aims to explore the nature, scale and impact of access issues, and how to resolve them. The FCA says consumers' ability to access financial markets is fundamental to effective competition, growth and financial stability. It adds that appropriate access is a key tenet of good and fair treatment of customers. The FCA also published *Mind the gap: Consumer research exploring experiences of financial exclusion across the UK* on the same day. This commissioned research identifies a diverse range of challenges and barriers affecting a range of customers, including those with good financial literacy. Examples include difficulty finding travel insurance due to health or age, and problems setting up a bank account for those who have recently moved to the UK. The FCA categorises the problems around financial exclusion into three areas: process, requirements and eligibility; market navigation and comprehension; and physical and digital barriers. It says the research shows that some problems are caused by firms' policies, some arise from a disconnect between policy and frontline practice, while others are the result of industry inconsistency or unintended consequences of regulation.

In the occasional paper, the FCA sets out a list of questions for stakeholders to consider. It discusses issues such as what role regulators could play in improving access, the impact of digital developments, and compliance and crime prevention.

Lords appoint Financial Exclusion Committee

The House of Lords appointed members of an ad hoc committee to consider financial exclusion and access to mainstream financial services, in an *announcement* on 25 May 2016. The cross-party committee plans to publish its call for evidence in due course, in which it will set out the specific areas it intends to investigate.

The Committee, of which Liberal Democrat MP Baroness Claire Tyler was named chair, is required to report to the House of Lords by 31 March 2017.

Corporate governance

Protecting pre-emption rights

The FRC released a *monitoring report* of the Pre-Emption Group (PEG) on 5 May 2016. The PEG reviewed adherence with its recently updated disapplying pre-emption rights statement of principles. It also published a template for use by companies when requesting disapplication of pre-emption rights. Pre-emption gives existing shareholders the right to subscribe for their pro-rata share of any new shares issued by a company. This can be disapplied by a special resolution agreed to by shareholders at a general meeting. The principles generally allow for disapplication up to 5% of issued ordinary share capital in one year on an unrestricted basis, with an additional 5% of share capital available provided it is used for acquisition purposes and appropriately disclosed.

The PEG found that overall, companies were adhering to the principles. But it did note that some companies had flouted the spirit of the rules by conducting a one-time new issuance of just under 10% share capital, so as to avoid triggering the additional requirements around acquisition purpose and disclosure. Further, the PEG found other disclosure shortcomings when firms sought to disapply share issuances between 5-10% of share capital.

Financial crime and enforcement

More time for MAR reporting

ESMA set out how parts of MAR concerning the notification of financial instrument reference data which are dependent on MiFID II implementation will be similarly delayed in line with the postponement for MiFID II. In a *communication* on 25 May 2016, ESMA explained that organised trading facilities (OTFs) will not be subject to the requirement to notify supervisory authorities of any financial instruments for which they've received a request for admission to trading on their trading venue. This is because OTFs as a concept under MiFID II will not now enter into force until 3 January 2018. But the requirement still applies from 3 July 2016 for market operators of regulated markets and investment firms and market operators operating a MTF.

In addition, ESMA told operators of trading venues to continue to comply with the requirement to report trade reference data under Article 11 of *Regulation 1287/2006* implementing MiFID given the complexity of developing and aligning IT systems and infrastructure (for firms, national authorities and ESMA) to meet the demands of MAR and MiFID II.

Clarifying closed periods under MAR

The FCA intends to stick to its view that the closed period under MAR (where dealing is prohibited for certain employees or officers) will be the 30 days immediately before preliminary results are announced, provided this announcement includes all inside information expected to be included in the year-end result. But in a guidance note on *Closed periods and preliminary results under MAR* on 26 May 2016, the regulator acknowledged its position is pending clarification from the EC and ESMA.

Under MAR, persons discharging managerial responsibilities (PDMRs) are prohibited from dealing in the shares and debt instruments of an issuer during a closed period. But in the current UK regime,

the directors of an issuer – PDMR or not – are prohibited from dealing in shares and other quoted securities. The FCA says it understands there is confusion in the market on when the closed period starts. It also recognises confusion over whether issuers that announce preliminary results need to impose closed periods either before the preliminary results, the year-end results, or both.

MAR notifications in the UK

The FCA released draft copies of the forms firms will need to complete online to notify it of a *delayed disclosure of inside information* and *transactions by persons discharging managerial responsibilities* in a guidance note on *implementation of MAR* published on 25 May 2016. The parts of MAR containing these notification requirements come into force on 3 July 2016. Firms will need to use the online forms from this date.

Financial stability

Fewer MPC meetings

The BoE reduced the number of MPC meetings held each year in an *announcement* on 9 May 2016. Under previous legislation, the MPC was required to meet and announce a policy decision at least once a month. But in September 2015, the BoE announced that the committee would move to a schedule of eight regular meetings a year once the Bank of England Bill received Royal Assent, which it did on 4 May 2016. Meetings in October 2016, January, April, July and October 2017 will be dropped.

The FPC's top challenges

Donald Kohn, external member of the FPC, gave a speech titled *Macro-prudential policy: Implementation and effectiveness* on 27 April 2016 (the speech was published on 5 May 2016). He identified four challenging areas for the FPC:

- identifying and monitoring risks
- determining the systemic aspects of risks identified i.e. the externalities that call for macro-prudential action
- designing policies, including the role of cost-benefit analysis in evaluating policy options
- communicating policies and their rationale.

He said a priority for the FPC is revising its list of risk indicators, but that data availability should not determine the list. He thought macro-prudential authorities should identify the data they need and change data collection accordingly. The assessment of these risk indicators is as much about levels as it is about rates of change, Kohn added. He indicated the FPC looks forward to receiving powers over loan-to-value and debt-to-income measures for buy-to-let residential mortgages later this year.

Counting the UK's economic risks

Mark Carney, Governor of the BoE, wrote a *letter* to Chancellor George Osborne on 12 May 2016. He explained the deviation of inflation from its 2% target (CPI inflation was 0.5% in March 2016) as the result of falls in commodity prices, the past appreciation of sterling and to a lesser degree the subdued pace of domestic cost growth. Carney attributed part of the weakness in cost growth to subdued rates of pay growth. He said the reasons for this lie in weak productivity growth, shifts in the composition of the workforce and the low level of CPI. Carney said the MPC continues to expect that CPI inflation will pick up over the next year or so as the impact of past reductions in commodity prices and appreciation of sterling falls out of the 12-month calculation. He expects the recovery in inflation to be supported by recent increases in oil prices and additional stimulus from lower market interest rates. Apart from the EU referendum to be held on 23 June 2016, he identified other uncertainties including the prospects for global growth, the resilience of UK households and corporate spending and the path of productivity growth. Carney said a vote to leave the EU would significantly affect the trade-off between economic activity and inflation. He added that a vote to remain would lead the MPC to reassess its stance based on asset prices, the speed at which uncertainty dissipates and the underlying growth of the economy.

MPC explains latest vote

The MPC released its *Monetary Policy Summary and minutes of the MPC meeting ending on 11 May 2016* on 12 May 2016. The committee voted unanimously to maintain the Bank Rate at 0.5% and to maintain the stock of purchased assets financed by the issuance of central bank reserves at £375bn. The MPC reports that inflation increased to 0.5% in March 2016 but is expected to have fallen back to 0.3% in April 2016. The MPC considers that the divergence from the 2% inflation target was due primarily to energy and food prices. Core inflation also remained subdued as a result of weak global price pressures. In global financial markets sentiment has improved. The MPC indicates that in Q1 2016 activity slowed in the UK and a further deceleration is expected in Q2 2016 with uncertainty from the referendum weighing on activity. The committee anticipates a return to its target of 2% inflation by the middle of 2018. But it considers the most significant risks to its forecasts concern the EU referendum. The MPC suggests the negative impact on demand, supply and the exchange rate resulting from a vote to leave the EU could lead to a lower path for growth and a higher path for inflation than the committee set out in its May Inflation Report.

BoE bearish on Brexit vote

The BoE released its *Inflation Report - May 2016* on 12 May 2016. The BoE looks at the effect of the EU referendum on asset prices.

It finds the exchange rate has been most affected with one model suggesting that referendum effects accounted for roughly half the depreciation seen since November 2015. It finds much more limited evidence of effects on interest rates and equity prices. The BoE also looks at the relationship between uncertainty and growth. It states that uncertainty can prompt households to increase savings and reduce consumption and firms may choose not to invest and recruit. Uncertainty can also cause increases in risk premia which raises the cost of finance. The BoE adds that the effect of uncertainty can persist for some time.

The BoE also investigates the risks associated with the EU referendum. It says one way in which the referendum may affect activity is through the uncertainty it creates which would be prolonged by a vote to leave the EU. A vote to leave could also create concern over the future openness of the UK economy and its potential supply. It also finds evidence that economic activity is already being impacted, citing a 40% fall in commercial property transactions in Q1 2016. The BoE predicts a further depreciation in sterling should the UK vote to leave the EU. It suggests the pressures that may arise could amplify existing vulnerabilities such as the UK's current account deficit, bank lending and capital market liquidity.

HMT warns of Brexit recession

HMT published further analysis on the economic impact of a potential Brexit vote on 23 June 2016. In *HMT analysis: the immediate economic impact of leaving the EU* published on 23 May 2016, it looks at the short-term impact over the two years following a vote to leave. HMT says an exit vote would cause 'an immediate and profound' economic shock, creating instability and uncertainty. It argues this shock would push the UK into recession and lead to a sharp rise in unemployment and a spike in inflation. The report follows one on the long-term economic impact of a leave vote which HMT published in April 2016.

Lord Hill warns on Brexit options

Speaking at the London School of Economics on 23 May 2016, EC Commissioner Lord Jonathan Hill spoke on *UK Financial Services: Better off in the EU and the Single Market*. He said that given the downsides to the various post-exit trading models, the UK should work on the basis that 'a vote to leave the EU is a vote to leave the single market'. He spoke of this bringing disruption to the UK financial services sector and barriers to trade, warning this would damage the UK's economy, jobs and growth.

Lord Hill explained how the loss of the passport system (which allows firms to do business anywhere in the EU without separate authorisation) would leave banks, investment firms and insurers facing restrictions on cross-border business. Trading venues, central counterparties and CSDs could be affected unless they were recognised as equivalent (where the EU deems a country's national standards to be as good as the EU's). Lord Hill said negotiations on equivalence are difficult and time consuming. He said if firms are unable to passport and do not yet have or are unable to negotiate equivalence, they will be left subject to 'third country' rules.

Lord Hill added that if the UK votes to leave, it is likely to still be forced to accept EU regulations, but without any influence.

TC weighs in on Brexit debate

The TC analysed the economic consequences of EU membership and Brexit in *The economic costs and benefits of the UK's EU membership*, published on 27 May 2016. The report is based on evidence the committee took from the major campaign groups and spokespersons on both sides of the referendum debate between October 2015 and May 2016. In the report, the TC discusses the economic claims made by the 'remain' and 'leave' campaigns, and the short and long-term effects of leaving the EU. It concludes that various figures used in both campaigns (for instance, about the UK's contributions to the EU budget) are misleading and should either be discounted by the public, or only used with relevant context or explanation.

Broadbent explains voting record

Ben Broadbent, Deputy Governor for Monetary Policy at BoE, issued a *report* to the TC on 24 May 2016, explaining his reasons for voting for no change in monetary policy throughout the year. He said a materially higher rate of interest would have weakened the economy and pushed inflation much further below target.

Broadbent said the economy has broadly evolved in line with the MPC's expectations a year ago, but a number of developments have been slightly weaker than expected. This includes wage growth and economic growth. He mentioned the MPC's central forecast for the second quarter of 2016 is for GDP to rise by a mere 0.3%. He suggested this could be due to uncertainty surrounding the EU referendum, causing firms to delay spending decisions. He said this 'soft patch' would pass if the UK were to vote to remain in the EU.

Identifying risk in the EU

ESMA published its second *risk dashboard* of the year on 11 May 2016. ESMA observed that risk premia in EU sovereign debt markets remained low with correspondingly high liquidity. Strength in this sector can be attributed to low interest rates and continued monetary support. Corporate bond spreads have also stabilised following a period of volatility, indicating that search-for-yield behaviour is counteracting political concerns. But there has been a noticeable flight-to-quality which has led to sovereign debt volatility in a few, peripheral EU countries. Another bright spot was around CCP resilience, in that a recent EU stress test demonstrated that overall CCPs were assessed as resilient to the stress scenarios used to model extreme but plausible market developments.

But ESMA did find that market, liquidity, credit, contagion and operational risks remained high or elevated, a continuing issue from 2015 through to Q1 2016. Some of the specific concerns included:

- bid-ask spreads increasing within corporate bond segments
- investment funds experiencing substantial outflows
- portfolio rebalancing putting pressure on market liquidity more broadly
- problematic use of closet indexing (proximity of a fund to a benchmark while still claiming to be actively managed)
- increasing interconnection between the asset management and banking sectors.

ESMA identified Chinese equity market disruptions and commodity market volatility in emerging markets as two of the principle drivers of risk globally, including in the EU.

Reviewing EU macro-prudential policy

The ESRB released *A Review of Macro-prudential Policy in the EU in 2015* on 13 May 2016. The review identifies a substantial increase in the number of macro-prudential measures in the EU in 2015. This was due to measures under the CRD and CRR, such as the designation of systemically important institutions and the implementation of the CCB. Some Member States opted for an early introduction of the CCB in 2015, while most Member States identified the G-SIIs and O-SIIs in their jurisdiction and set additional capital buffer requirements. The ESRB found the real estate sector continued to be highly relevant for macro-prudential policy action and the systemic risk buffer was a popular instrument with three more Member States introducing it in 2015. Hungary chose it to address the risk resulting from problem exposures to commercial real estate whereas Slovakia used it as a complement to the O-SII buffer. Romania used the systemic risk buffer to target contagion risk from banks whose parent is based in a non-investment grade country. The ESRB suggests in the report that commercial real estate poses a much greater challenge for authorities than residential real estate, because experience using macro-prudential instruments is limited in this sector.

Improving macro-prudential policy

The BIS published a *speech* on 17 May 2016 given by Erkki Liikanen, Governor of the Bank of Finland on 'Macro-prudential policy in Europe and the world - challenges, experiences and institutional structures'. He said central banks need to explain macro-prudential policy in a comprehensible way, but also face a challenge in improving the understanding of potential risks to financial stability in today's low interest rate environment and the use of unconventional monetary policy measures. Central banks also lack sufficient tools to address potential systemic risks in the less regulated shadow banking sector, Liikanen explained.

Liikanen considered implementation may be challenging due to two time lags specific to macro-prudential policy. Firstly, the lag between the build-up of systemic risks and the observation of these risks, and secondly the time it takes to acquire new tools to address identified risks. He described the EU framework for macro-prudential policy and argued it does not contain a satisfactory way to increase residential mortgage risk weights for macro-prudential reasons. To conclude, Liikanen reiterated the importance of a resilient banking sector which can sustain lending to the real economy.

Counting euro area challenges

The ECB published its *Financial Stability Review* on 24 May 2016. The ECB sets out the current state of the euro area's financial system, the risks ahead and the policy considerations to tackle the challenges.

Overall, the ECB considers the financial system is resilient to the vulnerabilities caused by the turbulence in emerging market economies and oil price volatility. It notes that bank, sovereign and financial stress indicators remained at low levels in mid-May 2016.

Risks such as emerging markets turbulence, oil price volatility, weak economic recovery and high sovereign and private sector debt will continue to pose challenges, the ECB observes. These could lead to an increase in the risk premia and weak profitability for banks. Liquidity risk in the rapidly growing investment fund sector could also have repercussions.

