Being better informed

FS regulatory, accounting and audit bulletin

PwC FS Risk and Regulation Centre of Excellence

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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.

As the evenings draw in, regulators are entering their autumn busy period. The past month brought dramatic developments on the PRIIPs Regulation, and major FCA publications on the SM&CR and implementation of MiFID II.

After a calm initial six months of the SM&CR, with firms occupied by getting used to the new requirements, the FCA and PRA took their individual accountability mission to the next stage with a raft of publications. The FCA revealed findings of a supervisory review of firms' statements of responsibility and management responsibility maps, in which it highlighted a lack of clarity on individuals' responsibility in some documents. The FCA also confirmed final rules on regulatory references, which aim to prevent individuals with poor conduct records being 'recycled' between firms, by clarifying the information firms are required to share with one another. And the PRA updated its related supervisory statements to reflect the FCA's updates.

The FCA also gave firms more of an insight into its approach to MiFID II implementation, with its third consultation paper, which focused on wider ranging issues. Key proposals include strengthening inducement and research rules, implementing requirements on full disclosure of costs and charges and extending existing requirements to record telephone and electronic conversations to more firms.

Staying with retail distribution, HMT consulted on narrowing the definition of advice, which could boost firms' appetite to offer guidance services. As part of FAMR, HMT wants to align the definition of regulated advice with the EU definition set out in MiFID. The change is likely to remove some of the regulatory barriers around providing unregulated guidance, although there are risks associated with more consumers opting out of regulated advice.

In the mortgage sector, the PRA introduced tougher underwriting standards for buy-to-let mortgage contracts that are not already regulated by the FCA. In final rules, the PRA confirmed it expects lenders to assess affordability by looking at whether the income from the property is sufficient to support monthly interest payments using an interest coverage ratio test. Firms also need to take into account likely interest rate rises over the next five years. The interest coverage ratio and interest rate stress test changes will apply from 1 January 2017, while other requirements will be implemented on 30 September 2017. The changes are part of the BoE's efforts to manage the risks posed by the buy-to-let sector to financial stability.

Governance issues remain high on the regulators' agenda, with the FCA expressing concerns about firms' compliance with governance arrangements under CRD IV. In a letter to the largest firms that fall under its prudential sourcebook for investment firms (IFPRU), the FCA explained that through SREP cycles it's found many firms not complying with the additional governance arrangements needed to support their risk management framework under the directive. The FCA expects all significant IFPRU firms to take action as a result of the letter, so firms should consider carefully the issues raised.

Banking professionals should also take a look at the ECB's consultation on guidance to banks in the SSM on non-performing loans. It identifies best practices for NPLs, telling banks to adopt a clear NPL strategy and operational plan. While the guidance is non-binding, it sets the bar for ECB expectations and banks will need to explain any deviations from it. The ECB also warns that non-compliance may trigger supervisory measures.

Competition is never far from regulators' minds. In the general insurance sector, the FCA fed back on its call for input on the use of big data and how it affects consumer outcomes and competition. It found broadly positive consumer outcomes, but noted big data can make it harder for some customers

to obtain insurance, and might make it easier for firms to charge certain customers more. The FCA will not launch a market study, but does plan a follow-up piece of work on pricing practices later this year.

And in an update that will be of interest to a range of financial services firms, HMT consulted on its approach for implementing AMLD4, which it must do by 26 June 2017. The directive will bring in new requirements on customer due diligence and relying on third parties, and broaden existing AML/CTF requirements for politically exposed persons.

Our first feature article this month looks at the PRIIPs Regulation, following a historic decision by the EP to reject the Level 2 standards. The EP's objection is centred on the core of the regulation – how disclosure of cost, performance and risk should be presented in the PRIIPs KID. Firms and Member States are concerned the standards could create misleading documents and prevent consumers from accurately comparing different products and providers. With the regulation due to be implemented in less than three months, we look at what's likely to happen next and the steps firms should consider taking.

The second feature article examines the findings of the FCA's recently published thematic review on mortgage lenders' readiness for mitigating the impact of an interest rate rise on vulnerable customers. The FCA proposes a number of potential actions firms may wish to consider to prepare for an interest rate rise and engage with customers to improve their awareness. These include tailoring communications to customers' individual circumstances and ensuring front-line staff are appropriately trained. A rate rise may feel far away at the moment, but the FCA expects firms to be prepared when the time comes, so they should take action now.

Looking ahead, we expect the FCA to publish policy statements on the secondary annuity market and smarter consumer communications, and ESMA to issue MAR guidelines in the coming weeks and months. We should also see some further clarity from the EC on PRIIPs.

We hope you enjoy reading this month's updates.

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PRIIPs faces chaos after KIDs revolt

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In a historic vote last month, the EP rejected the Level 2 requirements of the PRIIPs Regulation – the first time it has rejected standards for a major piece of legislation. Concerns among firms, investors and national Governments over the PRIIPs KID have been simmering for months and finally boiled over when ECON rejected the RTS, describing them as 'misleading' and 'flawed'. On 14 September the EP voted overwhelmingly, by 602 to 4 (with 12 abstaining) to approve ECON's motion to reject them.

So why has the EP decided to take such a drastic step? What's likely to happen next? And how should firms navigate the resulting uncertainty in preparing to comply with the regulation?

A parliamentary protest

The PRIIPs Regulation attempts to provide succinct, comparable disclosure across investment products sold to retail investors. The EP's objection focuses on the core of the regulation – how key elements of that disclosure should be presented in the PRIIPs KID.

Its decision comes after sustained criticism from firms and Member States over the methodology behind the KID. Critics say the standards are unfit for purpose to present products' cost, performance and risk in a clear, fair and comparable way. Specifically, stakeholders were concerned that the rejected standards:

- force firms to present potentially misleading performance scenarios
- fail to provide clear guidance on how transaction costs should be calculated
- use market and credit risk methodologies that obscure legitimate differences between various types of investment funds
- fail to address insurance-specific characteristics, especially around how premiums are taken into account in costs
- Provide too little guidance around how multi-option products should be presented, and under what circumstances to apply a 'complex product' warning.

And it's not just the EP which fears the KID won't work. A majority of Member States also voted against the RTS in the Council (but didn't have the qualified majority necessary for the Council to join the EP in outright rejection).

This discontent reveals some worrying failures in communication between the institutions. The EC had hoped that its promises to address institutional and stakeholder concerns through subsequent Level 3 measures would be sufficient to change the EP's vote. But reports from Brussels indicate the EP and Council were frustrated by the EC's failure to ensure their concerns were addressed, and believed Level 3 measures would not sufficiently solve the issues with the RTS. The smooth passage of regulation requires the balance of power between the institutions to be managed effectively. If the EP loses confidence in the ESAs' rulemaking abilities, that could impede the flow of other regulations. Added to this, the EC is likely to be reluctant to delay another major piece of legislation (following the delay to MiFID II), out of fear that firms or national regulators might start taking a more relaxed attitude to its deadlines.

The challenges of clear comparisons

The aim of PRIIPs, to provide a brief disclosure document that would allow investors to make comparisons across a wide variety of products, is ambitious and perhaps meant there would always be contention around the KID's methodology and presentation. The KID must help investors compare such diverse products as MMFs, derivatives, securitisations, UCITS (after a delay), ELTIFs and accommodate insurance wrappers. The ESAs and the EC added to the challenge by striving for simple metrics (such as a single risk indicator) comprised of very complex components

such as both market and credit risk. Likewise, while the aspiration to caveat past performance by applying specific scenarios admirably highlights the contingency of such performance, the EP felt the RTS failed to provide a sufficiently accurate framework. Firms were similarly concerned, as they felt there was increased liability exposure around performance forecasting than simply presenting performance history.

UCITS funds have long been subject to a similar disclosure document which has been widely viewed as investor-friendly. But the ESAs made a conscious effort to make the KID more comprehensive, both in terms of instruments covered and information captured, than the UCITS document. In addition to a more inclusive risk metric, capturing credit risk, the PRIIPs KID RTS included transaction costs and applied performance scenarios to past performance. Clearly though, such complexity has its downsides and some industry sectors have questioned whether the comparative simplicity of UCITS disclosure might be appropriate for PRIIPs. The EP also argues the RTS fail to adequately demonstrate how multi-option products should be treated.

While the standards did provide guidance on how to produce disclosure around the product as a whole, they failed to adequately explain under what circumstances KIDs should be produced for the individual options. The EP wants clarification that KIDs would not need to be produced where there are multiple option combinations. Likewise, the failure to expand the scope of the two-year delay for UCITS funds to those products that offered UCITS as one of many investment options meant UCITS managers would lose the benefit of that delay. This is because they would have to start providing KID-compliant disclosure by the standard effective date to allow multi-option product providers to meet their PRIIPs disclosure requirements for the instrument as a whole. Unfortunately, the ESAs and the EC failed to address this concern through Level 1 or Level 2 measures.

Road to chaos?

In many ways the EP's rejection of the RTS presents an opportunity. The EP has ensured the flaws identified by a wide array of stakeholders will not become a permanent feature of the regulation. While its concerns were focused on only a few key issues, as opposed to the full range of stakeholder push-back, the ESAs will now have the chance to revisit all of the feedback. Many hope they will use or adapt proven approaches, such as selectively applying UCITS disclosure rules.

At the very least, the controversy has generated a range of thoughtful critiques the ESAs can incorporate. A sensible approach would be for the EU institutions to limit the confusion caused by the EP's rejection of the RTS, either by developing alternative standards before the PRIIPs implementation date of 31 December 2016 or delaying the Level 1 requirements.

Unfortunately the EC is currently signalling that it will allow the Level 1 requirements to go into force without any Level 2 guidance. This would worsen the intra-institutional tensions that partly fuelled this crisis, and create nothing short of regulatory chaos.

The whole point of the regulation is to provide meaningful and consistent disclosure across instrument types. To do so, there needs to be a defined methodology that's applied to some of the key disclosure categories such as risk, performance and costs. The Level 1 text simply outlines the broad categories, and the Level 2 text sets out what data needs to be included, how results and ratings are calculated and presented. Without finalised technical standards, it will be up to each individual firm how they calculate and present these measures. As recent events show, there can be major disagreements about how these values should be represented across a range of financial products. If firms are all taking different approaches, it will be impossible to meet PRIIPs' aim of allowing consumers to make accurate product comparisons.

Further, in the absence of finalised Level 2 text, firms can't be certain they're complying with the rules and will be fearful of regulatory scrutiny. Any disclosure, especially to retail investors, will draw the attention of national regulators due to investor protection concerns. While national regulators will not have the authority to substitute their own KID requirements, in the absence of Level 2 guidelines they will have more discretion as to how they exercise their authority to impose fines and marketing prohibitions. Since regulators can interpret these differently, firms could face divergent enforcement environments – especially in a cross-border context. As a result, some have already begun to indicate they will probably simply use the rejected standards. This approach would be contrary to PRIIPs' regulatory intent, as such standards will by definition be different from the final requirements. But the reasoning is that more of the rules are likely to remain than change, so this approach will put firms closer to the final rules than any other approach.

Other firms have indicated that they will try and track the approach under UCITS. But it's unlikely the final standards will be a replication of UCITS because the KID will need to cover a broader range of instruments and there were significant divergences between the UCITS rules and the rejected standards. All of this underscores the reality that never will firms have been so unprepared for a regulatory requirement if PRIIPs applies from 31 December 2016 as planned. While the EU institutions have it within their power to rectify this, it's unclear whether the EC will cooperate.