The ECB indicates that reducing the systemic risk and increasing the resilience of banks will be the focus of policy makers. It considers that refining elements of Basel III, enhancing banks' loss absorbing and recapitalisation capacity, and prudential rules for investment funds will be the key focus areas.

Assessing China's monetary policy

Don Kohn, External Member of the FPC, spoke on *'Monetary policy and financial stability'* on 21 May 2016. Recent data highlights the potential connection between monetary policy and financial stability in China, he said. China's monetary policy is encouraging growth in output and employment and low, stable inflation while operating within the limit of disruptive movements in exchange rates. Kohn explained how China is adapting its policies and tools to encourage the transition to a more market-based allocation of savings and more efficient allocation of resources.

Kohn believes the global economy has a stake in the success of China's framework for macro-prudential regulation. If the framework is executed well, it will bring payoffs in terms of preserving financial stability and freeing up monetary policy to pursue growth and price stability, he argued.

FSB reviews shadow banking supervision

The FSB published its *Thematic Review on the Implementation of the FSB Policy Framework for Shadow Banking Entities* on 25 May 2016. Its policy framework sets guidelines for authorities supervising shadow banking entities. The FSB reviewed how well authorities are implementing this framework.

The FSB states implementation efforts are in their infancy but notes that:

- most shadow banking firms are within regulatory boundaries
- authorities are classifying shadow banking activities inconsistently
- data quality on shadow banking is in need of improvement.

It suggests implementation efforts could be enhanced by greater supervisory collaboration at a national level. The FSB also recommends authorities enhance data quality on shadow banking activity. Finally, it advises authorities to develop stricter disclosure requirements for shadow banking firms.

The peer review was the FSB's first on shadow banking. It plans to produce follow-up work on enhancing consistency of defining shadow banking activities, assessing interconnectedness and facilitating information sharing.

FPC retains buy-to-let focus

Mark Carney, Governor of the BoE, *replied* on 26 May 2016 to Chancellor George Osborne's remit and recommendations for the FPC letter of 16 March 2016. The letter is similar to the response sent after the FPC received its remit letter in 2015.

Carney agreed with the Chancellor's assessment that the outlook for financial stability had deteriorated since November 2015 due to global risks and domestic risks supplemented by the EU referendum. He said the FPC intends to continue monitoring recent developments in the buy-to-let mortgage market and potential threats to financial stability from buy-to-let mortgage lending. He revealed the FPC intends to publish its medium-term work programme later this year.

Innovation

FCA sandbox open for business

The FCA *announced* on 9 May 2016 that its regulatory sandbox is open to firms. The sandbox is a 'safe space' where businesses can test out new products and services.

Applications for firms intending to be in the first cohort of the sandbox close on 8 July 2016.

UK-Singapore FinTech bridge opens

The FCA released a *cooperation agreement* on 11 May 2016, creating a 'FinTech bridge' between the UK and Singapore. The agreement between the FCA and the Monetary Authority of Singapore (MAS) provides a framework to make referrals of innovative businesses which want to operate in the other's jurisdiction. Firms will be referred between the FCA's Project Innovate and MAS's Financial Technology and Innovation Group. The agreement also sets out how the regulators plan to share and use information on innovation. The agreement carries a statement of intent and so is not legally binding.

It will provide additional support for FinTech firms looking to expand in Singapore. The FCA believes it will also help promote competition in the UK by encouraging firms from Singapore to do business here.

ECON's views on regulating virtual currencies

ECON set out its views on the regulation of virtual currencies (VCs) in a *Report on VCs* on 11 May 2016. ECON defines a VC as an accepted form of tender that lacks central bank backing and is not attached to a fiat currency. Digital ledger technology (DLT) is the underlying architecture of most VCs, with over €1bn of investment in DLTs to date.

The report notes the benefits of VCs and DLTs, which include reducing payment costs for merchants and improving the resilience and speed of payments. ECON also notes risks which need to be addressed such as the absence of resilient and reliable governance structures, and the potential for 'black market' transactions due to the anonymity associated with VCs.

ECON calls for a proportionate EU regulatory approach to VCs to avoid stifling innovation while taking seriously the challenges that widespread use of VCs and DLT might pose. It points out that existing sector-specific EU legislation could provide a regulatory framework for VCs, but also that tailor-made legislation might be needed. It welcomes the EC's suggestion for including VC exchange platforms in the AMLD to end the anonymity associated with such platforms. Crucially, ECON recommends that the EC carries out a comprehensive analysis of VCs and uses this to consider revising EU payments legislation, including PAD, PSD and the Electronic Money Directive. In addition, ECON recommends the creation of a 'horizontal task force DLT', made up of experts, to lead on DLT work. It suggests the task force develops stress tests for all relevant aspects of VCs and DLT schemes that reach a level of use that would make them systemically important for financial stability.

Resolution on virtual currencies

The EP voted in favour of a non-binding *resolution on virtual currencies (VCs)* on 26 May 2016. The resolution calls for a proportionate regulatory approach to VCs and distributed ledger technology at this early stage of their development, rather than imposing stringent regulations. The EP

believes that regulation could stifle growth and add to the cost of development.

Instead, the EP proposes that the EC establish a task force to oversee VCs and distributed ledger evolution. The task force will monitor developments, foster awareness, analyse risks and benefits, and gather information from stakeholders and end-users.

Various existing EU legislation could already provide a regulatory framework for VCs, as they are technology agnostic. The EP requests that the EC considers including virtual currencies under the scope of AMLD, PAD, PSD, and the Electronic Money Directive.

Market-based finance

EU crowdfunding growing rapidly

The EC *published* a report on the crowdfunding sector, *Crowdfunding in the EU CMU*, on 3 May 2016, in response to a pledge made in the CMU Action Plan. The EC adopted the Action Plan on 30 September 2015.

The EC found the EU crowdfunding market remains relatively small, but is developing rapidly. It states that based on available data, approximately €4.2bn was raised through crowdfunding platforms in 2015 in the EU, compared with €1.6bn in 2014. Crowdfunding projects were present in all Member States but companies in the UK have by far raised the most capital.

The report states that if appropriately regulated, crowdfunding has the potential to be a key source of financing for SMEs over the long term. EU Member States have begun putting in place national frameworks to support the growth of the sector, but as crowdfunding remains largely local and is changing rapidly, the EC says there is no strong case for an EU-level framework at this stage. EC Commissioner Lord Jonathan Hill says the EC is keen to support the development of crowdfunding models, while focusing on promoting best practice, appropriate investor protection and consistency of national regimes. The EC plans to meet twice a year to review developments in the sector.

The report highlights that cross-border project funding is still limited and crowdfunding largely remains a regional or local phenomenon. Several Member States have introduced or are planning to introduce domestic bespoke regimes for crowdfunding to support the development of this source of funding, while addressing key risks that may arise for investors.

Market infrastructure

Setting the CCP regulatory bar

David Bailey, Director of the BoE's Financial Markets Infrastructure Supervision, gave a *speech* on 11 May 2016 acknowledging the progress the UK has made in strengthening the resilience and security of CCPs. But he emphasised there is still more to do, particularly in relation to international consistency. Specifically, Bailey called for regulators to increase the use of standardised stress tests to complement CCP internal tests.

While the UK has taken important steps in ensuring robust stress tests, and ESMA has just completed its first set of EU-wide stress tests, he expressed the BoE's commitment to work with international institutions to achieve increased global consistency. Further, Bailey called for more granular regulatory guidance around ensuring that initial margin modelling appropriately accounts for pro-cyclicality. He implied that EMIR's requirements in this area should be incorporated into the Committee on Payments and Market Infrastructures and IOSCO principles.

Regarding resolution, Bailey supported the EC's decision to work to a timetable concerning the EU's recovery and resolution framework that allows for the development of an international framework. A repeat of the protracted equivalence discussions between the US and the EU around Dodd-Frank vs EMIR CCP requirements would not be helpful, he observed.

Providing legal certainty for CCPs

The BoE published *Financial Stability Paper No.37 Got to be certain: the legal framework for CCP default management processes* on 11 May 2015. This outlines areas where continuing legal uncertainty around default management processes could impede the effectiveness of UK central clearing arrangements. The primary concern for the BoE is whether a CCP's ability to close out the account of a defaulting clearing member and then manage the margin collateral to mitigate the CCP's market exposure, would withstand legal challenges in key circumstances – for instance, if the collateral of a counterparty were subject to administration or liquidation under insolvency law. While the BoE finds the default management process has robust protections under contract law, as well as benefitting from specific legislative safe harbours, the BoE observes there are gaps that could be addressed to maximise CCP legal protection.

The BoE gives the example of fixed charges (a type of property transfer) that enjoy stronger protections under insolvency law than floating charges. But the uncertainty around whether or not the charge is fixed to a particular asset or to a wider account that is still managed by the collateral provider (floating) means that courts have re-characterised the charge as floating in circumstances when the parties intended it to be fixed. Such judicial intervention not only pushes the collateral lower down on the insolvency waterfall, compromising CCPs' ability to use the collateral in default management, but sometimes it may not be deemed to have been an adequate collateral transfer at all. As a result, the BoE is calling for more clarity around the distinction between fixed and floating charges.

Also, CCP default management processes can only supersede other regulatory requirements in certain circumstances if there has been a 'default'. But CCPs have a broader definition of 'default' than many of the legislative frameworks that protect default management. The BoE believes those definitions ought to be aligned. Likewise, certain CCP protections are inoperable if the CCP has notice of certain facts. The BoE argues that such notice should be limited to actual as opposed to constructive notice.

BoE interim report on sterling RFR

After the FSB determined that reference rates for certain transactions should be closer to risk-free, the BoE set up a working group of major sterling swap dealers to identify a 'nearly' risk-free sterling reference rate (RFR). The BoE Working Group on Sterling RFRs issued its *Interim Report* on 13 May 2016, outlining its progress over the past 14 months.

The group agreed the initial criteria for selection of sterling RFR i.e. the availability of reliable market data, robustness to changes in market structure, appropriate controls and governance, and the extent to which the RFR reflects actual market funding rates.

The group is considering two options:

- a reformed SONIA - the unsecured overnight index - will include both bilateral and brokered transactions
- a yet-to-be-determined secured overnight index.

During Q3 2016, the group intends to assess the reformed SONIA and candidates for the secured overnight index against the RFR criteria. A final decision is expected by the end of 2016, pending the development of methodologies, rates and volumes for reformed SONIA and the final candidates for the secured RFRs.

Benchmarks regulation moves closer

The Council *adopted* the Benchmarks Regulation on 18 May 2016. Benchmark administrators must have legally-binding codes of conducts for submitters. It also places requirements on the benchmarks supervised firms can use from third countries. The requirements differ according to the type of benchmark in question, with those deemed 'critical' attracting the most onerous rules. The regulation has been designed to work alongside the IOSCO Principles, which were established in July 2013.

The EC initially proposed the Benchmarks Regulation in September 2013. The broad scope proved controversial, which led to slow progress through the Level 1 legislative process. ESMA has already begun work on Level 2 legislation, but the regulation is not likely to be applicable until well into 2017 at the earliest.

ESMA publishes BMR draft technical advice

ESMA published a *Consultation Paper on Draft technical advice under the Benchmarks Regulation* on 27 May 2016. The regulator seeks industry input on level 2 measures proposed in response to the EC's mandate for technical advice.

BMR establishes three benchmark types distinguished by quantitative and qualitative thresholds. ESMA proposes that the reference value of critical and significant benchmarks be governed by the regulations applicable to the instrument in question. For example, MiFIR will govern the nominal value of financial instruments other than derivatives, EMIR the notional value of derivatives, and UCITS IV the net asset value of investment funds. The proposal sets out a non-exhaustive list of criteria for determining when a critical benchmark would have significant and adverse impact on one or more Member States.

Important to users of foreign benchmarks, ESMA provides criteria for NCAs considering the endorsement of a third country benchmark. NCAs of the administrator should consider objective reasons why the benchmark must be provided in the foreign country and why its use is required in the EU.

The draft measures offer clarification on definitions for making an index available to the public, administering arrangements for determining a benchmark and use of a benchmark based on issuance of a financial instrument.

Lastly, ESMA proposes rules for determining when change or cessation of benchmarks resulting from BMR would trigger force majeure provisions in financial contracts.

The EP and the Council approved the adopted text in April and May 2016, respectively. Publication and entry into force are expected in June 2016. The EC requested that ESMA submit its final report on draft technical advice four months after entry into force, approximately October 2016. ESMA plans to issue the consultation paper on draft technical standards in the second half of 2016.

The comment period ends on **30 June 2016.**

ESMA consults on CSDR defaults

Greater clarity on participant default rules and procedures under the CSDR is on its way following ESMA's draft *Guidelines on participant default rules and procedures under CSDR* released on 31 May 2016.

ESMA proposes guidelines that apply to default situations under the CSDR. The definition of 'default' tracks the narrow definition of default under the CSDR, which only covers situations where formal insolvency procedures have started.

ESMA asks whether a wider range of stakeholders other than CSDs and other

relevant market participants should be involved in the development of default rules and procedures. It is also seeking input on whether the proposed process for acknowledgement of a participant's default is appropriate and whether verification of the default is necessary.

In addition, ESMA is asking for feedback on: the draft guidelines in the consultation that cover the scope of actions a CSD should take when one of its participants defaults; the content of a CSD's internal default plans; the stakeholders that should be notified of the implementation of default rules and procedures; and the periodic testing and review of default procedures.

ESMA will consider all responses to the consultation received by **30 June 2016**. It intends to finalise its guidelines by the end of 2016.

Finalising indirect clearing arrangements

ESMA published its *Final Report on Draft RTS on indirect clearing arrangements under EMIR and MiFIR* on 26 May 2016. The two draft RTS clarify provisions of indirect clearing arrangements for OTC and exchange-traded derivatives and help to ensure consistency and an appropriate level of protection for indirect clients. The draft RTS cover the following key points:

- long chains - under certain conditions, the draft RTS allow longer indirect clearing chains than the standard four entities
- choice of account structures - the draft RTS provide for account structures which reflect current market practice in terms of the level of segregation. They also streamline the number of accounts required to reduce the operational burden on market participants
- default management - recognising there can be a conflict of law between EU regulation and certain national insolvency regimes, the draft RTS include requirements that rely on having appropriate default procedures and committing to trigger them.

The EC now has three months to decide whether to endorse these two RTS.

Reducing the size of margin requirements

Delegated Regulation (EU) 2016/822 amending Delegated Regulation (EU) No 153/2013 as regards the time horizons for the liquidation period to be considered for the different classes of financial instruments appeared in the Official Journal on 26 May 2016. It amends a RTS made under EMIR and reduces the minimum liquidation periods used for the purposes of calculating margin requirements necessary to cover a CCP's exposure to market risk. The amendment reflects that certain CCP arrangements provide a sufficient level of coverage of CCPs' market risk, better protect clients and mitigate systemic risks.

The RTS reduces from two to one business day the minimum liquidation period for financial instruments, other than OTC derivatives, that are held in individual client accounts or gross omnibus accounts. This is subject to conditions that include the requirement that a CCP measures exposures and calculates for each account the margin requirements on a near to real time basis and at least every hour using updated positions and prices. The regulation comes into force on 16 June 2016.

MiFID II

MiFID II delay confirmed

The Council *confirmed* on 18 May 2016 that MiFID II will be subject to a one-year delay and will now take effect on 3 January 2018. Member States will also have a year longer to transpose the legislation into local law. They must now complete this process by 3 July 2017.