What should firms do now?

The tempting course of action is to wait and see how the situation plays out, to avoid wasting resources preparing for disclosure requirements that will likely undergo fairly significant revisions. But firms must now face the very real possibility of having to provide KIDs by 31 December 2016 without Level 2 standards, or with final standards agreed only weeks before the deadline.

Firms should make preparations for the KID by assessing the extent to which they feel comfortable using the rejected Level 2 requirements as a rough guide but possibly making adjustments where the EP most strongly expressed concerns (and therefore where there is the greatest chance of change). On the political front, firms should make their concerns known through any further consultations – regardless of when new RTS are developed.

As firms and the market will have to live with PRIIPs disclosure for a very long time, it's understandable that everyone is invested in getting it right. Hopefully the EC will transform its show-down with the EP into an opportunity to make PRIIPs disclosure effective and widely respected – and to avoid opening the door to chaos.

Protecting vulnerable customers from a rate rise

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Mortgage lenders should review their strategies and measures to mitigate the impact of an interest rate rise on more vulnerable customers, following the FCA's latest thematic review on the subject.

On 6 September 2016, the FCA published the findings of its thematic review focused on firms' readiness for mitigating the impact of an interest rate rise on vulnerable customers. It began the review in early 2016, when an interest rate rise was anticipated. Although the economic environment has changed since, with the BoE cutting the base rate to 0.25% in August 2016, the FCA expects firms to be prepared when rates do rise so this should still be high on their agendas.

While this review focused on firms' preparedness in relation to vulnerable customers, the FCA will expect lenders to have regard to the findings more broadly, across various customer segments, and to take action as appropriate. It set out a number of potential actions firms may wish to consider to prepare for an interest rate rise and engage with customers to improve their awareness.

How did we get here?

Most mortgage lenders have looked at the issue of consumer vulnerability in detail over the past few years, as it has been an area of ongoing focus for the FCA. The FCA's latest review is a follow-up to a review of mortgage lenders' arrears management and forbearance in February 2014. That piece of work found lenders needed to do more to deliver consistently fair outcomes for customers based on their individual circumstances. Based on that review, the FCA asked firms to:

- consider which borrowers are most likely to be affected by potential rate rises
- deal sensitively with borrowers who may have particular vulnerabilities
- take action to identify customers susceptible to falling into arrears
- have appropriate strategies to treat these customers fairly.

Secondly, the FCA issued an occasional paper on vulnerable customers in February 2015, expressing its concerns that financial services providers were not treating customers in vulnerable circumstances fairly. The FCA highlighted issues around a lack of strategic approach, inflexible products, overly complicated customer communications and sales processes, internal systems failures (e.g. customers needing to tell firms multiple times about a bereavement) and an inconsistent approach to temporary forbearance. It urged firms to do more to develop products and services that fit the range of events and challenges customers face.

And thirdly, the MCD introduced an explicit requirement on firms to establish and implement clear, effective and appropriate policies and procedures for vulnerable customers from March 2016. When transposing the directive, the FCA resisted calls to provide a Handbook definition of customers in vulnerable circumstances, noting it wants firms to interpret for themselves whether or not a particular customer is vulnerable.

In its latest thematic review, the FCA set out to understand what strategies lenders have in place to mitigate the impact of an interest rate rise on financially vulnerable customers. It says since its previous thematic review and occasional paper most firms have identified relevant customers and analysed the impact of a rate rise. But the FCA found many firms are only in the early stages of putting together effective strategies.

Identifying vulnerable customers

The FCA looked at how firms identify financially vulnerable customers. It found most of the nine firms which participated in the review had considered what characteristics may make a customer more vulnerable to a rise in interest rates and had

built their analysis around this. Firms undertook a range of work to identify their most financially vulnerable customers including:

- identifying customer segments using credit reference agencies – to analyse payment profiles, indebtedness, affordability and behavioural measures
- stress testing across rate rise scenarios – to identify the impact on contractual monthly instalments.

But the FCA found some firms excluded certain customer types from their analysis, which could result in poorer outcomes. These included: customers currently in arrears (some firms believe their existing collections procedures accommodate these customers), and customers on fixed rate mortgages (in some cases irrespective of when their product matures). This should serve as a reminder for firms that they need to have an appropriate definition of vulnerability, and look at their entire customer base when identifying those who are, or may become, vulnerable.

Developing mitigation strategies

Firms are at different stages in developing strategies to treat customers fairly when interest rates rise, the FCA found. It says few firms are in a position to be able to implement strategies. Firms that are more prepared developed a range of strategies, including:

- customer research – to understand what customers know about the type of mortgage they hold and what impact an interest rate rise would have on them
- removing barriers to switching products
- front-line staff training – to help staff recognise signs of financial difficulty and know when to refer customers to specialist teams
- developing online calculators for customers –so they can check the impact of an interest rate rise, and firms can give details of where to seek further support.

Crucially, firms need a range of strategies which are tailored to customers' individual circumstances. The FCA has repeatedly emphasised that a one-size-fits-all approach could lead to poor outcomes for vulnerable customers. As well as being appropriate for customers, lenders should ensure that strategies are implementable in practice. This process should involve considering the impact of strategies on resources and the associated costs.

Communicating with impact

The FCA found most communications were generic messages highlighting potential interest rate rises, rather than being specific to customers' circumstances and the products they held. Firms should tailor communications to customers' circumstances as far as possible, and consider a range of communication methods. Lenders may wish to consider using a combination of letters, text messages and telephone calls, using the most effective tool or combination of tools for the relevant customer segment. Firms could carry out customer research or work with debt advice charities to gain a better understanding of which methods engage particular customer segments most effectively.

The FCA's examples of more developed communication strategies include:

- writing to customers with specific details of the impact of a rate rise on their monthly payment, setting out the options available and encouraging them to prepare for an increase
- prioritising higher risk customers with outbound calls and following up with written communications
- working with debt advice agencies to develop effective ways to communicate with customers most likely to be impacted by a rate rise.

The FCA also recognises that customers have a role to play and need to take responsibility for their finances, and says it is encouraging consumers to regularly review their mortgage arrangements and consider the impact of a rate rise on them. Firms can help to promote this engagement through their interactions with customers – for instance, by including reminders in written or telephone communications on other matters.

Next steps

The FCA encourages firms to take steps now to be better prepared for an interest rate rise. It says that by understanding which customers are likely to be impacted by a rate rise and developing implementable strategies, firms could better mitigate the impact of an interest rate rise on customers. The FCA adds this can also help firms to understand the potential impact on their resources.

An interest rate rise may feel far away at the moment, but now really is the time to act. Macro-economic developments remain uncertain and firms should act now to ensure they are prepared. After several reminders, the FCA would be likely to take a dim view of lenders which are unable to put effective strategies into practice promptly when rates do rise.

We expect the FCA's work on vulnerable customers to continue, and it may choose to look at other specific scenarios and across sectors. Last month it also gave an update on its work on the ageing population and the way in which financial services meet the needs of older consumers. While clearly not all older consumers are vulnerable, and all consumers can become vulnerable at any stage in their life, some of the conditions associated with ageing mean there is an overlap between the FCA's work on older consumers and vulnerability. The FCA set

out six priority areas for its work on the ageing population, including using academic research to understand more about how the mind ages, and to identify how this may affect consumers in their interactions with firms. It also plans to look further at mortgage products for older borrowers, and how best to protect older people who require assistance from a third party when managing their finances. The FCA intends to publish an ageing population strategy in summer 2017, and engage in analysis and industry collaboration in the meantime.

So firms should consider the messages from this review in the wider context of meeting the needs of – and treating fairly – all their customers. Questions to think about include: are vulnerable customers appropriately identified? Has the impact of interest rate increases on customer segments been appropriately quantified and understood? Are communications tailored to customers' individual circumstances? Are front-line staff appropriately trained to recognise signs of financial vulnerability and do they understand what tools are in place to help customers in such circumstances? Being prepared for a rise in interest rates is just one part of the puzzle in meeting the FCA's – and customers' – expectations.

Cross sector announcements

In this section:

Regulation

Advice

Narrowing the definition of advice

HMT launched a consultation on narrowing the definition of financial advice so it is in line with the MiFID definition, as part of the conclusions of the FAMR. In *Amending the definition of financial advice: consultation* published on 20 September 2016, HMT proposes amending the definition of regulated advice in Article 53 of the RAO, to bring it in line with the EU definition set out in MiFID. For advice to be regulated under Article 53 of the RAO, it must: relate to a relevant investment, be given to a person in their capacity as an investor or potential investor, and relate to the merits of them buying, selling, subscribing for or underwriting the investment. MiFID investment advice, on the other hand, is more specific and concerns giving a personal recommendation. It is made up of three main elements:

- a recommendation made to a person in their capacity as an investor or potential investor
- the recommendation is presented as suitable for the person or based on their circumstances
- it relates to the investor taking certain steps in respect of a particular investment which is a MiFID financial instrument.

Respondents to FAMR suggested creating a single definition for advice would give firms greater certainty, and remove some of the regulatory barriers around providing unregulated guidance. While firms are likely to welcome greater flexibility to develop more guidance services, there are risks associated with more consumers opting out of regulated advice (such as whether they understand the reduced protections from the FSCS and Financial Ombudsman Service that go with unregulated services). HMT acknowledges these potential risks.

The consultation closes on **15 November 2016**.

Brexit

FCA reveals passporting use

The TC published FCA figures revealing how many firms hold passports to carry out business in the EU and EEA in a *press release* based on an FCA *letter* on 20 September.

Passporting allows firms to access clients in other Member States without the need for authorisation in each country. 5,476 UK firms hold at least one passport to do business in another Member State, and 8,008 firms hold passports to do business in the UK. Many firms hold more than one passport, so the total number of passports held by UK-based firms is 336,421, and the number of passports held by companies based in other Member States is 23,532. The figures cover passports listed under the AIFMD, IMD, MiFID, MCD, PSD, UCITS and the Electronic Money Directive (which are handled by the FCA), as well as CRD and Solvency II, which are handled by the PRA. The FCA also gives a breakdown of the number of passports held under each directive.

EC appoints deputy Brexit negotiator

The EC published a *press release* on 14 September 2016 announcing its Article 50 Task Force, which will prepare for and lead Brexit negotiations with the UK.

The task force will be led by Chief Negotiator Michel Barnier, who reports directly to EC President Jean-Claude Juncker. And the EC's appointed Sabine Weyand as Deputy Chief Negotiator. Weyand, a German national, is currently the EC's Deputy Director General for Trade.

Both Barnier and Weyand will take up their duties on 1 October 2016. Their primary task over the coming months is preparatory work, as formal negotiations will not start until the UK triggers Article 50.

Capital and liquidity

Determining the loss absorption amount

The EC published the *commission delegated regulation (EU) 2016/1450 of 23 May 2016 supplementing Directive 2014/59/EU of the EP and of the Council with regard to RTS specifying the criteria relating to the methodology for setting the MREL* in the Official Journal on 3 September 2016. It applies to credit institutions and investment firms.

Directive 2014/59/EU requires Member States to have adequate tools to deal with failing institutions effectively. Resolution authorities should determine the loss absorption amount that firms need to hold. The default loss absorption amount will be the sum of minimum own funds requirements, any additional own funds and combined buffer requirements. But resolution authorities can set the loss absorption amount higher or lower than the default amount.

Implementing the preferred resolution strategy requires resolution authorities to determine the appropriate recapitalisation amount. The recapitalisation amount should at least be equal to the amount of capital required for the conditions of authorisation. The regulation also requires resolution authorities to determine whether liabilities excluded from bail-in will be an impediment to resolvability. It allows the authorities to reduce the MREL based on the amount a deposit guarantee scheme would contribute to the resolution strategy.

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

Don't forget your ICAAP

The FCA reminded firms of their obligation to have an ICAAP that follows CRD IV and the EBA guidelines on common procedures and methodologies for the SREP in a *Dear CEO – Prudential Approach for IFPRU investment firms* dated 22 September 2016. The SREP is the regulator's review of a firm's ICAAP. IFPRU investment firms are firms within the scope of CRD IV.

The FCA emphasises that the ICAAP should be a risk management tool used by the firm to inform business decisions – forming an integral part of a firm's management process and decision-making culture. It should not be treated purely as a compliance exercise.

The FCA notes that in giving individual capital guidance to firms the FCA may include a risk management and governance scalar, where the FCA has insufficient information to reach a conclusion on risks. This aims to capture 'unsighted' risks and act as an incentive to ensure firms take corrective action. The FCA acknowledges that holding higher own funds may not be the most appropriate supervisory tool for all types of risks and weaknesses identified. In these cases the FCA indicates it may require other actions from firms to rectify shortcomings identified. The FCA also highlights the key elements that a firm's ICAAP should include. The FCA intends to publish 'lessons learnt' from SREPs in 2017 to share good practice and common errors.

Highlighting Pillar 2 and stress testing

The FCA published *CRD IV Pillar 2 Summary and Stress Testing Observations* on 21 September 2016, summarising aspects of existing Pillar 2 policy arising from CRD IV. This includes the consequences of the EBA guidelines on common procedures and methodologies for the SREP. The FCA wants to help firms understand existing Pillar 2 policy.

The FCA's observations originate from stress and scenario testing reports received from significant IFPRU investment firms since 1 January 2014. Significant IFPRU investment firms are investment firms within the scope of CRD IV classified as significant by reference to the FCA's specified size thresholds.

The FCA addresses the calculation of capital requirements according to the 'Pillar 1 plus approach' required of the FCA by the EBA guidelines, and the determination of the quantity and quality of own funds that firms should hold to meet various requirements that arise from the ICAAP and SREP.

The FCA was disappointed at the level of compliance with the stress testing requirements – both in relation to their quality and timeliness of submission. Many did not contain all the required 'basic' elements required. The issues identified include:

- reports written to satisfy a regulatory requirement rather than forming an integral part of the firm's decision making and strategy
- incomplete disclosure and assessment of all the risks that firms were exposed to
- liquidity, a key element of financial resources, was not considered appropriately in scenarios selected
- impact on profit and loss and financial resources of stresses were not measured
- the reverse stress test was poorly understood by firms
- management and/or mitigation of actions was not addressed.

The FCA expects that the non-exhaustive list will help firms improve the quality of submissions.

Indexes and exchanges for eligible collateral

The EC published the *Commission Implementing Regulation (EU) 2016/1646 of 13 September 2016 laying down ITS with regard to main indices and recognised exchanges in accordance with Regulation (EU) No 575/2013 of the EP and of the Council on prudential requirements for credit institutions and investment firms* in the Official Journal on 14 September 2016. This applies to all CRR firms.

CRR allows firms to recognise eligible collateral for mitigating credit risk. It states firms can include equities, convertible bonds and debt securities issued by other institutions as collateral. But to be eligible, the equities and convertible bonds must be included in a specified main index. Debt securities must fulfil many criteria, one of which is they should be listed on a recognised exchange.

This publication has tables indicating the main indexes and recognised exchanges for equities, convertible bonds and debt securities. Firms should refer to the tables to decide which equities, convertible bonds and debt securities they can use as collateral.

Harmonising the default definition

The EBA published its final report *Guidelines on the application of the definition of default under Article 178 of CRR* on 28 September 2016. The EBA aims to address all aspects of the application of the definition to harmonise practice and promote consistency. This includes: days past due criterion, indications of unlikeliness to pay, conditions for return to non-defaulted status, treatment of default in external data, application for banking groups and specific aspects concerning retail exposures. These guidelines apply to both the IRB and standardised approaches to the calculation of credit risk capital requirements.

The EBA also released a QIS report which it used as the basis of its impact assessment. The report contains detailed information on current practices of firms on key aspects of the application of the definition.

The guidelines apply from 1 January 2021. But the EBA also indicates it expects implementation 'at the latest by the end of 2020', consistent with Opinion of the EBA on the implementation of the regulatory review of the IRB Approach, published in February 2016, and encourages firms to make the necessary changes 'as soon as possible'. The EBA acknowledges that the RTS will have a significant impact for the institutions that use the IRB approach. It envisages implementation by firms based on individually agreed plans with supervisory authorities.

Setting materiality thresholds for default

The EBA published its final report *draft RTS on the materiality threshold for credit obligations past due under Article 178 of CRR*. This article specifies that firms should consider a counterparty in default when it is past due for more than 90 days in respect of any material credit obligation. In this RTS, the EBA specifies the conditions supervisory authorities should consider in setting the materiality thresholds for these credit obligations – both retail exposures and non-retail exposures.

The threshold has an absolute and relative component. The absolute measure is the total amount of the credit obligation past due from the borrower. The relative measure is a percentage of the past due credit obligation in relation to the total on-balance sheet exposures to the borrower excluding equity exposures. The EBA indicates maximum absolute thresholds of €100 and €500 for retail and non-retail exposures respectively. It also sets a relative threshold of 1% for both retail and non-retail exposures. But supervisory authorities may set a different level up to a maximum of 2.5% if the risk characteristics of their jurisdiction justifies it.

The EBA expects implementation of the RTS 'at the latest by the end of 2020', consistent with *Opinion of the EBA on the implementation of the regulatory review of the IRB Approach*, published in February 2016, and encourages firms to make the necessary changes 'as soon as possible'. But the EBA acknowledges that the RTS will have a significant impact for the institutions that use the IRB approach. It envisages implementation by firms based on individually agreed plans with supervisory authorities.

CMU

Setting out CMU next steps

The EC outlined its near and longer term priorities for the CMU in a *Communication* on 14 September 2016. While largely in line with previous action plans, it's a timely reminder that the EC remains committed to CMU despite Brexit and the loss of former Commissioner for Financial Services Jonathan Hill's personal commitment to the project.

The EC will start to tackle some of the more politically challenging components of CMU a little earlier than had initially been envisioned. It will soon propose common insolvency regulation focused on earlier restructuring options for SMEs to avoid bankruptcy and limiting the consequences of insolvency for entrepreneurs. It will also begin to address the role of tax in impeding or facilitating investment by pushing forward proposals to address the debt-equity bias and withholding taxes on private equity and venture capital investment. Unsurprisingly, the EC insists it will do its best to encourage the EP and Council to finalise the first wave of CMU proposals around high-quality securitisations, improving the Prospectus Directive and amending rules for venture capital funds.

Competition

CMA investigates comparison tools

The CMA launched a *market study into digital comparison tools* used by consumers on 29 September 2016. The CMA says its reviews of the energy and banking sectors have highlighted how digital comparison tools can play an important role in increasing competition and enabling consumers to find better deals. The market study will look at how to maximise the potential benefits of digital comparison

tools and reduce any barriers to how they operate. The study will also consider the concerns that have been raised about digital comparison tools, firstly in relation to how the tools earn money and secondly, whether arrangements between tools and suppliers might restrict competition.

The market study will address four key themes:

- consumers' expectations of digital comparison tools, how consumers use tools and their experiences
- the impact of digital comparison tools on competition between suppliers listed on them
- how effectively digital comparison tools compete with each other
- the effectiveness of existing regulatory approaches to digital comparison tools.

The CMA invites comments on the issues raised in its *statement of scope* for the market study by **24 October 2016**.

Conduct

More complaints to the ombudsman

FOS received a total of 169,132 new cases in the first half of 2016, an increase of 3% when compared with the preceding six-month period. In its latest *six-monthly complaint data* released on 6 September 2016, FOS notes that the number of complaints about financial products other than PPI increased by 8% – to 77,751. But FOS reveals the average uphold rate, where the ombudsman found in favour of the customer, fell from 53% in the previous period to 48%. It also outlines that complaints about PPI made up 54% of all cases referred to it in the first half of 2016, compared with 56% previously.

PPI's impact on FOS

The FOS published an independent report on *The impact of PPI mis-selling on the FOS* on 15 September 2016, with a *management response* to the report's recommendations. Report author Richard Thomas CBE concludes the ombudsman service's overall handling of PPI complaints has been positive. But he notes there have been delays, albeit the FOS has taken sensible steps to mitigate these. Thomas recommends a number of steps the FOS can take to improve its operational response to the ongoing PPI challenge. These include the FOS:

- sharing its PPI decision support tool 'navigator' with firms, and consider making it available to claims management companies
- making a clear commitment to giving more feedback to help reduce complaint volumes
- working closely with the FCA as it considers whether and how to introduce a deadline for PPI complaints.

The FOS accepts all the recommendations either in full or in part. It says the navigator tool was developed to support a high volume of relatively straight forward cases, and has become less relevant as the remaining PPI cases have become more complex.

FOS explains compensation awards

FOS focuses on the range of ways complaints can be resolved, and on its power to tell businesses to pay interest in appropriate cases in *ombudsman news issue 136* published on 29 September 2016. FOS most often provides firms with a formula to calculate compensation. But it can also tell businesses to take actions that don't have an immediate cash value or award compensation for distress or inconvenience caused to a consumer. FOS explains that awards it makes may include an interest element, for example where it tells a business to refund credit card interest charged as a result of a consumer having PPI which was mis-sold. Interest which is part of an award is subject to FOS' £150,000 award limit. But FOS can also award interest on top of an award, to compensate a consumer from the time they suffered the loss to when the compensation is paid. This type of interest isn't subject to the award limit and is typically paid at a rate of 8% simple. FOS considers this rate is appropriate to reflect the cost of a consumer being deprived of money in the past and also reflects the current statutory interest rate on judgment debts.

FCA Handbook changes

The FCA summarised recent changes to its Handbook in *Handbook Notice September 2016*, published on 23 September 2016. The changes include:

- Amendments that form part of the individual accountability regimes introduced in March 2016 for deposit takers and investment firms regulated by the PRA. This instrument comes into force on 7 March 2017.
- Updating the name of an existing qualification provider and adding three new qualifications to the training and competence sourcebook. This comes into force on 23 September 2017.
- Changes to remove ineffective disclosure requirements from the Handbook. Part of this instrument comes into force on 22 November 2016, and the remainder on 27 March 2017.
- Small changes to align the Handbook more closely with the FCA's policy intention in implementing the MCD. This came into force on 23 September 2016.
- Amendments to secure an appropriate degree of protection for consumers who invest in UCITS. This instrument comes into force on 13 October 2016.