Although the delay has been anticipated for some time, confirmation should give more certainty to firms and national supervisory authorities. The MiFID II rules were due to take effect on 3 January 2017. But ESMA flagged that due to technical implementing challenges, essential data infrastructures would not be in place in time. Delays to secondary legislation also contributed to the need to delay the application of the new rules.

MiFID II debate focuses on liquidity

In *ESMA amends MiFID II standards on non-equity transparency and position limits* on 3 May 2016, ESMA outlined its intention to accept a number of EC changes to MIFID RTS on pre-trade transparency and commodities position limits.

The EC previously suggested ESMA's approach to the non-equity pre-trade transparency regime may create market liquidity issues, and proposed a phase-in approach for the regime. ESMA responded by saying a phase-in may create legal uncertainty and confusion for the market. ESMA acknowledges the impact must be considered but recommends reviewing the impact on liquidity annually. ESMA's approach may allow for both legal certainty and ongoing assessments of liquidity impact.

The EC also proposed that position limits for commodities should be revised when open interest outstripped deliverable supply. ESMA plans to revise its proposed RTS to reflect this situation. It also intends to revise the definition of economically equivalent OTC derivatives to ensure the definition cannot be easily circumvented.

The EC will now consider ESMA's opinions and proposals further.

FCA addresses investor protection FAQs

As the EC continues to finalise MiFID II level 2 measures, NCAs are better able to offer more substantive guidance on implementation. The FCA issued the *meeting minutes* and *presentation* from its MiFID II Implementation – Conduct Forum

held on 18 April 2016 (and published on 10 May 2016), which covered FAQs on product governance and cost and charges disclosures.

Product governance requirements are set out in the implementing directive which is subject to local transposition. By contrast, the rules governing costs disclosures are in the implementing regulation which is directly effective.

At the meeting, the FCA addressed a range of attendees' questions on:

- manufacturer and distributor responsibilities, and target market assessments
- interaction between MiFID II, PRIIPs and UCITS
- format of costs and charges disclosures.

The FCA plans to publish two additional consultation papers in July and September 2016. The UK regulator also intends to complete transposition by April 2017.

ESMA outlines order to trade methodology

ESMA published *Commission Delegated Regulation (EU) supplementing Directive 2014/65/EU of the EP and the Council on markets in financial instruments with regard to RTS for the ratio of unexecuted orders to transactions in order to prevent disorderly trading conditions* on 18 May 2016. ESMA covers calculation of the order to trade ratio (OTR) in the supplementing regulation. Specifically, it addresses:

- definition of an order for calculating the OTR - ESMA outlines types of cancel orders that will not form part of the calculation
- calculation responsibility - confirms trading venues will need to calculate the OTR for each member/participant and each financial instrument they trade
- calculation methodology - states trading venues will need to calculate the OTR at the end of each trading session and outlines the calculation to be employed.

The regulation will enter into force 20 days following its publication in the Official Journal. It will be applicable from the revised MiFID II application date of 3 January 2018. Trading venues can review the regulation to determine the impact of the OTR restrictions on their members.

ESMA publishes MiFID II supplementing regulation

ESMA published *COMMISSION DELEGATED REGULATION (EU) supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions* on 18 May 2016. ESMA sets rules in five areas and makes use of 11 MiFIR empowerments to do so. The five areas ESMA covers are:

- liquidity definitions - sets thresholds and calculation methodologies for identifying liquid markets in equities
- criteria for setting market data fees for trading venues
- quoting, best execution and data publication requirements for systematic internalisers
- derivatives - focuses on requirements for firms offering portfolio compression services
- product intervention and position management - outlines considerations ESMA, the EBA and NCAs must take into account when using these powers.

The regulation will enter into force 20 days after its publication in the Official Journal. It will be applicable from the revised MiFID II application date of 3 January 2018.

Firms operating trading venues and systematic internalisers can now use the publication to better identify their MiFID II transparency obligations. Firms that offer portfolio compression services can use the document to identify risk considerations they will have to make when offering the service.

Exempting collateral transfers from MiFIR reporting

ESMA published *Final Report – Amendment of ESMA draft RTS under Article 26 of MiFIR* on 4 May 2016. ESMA exempted transfer of collateral transactions from MiFIR reporting requirements to correct this unintentional omission. The transfers would excessively burden regulatory monitoring systems with transactions not susceptible to market abuse. ESMA submitted the Final Report to the EC and anticipates the amendment will be reflected in the RTS when endorsed by the EC.

Suspending derivatives from trading

The EC adopted *Regulation (EU) supplementing MIFID II with regard to RTS for the suspension and removal of financial instruments from trading* on 24 May 2016. Derivatives must be suspended from trading if it is related or referenced to only one financial instrument, and that financial instrument has itself also been suspended from trading. This applies to trading on regulated markets, MTFs and organised trading facilities.

The regulation will enter into force 20 days after its publication in the Official Journal. It will be applicable from the revised MiFID II application date, currently expected to be 3 January 2018.

Implementing standards on MTFs and OTFs

The EC adopted *Implementing Regulation (EU) 2016/824* setting out the content and format of the description of the functioning of MTFs and organised trading facilities (OTFs). The regulation is based on the draft ITS that ESMA submitted to the EC on 28 September 2015.

Investment firms and market operators of MTFs and OTFs must provide their competent authorities with details of the specific functionality of their trading systems. The information must be in electronic format and clearly referenced as required by the template in Table 1 of the annex to the regulation.

Competent authorities must notify ESMA electronically when they authorise an operator of an MTF or OTF, giving the information in the format required by Table 2 of the annex to the regulation. This is to enable ESMA to publish a list of all MTFs and OTFs in the EU together with details of their services and Market Identifier Code.

The implementing regulation was published in the Official Journal on 26 May 2016 and comes into force on 16 June 2016.

MiFID II RTS on material markets

The EC adopted the *Delegated Regulation on RTS for determining a material market in terms of liquidity in relation to notices of temporary halts in trading* on 26 May 2016. The Delegated Regulation is based on the draft RTS submitted by ESMA to the EC on 28 September 2015.

Under MiFID II, if there is a significant price movement in a financial instrument during a short period, a material market must report its decision to halt trading to its competent authority which must, in turn, report to ESMA.

The Delegated Regulation sets out the criteria for deciding which markets should be considered material in terms of liquidity so they can have systems in place for giving notice of temporary halts in trading. It also ensures that financial instruments traded on MTFs and organised trading facilities (OTFs) are covered by the criteria.

For equity and equity-like financial instruments, the material market in terms of liquidity will be the trading venue that has the highest turnover in the relevant instrument in the EU.

For non-equity financial instruments, the material market in terms of liquidity will be the regulated market where it was first admitted to trading. If it was not admitted to trading on a regulated market, then the material market in terms of liquidity will be the trading venue where the relevant financial instrument was first traded.

The EP and EU Council will now review the Delegated Regulation before publication in the Official Journal.

Ancillary activity debate rumbles on

ESMA confirmed its view in an *Opinion – draft RTS on criteria for establishing when an activity is to be considered ancillary to the main business* on 30 May 2016. ESMA maintains that the business activity test in 'RTS 20' of MiFID II is a better means to exempt ancillary activities for non-financial firms engaged in commodity derivative trading. But ESMA partially heeded the EC's request to introduce a capital-based test, setting out metrics for a numerator and denominator that the EC could use to create such a test as an alternative to the main business test.

ESMA reiterated that a capital-based measure was prone to yield inconsistent results over time - the proxies firms would have to use could vary significantly according to type of firm or sector, and type of business model. Such a test is not likely to foster a level playing field for market participants across different sectors.

In a related press release, ESMA confirmed that if the EC introduces a capital-based test, ESMA will allow firms to choose between performing this or the main business test. ESMA considers this would avoid putting SMEs at the potential disadvantage as they may not be as well placed to apply the more complex capital-based test.

Operational resilience

Promoting cyber threat resilience

TheCityUK, in conjunction with Marsh, published a report *Cyber and the City: making the UK financial and professional services sector more resilient to cyber attack* on 17 May 2016.

In the report, TheCityUK sets out a ten-point check list for firms' boards to present to their management teams on how to identify and mitigate cyber risks. It recommends the establishment of a Cyber Forum for the financial sector, to encourage information sharing and engagement with regulators, as well as the promotion of cyber hygiene standards. In addition, TheCityUK highlights continued attention to the Council for Registered Ethical Security Testers (known as CREST) and the items elaborated in the BoE Cyber Security Framework (known as the CBEST Framework).

Council adopts NIS Directive

The Council adopted the *text of the NIS Directive* on 17 May 2016. The directive aims to harmonise Member States' approach to the security of network and information systems. It increases cooperation across the EU when tackling cyber threats and presents plans for efficient communication among Member States. The directive contains obligations for providers of essential services in sectors such as financial services, energy, transport, health and water supply.

Financial services providers will therefore have an obligation to report data breaches to authorities under the NIS Directive. They will also be obliged to ensure that appropriate measures are take to prevent and minimise the impact of incidents affecting the security of networks and information systems.

The directive awaits approval by the EP. It is expected to enter into force by August 2016.

Winding down FCA firms

The FCA *Proposed guidance on wind-down planning in GC16/5* on 23 May 2016, to help solo regulated firms put wind-down plans in place.

Wind-down plans should incorporate three key assessments:

- who will be affected
- operational steps to be followed
- resources required.

The FCA also proposes that communication plans and assessments of intra-group relationships in existing wind-down plans need strengthening. The FCA welcomes comments by **22 July 2016.**

Providing a common EU data source

The Council published *Commission Delegated Regulation (EU)* on 20 May 2016. This supplements Transparency Directive 2004/109/EC with regard to RTS on access to regulated information at EU level.

The Council calls for the development and operation of a European Electronic Access Point (EEAP) for regulated information, in accordance with the Transparency Directive. The accompanying text of the delegated regulation sets out technical standards for access to this data. The Transparency Directive already addresses the central storage of such information at individual Member State level through the establishment of an Officially Appointed Mechanism (OAM).

Article 21a requires ESMA to develop a web portal for the EEAP starting from 1 January 2018. This proposed EEAP will allow easier access to cross-border regulated information while cutting down search time and possibly access costs. The cost benefit analysis for the EEAP concluded a search engine tool for both OAM and ESMA would be the most effective solution, while legal elements of the delegated act set out rules on the communication technology availability and support for the EEAP and OAMs.

This call for an EEAP follows ESMA's consultation paper on draft RTS on EEAP, published on 19 December 2014 and which closed on 30 March 2015.

The Council also published a supplementary *annex detailing the RTS* on access to regulated information at EU level.

Pensions

Extending pensions guidance definition

Pensions-related changes to the Bank of England and Financial Services Act 2016 came into force on 13 May 2016. In *Statutory Instruments: The Bank of England and Financial Services Act 2016 (Commencement No. 2) Regulations 2016*, published on 13 May 2016, the Government confirmed the date that section 32 (pensions guidance) of the Act came into force. Section 32 of the Act amends section 333A (introduction and definitions) of the FSMA. It extends the definition of pensions guidance to include guidance given to help an individual who has a relevant interest in relation to a relevant annuity to make decisions about transferring or dealing with the right to payments under that annuity. Section 333A(2A) states that references to a member of a pension scheme (or their survivor) include members of schemes for which the Pension Protection Fund has assumed responsibility. Section 333A(2B) gives the Pensions Minister the power to make regulations that specify what is a relevant annuity and what is a relevant interest for the purposes of pensions guidance.

FCA eyes 1% exit fee cap

The FCA proposed that exit charges for consumers wishing to use the pension freedoms should be capped at 1%, in *CP16/15: Capping early exit pension charges* on 26 May 2016. The FCA proposes to apply the cap to existing contract-based personal pensions, including workplace personal pensions. It also proposes to ban exit fees altogether for personal pension contracts entered into after the proposed new rules come into force. In addition, the FCA outlines changes to Handbook rules required to introduce a cap.

The FCA estimates that a 1% cap on existing contracts will lead to 37,397 more consumers exiting policies early between 2017 and 2020, a 25 per cent increase in the number of exits. It also evaluates that a 1% cap will cost firms approximately £65m in lost revenue in the first four years following implementation, plus implementation costs of £17m.

Parliament will give the FCA the power and duty to cap exit fees once the relevant section in the Bank of England and Financial Services Act 2016 comes into force. This is part of the Government's efforts to address barriers to accessing the pension reforms.

The consultation closes on **18 August 2016**. The FCA plans to publish a policy statement confirming final Handbook rules in autumn 2016, with a view to implementing the rules on 31 March 2017.

Capping exit fees for occupational pensions

The Department for Work & Pensions (DWP) issued a consultation on 26 May 2016 on a proposed exit fees cap for occupational pension schemes, to complement the FCA's consultation on a cap for personal pensions. In *Capping early exit charges for members of occupational pension schemes*, the DWP says the cap will only apply to members who are eligible to access the pension freedom, and the cap for occupational and personal schemes should operate in the same way as the FCA's cap as far as possible (to aid consumer understanding).

The DWP seeks views on the definition of an early exit charge, the level of the cap, the

impact of a cap on scheme trustees or managers, and whether there is a risk that firms will use other fees to recoup costs. The DWP proposes a cap of 1%, in line with the FCA's proposed cap for personal pensions. It is also proposes to place a primary duty to comply with the cap on service providers and/or scheme trustees or managers, depending on who applies the charge in practice. The DWP also proposes that the TPR should be responsible for enforcing the fee cap. The Government intends to implement the cap some time in 2017, once the necessary changes to primary and secondary legislation have been made.

The consultation closes on **16 August 2016.**

Reporting

Annual changes to benchmarking templates

The EBA published its *Opinion on the EC's intention to amend the Final Draft ITS on benchmarking of internal approaches under Article 78(8) of CRD IV* on 12 May 2016. It agrees with the proposed changes to the templates and reporting instructions that comprise the final draft ITS, but anticipates that further annual updates will be necessary. The EBA wants a more flexible approach and recommends that it be granted the authority to update the templates and instructions itself rather than through amending the ITS. A similar approach is already in place for supervisory reporting templates and reporting instructions.

CRD IV Article 78 requires competent authorities to assess annually the internal approaches used by institutions to calculate their own funds requirements for credit and market risk. It also requires the EBA to prepare a report to assist competent authorities in their assessment. The EBA uses benchmarking data submitted by institutions based on this final draft ITS. These ITS specify the benchmarking portfolios, templates and reporting instructions for the purposes of preparing this benchmark data. The EBA considers the changes the EC proposed, which drew on experience gained during the 2014-15 benchmarking exercise, will improve the data quality and analysis.

Retail products

Calls for PRIIPs delay

EU financial associations called for a one-year delay to the PRIIPs Regulation, in a *letter addressed to EC Commissioner Jonathan Hill* dated 27 April 2016. The letter was published on 2 May 2016.

In a joint letter, the European Banking Federation, Insurance Europe, the European Fund and Asset Management Association and the European Structured Investment Products Association say they are fully supportive of PRIIPs' objectives. But they believe the timeline for the development of the Key Information Document (KID) is 'unrealistic'. Final RTS are not due to be published until Q3 2016, which the associations say will leave product manufacturers and distributors only three to four months to meet the 31 December 2016 deadline.

They stress the operational challenges that PRIIP manufacturers need to overcome to provide the KID, noting that many steps need to be executed properly to achieve the ultimate aim of the KID: to provide a useful tool to consumers, helping them to compare PRIIPs. The letter says the industry cannot rely on the final draft RTS to start implementing the KID, as both the EP and Council can still accept or reject the RTS proposed by the EC.

Finally the associations argue that questions remain unresolved in the final draft RTS from a practical, technical and legal standpoint. The letter urges the EC and the ESAs to address the questions it raises and postpone the application date of PRIIPs.

EC discusses foreign currency loans

In a response to the oral question 37/2016 about the compatibility of foreign currency loans converted into local currency loans with the general principles of EU law, EC Commissioner Lord Jonathan Hill pointed to the MCD and the enhanced consumer protections it has introduced.

In his *Statement* given at the EP and published on 12 May 2016, Lord Hill made it clear the EC had acted to ensure associated risks with foreign currency loans had been managed. For instance, the EC introduced new obligations on firms dealing in foreign currency mortgages, including disclosure requirements around the potential impact of exchange rate fluctuation. But he recognised the steps taken had not dealt with the problem of existing foreign currency loans.

Lord Hill acknowledged Croatia's attempts at a solution that allows borrowers to convert Swiss franc loans into euro denominated loans at an exchange rate that predates the franc's appreciation. But while this puts borrowers in the position they would have been in had they chosen a euro denominated loan, it places a significant financial burden on banks. Lord Hill said he would continue to push for a balanced solution that is consistent with EU legislation, protects the interests of consumers and helps maintain investor confidence and the single market.

Stress testing

Stressing CCPs

The ESRB published *Scenario for the ESMA's EU-wide CCP stress test in 2016* on 11 May 2016. Notably, the ESRB's default assumptions go beyond the regulatory requirement to protect against the default of a CCP's two largest clearing members, and instead consider the default of the two largest EU financial groups. In addition, the scenario assumes serial clearing member defaults until the CCP guarantee fund is exhausted.

These assumptions support the two macro-financial scenarios proposed. The first one is an internally consistent adverse macro-financial scenario, derived from the EBA stress tests for banks, but adjusted to the shorter two-day horizon of CCP stress tests. The second is a 'bespoke' macro-financial scenario which is not internally consistent in the sense that it disregards historical tail correlation between asset classes but is deemed better suited to the specific scenario of the CCP business model. The ESRB notes that neither of these scenarios is deemed to provide the complete set of risk factors for all CCPs, rather the focus is on the main risk factors.

Supervision

Implementing new PRA Audit Committee rules

The PRA published *PS16/16 Implementing audit committee requirements under the revised Statutory Audit Directive* on 18 May 2016. This applies to CRD credit institutions, UK Solvency II insurance and reinsurance firms, the Society for Lloyd's and managing agents and PRA-designated investment firms. The PRA has made changes to its initial proposals including:

- introducing a waiver or modification for the smallest firms if they have a board performing equivalent functions to an audit committee
- introducing a two-year transition period
- amending the requirements for members of a subsidiary board to be independent so that where the parent's audit committee is fully comprised of independent non-executive directors, only a majority of the members of subsidiaries' audit committees are required to be independent.

The PRA also clarifies its approach to independence, competence, audit committee functions and how the requirements will operate alongside the SM&CR and SIMR. The new rules apply to financial years commencing on or after 17 June 2016.

The challenges of supervising culture

Andrew Bailey, Deputy Governor for Prudential Regulation and Chief Executive at the PRA, gave a *speech* about culture in financial services on 9 May 2016. He emphasised that culture is 'of the utmost importance' to both conduct and prudential regulators. Bailey said he views culture as the product of several factors:

- the stance and effectiveness of management and governance
- the structure of remuneration and the incentives it creates
- the quality and effectiveness of risk management
- the willingness of staff throughout the organisation to adopt and adhere to the 'tone from the top'.

He said that while culture is not tangible and cannot be determined nor changed by regulators, he believes regulators can tackle firms on all the elements that contribute to defining culture. Bailey said regulators seek to ensure that firms have robust governance, which includes appropriate challenge from all levels of the organisation, and promote a willingness to act on and respond promptly to bad news. Regulators also require that risk management and internal audit in firms are effective and act to root out poor incentives and weak controls.

Bailey said there is a big challenge for both firms and regulators in continuing to push forward culture change. He said in some cases there should be greater clarity on the outcomes firms are seeking from the changes they make, how progress is assessed and whether there is sufficient consistency across the organisation. The Banking Standards Board has these points in its sights, Bailey noted.

Restructuring the BoE and PRA

The *Bank of England and Financial Services Act 2016* received Royal Assent on 4 May 2016. The majority of provisions come into force on dates to be specified by HMT in regulations.

The Act ends the PRA's status as a subsidiary of the BoE and creates the Prudential Regulation Committee (PRC) which will exercise the same function. By establishing the FPC as a committee of the BoE it puts it on an equal footing with the MPC and the PRC. The Act abolishes the BoE's Oversight Committee which will see its functions transfer to the BoE's Court of Directors. It also reduces the number of meetings held by the MPC to eight each year, bringing the BoE in line with the ECB and US Federal Reserve.

The Act updates resolution planning and crisis management arrangements that exist between the Bank and HMT. The Act extends the SM&CR to all authorised persons. It allows the National Audit Office to undertake value for money studies of the BoE for the first time. There are also changes affecting consumers more directly concerning impartial pension advice (sales of annuity income), and powers in relation to tackling illegal money lending and competition objectives.

Reviewing PRA's insurance objective

The BoE released *Minutes of the Meeting of the Court of Directors held on 11 February 2016* on 11 May 2016. At the meeting Andrew Gracie, Executive Director for Resolution at the BoE, gave an update on its resolution capability. He said the majority of firms are now resolvable by the special administration procedure or modified insolvency. For those firms requiring use of the BoE's resolution tools which are mainly G-SIBs or subsidiaries of overseas G-SIBs, he said their resolvability depends on their ability to refinance existing debt with instruments that could be bailed in. Gracie said the BoE finds it difficult to know when

to bring in external advisers for transactional know-how to strike a balance between cost and the risk associated with bringing advisers in too late. He stressed the level of uncertainty of decision makers in a resolution situation, noting that valuation is likely to be partial and the liquidity position of a firm is subject to the reaction of other market participants. More needs to be done to understand how losses in insolvency would fall to CCPs, clearing members and their users, Gracie continued. He said that CCP resolvability is a top priority for the FSB in the coming year.

David Bailey, Director of Financial Markets Infrastructure Supervision at the BoE, gave an update on FMIs. He said the FMI Directorate had delivered a number of important changes including pre-funding of retail payment systems and establishment of cross-currency swap lines with the ECB to provide emergency backstop liquidity to CCPs.

The court decided the Independent Evaluation Office should focus on FMI supervision and a review of the PRA insurance objective in 2016, with resolution planning a possible area for review in 2017. It also indicates that operational resilience could be reviewed in two years' time once changes underway in the BoE have been completed.

FCA drops the whistle?

The TC is scrutinising the FCA's approach to handling the concerns raised with it by the SME Alliance over banks' alleged falsification of customer records. An exchange of letters published by the TC on 13 May 2016 sets out Chair Andrew Tyrie's interest in the proceedings between the FCA and the SME Alliance, a lobby organisation. The latter considers that the FCA betrayed its confidence by disclosing material it had handed over to the banks concerned. But the FCA believes it did not receive the information in confidence.

Tyrie called on the FCA to explain its progress in implementing the Parliamentary Commission on Banking Standards' (PCBS) 2013 recommendation to encourage 'a significant shift in cultural attitudes towards whistle-blowing' (*letter dated 9 February 2016*). The FCA answered that its whistleblowing team was now bigger, had been given specialist training and was significantly investing in new technology to create a robust whistleblowing case-management system (*letter dated 10 March 2016*). The FCA also said it would be looking at how firms embed new whistleblowing rules, which are due to come into effect in September 2016. Here, the FCA expects to look at whether firms have a culture where it's seen as safe and acceptable to blow the whistle, the extent to which firms protect whistleblowers, the attention boards pay to whistleblowing and whether concerns raised by whistleblowers are effectively investigated and acted upon.

But this wasn't enough for Tyrie. In the final letter published, he asked the FCA to outline how it decides whether an informant is treated as a whistleblower, if they are clearly told of this and what assurance the FCA can give to those treated as whistleblowers that their involvement will remain confidential (*letter dated 13 May 2016*).

The TC's focus on the FCA's own whistleblowing culture is likely to sharpen the FCA's focus when it comes to looking at the culture in firms.

More whistle-blowing feedback for the FCA

The FCA has taken steps to improve its whistle-blowing process after the Complaints Commissioner partially upheld a complaint against it. In a *letter* to the complainant published on 27 May 2016 (dated 11 May 2016), the Complaints Commissioner gave its final decision. The complainant alleged the FCA dismissed his or her whistle-blowing report about two firms on the grounds the information was not detailed enough, without giving the individual the opportunity to provide more information. In a second element to the complaint, the complainant also claimed the FCA 'covered up' wrongdoing out of loyalty to the financial services industry.

The Complaints Commissioner upheld the first part of the complaint, but not the second. The commissioner concluded the FCA wrongly excluded the complaint and that information supplied by the whistleblowing team to the supervision department did not make it clear the complainant had offered to provide further evidence. The commissioner recommended the FCA carry out a diligent assessment of the complainant's evidence, and pay £300 in compensation (which the FCA confirmed it would do in its brief *response* also published on 27 May 2016). But the commissioner said it did not find any evidence the FCA's failings were the result of loyalty to the industry.

The FCA has already taken steps to improve its whistle-blowing process. This is to ensure special care is taken to obtain additional information or evidence from whistle-blowers and provided to the relevant areas in response to the commissioner's provisional decision. It is also considering additional training for the relevant areas to ensure such errors do not occur again in future.

Commissioner's cautious approach

EC Commissioner Lord Jonathan Hill *spoke* at the public hearing on the call for evidence reviewing the EU regulatory framework for financial services on 17 May 2016. He affirmed the EC's commitment to legislating less and reviewing the coherence of existing regulation. To address the concerns of small banks and credit unions, he advocated speeding up the process to gain exemption from the CRR, and to set objective criteria for future exemptions. Lord Hill would also like to see simplified reporting and disclosure reporting.

To address concerns that regulation is impeding the flow of credit to the wider economy he suggested raising the threshold for loans to qualify for the supporting factor for lending to SMEs. The CRR review will investigate whether regulation is making it harder for banks to act as market makers and so reducing liquidity. Hill said the EC needs to be cautious when implementing regulation that could present further complications, which is why it has written to ESMA about the calibration of MiFID II liquidity thresholds and to the EBA to advise on implementation of the NSFR and leverage ratio. He said the EC plans to launch targeted consultations on the NSFR and Trading Book Review.

With respect to asset managers, Lord Hill reported firms feel they are being asked to report the same data in different forms to comply with separate pieces of legislation. This has prompted the EC to consider reducing the reporting burden. He said the EC is working to improve the EU passporting regime and it intended to launch a consultation later in May 2016 to identify the main barriers to funds operating in other countries. Lord Hill expects the EMIR review to achieve a more proportionate approach by lowering administrative reporting burdens.

Firms air their frustrations

The EC released the *Summary of contributions to the Call for Evidence* on 17 May 2016. The Call for Evidence examines the EU regulatory framework for financial services. Most responses referred to CRR/CRD IV, MiFID/MiFIR, EMIR, AIFMD, UCITS and Solvency II. Banks drew attention to the possible adverse impact of the LCR, structural reform, the NSFR and the leverage ratio. They expressed concern over the IRB approach to calculating capital requirements, particularly for interest rate risk in the banking book and own funds requirements for credit valuation adjustment risks.

Banks claimed reporting requirements were more onerous for smaller firms and remuneration rules did not take sufficient account of the size and type of entities. They also questioned the proportionality of MREL. In addition, banks were concerned the leverage ratio could reduce diversity by impacting low risk-weighted business models such as building societies. The application of EMIR to non-financial counterparties was highlighted as disproportionate by a variety of respondents.

Some banking representatives expressed concern over the inclusion of bail-in contractual recognition language in non-EU liabilities because the requirement is broad and may require a number of contract renegotiations. The application of bail-in provisions for trade finance transactions was seen as disproportionate and having the potential to depress trade finance offerings.

Some respondents suggested a 'silo approach' to consumer protection had led to 'duplication, divergent definitions, increased compliance costs, lack of clarity for consumers and multiplication of cost and effort' for regulators. Pre-sale disclosure requirements to retail investors were described as inconsistent across pieces of legislation. Some fund managers questioned the need to provide a professional investor with a Key Investor Information Document for each managed UCITS.

Some firms and public authorities felt reporting requirements overlapped, creating duplication between different areas of regulation - particularly for transactions reporting under MiFID II, EMIR and the SFTR.

Respondents also identified gaps in the macro-prudential framework covering non-banks, the lack of investor protections around virtual currencies and the need for further progress on cyber security.

Trading

Reporting on commodity price integrity

IOSCO published its *Final Report – The Impact of Storage and Delivery Infrastructure on Commodity Derivatives Market Pricing* on 9 May 2016. It identifies certain practices that could potentially cause market disruption, affect market efficiency and impair the price convergence process. But it concludes that the existing IOSCO principles set out in its *Final Report - Principles for the Regulation and Supervision of Commodity Derivatives Markets* provide an adequate framework in the context of its application to commodities storage infrastructure.

IOSCO believes the credible possibility of delivery is the market force that drives convergence of the prices in the physical and derivatives markets at the expiration of the contract. Anything that distorts the price of physical delivery correspondingly distorts prices in the futures markets. For example, stakeholders expressed concern that excessively long physical delivery times decrease the available supply in certain metal commodities, thereby altering the pricing of related futures contracts. IOSCO identifies the following areas as meriting further review and the development of guidance and industry good practices:

- circumstances when the delivery maker chooses delivery location
- impact of higher storage fees for commodities stored for delivery against a derivative contract
- unequal treatment of customers through divergent use of discounts
- conflicts of interest where traders, exchanges and warehouses all have the same corporate parent.

As impediments to physical delivery are likely to receive increased regulatory scrutiny, firms should proactively assess their inventory management practices and exchanges should review the adequacy of

their supervision of commodity warehouses and other facilities.

EMIR intragroup margin exemptions

The FCA detailed how firms can apply for *EMIR intragroup exemptions from margin* requirement on non-centrally cleared OTC derivatives on 18 May 2016. The RTS on risk mitigation techniques for these transactions will soon enter into force, resulting in firms being required to exchange margin on non-centrally cleared OTC derivative trades. An exemption exists for intragroup trades, providing firms can demonstrate to the FCA they have met certain criteria. These include adequate risk management arrangements and no restrictions to the transfer of capital between counterparties. The FCA shared a draft application form to give firms an idea of the questions that will be asked and allow firms more time to prepare.

The FCA is unable to accept submissions via the FCA web portal as it does for the intragroup exemption from the EMIR clearing obligations. Firms must submit applications via email.

Setting derivative trading obligation criteria

The EC adopted *Regulation (EU) supplementing Regulation (EU) 600/2014 on MiFID with regard to RTS on criteria for determining whether derivatives subject to the clearing obligation* should be subject to the trading obligation on 26 May 2016. The RTS sets the criteria for determining whether derivatives subject to EMIR clearing obligations are liquid enough for the MiFID II trading obligation.

ESMA will make the determination and the criteria that it must take into consideration as specified in the RTS include trading frequency and size, number and type of active participants as well as spread sizes. ESMA must also ensure instruments are admitted to trading on at least one admissible trading venue.

The regulation will enter into force 20 days after its publication in the Official Journal. It will be applicable from the revised MiFID II application date of 3 January 2018.

Finalising MiFID admission to trading rules

The EC adopted *Regulation (EU) supplementing MIFID II with regard to RTS for the admission of financial instruments to trading on regulated markets* on 24 May 2016. The EC wants trading venues to have transparent rules for admitting shares to trading and ensure instruments can be traded in a fair and orderly manner. The RTS cover:

- criteria for determining whether transferable securities are freely negotiable
- assessments for determining whether transferable securities, units and shares in collective investment undertakings and derivatives can be traded fairly
- requirements for regulated markets assessing whether issuers are meeting their disclosure requirements.