In the document, the FCA also provides feedback on consultations where it does not intend to publish a separate policy statement. These consultations are: *CP16/17*

Quarterly Consultation Paper No 13, CP16/14 UCITS V Level 2 Regulation, SFTR and consequential changes to the Handbook, CP15/19 Consultation Paper No 9, UCITS V Implementation and other changes to the Handbook affecting investment funds (Part III).

How to reduce misconduct risk?

The FSB issued *Measures to reduce misconduct risk Second Progress Report* on 1 September 2016. It sets out its upcoming actions for improving standards of behaviour and conduct across the market.

The FSB conducted a review of compensation practices, and concluded that existing deferral and variable compensation provisions, if applied rigorously and properly calibrated, should help firms to prevent or deter misconduct. As a result, it plans to develop guidance on the link between compensation and conduct by the end of 2017. Once it's developed the guidance, the FSB says authorities could be asked to establish clear expectations on good practice.

The FSB says the effectiveness of compensation frameworks in reducing misconduct risk should not be considered in isolation. The success of ex post compensation tools depends on the support provided by related governance, risk and wider performance management policies, it argues. For the link between compensation and conduct to be meaningful, firms must focus on the full career cycle, from hiring to promotion to potential dismissal.

The FSB also intends to develop recommendations for consistent national reporting and data collection on the use of compensation tools to address misconduct in significant institutions. This could include recommendations on the frequency with which supervisors should collect such data, and recommendations for reporting on the types of tools deployed, the reasons for their use and the variable compensation affected by the tools.

The FSB's Working Group on Governance Frameworks (WGGF) plans to conduct a stocktake of various efforts underway by international bodies, national authorities, industry associations and firms to strengthen governance frameworks to address misconduct risk. The WGGF will then identify whether a supervisory toolkit is needed to address misconduct risk in the financial sector.

LSB sets affordability assessment

The Lending Standards Board (LSB) published its *Standards Development Project report on Affordability Assessments and Repayment Plans* on 27 September 2016. The LSB wanted to provide its members with best practice guidelines for assessing customers' affordability and agreeing arrears repayment plans with customers.

The LSB asked six firms to explain how they would respond to five typical scenarios involving customers in arrears. Firms were also asked to provide an overview of the training that frontline staff receive on how to conduct affordability assessments and how line management monitor and conduct quality assurance testing.

The LSB found instances of good practice with firms actively engaging with customers and providing dedicated training to staff dealing with debt impaired customers. But there was evidence firms did not always take into account customers' liabilities to other creditors, and the research highlighted instances where completion of the income and expenditure statement was not the best solution for the customer. Also, firms were yet to respond the trend of consumers to transact through digital media. None of the firms participating in the project offered customers the opportunity to set up a repayment plan online.

The report set out 11 best practice recommendations for firms including:

- adopting tailored questioning to understand the customer's overall financial and personal situation
- adopting a flexible approach using an income and expenditure form to gather financial information
- signposting customers to free debt advice organisations
- explaining terms such as priority debt to aid customers' understanding of their rights and obligations
- waiving interest and charges
- adjusting payments where there is evidence of further financial difficulty.

The LSB will evaluate the findings and incorporate the recommendation into its information for practitioners. It also plans to conduct further research into how the new *Standards of Lending Practice*, launched on 20 July 2016, add value where customers (including those in financial difficulty) transact through digital media.

Keeping the focus on culture

The FCA outlined a range of developments on the SM&CR in a *press release* on 28 September 2016. Andrew Bailey, Chief Executive of the FCA, made clear the new measures strengthen the FCA's continued focus on culture. He stated that in many cases, firms have made a substantial effort to get SM&CR right and embrace the importance of the key principles of responsibility and accountability underlying the regime. But he noted that culture change takes time and there is still more to do.

Responsibility, accountability and governance in financial services firms and their impact on conduct remains a priority for the FCA, with a focus on the most significant drivers of good or poor mindsets and behaviours. At the six-month anniversary of the introduction of SMR, firms should look at embedding the right types of behaviours and culture to ensure

the regime's ongoing effectiveness, Bailey said.

SM&CR implementation feedback

The FCA reported findings after reviewing firms' Statements of Responsibilities (SoRs) and Management Responsibility Maps (MRMs) in a feedback statement *SM&CR: supervisory review* on 28 September 2016. Firms have invested lot of effort into creating the documents, the FCA says, but it identified a number of issues requiring firms' attention.

In *FS16/6 SeniorM&CR: Feedback for all UK banks, investment firms and building societies* the FCA advised firms to review their SoRs and MRMs in light of the feedback and revise them where necessary. Firms should consider whether the seniority and resources of the individuals holding SMFs or particular responsibilities allow them to discharge their responsibilities effectively. In cases where the responsibilities are shared, SoRs and MRMs should be clear on the rationale and how the sharing of responsibilities works. The FCA also notes that firms should ensure consistency between SoRs and MRMs. It states that firms which are part of a larger group should ensure sufficient information is provided to explain how the firm's governance connects to the group. *Feedback for branches of banks from outside the European Economic Area (FS 16/7)* was consistent with its feedback for UK banks.

In *FS 16/8 SMR Feedback for branches of banks from within the European Economic Area*, the FCA identified that some EEA branches allocated individuals to the EEA branch SMF (SMF21) but did not set out that individual's actual branch responsibility. Some firms allocated both the money laundering reporting function (SMF17) and the SMF21 to a single individual, without any clear explanation.

In *FS 16/9 Senior Managers and Certification Regime: Feedback for Credit Unions*, the FCA notes that many credit unions supplied very limited information in their MRMS and some allocated a very large number of SMFs. The FCA's key messages for credit unions are consistent with its feedback for banks.

Making reference to past indiscretions

The PRA and FCA released the final rules on regulatory reference requirements under the SM&CR on 28 September 2016. The rules appeared in two policy statements *PS27/16 'Strengthening accountability in banking and insurance: PRA requirements on regulatory references (part II)'* and *PS16/22 'Strengthening accountability in banking and insurance: regulatory references final rules'.*

Firms which fall under the definition of full-scope regulatory reference firms will be required to take reasonable steps to obtain six years' worth of references for anyone performing a relevant function (i.e. those performing a senior management function, a certification function and notified non-executive directors). The six-year referencing period should cover all employers regardless of whether they're regulated firms or not.

Firms do not have to obtain full regulatory references when appointing an individual to one of the relevant functions from a firm or firms which are part of the same group. Contingent workers and contract staff will also be subject to meeting the regulatory standards of being 'fit and proper'. Both the FCA and PRA expect firms to obtain references before an application for approval is submitted.

The regulators appreciate that obtaining references within this timeframe may not always be possible. So they have amended the final rules to allow employers to obtain references no later than one month after the end of the application process if there is a legitimate reason for doing so.

The FCA and PRA expect regulatory references to be updated where new information comes to light that affects the original reference. Despite objections from firms, the regulators maintain their original proposal of a six-year timeframe for this, although the PRA provides some additional guidance.

Applying conduct rules to all NEDs

The PRA and FCA proposed in their respective consultation papers *Strengthening accountability in banking and insurance: amendments and optimisations (CP34/16)* and *Applying our conduct rules to all non-executive directors in banking and insurance sectors (CP16/27)* on 28 September 2016 that notified non-executive directors (NEDs) be subject to the full set of individual conduct rules set out in the Code of Conduct for Staff sourcebook (COCON).

They also propose all NEDs be subject to the senior conduct rule 4 requiring persons to disclose appropriately any information of which the FCA or PRA would reasonably expect notice.

In addition, the FCA proposes to amend the Handbook guidance to individual conduct rule 2: 'you must act with due skill, care and diligence'. It plans to clarify that this rule includes a director's conduct (whether executive or non-executive) when acting as a member of the board or other governing body or its committees.

The proposals will come into force two months after the regulators confirm final rules (expected in Q2 or Q3 2017), allowing firms to fulfil the obligations in COCON, including training requirements.

Both consultations are open until **9 January 2017**.

SM&CR legal function in the spotlight

The FCA considered the pros and cons of including the legal function as a SMF in its own right in a discussion paper *DP16/4 Overall responsibility and the legal function* released on 28 September 2016.

The DP looks at whether the legal function is an activity, business area or management function that would be captured under SMF18, as the primary role of an internal legal function is to provide independent advice to the business.

Lawyers are concerned that including the legal function as an SMF would compromise independence and the ability to offer legally privileged and impartial advice. They are also worried there may be an overlap with the rules that apply to solicitors.

The FCA believes the role of head of legal should be included as a SMF because failings in the legal function can impact the wider business. It is the management of the function, such as inadequate training or weak processes that brings the head of the legal function into the SMR.

The FCA says this is distinct from the quality and accuracy of the legal advice itself, which it is not seeking to regulate. It adds there is flexibility in allocating 'overall responsibility' for the legal function to the most suitable person. This includes, for example, the CEO or another director where the legal function is embedded in another department.

The FCA also clarified the purpose of the Other Overall Responsibility Function. This function allows a firm to allocate overall responsibility for an activity, business area or management function to someone whose job is not otherwise included in the list of SMFs. The intent is not to shoehorn senior managers that have overall responsibility for something into another SMF that is not appropriate for their role.

The discussion paper is open for responses until **9 January 2017**.

Decoding the duty of responsibility

The FCA is consulting on what individuals will need to do to meet the SM&CR concept of the duty of responsibility, in *CP16/26 Guidance on the duty of responsibility: amendments to the Decision Procedure and Penalties Manual*, issued on 28 September 2016.

The duty of responsibility replaced the presumption of responsibility and came into force on 10 May 2016.

The guidance comprises a non-exhaustive list of considerations the regulator will keep in mind when determining (i) responsibility for management of a firm's activities where a contravention took place and (ii) if a senior manager took steps a person in their position could reasonably be expected to take to avoid the firm's contravention. Senior managers can also breach the duty of responsibility for activities that fall outside their prescribed responsibilities - widening the net on what senior managers can be held to account for. The guidance is not intended to be prescriptive and the steps reasonably expected of a senior manager will vary depending on the circumstances.

The FCA says one important consideration is whether the senior manager acted in accordance with their statutory, common law and other legal obligations, including the conduct rules and other relevant rules in the FCA handbook. This suggests compliance with the conduct rules may not be enough to prove the senior manager acted responsibly.

The FCA explains that an action against a senior manager under the duty of responsibility will not lead to another senior manager being bound by the action unless they were party or privy to it. The FCA will decide whether or not to take action based on the criteria in DEPP. It will look at all circumstances of the case including the seriousness of the breach, the individual's position, responsibility and seniority and the regulator's need to use enforcement powers effectively and proportionately. The FCA will not apply its standards retrospectively or in hindsight. When the FCA applies the duty of responsibility, it will consider what steps a competent senior manager would have taken at that time, in that specific individual's position, with their roles and responsibilities.

The consultation closes on **9 January 2017**. The FCA plans to publish final guidance in a policy statement early in 2017.

Consumer issues

FCA's approach to ageing

The FCA highlighted mortgage lending, retail banking and long-term care advice among its areas of focus in continuing work on the ageing population, in an *update* on 15 September 2016. Following a discussion paper on the ageing population in February 2016, the FCA has decided to undertake work in six key areas:

- how firms can help consumers to better engage with retail banking products and services, including using nudges for disengaged consumers
- using academic research to understand more about how the mind ages, and how this affects consumers in their interactions with financial services
- helping consumers navigate markets with upper age limits
- mortgage lending to older customers and removing barriers to innovative products
- supporting consumers who require third-party access
- exploring whether there is a role for the FCA in the way advice and information on long-term care is delivered to consumers.