The regulation will enter into force 20 days after its publication in the Official Journal. It will be applicable from the revised MiFID II application date of 3 January 2018.

Wholesale products

Regulators delay FEMR implementation report

The chairs of the Fair and Effective Markets Review (FEMR) intend to provide a full implementation report a month later than planned, in July 2016. The BoE published an *update* on the review on 16 May 2016, which explains the change is due to the purdah period for the EU referendum, due to be held on 23 June 2016. The chairs of the FEMR intend to deliver the report to Chancellor George Osborne and BoE Governor Mark Carney. The Chancellor established the FEMR, the final report for which was published in June 2015, to assess the way wholesale financial markets operate.

Developing an FX code of conduct

The BIS's Foreign Exchange Working Group released the *Global Foreign Exchange (FX) Code May 2016* on 26 May 2016. The code is a set of global principles which aim to promote the integrity and effective functioning of the wholesale FX market. The code is being developed by central banks and market participants from 16 jurisdictions.

The code does not impose legal or regulatory requirements on firms, but identifies best practice according to the following principles: governance, information sharing, execution, risk management and compliance, confirmation and settlement processes.

The working group published the document as part of the ongoing development of the code. It aims to publish the complete code in May 2017. It will then replace the UK's Non-Investment Products Code.

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Regulation

Capital and liquidity

Collateral netting disagreement resolved

The EBA published *Opinion of the EBA on the EC's intention not to endorse the draft RTS on additional collateral outflows according to Article 423 (3) CRR* on 3 May 2016.

The EBA supports the EC's proposed amendment to the draft RTS relating to the historical look-back approach (HBLA) calculation method. The HBLA method is used to calculate additional outflows for liquidity measurement. It focuses on additional collateral requirements for derivative transactions that would arise from stressed scenarios (e.g. if a firm's credit rating deteriorates). The EBA intends to re-submit the draft RTS incorporating this amendment, which now aligns with the Basel Committee's HBLA approach.

The EC was concerned that the EBA's original HLBA approach could have resulted in unlevel international derivative markets. The EBA's approach was more conservative in that it did not allow firms to offset pledged collateral with their counterparties.

Changing sovereign risk weights?

Ignazio Visco, Governor of the Bank of Italy, gave a speech entitled *Banks' sovereign exposures and the feedback loop between banks and their sovereigns* on 2 May 2016. He explained the arguments for and against changing the zero risk weight applied to sovereign exposures. Visco expressed doubt that changing risk weights is the appropriate way to address the sovereign bank issue. He argued this is better addressed by improving the sustainability of public finances which requires enhancing economic growth.

Visco concluded that the potential benefits of reform are uncertain but the potential costs 'sizeable'. He thought the prudent approach is to wait for the financial system to recover fully and allow the existing reforms to bed down before making further changes.

Providing more IRB QIS help

The Basel Committee published *Additional guidance for completing the IRB QIS* on 6 May 2016. The Committee published the consultation document *Reducing variation in credit risk-weighted assets – constraints on the use of internal models* in March 2016 and a corresponding QIS in April 2016. The additional guidance takes the form of draft edits to the June 2006 comprehensive version of Basel II to give effect to the proposals in the consultative document. The additional guidance also includes Basel III changes and other subsequent changes to the standards.

The Committee warns that the draft edits are to facilitate the completion of the QIS templates only and should not be construed as an 'official interpretation' of the consultation document. The Committee intends to publish a revised text for the standard following the completion of its review of the IRB approach.

Incentivising lending to the real economy

The ECB published a *Decision on a second series of targeted longer-term refinancing operations (TLTRO-II) (ECB/2016/10)* on 28 April 2016. The ECB intends that TLTRO-II further incentivises bank lending to the real economy. The borrowing allowance under the program is 30% of a participant's total eligible loans as at 31 January 2016, less any amounts borrowed under previous ECB refinancing operations. Eligible loans are loans to non-financial corporations and households. Loans for house purchases are ineligible.

Institutions may participate in TLTRO-II on an individual basis if they are eligible counterparties for Eurosystem monetary policy open market operations. Or institutions can participate on a group basis, provided they meet certain criteria such as that all group members either directly hold reserves with Eurosystem or do so indirectly via other group members.

FPC on systemic risk buffer framework response

The FPC released a *Record of the FPC meeting 13 May 2016* on 26 May 2016. The committee's discussion focused on its framework for the systemic risk buffer which was published on the same day. The minutes reveal the FPC's view that it had not received any new evidence affecting its judgement presented in the December 2016 supplement to the Financial Stability Report, on the overall level of capital. But it agreed that three judgements underpinning its assessment would need to be reviewed, including international work to address definitional shortcomings in measures of risk-weighted assets, the effectiveness of arrangements for resolving banks that fail and the economic costs of higher capital requirements. The committee considered alternative approaches to setting the systemic risk buffer as suggested by respondents to its consultation. One of these was to apply the 3% rate to all firms, but the FPC concluded this would create a bigger barrier to growth for challenger banks. In response to questions raised over the scope of the systemic risk buffer, the FPC said it did not have discretion to revise the scope set out in the systemic risk buffer regulations. But it said it would keep potential systemic risks, including the distribution of credit provision across ring-fenced banks and other non-ring-fenced entities, under review. It expects to do this as part of its annual assessment of risks outside the core banking system and its two-yearly reviews of the systemic risk buffer framework.

Adapting NSFR for the EU

The EC published the *DG FISMA consultation paper on further considerations for the implementation of the NSFR in the EU* on 26 May 2016 amid concerns that the NSFR could unduly constrain banks' ability to finance the real economy. The EC is currently considering both the December 2015 EBA report on the potential impact of the implementation of the NSFR in the EU and the responses to its September 2015 call for evidence. Respondents have called for a more nuanced treatment of specific business models and certain transactions.

The EC seeks views on the impact of the NSFR in general and on how proportionality should be applied to the NSFR requirements. It also seeks views and evidence on the treatment of derivative transactions and short term transactions with financial institutions – including repo transactions. The EC is paying particular attention to the calibration of available stable funding and required stable funding factors in relation to these transactions.

The consultation closes on **24 June 2016.**

Finalising the systemic risk buffer

The FPC published *The FPC's framework for the systemic risk buffer* on 26 May 2016. Its framework is broadly unchanged from that set out in its original consultation. The buffer applies to-ring fenced banks and building societies with more than £25bn in deposits and shares (excluding deferred shares). The FPC has chosen a threshold for systemic importance of £175bn of total assets. Firms above this threshold but with total assets below £755bn will have a systemic risk buffer ranging between 1% and 2.5% of RWAs. A buffer of 3% will apply above £755bn.

The FPC also made the following recommendation to the PRA: 'It should seek to ensure that, where systemic buffers apply at different levels of consolidation, there is sufficient capital within the consolidated group, and distributed appropriately across it, to address both global systemic risks and domestic systemic risks.' This relates to those UK banks that are subject to both a G-SIB (consolidated group level) and a higher systemic risk buffer (sub-group level) and the risk that the non-ring-fenced part of these groups might not have access to a pro-rata share of the G-SIB buffer.

The FPC expects the systemic risk buffer (including through the additional leverage buffer) to add around 0.5% of RWAs to equity requirements of UK systemic banks overall. The PRA will apply the FPC's framework from 1 January 2019 and intends to consult later this year on elements of implementation.

Achieving balance on banking crisis management

Ignazio Visco, Governor of the Bank of Italy, gave a speech entitled *Asset quality and the new framework for managing banking crises in Europe* on 5 May 2016. He said that concerns over the asset quality of Italian banks should not be dismissed but that they are 'somewhat overstated'. Visco pointed to the high level of security that banks hold, including real estate collateral. He also indicated that the deterioration in credit quality was subsiding. He added there has been a market perception that the SSM was pushing banks to dispose rapidly of their non-performing loans (NPLs) and that this may have been a driver of the recent significant fall in bank stock prices. Visco considers that this perception was wrong.

Visco believes Italian banks require a comprehensive strategy involving improving the operational environment of banks so they can manage NPLs and removing inefficiencies in the judicial process that mean the 'time to recovery' takes longer in Italy than elsewhere in Europe. The market for NPLs also needs kick-starting, he noted.

Visco reiterated his support for a more flexible bail-in regime that applies only to securities issued under the new regulatory regime. According to him, this would strike a better balance between maintaining financial stability by intervening to support troubled banks and preventing the moral hazard associated with bail-out.

EC adopts its version of MREL

The EC adopted the *Delegated Regulation supplementing BRRD with regard to RTS specifying the criteria relating to the methodology for setting MREL* on 23 May 2016. This marks an end to the disagreement between the EBA and the EC on this issue.

The EC took into account the revisions suggested by the EBA where they ensured compatibility with the BRRD level 1 text. But it did not include:

- the reference to the minimum contribution to loss absorption and recapitalisation of 8% of total liabilities and own funds
- the test for downward adjustments to the recapitalisation amount
- the peer group reference for systemic institutions
- the reference to a transitional period of 48 months which is now replaced with 'an appropriate transitional period which is as short as possible'.

The EC states that the above amendments were necessary to address inconsistences without weakening the overall objective of having a robust MREL.

Competition

CMA ducks divestment recommendation

The CMA decided against breaking up banking groups or removing 'free-if-in-credit' current accounts in its *Provisional decision on remedies* for the retail banking market investigation on 17 May 2016. Instead, it seeks to mandate that banks create open-source application programming interfaces. The CMA also wants the PSR to take regulatory oversight of a better governed current account switching service, and banks to set their own monthly cap on charges for personal current account holders using unarranged overdrafts. For SMEs, the CMA landed on the Nesta challenge as having the best prospect to deliver an effective tool for SMEs to compare information on banking services. Here, it also proposes requiring that all lenders publish standard rates for unsecured loans and overdrafts of up to £25,000 as open data to intermediaries. The main players in the SME lending market will also be required to offer a tool on their websites that generates indicative loan quotes.

The consultation closed on 7 June 2016. The CMA plans to publish its final report in early August 2016.

Close eyes on the CMA

Chairman Andrew Tyrie expressed the TC's keen interest in the CMA's final report for the retail banking market investigation in a *letter* released on 6 May 2016 (the letter is dated 21 April 2016). Tyrie refers to challenger banks' *response* to the CMA's February 2016 consultation paper on the *corporation tax surcharge and bank levy*. The banks had strongly disputed the CMA's view that the new tax surcharge was not a barrier to entry and expansion in the retail banking market. Tyrie objected to the Government introducing the new bank tax surcharge ahead of the CMA's final findings, since the interim report set out the advantages enjoyed by incumbent banks. He said it falls to the CMA to ensure a level playing field between firms, noting that the TC was standing ready to scrutinise the CMA's ultimate conclusions.

The CMA expects to publish its final report in August 2016.

Revised current account pricing analysis

The CMA looked again at pricing outcomes, price quality outcomes and the potential gains personal current account customers could obtain from switching in its *Update on personal current account pricing* on 24 May 2016. The outcomes and research set out in the paper form part of the CMA's assessment of the personal current account market, as included in its retail banking market investigation. For instance, the CMA's findings here will inform conclusions around remedies and switching. The study includes confirmation that a substantial proportion of customers paying above-average prices receive relatively low quality service. And while two of three providers that offered below-average prices and above-average quality gained market share in 2014, this growth was very slow. It's no surprise then that the CMA continues its focus on switching remedies.

The paper was open to comment until 7 June 2016.

Bundling to stay in undertakings cull

The CMA provisionally decided the SME banking market no longer needs all but one of the 2002 SME undertakings. In *Review of 2002 SME banking undertakings: provisional decision* on 17 May 2016, the CMA explains:

- transparency undertakings concerning information on charges and interest rates are going to be replaced by tools to enhance price and service comparison as part of the retail banking market investigation
- switching undertakings were rendered almost obsolete in 2013 with the introduction of the current account switching service (though 1% of SMEs are not eligible for the full switching service)
- portable credit history undertakings have been superseded by the small business finance platform reforms introduced earlier this year and will also be addressed in the retail banking market investigation.

But the undertakings related to bundling are to be retained. Here, the CMA notes that strong links continue to exist between business current accounts and SME lending. Taken with information asymmetries disadvantaging other lenders, the CMA concludes the prohibition on compelling a customer to open or maintain a business current account to get access to other SME services is still needed.

Conduct

Burden of proof change takes effect

The removal of the reverse burden of proof for senior managers under the SM&CR came into effect on 10 May 2016. The Government published *Statutory instruments: the Bank of England and Financial Services Act 2016 (Commencement No. 1) Regulations 2016 – 2016/569* on 9 May 2016.

HMT first announced the change to the reverse burden of proof in October 2015, replacing it with a statutory duty of responsibility. SMFs are still subject to the tough underlying obligation to ensure they take reasonable steps to prevent regulatory breaches in the areas for which they are responsible. The SM&CR commenced on 7 March 2016.

Restoring trust in banking

Andrew Haldane, Chief Economist at the BoE, delivered a speech *The Great Divide* at the New City Agenda Annual dinner on 18 May 2016. He spoke about the trust divide between the 'financial elite' and society. He said losses in financial and social capital during the crisis caused 'the trust gap', which could result in a loss of economic growth and stability.

Haldane raised issues such as executive pay being unaligned with company performance, stakeholder short-termism (money paid out to shareholders that isn't re-invested in value creation). He said the latter is particularly detrimental to trust in financial services.

He suggested cultural problems in the banking sector are deeply ingrained, sociologically and psychologically. Haldane related this to social identity theory and how behaviours can become self-fulfilling: for instance, a banker is more likely to cheat, if society associates bankers with cheating. Haldane suggested that more industry-led initiatives – rather than regulatory intervention – could help to restore public trust in banking, while financial education also has a role to play.

Financial crime and enforcement

Exploring solutions to de-risking

The FCA published *Drivers & Impacts of De-risking* on 23 May 2016. The report, commissioned by the FCA and authored by John Howell & Co., assesses the nature, scale and impact of banks withdrawing or failing to offer banking facilities to customers where there is a perceived money laundering and terrorist financing risk. The authors of the report explore the idea that the practice, known as 'de-risking', is impacting certain customers as banks respond to regulatory demands to protect against money laundering to avoid hefty fines. The report finds that banks are actively de-risking in the face of higher capital and liquidity thresholds and increased regulatory burdens. But while banks appear to be taking a tougher stance against the perceived risk of money laundering and terrorist financing, the threat of financial crime is not the only factor influencing a de-risking decision. Other considerations include the credit risk presented by the individual and the profitability of the relationship.

The impact of de-risking on individuals can be acute, resulting in stress and inconvenience for those affected. But according to the report, the number of de-risking decisions is small. One bank reported that only 0.013% of its accounts had been closed for 'AML-linked' reasons.

The report's authors acknowledge there is no 'silver bullet' to resolve the issue. In a *press release* published with the report, the FCA said it will continue to work with banks to lessen the damaging effects of de-risking by:

- helping firms to improve the way they identify money laundering risk and how they communicate with their customers
- reducing the cost of AML compliance
- working with international bodies such as the Financial Action Taskforce in a global response to de-risking.

The FCA is calling on banks to remain flexible in their approach and to be mindful of the need to avoid anti-competitive agreements.

Financial stability

Update to G-SII indicators

The EC adopted *Commission delegated regulation (EU) amending Delegated Regulation (EU) No 1222/2014 with regard to RTS for the specification of the methodology for the identification of G-SIIs and for the definition of subcategories of G-SIIs* on 17 May 2016. The amendments reflect revisions to the reporting template and reporting instructions made by the Basel Committee for the 2016 G-SII identification exercise.

The Basel Committee conducts an annual exercise that requires a sample of banks to report a set of indicators to their national supervisory authorities. These indicators are then aggregated and used to calculate the scores of banks in the sample. Banks above a cut-off score are identified as G-SIIs and are allocated to tiers that are to be used by national regulatory authorities to determine their level of G-SII buffer requirement. This regulation comes into force on the day after its publication in the Official Journal.

Updating G-SIIs' reporting

Regulation (EU) 2016/818 amending implementing regulation (EU) No 1030/2014 laying down ITS with regard to the uniform formats and date for the disclosure of the values used to identify G-SIIs according to CRR appeared in the Official Journal on 25 May 2016. The amendments reflect corresponding revisions made to the reporting template by the Basel Committee for the 2016 G-SII identification exercise.

Every year, the Basel Committee conducts an exercise that requires a sample of banks to report a set of indicators to their national supervisory authorities using a standardised template. These indicators are then aggregated and used to calculate the scores of banks in the sample. Banks above a cut-off score are identified as G-SIIs and are allocated to tiers that are be used to determine their level of G-SII buffer requirement. The regulation came into force on 26 May 2016.

Operational resilience

Using customer data wisely

The EBA announced on 4 May 2016 it is seeking feedback on its *Discussion Paper on innovative uses of consumer data by financial institutions*. The EBA is seeking to gather information on how and to what extent financial firms use consumer data, and on the risks and benefits of this activity. In the paper, the EBA considers the use of consumer data from collection, through to the processing and storage of data, including aggregation tools and other data processing technologies. Innovative uses of consumer data include new services such as alternative financing schemes, payment accounts, payment services, digital currencies or tailored products to consumers.

The paper identifies both the benefits and risks posed to individuals, firms and financial integrity more widely. Potential benefits to individuals are: improved product quality, bespoke products and services and reduced costs. Financial firms may also benefit through reduced costs and new sources of revenue. Potential risks include: data security, data misuse and reputational risks for firms.

The EBA says that currently there are only a few requirements in EU legislation that specifically address the use of consumer data by financial institutions. It hopes that the responses to the discussion paper will allow it to make a better informed decision on which, if any, regulatory or supervisory actions are needed to protect market participants, while allowing them to benefit from innovation.

The discussion paper closes on **4 August 2016.**

Payments

SEPA issues Instant Credit Q&As

In a *Q&A document* published by the EPC on 3 May 2016 (dated 27 April 2016), PSPs and other stakeholders can find information about the forthcoming SEPA Instant Credit Transfer (SCT Inst) scheme. The EPC answers key questions about the scheme including its functionality, what those preparing for its implementation need to do and plans for its development.

The scheme, which goes live in November 2017, will allow credit transfers up to a total of €15,000 to be made between accounts in a matter of seconds. It will operate across the existing SEPA zone and be available 24/7 and 365 days a year.

Membership of the scheme is optional but PSPs wishing to use it will have to pay an annual participation fee, the details of which are yet to be revealed.

Making the switch

In policy statement *PS16/2 - The application of the Payment Accounts Regulations (PARs) 2015 in respect of alternative arrangements for switching accounts* and the accompanying *Guidance on the PSR's approach as a competent authority for designation of alternative switching schemes under the PARs 2015* published on 17 May 2016, the PSR set out how it will fulfil its role as the regulator responsible for approving switching services for customers.

Under the PARs, PSPs are required to offer their customers the facility to move their account between PSPs. But rather than providing the facility themselves, PSPs may choose to be members of a designated switching scheme. Such schemes, known as 'alternative switching schemes', must be approved by the PSR.

The schemes are required to meet a designation criteria of being 'clearly in the interests of the customer', not being overly burdensome on the customer and able to be completed within 12 business days. Firms wishing to offer such schemes must apply to the PSR, submitting with their application

pack a copy of their service rules, information demonstrating how the switching service complies with designation criteria and a fee of £5,000. In addition to setting out how organisations may apply to offer a designated alternative switching scheme, the guidance details how the PSR will monitor compliance with the PARs. The PSR expects scheme participants to submit a compliance report which will be assessed to confirm the participant still meets the designation criteria. Firms will need to pay an annual fee of £12,000 with an additional set up fee of £6,000 and the PSR will have the power to request information and impose financial penalties. The PSR's role will take effect from 18 September 2016, and prospective applicants should submit applications by 10 June 2016.

Regulating interchange fees: phase two

The PSR, the main competent authority for regulating the Interchange Fee Regulations (IFR) in the UK, consulted on *CP16/3 The application of the IFR in the UK: Phase 2* on 19 May 2016. The IFR caps the interchange fees on debit and credit cards and entered into force on 19 May 2015. The PSR will monitor and enforce compliance with the business rules set out in articles 7, 8, 9 and 10 of the IFR through regular compliance reports from scheme participants and complaints data. These provisions, which enter into force on 9 June 2016, deal respectively with:

- the requirement for the payment card scheme to be separate from the processing entity
- the issue of co-badging and choice of payment application
- the requirement for merchant service charges to be separate and transparent (unblended)
- how the 'honour all cards rule', which prohibits the imposition of a requirement to accept certain payment cards, works.

The other provisions in the IFR relating to the fee cap, scheme classifications, prohibition of restrictive clauses and information requirements - and how the PSR intends to regulate and monitor these business rules - are covered in the phase one guidance. The phase one guidance was published on 2 December 2015 due to these provisions coming in to effect from 9 December 2015.

Following this consultation, the PSR plans to consolidate the phase one and two guidance and publish them as a complete document. Comments on the draft phase two guidance are invited by **8 July 2016.**

HMT adds to the payment systems

In line with its powers under the Banking Act 2009, *HMT designated* on 23 May 2016 the LINK payment system as a recognised interbank payment system. Payment systems that are 'recognised' by HMT are those that, if they failed to operate, could threaten the stability of, or confidence in, the UK financial system - or have serious consequences for UK business or other interests. As a designated system LINK is now brought within the purview of the BoE. LINK also joins the list of recognised payment systems, which includes: Bacs, CHAPS Clearing Company Limited, CLS Bank International and Euroclear UK and Ireland Limited ('CREST').

EPC consults on SEPA cards standardisation

The EPC, together with the Card Stakeholders Group, *published* version 7.5 of the SEPA cards standardisation volume for consultation on 26 May 2016. The version consists of seven separate books which set out a standard set of requirements aimed at achieving cards standardisation, interoperability and security across SEPA. It includes a number of key changes compared with the previous volume published in December 2015. These include the addition of guidelines to facilitate compliance with aspects of the Interchange Fee Regulation (IFR) relating to contactless payments and choice of application. The IFR requires that, from 9 June 2016, all cards must be electronically identifiable, including for contactless payments, enabling payers and payees to identify which category and branch of cards are chosen by the payer. The volume proposes two approaches to ensure compliance with this requirement:

- a short-term solution based on issuer or bank identification number tables made available to merchants
- a long-term solution based on a new data element provided by *EMVCo*.

The volume also includes more details regarding the use of a unique ID for pre-authorisation in the hospitality sector. This will be convenient for card issuers and acquirers to follow the transaction when customers are requested to pre-authorise a guaranteed amount with their card. The consultation seeks feedback on the new elements introduced into version 7.5 of the volume. The consultation closes on **12 August 2016.**

PSR amends reporting dates

The PSR published *Changes to PSR General Directions 2, 3 and 4* on 26 May 2016. It confirms that following *consultation in April 2016* it is changing the submission dates in its general directions for operators to report on their compliance with their regulatory requirements around access and governance.

Before the changes, operators had to report by 31 July on the previous year's progress in opening up direct access (under general directions 2 and 3). The PSR also required some operators to report on how service users representation is taken into account in their decision making processes (under General Direction 4) by 31 October. The consultation suggested combining the reports into a single compliance report, to

be submitted annually by the operators affected by both (the interbank operators and LINK) for a deadline of 31 October.

Respondents to the consultation agreed with the proposals and so the PSR intends to adopt the proposed changes. The *new directions*, which were made by the PSR Board on 11 May 2016, came into force on 31 May 2016.

Recovery and resolution

EC adopts BRRD RTS

The EC published *Commission Delegated Regulation (EU) supplementing Directive 2014/59/EU of the EP and the Council with regard to RTS specifying the minimum elements of a business reorganisation plan and the minimum contents of the reports on the progress in the implementation of the plan on* 10 May 2016. The regulation requires that business organisation plans include the projected financial performance of the entity and the actions it will take to ensure all applicable prudential and other regulatory requirements are met. It also requires the plan to contain a viability assessment so the resolution authority can assess the feasibility of the proposed measures. A progress report covering a review and assessment of the progress of the implementation of business reorganisation plan is also requested. This should include milestones that have been met or that are likely to be met. It should also cover explanations for missed milestones, financial projections and comparison with previous forecasts and any issues that could affect execution of the business reorganisation plan. The regulation will enter into force 20 days after its publication in the Official Journal.

Providing more BRRD detail

Commission Delegated Regulation 2016/778 supplementing BRRD with regard to the circumstances and conditions under which the payment of extraordinary ex post contributions may be deferred, and on the criteria for the determination of the activities, services and operations with regard to critical functions, and for the determination of the business lines and associated services with regard to core business lines appeared in the Official Journal on 20 May 2016.

This regulation under BRRD deals with the scenario where a national resolution fund needs to raise additional contributions from firms in circumstances where it has insufficient means to cover the cost of a resolution. Activities, services and operations are referred to in the definitions of critical functions and core business lines. These definitions are used throughout BRRD. Continuity of critical functions is one of the main BRRD resolution objectives. The regulation came into force on 9 June 2016.

Valuing derivatives for BRRD

The EC adopted the *Delegated Regulation supplementing BRRD with regard to RTS for methodologies and principles on the valuation of liabilities arising from derivatives* on 23 May 2016.

The regulation establishes:

- the methodology for determining the value of classes of derivatives including transactions that are subject to netting agreements
- the principles for establishing the relevant point in time at which the value of a derivative position should be established
- the methodology for comparing the destruction in value that would arise from the close-out and bail-in of derivatives with the amount of losses that would be borne by derivatives in a bail-in
- the principles for the valuation of derivatives cleared by an EU-authorised or recognised CCP.

The regulation will enter into force 20 days after its publication in the Official Journal.

EC corrects BRRD regulation

The Council published a *cover note* on 20 May 2016 from the EC enclosing the text of a corrigendum dated 17 May 2016 to the *Commission Delegated Regulation specifying the further circumstances where exclusion from the application of write-down or conversion powers is necessary under Article 44(3) of the BRRD.*

The EC amended Article 9 of the regulation which allows resolution authorities in exceptional cases to exclude certain liabilities from bail-in to avoid causing value destruction. The corrigendum clarifies that resolution authorities should limit their use of this power to circumstances where the holders of non-excluded liabilities would be better off as a result.

The EC originally adopted the regulation on 4 February 2016 and the Council confirmed it would not object to it on 21 April 2016. Unless the Council and EP object, the regulation will enter into force 20 days after its publication in the Official Journal.

Applying BRRD reorganisation plan guidelines

The EBA updated its webpage on 20 May 2016 to confirm that its *Final Guidelines on the minimum criteria to be fulfilled by a business reorganisation plan* under BRRD have been translated into all official languages of the EU. The guidelines apply three months after the date of translation of the guidelines, in this case 21 August 2016. The guidelines sit alongside the *RTS specifying the minimum elements of a business reorganisation plan and the minimum contents of the reports on the progress in the implementation of the plan* which the EC adopted on 10 May 2016 and which come into force 20 days after their publication in the Official Journal.

Reporting

AnaCredit creeps closer

The ECB set 1 September 2018 as the date from which firms need to start collecting

credit data for its analytical credit datasets (AnaCredit) in a *draft regulation on the collection of granular credit and credit risk data* published on 20 May 2016. It also set 30 September 2018 as the first reporting (or transmission) date. But firms and national central banks (NCBs) need to start preparing well ahead of that. The ECB wants NCBs to transmit the first set of counterparty credit reference data six months before the first transmission date (so by the end of March 2018). It also suggests NCBs might want to require that firms which are reporting agents provide them with data from 31 December 2017. This is to give NCBs time to make technical preparations. Reporting agents are legal entities or foreign branches resident in a reporting (i.e. eurozone) Member State which are subject to the AnaCredit reporting requirements.

In this first stage of AnaCredit, reporting agents have to transmit credit data where they have committed to provide corporations and other legal entities credit for €25,000 or more (as a sum of all commitments). The reports will be due monthly and quarterly and involve 94 data fields and seven unique identifiers for each loan. NCBs have discretion to exclude 'small reporting agents' from the requirements, provided the number of excluded loans doesn't exceed 2% of the total outstanding loans that Member States must report under the regulation concerning the balance sheet of the monetary financial institutions sector (recast) (EU) 1071/2013. Similarly, there is discretion for NCBs to allow firms to report quarterly instead of monthly up to 1 January 2021. Here, the total loans covered cannot exceed 4% of the total outstanding loans as above.

The regulation applies from 31 December 2017, and will come into force 20 days after it is published in the Official Journal. Non-eurozone Member States such as the UK are free to adopt the regulation, or similar provisions, into national laws.

More time to prepare for AnaCredit

The ECB decided an extension was warranted to the implementation timeline for its analytical credit data sets (AnaCredit) initiative. In a draft *decision amending Decision ECB/2014/6 on the organisation of preparatory measures for the collection of granular credit data by the ESCB (ECB 2016/14)* on 20 May 2016, the ECB changed the date in Decision 2014/6 for when the preparatory phrase should be completed. The ECB believes more time is needed given the number and complexity of the envisaged statistical reporting requirements. The date moved from the end of 2016 to 30 September 2018.

The decision will come into effect on the date it is notified to the national central banks of eurozone Member States.

Using financial reporting data more widely

The EBA published a *guidance note - compiling the IMF financial soundness indicators (FSIs) for 'deposit-takers' using the ITS on supervisory reporting* on 11 May 2016. It aims to encourage wider use by others of bank financial reporting data that the EBA already collects as part of its financial reporting for supervisory purposes (FINREP).

Comparability of IMF data between EEA countries is hampered because of the diversity of data sources and bases of preparation used. EBA considers using FINREP data for all EEA countries would increase the quality of EEA reported FSIs. It also believes that it will reduce the reporting burden on banks. To this end, the EBA has prepared templates that map FSI required data to FINREP items.

Retail products

Lending mortgages responsibly

The FCA examined the impact of responsible lending rules introduced by the MMR in *Embedding the MMR: Responsible Lending Review* published on 16 May 2016. The review considers how firms have interpreted the rules and whether this is achieving good outcomes. The review findings indicate that firms have embraced the aim of the rules, and poor practices such as self-certification appear to be a thing of the past. But the FCA found there is room for improvement.

Under the rules, firms are required to ensure that a loan is affordable. The FCA found firms have introduced affordability assessments, but differences in risk appetites had produced wide variances in what firms were willing to lend to identical customers, raising questions about the adequacy of assessments.

Firms' record keeping was highlighted as requiring improvement, because in some cases firms were unable to demonstrate how individual decisions had been made. The FCA also noted that while firms are not required to apply affordability rules to existing clients, their assessment processes for these customers was often time-consuming and inflexible. In addition, the FCA found some online tools such as mortgage calculators were inaccurate.

The FCA intends to engage with the industry to address the issues identified and says it will deal with matters through supervision where necessary.

FCA eyes mortgage competition

In *FS16/3: Call for Inputs on competition in the mortgage sector* published on 16 May 2016, the FCA set out the key themes identified as a result of its call for inputs on competition in the mortgage sector. The call for inputs was published in October 2015, seeking views on any areas of the mortgage sector which might create barriers to competition.