The FCA intends to launch its ageing population strategy in summer 2017. Until then, it plans to gather more input from stakeholders, review its own regulations and practices, and carry out analysis of its six focus areas. It adds that there have been some encouraging examples of innovative approaches from firms so far this year, but it feels there is more to be done.

Corporate governance

FCA warns of governance failings

The FCA warned of a potentially 'serious gap' in firms' governance in a *Dear 'Chair of the Board' – Governance requirements of a significant IFPRU firm* on 22 September 2016. The FCA identified that many firms have not complied with CRD IV governance requirements or have applied a narrow interpretation in their implementation. The top issues the FCA identified relate to:

- a separate chair and CEO of the board
- board risk, nomination and remuneration committees
- removal of the head of the risk management function.

Investment firms within the scope of CRD IV classified as significant (significant IFPRU firms) must comply with additional governance arrangements. The FCA identified the shortcomings through its SREP cycle and through a specific review of a sample of 37 significant IFPRU firms to identify the extent to which firms are following these governance requirements. The FCA reminds firms of their obligation to comply with the requirements with specific reference to the points highlighted in its letter.

Financial crime and enforcement

HMT consults on transposing AMLD4

HMT published a *Consultation on the transposition of the Fourth Money Laundering Directive* on 15 September 2016. The Government presents its approach and plans for the implementation of the AMLD4. The consultation also covers some aspects of the Fund Transfer Regulation (FTR), updating rules on information on payers and payees that must accompany transfers of funds, in any currency, for the purposes of preventing money laundering and terrorist financing.

The deadline for the Government to transpose the new requirements into national law is 26 June 2017, which is in line with the requirements under AMLD4 and the FTR.

The consultation closes on **10 November 2016**.

HMT's approach to AMLD4 changes

The Cabinet Office published a *memorandum* submitted by HMT on the EC's proposed amendments to the AMLD4, on 5 September 2016.

HMT supports setting up public registers of company beneficial ownership and welcomes clarification of provisions on obligatory registration of trusts in the location where they are administered and the explicit definition of 'competent authorities'.

But HMT expresses some concerns. It believes that reducing the registration threshold from 25% to 10% will significantly increase the number of people obliged to register, and increase costs for businesses. The inclusion of beneficial owners of trusts and trust-like arrangements may also raise privacy concerns in family-oriented arrangements. HMT proposes less onerous mechanisms to identify a natural or legal person holding or controlling a payment or bank account, with bank data automatically collected via a central data retrievals system.

The Government intends to replace the existing Money Laundering Regulations 2007 with AMLD4 provisions. Member States should transpose the directive by 1 January 2017, though many have expressed concerns about the timetable and it may be subject to change.

Working together on AML

Europol, Interpol and the Basel Institute on Governance (BIoG) established a working group on money laundering with digital currencies, in an announcement on the BIoG *website* on 9 September 2016.

The aims of the working group are to:

- analyse, gather and exchange non-operational information on the use of digital currencies as a means of money laundering, and to investigate and recover the proceeds of crime stored in this form
- organise workshops and meetings for members of the working group, to support them in successfully investigating crimes relating to virtual currencies
- create a network of specialists and practitioners, who will collectively establish best practices and provide assistance and recommendations both to group members and external stakeholders.

Working group members recognise that technological developments provide numerous new ways for criminals to conduct illegal activities involving digital currencies. There is also a clear consensus that digital currencies pose a money laundering and terrorism financing threat, which can only be addressed through enhanced international cooperation and the efficient exchange of information.

How to submit better quality SARs

The Financial Intelligence Unit (FIU) of the UK National Crime Agency published *Guidance on submitting better quality Suspicious Activity Reports (SARs)* on 15 September 2016. The National Crime Agency says poor quality reporting can lead to unnecessary delays, and in cases where firms have to seek consent, can also cause problems for customers or suppliers.

As a result the document provides firms with guidance on how to submit a better quality SAR to the National Crime Agency, to help it obtain all the necessary

information on reported suspicious activity. The guidance will also help the authority to prioritise SARs, and launch investigations in a timely manner.

The guidance covers:

- the online submission process
- the structure and content of an SAR
- obtaining a defence against money laundering or terrorist financing
- examples of good practice.

Finally, the National Crime Agency reminds firms of the broad scope of their SAR obligations. It highlights that all reporters, whether in the regulated sector or not, should submit a SAR under either the Proceeds of Crime Act 2002 or the Terrorism Act 2000.

Exchanging tax information automatically

ECON published a *draft report* on 12 September 2016, on the proposal for a Council directive amending Directive 2011/16/EU (administrative cooperation in the field of taxation) regarding access to AML information by tax authorities.

The EP via its committee approves the proposal with amendments. The EP suggests some changes on recitals, drawing attention to the recent Panama Papers scandal and the need for greater tax transparency.

It also calls for much closer coordination between jurisdictions and underlines that the mandatory automatic exchange of tax information was recognised internationally at G20, OECD and EU level as the most effective way to ensure tax transparency. It adds Article 8a, which states that tax authorities of a Member State shall, within six months of their collection of information, automatically exchange it with any other Member State if such information concerns certain types of persons (e.g. the beneficial owner of a firm) being a taxpayer in that Member State.

Further, the EP proposes to extend the deadline for Member States to transpose the amending directive requirements into national law by a year, to 1 January 2018.

Now the draft report will be presented and discussed in committee meetings, giving members an opportunity to propose amendments if they wish.

FCA's vision for tackling financial crime

Megan Butler, the FCA's Executive Director of Supervision for Investment, Wholesale and Specialists, delivered a *speech* on the FCA's and firms' responsibilities in tackling financial crime. Speaking at the BBA Financial Crime and Sanctions Conference on 20 September 2016 (the FCA published the speech the following day), Butler said the FCA is listening to industry concerns about the effectiveness of suspicious activity reports, and wants to hear firms' suggestions for how to make compliance processes more efficient. She encouraged firms to question the effectiveness and efficiency of expensive compliance systems, such as transaction monitoring systems. Butler urged firms: 'Please don't assume you need to keep fantastically costly measures in place just to show willingness to the regulator … We need to ensure that all money spent on financial crime delivers an effective and efficient mechanism to combat financial crime.' She added that the FCA is primarily interested in outcomes in this area, and that it 'operates in the real world'.

Butler told firms the FCA does not want them to take a 'tick-box', legalistic approach to financial crime compliance. She said firms should instead see financial crime as part of their social responsibilities and corporate integrity, rather than as a regulatory objective. On de-risking, Butler said the challenge for firms is to balance reducing money laundering with protecting legitimate account holders.

G20 re-commits to fight against corruption

The G20 reaffirmed its commitment to reducing corruption with the publication of its *Anti-Corruption Plan 2017-18* and its *High-Level Principles on Cooperation on Persons Sought for Corruption and Asset Recovery* on 27 September 2016. The G20's anti-corruption work is led by the Anti-Corruption Working Group (ACWG) established in 2010. In its action plan the G20 pledges to:

- ensure better co-operation between the law enforcement agencies of the different countries
- fully implement the FATF Recommendations on Transparency and Beneficial Ownership of Legal Persons
- work closely with the private sector and international organisations to combat corruption and identify and address the risks of corruption in high-risk sectors
- take steps to combat bribery, including participating with the OECD Working Group on Bribery.

The ACWG will report in 2017 on its progress in implementing commitments. In its High-Level Principles on Cooperation on Persons Sought for Corruption and Asset Recovery, the G20 outlines its commitment and zero-tolerance stance against allowing safe haven to persons fleeing corruption charges and seeking to transfer the proceeds of corruption abroad, permitting the use of legal loopholes to escape prosecution or legal action and barriers to enforcing the G20 anti-corruption principles. As host of the G20 Summit 2016, China also announced on 27 September 2016 an initiative to develop a research centre to complement G20 efforts to address the issue of corruption and asset recovery. The *Research Centre on International Cooperation Regarding Persons Sought for*

Corruption and Asset Recovery in G20 Member States would not be an international organisation, but G20 members would be encouraged to assist the Research Centre in its research on specific topics. Its work would complement and not duplicate existing research projects at the international level, China says.

Defining commodity inside information

ESMA clarified the definition of inside information under MAR as it relates to commodity derivatives by publishing its *Final Report on MAR Guidelines on Commodities* on 30 September 2016. Inside information could relate to either the commodity derivative itself, or the related spot contract. ESMA outlines various examples of direct and indirect information for different commodity classes that could possibly come into scope. Firms should review the examples provided by ESMA.

Financial stability

G20 to focus on capital flows

The G20 published its *agenda towards a more stable and resilient international financial architecture* on 14 September 2016. In the document, the G20 discusses capital flows, cross-border risks, local currency bond markets and other topics related to regional financing arrangements and sovereign debt.

To identify currency and maturity mismatch and drivers of capital flows, the G20 supports the second phase of a data gaps initiative. The initiative would focus on securities, foreign exposures, international banking and government finance statistics. The G20 finance ministers and central bank governors also plan to have regular discussions on emerging risks related to capital flows and liquidity.

The recent G20 Summit recognised the importance of well-developed local currency bond markets to improve local financial systems. The G20 requested the IMF and other international organisations develop policies to strengthen the local currency bond markets further.

Green finance – remedy for low growth?

BoE Governor Mark Carney gave a speech *Resolving the climate paradox* on 22 September 2016. Of the three channels through which climate risk can affect financial stability, he identified transition risk as the most important (over physical and liability risks). Carney said business investment has been affected by a combination of elevated geopolitical, economic and policy uncertainties and this has weighed on growth. As a result, he suggested frameworks to encourage private investment are important, including those that mobilise private investment to finance the transition to the low-carbon economy.

He described green finance as a 'major opportunity', because it can absorb global savings and so put upward pressure on global interest rates, as well as improving the prospect of an environmentally sustainable recovery in global growth. In his speech, Carney made recommendations for the FSB's task force on climate-related financial disclosures to include in its final report expected in early 2017. His first recommendation is for the information disclosed to be sufficiently granular. He also suggested including information on governance and management of climate-related risks, and on a firm's mitigation strategy and its financial planning, including capital expenditures and research and development. Carney's second recommendation is for scenario analysis to test the robustness of a firm's strategy. He said it's not yet clear what form these scenarios should take. Carney's final recommendation is for the task force to consider proportionality, without deviating from the objective to make a market in green finance. Finally, Carney called for market participants and public authorities to coordinate to deliver green bond frameworks, definitions and other supporting infrastructure to build markets for green bonds.

Challenging outlook for UK financial stability

The FPC released a *statement from its policy meeting on 20 September 2016* on 22 September 2016. The FPC believes the UK faces a challenging period of uncertainty and adjustment, and says it's continuing to assess the financial stability implications of the UK's vote to leave the EU. It reaffirms its commitment to robust prudential standards that are at least as great as currently planned. The FPC also notes the importance of macroprudential flexibility. The committee sees heightened uncertainty with the EU reinforcing domestic risks such as in commercial real estate markets where prices have fallen and transactions are at their lowest level since 2009. It finds the risk of a fall in overseas investors' appetite to invest in the UK remains. The FPC is also concerned about the ability of households to service their debts in a period of weaker employment and income growth.