The FCA identified the following key themes from the call for inputs:

- customers face challenges in making effective choices about their mortgages

- technology could be used more effectively to give advice and information
- regulation may have a negative impact on competition
- commercial relationships may give rise to competition concerns.

To address these concerns, the FCA intends to undertake a targeted market study on consumers' ability to make effective choices about mortgage products. It also plans to carry out three smaller pieces of work considering: transparency of mortgage fees, how changes to the regulatory regime may improve competition and how to raise awareness of competition law. The terms of reference for the market study are expected to be published in Q4 2016.

Mortgage challenges for lenders

Jonathan Davidson, FCA Director, *spoke* at the Building Societies Association Annual Conference on 19 May 2016. He highlighted two big themes shaping the FCA's interventions in the mortgage market: affordability and the promotion of competition and innovation. Davidson discussed the FCA's recently published Responsible Lending Review, and said the FCA is encouraging firms to improve the experience for existing customers, by making their processes more customer friendly. This links to the treatment of existing customers, which is one of the FCA's seven priorities for this year.

Lenders should prepare for the impact of an interest rate rise, by identifying borrowers most at risk. Davidson explained: 'Once the size of the problem is understood, lenders can then begin to develop strategies to assist these customers and ensure they are treated fairly.' He used interest-only mortgages as an example of where developing contact strategies and solutions for borrowers demonstrates good conduct outcomes and putting customers first.

Stress testing

Stress testing DGSs

The EBA published *Guidelines on stress tests of DGSs under DGSD* on 24 May 2016, which set out the methodological principles for stress tests run by EU DGSs. It includes the stages to be completed, the scenarios simulated and the areas and indicators to be measured. The EBA expects DGSs to test a range of operational and funding capabilities, covering key areas and functions activated when DGSs intervene. These include access to data, operational resources, communications and the ability to meet covered deposit repayments from available funding sources. In addition, the EBA establishes a core set of priority tests that all DGSs should undertake and report the results of to the EBA.

DGSs must stress test their operational and funding capabilities at least every three years, starting no later than 3 July 2017. The EBA decided of its own initiative to issue guidelines to promote the consistency and the quality of the stress tests. The EBA intends to carry out an EU peer review of DGSs and expects to request the results of the priority tests from DGSs by 3 July 2019.

The guidelines apply two months after translation into official EU languages. But the EBA acknowledges it might need to review the guidelines when the current negotiations over the EDIS proposals are completed.

Tax

Changing bank levy liquid assets

HMRC published for consultation draft legislation *The Bank Levy (Amendment of Schedule 19 to the Finance Act 2011) Regulations 2016* on 26 May 2016. The bank levy charge is based on the size of banks' liabilities. The tax legislation allows certain 'high quality liquid assets' to be deducted from liabilities calculated for this purpose. 'High quality liquid assets' are defined by reference to PRA liquidity rules that have now been superseded by LCR requirements. This legislative amendment changes the definitions of 'high quality' and 'high quality liquid assets' to align them with LCR definitions.

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Regulation

Retail products

FCA extends UCITS V modification

The FCA extended a modification to UCITS V which allows firms to provide a Key Investor Information Document (KIID) after a transaction has taken place in certain circumstances. In an announcement *Modification by consent of COBS 14* on 31 May 2016, the FCA confirmed the modification has been extended to 31 December 2018 or when the relevant rules are revoked, amended or no longer apply. The modification was previously valid until 30 June 2016. It allows any firm that is required to provide a KIID to a client under UCITS V to do so after the transaction has taken place, rather than before – provided the client has given instructions via a means of distance communication and the firm is not able to provide the document in good time before the transaction is concluded. Distance communication methods include email, voice or text message by telephone, fax, and written instructions received in the post or delivered to a firm's premises. The modification is available to authorised fund managers of UCITS schemes, Investment Companies with Variable Capital that are UCITS schemes and to firms that sell, personally recommend or arrange the sale of units in a UCITS scheme or a recognised EEA UCITS scheme. Firms wishing to use the modification should email or write to the FCA's central waivers team.

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Regulation

Consumer issues

Protecting consumers across the EU

EIOPA published its *Final report on the peer review on Freedom to Provide Services* on 12 May 2016. Freedom to provide services in the EU insurance market is aimed at allowing potential policyholders the freedom to have recourse to insurers with their head office in any Member State of the EEA, while guaranteeing them adequate protection.

This peer review looked at common practices and understanding across national supervisors based on a self-assessment questionnaire. It concludes that 'very few best practices have emerged from this review' and that cooperation between supervisors and consumer protection in host states needs to be improved.

Areas for improvement include:

- data storage and record keeping
- exchange of information between supervisors at the moment of authorisation
- home supervisory approach regarding the undertakings' activity by freedom of services
- cooperation regarding the freedom of services activity within the college meetings
- exchange of statistical information between home and host supervisors
- complaints handling.

It recommends conducting follow-up work in the form of another peer review. It says this should verify the current recommended actions, and potentially examine in more detail areas touched on by the present peer review.

Operational resilience

Understanding the effects of risk transfer

The PRA published *a speech on risk transfer – and the risks it creates: a prudential regulatory perspective* given by Andrew Bulley, Director of Life Insurance at the PRA, on 5 May 2016. He reminded insurers of the need for prudence if they are considering risk transfers to change their business models and risk profiles. In particular, he expects boards to fully understand the effects of the risk transfer

and its wider implications. He also expects firms to have appropriate risk management systems reflecting the risk profile of the firm. Finally, he reminds insurers to maintain an open dialogue with the PRA on market developments and risk.

Reporting

PRA eyes reporting changes for NDFs

The PRA published *CP18/16 - Reporting requirements for non-Solvency II insurance firms* on 3 May 2016. It proposes moving the reporting requirements for insurers outside the scope of Solvency II (known as NDFs), from IPRU(INS) and IPRU(FSOC) of the PRA Handbook, to the Non-Solvency II Firms section of the new PRA Rulebook under 'Insurance Company – Reporting' and 'Friendly Society – Reporting' respectively. The PRA has updated the rules into Rulebook format, simplifying them where possible, and amended them as required for the implementation of the SIMR for NDFs. The comment period ends on **13 June 2016.**

Retail products

EC updates EU Motor Insurance Directive

The EC published *The adaptation in line with inflation of minimum amounts of cover laid down in Directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles* on 11 May 2016. The EU Motor Insurance Directive (Directive 2009/103/EC) obliges all Member States to require compulsory third party insurance for motor vehicles in the EU. This update increases minimum amounts in the directive in line with inflation. For personal injury, the minimum amount of cover is increased from €1.1m to €1.2m per victim, or from €5.6m to €6.1m per claim, whatever the number of victims. In the case of material damage, the update raises the minimum amount from €1.1m to €1.2m per claim, whatever the number of victims.

Solvency II

Implementing the risk-free rates

The EC adopted an *Implementing Regulation on the risk-free rate* on 27 May 2016. It lays down technical information to be used by insurance companies when calculating technical provisions and basic own funds for reporting with reference dates from 31 March 2016 until 29 June 2016. This entered into force on 4 June 2016 following its publication in the Official Journal.

Transitional measure on technical provisions

The PRA published *SS6/16 Recalculation of the 'transitional measure on technical provisions' under Solvency II* on 25 May 2016. It confirms the PRA's expectations for the recalculation of the transitional measure on technical provisions (TMTP) under Solvency II. In finalising the supervisory statement, the PRA has considered the feedback to CP15/16 and amended the final statement accordingly.

Firms must recalculate the transitional measure at least every 24 months and more frequently following a material change in risk profile. The PRA confirmed it expects them to update the calculation of TMTPs as at the last working day in December of every 24 months, rather than the first working day in January. In addition, the amended final statement explains what 'sustained' means with respect to the assessment of the materiality of a change in risk profile resulting from a change in operating conditions. It sets out the proportionate approach the PRA will take with respect to firms' recalculations of TMTPs and encourages them to discuss their proposed methodology with their supervisory contacts.

Model drift and standard formula reporting

The PRA published *CP22/16 Solvency II: Monitoring model drift and standard formula SCR reporting for firms with an approved internal model* on 25 May 2016. It sets out its approach to monitoring model drift and expectations of internal model firms for the reporting standard formula SCR information.

For firms with an approved internal model, the PRA will monitor the internal model SCR against certain objective measures of risk to assess for 'model drift' against drift ratios calculated at the most recent approval of the model or major change thereto. The objective measures of risk include the standard formula SCR, pre-corridor Minimum Capital Requirement, net written premium and best estimate liabilities.

The proposed supervisory statement reminds internal model firms that the PRA may ask them to report the SCR applying the standard formula and that it expects them to be able to calculate this at all times. In any event, it expects solo insurers using an approved internal model to calculate and submit a standard formula SCR using a standard template annually, with their annual quantitative reporting templates. It will notify groups using an approved internal model on a case-by-case basis if it requires submission of a group SCR calculated in accordance with the standard formula.

The consultation closes on **17 August 2016.**

Limited amendments to FRS 103

The FRC issued *Amendments to FRS 103 – Solvency II* on 26 May 2016. It amends FRS 103 Insurance Contracts for changes in the regulatory framework, following the introduction of Solvency II. The changes mainly update a number of definitions following the introduction of Solvency II. These amendments clarify that while some insurers may want to change their accounting policies to make them more consistent with Solvency II, it is not mandatory. The amendments are effective for accounting periods ending on or after 1 January 2016.

Clarifying Solvency II reporting

The PRA published *Business line reporting for employers' liability insurance and motor insurance* on 11 May 2016, based on its Solvency II directors' letter of 14 July 2015. For insurers reporting insurance contracts under employers' liability insurance and motor insurance, the PRA considers the unbundling of contracts and sets out the correct basis for allocating them to lines of business.

Supervisory statements consolidate directors' letters

The PRA published *CP20/16 - Solvency II: consolidation of Directors' letters* on 5 May 2016. It proposes incorporating into various supervisory statements additional details of the PRA's expectations that have previously been included in Solvency II directors' letters, executive directors' letters and feedback statements published from 1 April 2013 to 15 February 2016. The comment period ends on **5 August 2016.**

Changes to internal models

The PRA published *CP19/16 - Solvency II: Changes to internal models used by UK insurance firms* on 5 May 2016. For insurers intending to change their approved internal models or extend their scope, the PRA sets out a draft supervisory statement covering the PRA's expectations. This includes interaction with the PRA before and during the application, the quality of the application and the information to be provided.

The PRA expects insurers to notify it of any proposed model change applications as soon as they are likely to occur. In general, it expects firms to only submit one model change application per year and it will consider the need for a pre-application review process on a case-by-case basis. Until a model change application is approved, the PRA expects firms to continue to use the originally approved model (including any minor changes) to calculate capital requirements. But insurers need to discuss with their supervisors how their capital requirements will be calculated if a planned transaction may result in a model change application that might not be approved before the transaction takes place.

The draft supervisory statements set out information that should be submitted as part of any model change application both to meet Solvency II requirements and to assist the PRA with its review. The PRA will discuss with the firm an alternative timescale for submitting a revised application if model change applications are of poor quality.

The comment period ends on **5 August 2016.**

EIOPA updates Q&As

In May 2016, EIOPA updated questions and answers on:

- *Guidelines on reporting and public disclosure*
- *Guidelines on reporting for financial stability purposes*
- *Guidelines on recognition and valuation of assets and liabilities other than technical provisions*
- *Guidelines on the treatment of market and counterparty risk exposures in the standard formula*
- *The Final report on the ITS on the templates for the submission of information to the supervisory authorities (CP14-052)*
- *The Final report on the ITS on procedures, formats and templates of the solvency and financial condition report (CP14-055).*

Technical documentation for RFR term structures

EIOPA published *updated technical documentation on the methodology to derive the relevant risk-free interest rate term structures (RFR)* for Solvency II on 31 May 2016. In addition, it published two new files illustrating the calculation of the volatility adjustment. These changes are reflected in the RFR Coding released on 7 June 2016 simultaneously with the RFR monthly technical information with reference to the end of May 2016.

Assessing the functioning of colleges

EIOPA published its *Year-end report 2015 on functioning of colleges and accomplishments of Action Plan and priorities for 2016* on 12 May 2016. It found significant progress has been made in college work in 2015, but further progress is still needed in a number of areas, both in individual colleges and in consistency between national supervisors in colleges. Progress in 2015 was mainly achieved by setting clear priorities and targets in areas

such as: signing coordination arrangements; reaching a shared view on the group's and main solo undertaking's risk assessment; and sub-group supervision facilitated by supporting tools and analysis.

For 2016, EIOPA reiterates its focus on four themes:

- assessing the appropriate quality and adequate set of data and information for the college to form a shared view on the risks of the group and its major solo entities (in particular, EIOPA will consider how it can provide analytical and technical support for information sharing in colleges)
- improving the transparency of the college work to the group
- considering if ORSA and group solvency calculations are consistent across the group
- agreeing procedures for reviewing if the group's full or partial model is still appropriate.

These themes are based on EIOPA's Action Plan 2016 and aimed at ensuring quality and consistent implementation of the Solvency II framework in cross-border operating groups through enhanced cooperation in the colleges.

Stress testing

EIOPA launches insurance stress test

EIOPA launched its *Insurance Stress Test 2016* on 24 May 2016. It uses this regular exercise to assess the resilience of the EU insurance sector to severe adverse market developments. For the 2016 test, it is assessing the vulnerability of long-term insurers to the major market risks arising from the prolonged low yield environment and the so-called 'double-hit', where a negative market shock to asset prices is combined with a low risk free rate.

EIOPA has set the target level of participation at 75% of each national market in terms of gross life technical provisions. It has increased the target from 50%, set in 2014, to include a higher number of small and medium size insurers. The selection of which insurers are in scope to meet the coverage criteria lies with national supervisors.

Selected insurers are required to submit the stress test information to their national supervisor alongside information already required on the Solvency II equity and long term guarantees measures, by 15 July 2016. EIOPA plans to publish the aggregated results in December 2016.

Supervision

External Credit Assessment Institutions questionnaire

To support its compliance with EIOPA initiatives and Directive requirements, the PRA issued a *request* to all Category 1 – 5 insurance firms to complete a short questionnaire on 5 May 2016. It asked firms to complete the survey by 16 May 2016. The questions related to External Credit Assessment Institutions' licences and reassessment of credit quality steps.

Accounting

PwC Publications

Insurance contracts

Our *Insurance Alert - IASB meeting on 17 May 2016* summarises the discussions at the May 2016 IASB meeting. At this meeting the IASB unanimously agreed to move forward with the proposed amendments to IFRS 4 Insurance Contracts granting certain reliefs in respect of the transition to the new financial instruments standard (IFRS 9).

IFRS News

Our IFRS news for May 2016 covers:

- Final changes to IFRS 15 - An overview
- Regulator focus - What can we learn from the ESMA report?
- IFRS 8 Segment Reporting - Key things to look out for
- Leases lab - How to implement the new guidance?
- Cannon Street Press
  - Insurance and IFRS 9
  - Conceptual Framework
  - Disclosure Initiative
- IC rejections - IAS 18
- Cryptic word-seek: Solution.

The latest on revenue recognition implementation

Our publication *In Transition – The latest on revenue recognition implementation* summarises the five implementation issues related to the new revenue standard (IFRS 15) discussed at the April 2016 meeting of the US members of the Transition Resource Group (TRG). TRG members expressed differing views on how the 'class of customer' concept is applied to assess whether a contract includes a material right. They also had differing perspectives on whether 'carried interest' arrangements in the asset management industry are within the scope of the revenue standard. TRG members generally agreed with the FASB staff's views on whether fees earned by financial institutions are in the new

standard's scope, how to measure transfer of control over time and the accounting for contract assets in connection with a contract modification.

Accounting briefing

Our publication *Accounting briefing - May 2016* focuses on the practical implications of recent developments and topical issues in UK GAAP and IFRS. This issue includes the following articles:

- Has your horizon changed?
- Equivalent reporting - can I take disclosure/consolidation exemptions?
- A fair share of tax... disclosures
- Where are your related undertakings? (and other company law changes)
- Farewell to the FRSSE - new UK GAAP for small and micro entities
- Amendments to fair value disclosure in FRS 102
- Timeline for new UK GAAP.

Example accounts

UK illustrative financial statements - IFRS and UK GAAP (FRS 101) example accounts for 2015 year ends contains example accounts illustrating the required disclosure and presentation for UK groups and UK companies reporting under IFRS or FRS 101 'Reduced Disclosure Framework'. The accounts include UK company law disclosures with commentary for preparers. This publication provides two example set of accounts for the year ended 31 December 2015:

- IFRS GAAP Plc – consolidated financial statements for a listed group reporting under IFRS
- New UK GAAP Limited – single-entity financial statements, including transition disclosures for a company reporting under FRS 101.

Monthly calendar

Open consultations

Closing date for responses	Paper	Institution
10/06/16	Consultation on Pillar 3 disclosure requirements – consolidated and enhanced framework	Basel Committee
10/06/16	Proposals for a loan-level data collection for buy-to-let lending	BoE
13/06/16	CP18/16: Reporting requirements for non-Solvency II insurance firms	PRA
14/06/16	Consultation on an effective insolvency framework within the EU	EC
19/06/16	Consultation on simplifying language on retirement options	ABI
21/06/16	CP16/12: Secondary annuity market – proposed rules and guidance	FCA
21/06/16	Technical note on stress testing for institutions offering Islamic financial services	Islamic Financial Services Board
21/06/16	Public consultation on the exercise of options and discretions (part 2)	ECB
21/06/16	Draft Addendum to the ECB Guide on options and discretions available in Union law	ECB
22/06/16	Consultation: Guidelines on corrections to modified duration for debt instruments under Article 340(3) of Regulation (EU) 575/2013	EBA
23/06/16	Call for evidence: Improving the consumer landscape and quicker switching	DFBIS

Closing date for responses	Paper	Institution
24/06/16	*Consultation on reducing variation in credit risk-weighted assets – constraints on the use of internal model approaches*	*Basel Committee*
24/06/16	*Consultation on further considerations for implementing NSFR in the EU*	*EC*
24/06/16	*Consultation on options to refine the UK competition regime*	*DFBIS*
24/06/16	*Consultation on proportionality in the future market risk capital requirements and the review of the original exposure method*	*EC*
29/06/16	*CP11/16: Underwriting standards for buy-to-let mortgage contracts*	*PRA*
30/06/16	*Draft legislation: The Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) (Amendment) Regulations 2016*	*HMRC*
30/06/16	*Draft technical advice under the Benchmarks Regulation*	*ESMA*
30/06/16	*Guidelines on participant default rules and procedures under CSDR*	*ESMA*
30/06/16	*Draft legislation: the Bank Levy (Amendment of Schedule 19 to the Finance Act 2011) Regulations 2016*	*HMRC*
04/07/16	*Consultation on SEPA credit transfer rulebook*	*EPC*
04/07/16	*Consultation on SEPA direct debt core rulebook*	*EPC*
04/07/16	*Consultation on SEPA direct debit B2B rulebook*	*EPC*
04/07/16	*CP12/16: Supervising building societies' treasury and lending activities*	*PRA*
06/07/16	*Draft regulatory technical standards for determining proxy spread and limited smaller portfolios for credit valuation adjustment under Article 383(7) of the CRR*	*EBA*

Closing date for responses	Paper	Institution
06/07/16	*Revisions to the Basel III leverage ratio framework*	*Basel Committee*
08/07/16	*CP16/3: The application of the Interchange Fee Regulation in the UK, Phase 2*	*PSR*
10/07/16	*Consultation on SEPA instant credit transfer scheme rulebook*	*EPC*
14/07/16	*CP16/10: Proposed implementation of the Enforcement Review and the Green Report*	*FCA*
15/07/16	*Consultation on prudential treatment of problem assets – definitions of non-performing exposures and forbearance*	*Basel Committee*
15/07/16	*CP16/16: Solvency II: matching adjustment*	*PRA*
18/07/16	*Consultation on methodology to derive ultimate forward rate under Solvency II*	*EIOPA*
19/07/16	*CP16/14: UCITS V Level 2 Regulation, SFTR and consequential changes to the Handbook*	*FCA*
21/07/16	*CMA's consumer powers: updated guidance*	*CMA*
22/07/16	*GC16/5 - Proposed guidance on wind-down planning*	*FCA*
25/07/16	*Draft regulatory technical standards on disclosure of encumbered and unencumbered assets under Article 443 of the CRR*	*EBA*
29/07/16	*CP17/16: Regulatory reporting of financial statements, forecast capital data and IFRS 9 requirements*	*PRA*
05/08/16	*CP20/16: Solvency II: consolidation of Directors' letters*	*PRA*
05/08/16	*CP19/16: Solvency II: Changes to internal models used by UK insurance firms*	*PRA*

Closing date for responses	Paper	Institution
11/08/16	*Consultation on LCR disclosure*	*EBA*
12/08/16	*Consultation on SEPA Cards Standardisation Volume*	*EPC*
12/08/16	*CP21/16: Pillar 2 liquidity*	*PRA*
16/08/16	*Capping early exit charges for members of occupational pension schemes*	*Department for Work and Pensions*
17/08/16	*CP22/16: Solvency II: Monitoring model drift and standard formula SCR reporting for firms with an approved internal model*	*PRA*
18/08/16	*CP16/15: Capping early exit pension charges*	*FCA*
02/09/16	*Consultation for the fitness check of EU consumer and marketing law*	*EC*
31/10/16	*Feedback on FRS 102*	*FRC*

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
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			
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
TDB 2016	Smarter consumer communications: removing certain ineffective requirements in our Handbook – PS to CP15/32	Policy statement	FCA
TDB 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 paper	FCA
Financial crime, security and market abuse			
TBD 2016	Enhanced due diligence under AMLD4	Guidelines	EBA

Date	Topic	Type	Institution
TBD 2016	Risk based supervision 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			
Summer 2016	Increasing transparency and engagement at renewal in general insurance markets – PS to CP 15/41	Policy statement	FCA
Mortgages			
July 2016	Application of MCD rules for passporting firms – Handbook notice to CP16/8	Handbook notice	FCA
Payments			
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
TBD 2016	RTS on strong authentication and communication under PSD2	Technical standards	EBA
TBD 2016	RTS on the separation of payment card schemes and processing entities under the IFR	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

Date	Topic	Type	Institution
TBD 2016	RTS on the definition of default thresholds for past due items	Technical Standards	EBA
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

Date	Topic	Type	Institution
Recovery and resolution			
Summer 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
TBD 2016	The reference point used for setting the target level for resolution financing arrangements	Report	FCA
TBD 2016	Administrative penalties under the BRRD	Report	EBA
Securities and markets			
Q2 2016	Product governance and other MiFID II / MiFIR topics	Q&As	ESMA
Summer 2016	Implementation of the MIFID II directive – retail	Consultation	FCA
Q3 2016	MiFID II / MiFIR topics	Guidelines	ESMA
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
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

Date	Topic	Type	Institution
Supervision, governance and reporting			
June 2016	Regulatory fees and levies: rate proposals 2016/17 – PS to CP16/9	Policy statement	FCA
Q3 2016	Report on Trends, Risks and Vulnerabilities	Report	ESMA
Q3 2016	Proposed implementation of the Enforcement Review and the Green Report – PS to CP16/10	Policy statement	FCA
October 2016	Statement on the common enforcement priorities for 2016 year-end financial statements	Statement	ESMA
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	Remuneration requirements for sales staff	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
ABI	Association of British Insurers
ABS	Asset Backed Security
ACER	Agency for the Cooperation of Energy Regulators
AIF	Alternative Investment Fund
AIFM	Alternative Investment Fund Manager
AIFMD	Alternative Investment Fund Managers Directive 2011/61/EU
AIMA	Alternative Investment Management Association
AML	Anti-Money Laundering
AMLD3	3rd Money Laundering Directive 2005/60/EC
AMLD4	4th Money Laundering Directive 2015/849/EU
AQR	Asset Quality Review
ASB	UK Accounting Standards Board
Banking Reform Act (2013)	Financial Services (Banking Reform) Act 2013
Basel II	Basel II: International Convergence of Capital Measurement and Capital Standards: a Revised Framework
Basel III	Basel III: International Regulatory Framework for Banks
Basel Committee	Basel Committee of Banking Supervision (of the BIS)
BBA	British Bankers' Association
BCR	Basic capital requirement (for insurers)
BIBA	British Insurance Brokers Association
BIS	Bank for International Settlements
BoE	Bank of England
BMR	EU Benchmarks Regulation
BRRD	Bank Recovery and Resolution Directive 2014/59/EU
CASS	Client Assets sourcebook
CCA	Consumer Credit Act 1974 (as amended)
CCB	Countercyclical capital buffer
CCD	Consumer Credit Directive 2008/48/EC
CCPs	Central Counterparties
CDS	Credit Default Swaps
CEBS	Committee of European Banking Supervisors (predecessor of EBA)
CESR	Committee of European Securities Regulators (predecessor of ESMA)
CET1	Common Equity Tier 1
CFTC	Commodities Futures Trading Commission (US)
CGFS	Committee on the Global Financial System (of the BIS)
CIS	Collective Investment Schemes

CMA	Competition and Markets Authority
CMU	Capital markets union
CoCos	Contingent convertible securities
Co-legislators	Ordinary procedure for adopting EU law requires agreement between the Council and the European Parliament (who are the 'co-legislators')
COREP	Standardised European common reporting
Council	Generic term representing all ten configurations of the Council of the European Union
CRA1	Regulation on Credit Rating Agencies (EC) No 1060/2009
CRA2	Regulation amending the Credit Rating Agencies Regulation (EU) No 513/2011
CRA3	proposal to amend the Credit Rating Agencies Regulation and directives related to credit rating agencies COM(2011) 746 final
CRAs	Credit Rating Agencies
CRD	'Capital Requirements Directive': collectively refers to Directive 2006/48/EC and Directive 2006/49/EC
CRD II	Amending Directive 2009/111/EC
CRD III	Amending Directive 2010/76/EU
CRD IV	Capital Requirements Directive 2013/36/EU
CRR	Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms
CSD	Central Securities Depository
CSDR	Central Securities Depositories Regulation (EU) 909/2014

CSMAD	Criminal Sanctions Market Abuse Directive 2014/57/EU
CTF	Counter Terrorist Financing
DFBIS	Department for Business, Innovation and Skills
DG FISMA	Directorate-General for Financial Stability, Financial Services and Capital Markets Union
DG MARKT	Internal Market and Services Directorate General of the European Commission
DGS	Deposit Guarantee Scheme
DGSD	Deposit Guarantee Schemes Directive 2014/49/EU
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act (US)
D-SIBs	Domestic Systemically Important Banks
EBA	European Banking Authority
EC	European Commission
ECB	European Central Bank
ECJ	European Court of Justice
ECOFIN	Economic and Financial Affairs Council (configuration of the Council of the European Union dealing with financial and fiscal and competition issues)
ECON	Economic and Monetary Affairs Committee of the European Parliament
EDIS	European Deposit Insurance Scheme
EEA	European Economic Area
EEC	European Economic Community

EIOPA	European Insurance and Occupations Pension Authority
ELTIF	European long-term investment fund
EMIR	Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (EU) No 648/2012
EP	European Parliament
EPC	European Payments Council
ESA	European Supervisory Authority (i.e. generic term for EBA, EIOPA and ESMA)
ESCB	European System of Central Banks
ESEF	European Single Electronic Format
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
EU	European Union
EURIBOR	Euro Interbank Offered Rate
Eurosystem	System of central banks in the euro area, including the ECB
EUVECA	European Venture Capital Funds Regulation (EU) 345/2014
FAMR	Financial Advice Market Review
FASB	Financial Accounting Standards Board (US)
FATCA	Foreign Account Tax Compliance Act (US)
FATF	Financial Action Task Force
FC	Financial counterparty under EMIR

FCA	Financial Conduct Authority
FDIC	Federal Deposit Insurance Corporation (US)
FiCOD	Financial Conglomerates Directive 2002/87/EC
FiCOD1	Amending Directive 2011/89/EU of 16 November 2011
FMI	Financial Market Infrastructure
FMLC	Financial Markets Law Committee
FOS	Financial Ombudsman Service
FPC	Financial Policy Committee
FRC	Financial Reporting Council
FSA	Financial Services Authority
FSB	Financial Stability Board
FS Act 2012	Financial Services Act 2012
FSCP	Financial Services Consumer Panel
FSCS	Financial Services Compensation Scheme
FSI	Financial Stability Institute (of the BIS)
FSMA	Financial Services and Markets Act 2000
FSOC	Financial Stability Oversight Council
FTT	Financial Transaction Tax
G30	Group of 30
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 & 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 IMD2
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
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
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
MPC	Monetary Policy Committee
MREL	Minimum requirements for own funds and eligible liabilities
MTF	Multilateral Trading Facility
MoJ	Ministry of Justice
MoU	Memorandum of Understanding
MPC	Monetary Policy Committee
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
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
PAD	Payment Accounts Directive 2014/92/EU
PIFs	Personal investment firms
PPI	Payment Protection Insurance
P2P	Peer to Peer
PERG	Perimeter Guidance Manual
PRA	Prudential Regulation Authority
Presidency	Member State which takes the leadership for negotiations in the Council: rotates on 6 monthly basis
PRIIPs Regulation	Regulation on key information documents for investment and insurance-based products (Regulation 1286/2014)
PSD2	The revised Payment Services Directive (EU) 2015/2366

PSP	Payment service provider
PSR	Payment Systems Regulator
QIS	Quantitative Impact Study
RAO	Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544)
RDR	Retail Distribution Review
REMIT	Regulation on wholesale energy markets integrity and transparency (EU) 1227/2011
RFB	Ring-fenced body
RONIA	Repurchase Overnight Index Average
RRPs	Recovery and Resolution Plans
RTS	Regulatory Technical Standards
RWA	Risk-weighted assets
SCR	Solvency Capital Requirement (under Solvency II)
SCV	Single customer view
SEC	Securities and Exchange Commission (US)
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)
SEPA	Single Euro Payments Area

SFT	Securities financing transaction
SFTR	Securities Financing Transactions Regulation (EU) 2015/2365
SFO	Serious Fraud Office
SIMF	Senior Insurer Manager Function
SIMR	Senior Insurer Managers Regime
SM&CR	Senior Managers and Certification Regime
SME	Small and Medium sized Enterprises
SMF	Senior Manager Function
SOCA	Serious Organised Crime Agency
Solvency II	Directive 2009/138/EC
SONIA	Sterling Overnight Index Average
SREP	Supervisory Review and Evaluation Process
SRB	Single Resolution Board
SRF	Single Resolution Fund
SRM	Single Resolution Mechanism
SSM	Single Supervisory Mechanism
SSR	Short Selling Regulation (EU) 236/2012
SUP	FCA supervision manual
T2S	TARGET2-Securities
TLAC	Total Loss Absorbing Capacity

TR	Trade Repository
TC	Treasury Committee
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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