It intends to release its review of the measures for housing put in place in 2014, in November of this year. Regarding the global economy, the FPC sees risks emanating from European banks and China's credit growth. The FPC has conducted its third assessment of the impact of the Help to Buy: Mortgage Guarantee scheme on financial stability and concludes the scheme's closure at the end of the year is unlikely to affect the provision of finance. Finally, the FPC welcomes the announcement that the FSB and its members will undertake further monitoring and analysis on market depth and funding liquidity conditions, including a cross-jurisdiction study of developments in rep markets.

IMF's plan for global growth

The global outlook for growth remains subdued, says the IMF in *Global Prospects and Policy Challenges*, published on 1

September 2016 ahead of the G20 Summit. The IMF says despite record-low interest rates, investment continues to disappoint, reflecting demand conditions, high corporate sector debt and weak financial sector balance sheets in many countries. It says low growth combined with rising inequality make for a challenging policy environment. The IMF notes there's a risk that political action fails to deliver the structural reforms needed to lift growth and instead turns toward inward-looking assaults on free trade. Potential threats to growth include protracted low inflation, China's transition to a more balanced growth path and uncertainties around Brexit, the IMF continues. It says more forceful, comprehensive and well-communicated policies are needed for higher growth.

Financial stability for sustainable development

The G20 published the *G20 action plan on the 2030 agenda for sustainable development* on 8 September 2016. The G20 outlines the high-level principles on which it will contribute to the implementation of the 2030 agenda.

The G20 will contribute towards financial inclusion and remittances, international financial architecture, climate finance and green finance. The global partnership for financial inclusion is working to provide full and equal access to financial services. It aims to address the challenges and legal uncertainties around SME financing, use of digital technologies and other means to support sustainable development.

The G20 believes reforms at the IMF and World Bank are important to support global economic growth and financial stability. It will work on strengthening the debt sustainability and sovereign debt restructuring processes.

Addressing the climate change is also an important aspect of the 2030 agenda. In particular, the green finance study group is working to promote private green investment.

Innovation

Who's playing in the sandbox?

The FCA gave an update on its regulatory sandbox project in a *speech* by Director of Strategy and Competition Christopher Woolard on 22 September 2016. The FCA opened the sandbox (a 'safe space' for firms to test new ideas without incurring all the normal regulatory consequences) to the first round of applicants in May 2016. Woolard said the FCA received 69 applications, of which it's accepted 24 to develop towards testing. The FCA has also offered assistance to 40 of the other applicants, in some cases to prepare for the next cohort of the sandbox. Of the applications accepted, seven came from payment firms (including blockchain firms), four from retail banking, four from insurance, three covered advice and profiling and three related to initial public offerings. There was also one application each related to digital identity, disclosure and the mortgage sector. Woolard said applicants include both challenger firms and incumbents, and those based in the UK and abroad.

He said the FCA is now in the process of agreeing details of testing, timelines and consumer safeguards with the applicants. In the coming weeks, it plans to give an update on this and publish a list of the firms taking part in the trials. The FCA intends to open a second round of applications in mid-November 2016, and publish lessons learnt from the first cohort over the course of 2017.

Woolard also gave an update on the FCA's advice unit, which opened to applicants in May 2016 and aims to support firms developing automated advice models. He confirmed nine firms were successful out of 19 applicants. Of these, eight are established financial services firms looking to bring automated advice to the market at scale. The FCA gave feedback to unsuccessful firms and they have the option to reapply for the next intake. It plans to share what it's learnt from interactions with the first set of firms in early 2017.

Market infrastructure

EMIR RTS showdown

The JCESA issued an *opinion* rejecting the EC's proposed amendments to the final draft RTS on risk mitigation techniques for OTC derivatives not cleared by a CCP under EMIR. The ESAs published the opinion together with a *press release* on 9 September 2016.

The EC communicated the amendments on 28 July 2016, but the ESAs disagree with some of the changes. The ESAs consider removal of concentration limits on initial margins for pension schemes unacceptable, arguing they're crucial for mitigating potential risks pension funds and their counterparties can be exposed to. The calculation of the threshold against non-netting jurisdictions should consider both legacy and new contracts, which works for other thresholds, the ESAs argue.

The ESAs don't feel that the EC has clarified the rules applicable to non-centrally cleared derivatives concluded by the CCPs, as well as the application of the RTS to transactions concluded with third country non-financial counterparties.

But it isn't all bad news for the EC. The ESAs recognise the benefit of the EC's proposal to delay the application of rules to intragroup transactions which will allow NCAs to complete the relevant approval process before the obligation applies.

A version of the draft RTS containing all the corrections in detail is included as an Annex to the opinion. The JCESA will send a copy of its *opinion* to the EP and Council, and await the EC's decision.

ESRB rejects EMIR clearing delay

The ESRB rejected any delay to the implementation of the clearing obligation under EMIR for transactions involving firms in the final category of the phasing-in process. ESMA consulted on whether to modify the phase-in of the clearing obligation for firms with a gross notional exposure of less than €8bn (Category 3). ESMA recognised these firms have had difficulties accessing clearing services as a result of clearing members' hesitancy to take them on as clients, and proposed a delay of two years. But the ESRB *responded to the ESMA consultation paper on the clearing obligation for financial counterparties with a limited volume of activity* on 5 September 2016, arguing it's important to have such transactions cleared per the current timeline. It says:

- in some EU Member States, all counterparties fall within Category 3 and so there would be no central clearing in those jurisdictions during the delay
- in other countries, transactions with Category 3 counterparties represent a majority of the transactional volume
- delays to clearing by Category 3 counterparties would also delay the implementation of the clearing obligation for larger financial firms and clearing members that transact with those smaller firms
- many smaller firms have taken the necessary steps to become clearing members, and so would send a harmful message to the market that initiative will go unrewarded vis a vis less proactive peers.

ESMA's consultation feeds into larger considerations around whether the extent of EMIR requirements are appropriate for smaller financial firms and non-financials. The outcome should provide clues as to whether more substantive changes will be in the offering under a possible EMIR 2.

ISDA supports a delay to EMIR clearing

ISDA published its *Response to the ESMA consultation paper on the clearing obligation for financial counterparties with a limited volume of activity* on 5 September 2016. It argues that firms with smaller derivatives exposure should benefit from a two-year delay to the start of the EMIR clearing obligation. Such firms have faced significant challenges in gaining access to clearing services, due to clearing members being wary about expanding their client base and regulatory uncertainty around indirect clearing arrangements.

ISDA contends that such a delay would be meaningless if the underlying reasons for clearing member reticence are not addressed during that period. The most pressing of these, ISDA argues, is that the EU transposition of the Basel Committee leverage ratio incorporate the risk reducing effects of initial margin. Under the current framework, banks are expected to hold excessive capital to cover their derivatives exposures when EMIR already demands that such risk is offset by margin requirements – either imposed by the CCPs or soon, bilaterally for uncleared trades. In essence, banks are hit twice – once through the margin requirements and then through capital obligations. Consequently, many banks have shied away from expanding their clearing services given the costs to their balance sheets. But this means that smaller firms have nowhere to turn when they need to clear, as clearing members fail to see a business case to take them on as clients. ISDA also recommends that the EC consider removing the clearing obligation for smaller financial firms altogether, as they will still face challenges even if the balance sheet pressure is lessened for banks.

More third-country CCPs

ESMA updated its *List of third-country central counterparties recognised to offer services and activities in the Union* on 28 September 2016. ESMA updates the list to reflect recognition of US Ice Clear Credit LLC and the Minneapolis Grain Exchange as third-country CCPs allowed to offer services in the EU. ESMA must recognise third-country CCPs before they can offer services in the EU. It maintains the list in line with article 88(1) of EMIR.

ESMA publishes BMR draft technical standards

ESMA published a consultation on its *draft regulatory and implementing technical standards* under the BMR on 29 September 2016.

Benchmark administrators have eagerly awaited instructions on the characteristics of the oversight function. Critical benchmarks must have two independent members not directly affiliated with the administrator and with no vested interest in the benchmark. The oversight function must be separate from and independent of the management body and other governance functions that it is required to assess and challenge. ESMA proposes a list of governance procedures for the oversight function.

Under BMR Article 11, input data must be appropriate and verifiable. ESMA plans to require administrators to specify standards to ensure that input data is appropriate, accurately reflecting the underlying market and economic reality. The technical standard defines verifiable data as that which can be checked to be accurate or stems from a reliable source. ESMA provides a list of how administrators must evaluate and validate data. The technical standard provides details on how the administrator verifies data from the contributor's front office function.

The consultation also covers: contributor codes of conduct, transparency of

methodology, governance and control requirements for supervised contributors, benchmark statements, compliance statements for significant and non-significant benchmarks, authorisation and recognition.

ESMA published a consultation on its *draft technical advice* under BMR on 27 May 2016. Comments on the latest consultation are due by **2 December 2016**. ESMA must submit its final technical standards to the EC by 1 April 2017.

Establishing benchmark colleges

ESMA *published* the Model Written Arrangements for Benchmark Colleges on 30 September 2016. Under Article 46 of the BMR, each critical benchmark will have its own college of benchmark regulators to ensure supervisory cooperation. As chair, the NCA of the benchmark administrator must establish the college within 30 days of a benchmark's designation as critical. The college will include the NCAs of the supervised contributors to that critical benchmark and any other Member State requesting membership. The arrangements do not create additional rights or obligations other than those already specified in BMR and its level 2 measures.

On 11 August 2016, the EC *designated* the EURIBOR as the first critical benchmark. As chair of the EURIBOR college, the Belgian Financial Services and Markets Authority must use this framework to establish the college, its procedures and written arrangements on the exchange of information and supervisory cooperation among the member NCAs. The BMR will apply from 1 January 2018.

MiFID II

Derivatives trading obligation on its way

ESMA published a discussion paper on *The trading obligation for derivatives under MiFIR (ESMA/2016/1389)* together with a short *press release*, on 20 September 2016. Under MiFIR, once a class of derivatives is subject to the clearing obligation under EMIR, ESMA must decide whether that class of derivatives should be subject to the trading obligation. If it decides a class of derivatives is subject to the trading obligation, firms must execute transactions in those derivatives on a regulated market, MTF or OTF.

ESMA seeks views on its proposed approach to implementing the trading obligation for derivatives under MiFIR. Specifically, ESMA is required to develop RTS on which classes of derivatives should be subject to the obligation and when the obligation should apply.

In its paper, ESMA provides an overview of its objectives and summarises other countries' trading obligations for derivatives. It also explains the rules for derivatives clearing under EMIR, which are closely linked to the MiFIR requirements. And it presents its first quantitative analysis of the OTC derivatives market, discusses the date of application of the trading obligation and the treatment of package transactions.

ESMA proposes solutions on how to determine the trading obligation on the basis of two tests described in MiFIR:

- the venue test: a class of derivatives must be admitted to trading or traded on at least one admissible trading venue
- the liquidity test: whether a derivative is 'sufficiently liquid' and there is sufficient third-party buying and selling interest.

ESMA suggests using trading data for the six-month period prior to end-2015 to conduct the initial liquidity assessment. It would like feedback on its preliminary analysis of some derivatives classes potentially subject to the trading obligation.

The consultation closes on **21 November 2016**. ESMA plans to analyse the feedback and publish a consultation paper in the first quarter of 2017. If deemed necessary, ESMA will submit a draft technical standard to the EC in the summer of 2017. MiFIR enters into effect on 3 January 2018.

MiFID II take three

The FCA published *CP16/29: Markets in Financial Instruments Directive II implementation – Consultation Paper III* on 29 September 2016. It considers MiFID II conduct of business rules and covers additional topics left out of its two earlier MiFID II consultations.

In a number of areas, the FCA consults on extending MiFID II requirements to MiFID-exempt firms and non-MiFID business. These include:

- inducements: retaining the RDR inducements ban for both independent and restricted advice given to retail clients
- inducements and research: applying new rules to MiFID-exempt collective portfolio management firms
- independence: applying the MiFID II independence standard to non-MiFID retail investment products (for UK retail customers)
- dealing and managing: including collective portfolio managers under new best execution rules
- taping of conversations: including corporate finance business and MiFID-exempt Article 3 firms within the new requirements.

Firms should review the FCA's proposals in these specific areas as they may find themselves caught by new MiFID II requirements despite being out of scope of MiFID II itself. In most other areas, the FCA opts for simple transposition of MiFID II requirements but provides useful additional guidance such as:

- perimeter guidance: specifically on the revised financial instruments definition

- product governance: it recommends applying MiFID II requirements as guidance to non-MiFID firms
- appropriateness: the FCA gives more detailed criteria for determining whether a product is 'non-complex'.

The FCA states it will consider feedback from its three MiFID II consultations and publish a policy statement, containing new rules, in the first half of 2017. The consultation period ends on **31 October 2016** for supervision, authorisation and approved persons issues and on **4 January 2017** for all remaining issues.

Operational resilience

Making FMIs cyber-safe

The CFTC adopted amendments to its system safeguard rules, requiring additional measures to protect against cyber-attacks on 8 September 2016. The amended rules apply to designated contract markets, swap execution facilities, and swap data repositories (the *Exchange Final Rules*), and for derivatives clearing organisations (the *Clearing Final Rules*).

Exchanges and clearing houses are now required to have in place additional cybersecurity controls. They are also obliged to conduct testing to ensure their automated systems are reasonably reliable and secure and have adequate scalable capacity. The five types of testing are:

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

Particular types of FMI, for example swap data repositories, have additional obligations in relation to the frequency of testing and the engagement of independent contractors. The rules clarify the scope of system safeguards testing, internal reporting and review of testing results, and remediation of identified vulnerabilities and deficiencies.

FCA highlights cyber security strategy

The FCA's Director of Specialist Supervision, Nausicaa Delfas, outlined the regulator's approach to cyber security in financial services firms in a speech on 21 September 2016. Delfas noted that cyber resilience is a priority for the FCA and it's created a specialist team to focus on this work within the broader area of operational resilience. She said the FCA's approach so far has been two fold. Firstly, the FCA has engaged nationally and internationally with organisations such as IOSCO to ensure a coordinated approach to addressing the cyber security threat. Secondly, from a supervisory perspective, it has focused on the largest providers which make up critical national infrastructure and conducted testing in coordination with the BoE and others.

The FCA is now assessing firms it believes would pose the most significant risk to its objectives if their services were disrupted. Delfas outlined that the FCA is looking at three key emerging risks: ransomware, data storage and outsourcing, and the skills gap in the cyber security field. She concluded that most cyber-attacks are caused by basic failings which could be avoided by firms putting in place a holistic security culture covering people and processes in addition to technology.

Pensions

FCA consults on pensions guidance changes

The FCA is consulting on changes to standards for providers of the Government's Pension Wise guidance service, ahead of the service's extension to those seeking guidance on selling their annuities. In *CP16/22: Pension Wise standards: changes for secondary annuity market guidance* on 6 September 2016, the FCA sets out proposed content for guidance sessions about selling an annuity income. It also consults on knowledge requirements for staff at guidance providers on the topic.

From April 2017, individuals will be able to sell their annuity income without the tax restrictions that currently apply. To help consumers considering selling their annuity income, the Government is giving them access to the Pension Wise service, which was set up to help consumers make use of the pension freedoms introduced in April 2015.

The consultation closed on 4 October 2016.

Reporting

Reporting on internal models

The EC published *COMMISSION IMPLEMENTING REGULATION (EU) laying down ITS for templates, definitions and IT solutions to be used by institutions when reporting to the EBA and to competent authorities in accordance with Article 78(2) of Directive 2013/36/EU of the EP and of the Council* on 19 September 2016. The regulation contains requirements for the reporting of credit risk and market risk information on internal approaches. The annexes contain templates for reporting:

- *Annex 1 – Definition of Supervisory Benchmarking portfolios*
- *Annex 2 – Supervisory Benchmarking Portfolios*
- *Annex 3 – Results Supervisory Benchmarking portfolios*
- *Annex 4 – Results Supervisory Benchmarking Portfolios*
- *Annex 5 – Market Benchmarking Portfolio*
- *Annex 6 – Results Supervisory Benchmarking portfolios*
- *Annex 7 – Results Supervisory Benchmarking portfolios – Market risk.*

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

Retail products

RTS for KIDs isn't child's play

ECON unanimously rejected the EC's proposals for the RTS on KIDs for the PRIIPs Regulation and requested revisions to their drafting. The development was set out in an EP press article *ECON committee unanimously rejects Commission's investor protection proposals*, published on 1 September 2016.

ECON's main concerns were twofold. The RTS, which had not been subject to consultation by the EP, were published before the actual PRIIPs Regulation, which is scheduled to come into force on 31 December 2016. ECON also explained that the proposed formulas for the KID set out in the RTS created a flawed impression of investment performance and could make performance look better than it was likely to be. Generic statements such as 'the value of your investment may go up and down' were noted to be an issue due to lack of clarity.

The decision was then put to a full plenary vote for the EP to support or reject the motion.

The PRIIPs revolt

Following the ECON vote, the *EP rejected* the RTS for the KIDs under the PRIIPs Regulation on 14 September 2016. It reports that the resolution was passed by 604 votes to four with 12 abstentions, returning the RTS to the EC for rework in an unprecedented move.

The EP published the *text of its resolution* on 15 September 2016, giving reasons for the rejection:

- flaws in the calculation of future performance scenarios – the KIDs do not show for some PRIIPs that investors could lose money
- the lack of detailed guidance on the comprehension alert creates a serious risk of inconsistent implementation across the EU
- the rules risk going against the aim of the legislation to provide clear, comparable, understandable and non-misleading information.

The EP calls on the EC to submit new RTS taking into account its concerns.

Because the EP rejected the RTS, the Council no longer needs to express its view. But in a *joint statement* (and *correction*) published on 19 September 2016, 24 Member States call for the EC to postpone the application of the PRIIPs Regulation for 12 months. They suggest this will 'provide sufficient time to clarify open questions and reach the goals of the PRIIPs Regulation'.

Reform for logbook loans

The Law Commission launched its report on *Bills of Sale (Law Com No 369)* on 12 September 2016. It also published a *Summary of its recommendations* and a *Factsheet on logbook loans*.

The Commission undertook its review after a request from HMT due to the growing number of bills of sale, from under 3,000 in 2001 to over 37,000 in 2015. Most of these were used for 'logbook loans'.

Bills of sale allow an individual or unincorporated business to use goods they already own as security for a fixed term loan. Ownership of the goods passes to the lender but the borrower keeps possession so long as they repay. If the borrower defaults, the lender can repossess the goods without a court order.

The lack of protection for borrowers compared with rights under regulated hire purchase agreements is one factor prompting reform. The other is the lack of protection for private buyers of vehicles in the borrower's possession.

Bills of sale must be registered at the High Court but private buyers cannot easily search here. Lenders also protect their interests by registering at private asset finance registers.

This protects trade buyers who search them. But private buyers are put off by the cost and confused by cheaper 'text checks' that do not reveal logbook loans. As ownership of the vehicles passes to the lender, private buyers can lose both the vehicle and the cash paid to the borrower.

The Commission proposes:

- the repeal of the Bills of Sale Acts
- a new Goods Mortgages Act
- simpler documents and registration procedures
- protection for borrowers under the consumer credit regime
- extending the jurisdiction of FCA and FOS to private buyers.

If the Government agrees, the next step is the introduction of legislation under the special procedure for uncontroversial Law Commission Bills.

Supervision

EU Slovak Presidency priorities

The EP issued a *press release* on 1 September 2016, summarising the priorities discussed in the committees for the Slovak Presidency for the EU Council. Slovak ministers outlined the priorities during a series of meetings which have taken place since the start of the Slovak Presidency in July 2016.

A number of these are relevant for the financial services sector:

- ratification of the EU trade deal with Canada
- determination of the EU's approach towards China's 'market economy'
- progress on MMFs, the prospectus directive, securitisation, and the EDIS
- modernisation of VAT systems

- fostering investment, specifically prolonging the European fund for strategic investments initiative until 2020.

The Slovak presidency ends in December 2016.

FCA consults on consumer credit calculations

The FCA published *Quarterly Consultation No. 14* on 2 September 2016. It proposes a change to the assumptions used to calculate the total charge for credit and annual percentage rate of charge (APR) for consumer credit agreements. This is to ensure the assumptions are in line with the CCD. The FCA does not intend to introduce transitional provisions, because it says it is not aware that the change would impact any current products in the UK market.

In addition, the FCA proposes minor changes to its MCOB rules to make it easier for providers to offer a type of lifetime mortgage that allows consumers to make regular payments but switch to interest roll-up at any point. The proposal would extend the existing modification by consent which disapplies a requirement for firms to carry out an affordability assessment, where interest payments are anticipated or required. In addition, the FCA is looking to update its rules on how firms should determine the length of term when illustrating equity release products.

Also in the paper, the FCA consults on additional requirements for firms that wish to promote mutual deferred shares to retail clients, due to concerns the products are too risky and complicated for non-sophisticated investors. It intends to amend the handbook definition of 'mutual society shares' to include the new shares.

The FCA consults on an amendment to form A under the SM&CR, which is used for applications to perform senior management functions. And finally, it proposes changes to amend the relevant sections of chapter 11 of the prudential sourcebook for investment firms in relation to the FCA's implementation of the BRRD. The FCA says this will provide additional clarity for firms.

The consultation closed on 3 October 2016 for chapters 2, 4 and 5, and closes on **2 November 2016** for chapters 3 and 6.

Final draft ITS on information exchange

The EBA published *final draft ITS* on the procedures, forms and templates that EU competent authorities should use when consulting each other for proposed acquisitions of qualifying holdings, as required under CRD IV. The purpose of the ITS, published on 22 September 2016, is to improve and streamline information exchanges and ensure effective communication between competent authorities on a cross-border and cross-sector basis. The draft ITS set out requirements for the designation of contact points within competent authorities and the process and time frame for submitting and responding to a consultation notice. Once the final draft ITS have been submitted and endorsed by the EC, they will be published in the Official Journal.

FCA on competition and innovation

At the Future of Lending Conference on 27 September 2016, FCA Director of Supervision Jonathan Davidson spoke to lenders about the FCA's role in shaping the UK personal lending market.

Davidson focused on the FCA's key objectives of innovation and competition, consumer protection and market integrity. He reiterated the FCA's commitment to promoting competition, citing its fast-track authorisation process for new firms. Davidson also encouraged firms to be innovative in the products and services they offer to consumers. But he cautioned against innovation at the expense of consumers' interests. Singling out the P2P market for particular focus, Davidson cautiously welcomed examples of innovation but warned the sector against complacency that might lead to low standards and affordability issues.

Davidson acknowledged the challenges faced by lenders to operate competitively against a background of regulatory change, but urged firms to continue to engage with the regulator. He added the FCA is committed to improving its communication and transparency with firms.

Highlighting ESMA's successful year

ESMA Chair Steven Maijoor *addressed* ECON on 26 September 2016, reviewing ESMA's accomplishments over the last 12 months and touching on its future plans.

Maijoor outlined ESMA's progress towards the completion of the single rulebook with the publication of 80 draft technical standards, pieces of technical advice and opinions. He noted that as part of its first Supervisory Convergence Work Program published earlier this year, ESMA improved market access for third country firms with the provision of passporting rights under AIFMD and the recognition of non-EU CCPs. Maijoor also highlighted that ESMA conducted a macroprudential risk assessment of CCPs launching its first stress-tests. Finally, in its supervisory capacity, Maijoor reported that ESMA has implemented a robust enforcement process, imposing approximately €1.5m in fines. Maijoor concluded that the past year was a testament to ESMA's commitment to its objectives and the depth of its technical expertise.

Looking to the future Maijoor urged that the CMU should remain at the forefront of its future activities. Given the importance of capital markets to the success of the EU economy, the Union's efforts to mobilise investment by way of a CMU should proceed undeterred by Brexit negotiations.

EU shines light on lobbyists

The EC proposed a mandatory lobbying transparency register in *Proposal for an Interinstitutional Agreement on a mandatory Transparency Register* and an accompanying *press release* on 28 September 2016. The EC already requires representatives requesting meetings with its decision makers to record the meeting in a transparency register. But it's now calling on the EP and Council to follow suit, by making the register mandatory for any representatives trying to influence policy making in Brussels. Through the register, the public would be able to see who is lobbying the institutions, which organisations they represent, and how much they spend. The proposal clarifies the scope of activities and bodies covered by the register and aims to improve the monitoring and effective enforcement of the register's code of conduct for lobbyists.

Transaction reporting

New form for transaction reporting breaches

The FCA published a new transaction reporting breach notification *form* on 15 September 2016.

The form supports compliance with section 10.3 of Transaction Reporting User Pack v 3.1 on 'transaction reporting failures and errors'.

Firms must notify the FCA transaction monitoring unit (TMU) and their FCA supervisor as soon as possible if they find errors in transaction reports, or if they fail to submit some or all of their transaction reports as required under chapter 17 of the FCA supervisory manual.

The FCA encourages firms to use the form, because it will help ensure the TMU and firms' supervisors receive all the information necessary to handle errors and failures in transaction reporting.

Consulting on SFTR reporting standards

ESMA consulted on *Draft RTS under SFTR and amendments to EMIR RTS* on 30 September 2016. ESMA's proposals largely align with previously proposed standards which focus on registration and operational requirements for trade repositories. As ESMA wants to instil higher standards around data standards, aggregation and governance than required under EMIR, the RTS would also amend the relevant parts of EMIR. Likewise, ESMA is widening the scope of authorities which can gain access to data housed in trade repositories and clarifying the scope of access for reporting done by branches and subsidiaries of non-EU entities.

Firms will be most interested in the proposed reporting requirements. While many of the data fields and reporting logic track EMIR requirements, there are some important differences. Respondents to the discussion paper had commented that many EMIR fields fail to work in the SFT context, and the EC has incorporated these insights. One example is where the buyer/seller choice is replaced by a collateral taker/collateral giver choice. More broadly, the data fields seek to capture much more information around collateral than EMIR. Further, SFTR should generate more lifecycle reporting as the exact collateral to be used will not always be known when a transaction is entered into.

Once the reporting rules are finalised as delegated acts, firms will have an additional 12 months before the requirements come into force. Given that the transition from ESMA recommendations to finalised standards is taking longer and longer, it could well be mid 2017 before the delegated acts are published in the Official Journal with a reporting start date of mid-2018.

The consultation period closes on **30 November 2016**.

Diving into EMIR transaction reporting data

The ESRB issued *Shed Light on Dark Markets: first insight from the new EU-wide OTC derivatives dataset* on 22 September 2016. Only ESMA and the ESRB are empowered to review data from across the EU to identify the build-up of cumulative, cross-border systemic risk.

The ESRB emphasises the importance of dual-sided reporting as a quality check and a means of obtaining an accurate understanding of gross notional exposure at both the counterparty and market levels. As the question of whether to shift from dual-sided reporting to single-sided (as under the US Dodd-Frank regime) will be explored as part of EMIR II proposals, the ESRB's support for the status-quo is significant.

But the ESRB's data review fails to reveal much that is surprising about European derivatives markets. Instead, it confirms that while the bulk of trading activity is conducted by a core group of swap dealers and banks, it's their hedge fund and insurance customers that primarily bear the risk. Likewise, the reports confirms that FX markets feature more non-financials and that credit instruments tend to have smaller notional amounts than interest rate products.

Wholesale markets

Dark pools provide stale pricing

The FCA published an occasional paper on *Asymmetries in Dark Pool Reference Prices* on 15 September 2016. Providers offer dark pools as a trading platform where their clients can trade with limited pre-trade transparency. Dark pools operate under MiFID reference price waivers and offer clients prices referenced from lit exchanges. The FCA explores whether reference prices are subject to time delays and whether this creates arbitrage opportunities.

The FCA finds reference pricing can sometimes be stale and instances of stale pricing have increased over time. It also finds high frequency traders benefit from pricing delays and trade profitably 96% of the time when a price is stale. The regulator

notes slower market participants are more likely to trade on worse reference prices than quicker participants. And the FCA warns firms' current levels of stale pricing will need to be tackled under MiFID II's tighter time stamp divergence rules.

ISDA lays out derivatives infrastructure vision

ISDA laid out the challenges the derivatives industry faces in the wake of post-crisis reforms in a report published on 15 September 2016, *The Future of Derivatives Processing and Market Infrastructure*. The association also highlights the collaborative work needed to address these challenges.

While acknowledging the significant benefits of recent regulatory initiatives such as EMIR and Dodd-Frank, ISDA observes that clearing, bilateral exchange of margin and transaction reporting requirements have placed significant burdens on processing systems that were ill-designed for the new regulatory landscape. ISDA argues the industry needs to make progress in developing common identifiers and that a globally-consistent methodology for product and trade identifiers, comparable to what has been achieved for legal entities, needs to progress further.

Likewise, ISDA advocates for increased standardisation of contract documentation. While ISDA led the way with the development of master and credit support agreements, creating the contractual underpinnings for modern derivatives markets, the report laments the continued reliance on bespoke arrangements. ISDA is looking to collaborate with the industry to identify additional categories of standardised agreements that could deal with concerns currently being addressed through ad-hoc agreements. Perhaps most ambitiously, ISDA calls for the industry to work with it to develop common domain models that will create shared platforms for the harmonisation of data and processing standards.

Learning lessons on margin rules

ISDA published an overview of the main *lessons* learned from the first implementation stages of bilateral margin rules for non-centrally cleared derivatives on 8 September 2016. While all major derivatives markets were originally supposed to implement the rules on 1 September 2016, the EU announced a delay until Q1 2017 that some jurisdictions, such as Hong Kong, followed. But the US, Canada and Japan went forward as planned. Their rush to complete the thousands of document negotiations and revisions prior to the deadline sends a sharp message to EU entities to use their extra time wisely.

ISDA warns that new collateral agreements and setting up custody account for every in-scope counterparty relationship is a challenging exercise and the appropriate amount of time should be allotted. It also says the delay in equivalence recognition between US and Japanese rules underscores governments' need to be pro-active to ensure an international legal framework is in place. But ISDA observes that the development and widespread adoption of a common, transparent model to calculate initial margin is a notable achievement and increases the likelihood of the successful global implementation of the rules.

Accounting

Accounting

IFRS and UK GAAP quarterly updates

Our *IFRS and UK GAAP quarterly update for September 2016* outlines the IFRS and UK GAAP reporting requirements as at 30 September 2016. It includes the standards, interpretations and other guidance that apply at this date, as well as the standards that are published but effective at later dates and hence required to be disclosed, plus a summary of the latest topical issues.

UK GAAP illustrative financial statements

Our *UK illustrative financial statements: FRS 102 example accounts for 2015 year ends* includes example financial statements illustrating the required disclosure and presentation for UK groups and UK companies using FRS 102 for the year ended 31 December 2015.

Banking and capital markets

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Regulation

Capital and liquidity

International banks score high

The Basel Committee published the *Basel III Monitoring Report* on 13 September 2016. The Basel Committee monitors the effects of the Basel reforms twice a year. Its latest report summarises the results using data as of 31 December 2015. The exercise involved monitoring banks' performance against capital, leverage and liquidity ratios.

A total of 228 banks participated in the exercise, of which 100 were internationally active. The Basel Committee classified the internationally active banks as group 1 and the rest as group 2 banks.

The Basel Committee reports that all group 1 banks meet the minimum and target CET1 requirements of 4.5% and 7% respectively. While all group 2 banks meet the minimum CET1 requirements, there is a shortfall of €200m at the CET1 target level. Similarly, three group 2 banks would not meet the fully phased-in minimum leverage ratio of 3% while all group 1 banks would meet the requirement.

The monitoring exercise also included the LCR and NSFR liquidity ratios. Some 90 group 1 and 70 group 2 banks submitted data on LCR. One bank each in group 1 and group 2 does not meet the minimum 60% LCR requirement. More than 95% of group 1 and 97% of group 2 banks have an NSFR of 90% or higher. Banks need to reach 100% NSFR by January 2018.

No replacement for NSFR

The EBA published the *NSFR – EBA Reply to the Call for Advice (Core Funding Ratio [CFR]: A Descriptive Analysis in the EU)* on 8 September 2016 in response to the EC's DG FISMA on assessing stable funding requirements for the EU. The EBA defines the CFR as equity instruments plus retail and wholesale funding over one year, as a proportion of total liabilities and equity instruments.

The EBA considers whether the CFR could substitute the NSFR in determining a bank's funding risk. While the EBA notes simplicity is one benefit of CFR, it concludes the CFR cannot replace the NSFR, which remains the most accurate metric for assessing banks' funding risk. CFR only considers the liabilities side of banks' assets, omitting research into the stable funding that banks may possess. The EBA notes CFR also lacks the ability to differentiate between smaller and larger institutions and the different requirements that apply. This further clouds the accuracy of liquidity data provided by the CFR. In this regard, CFR does not take into account whole bank balance sheets, and so does not fully reveal potential funding gaps, leaving NSFR still the most accurate

approach to assessing funding requirements.

European banks meet CRD IV ratios

The EBA published *CRD IV – CRR/Basel III monitoring exercise – results based on data as of 31 December 2015* on 13 September 2016. The publication is the tenth iteration of the monitoring exercise on the European banking system.

A sample of 227 banks participated in the latest exercise on a confidential and voluntary basis. The EBA classified banks with Tier 1 capital above €3bn and international banks as group 1 and other banks as group 2.

On average, most participating banks meet the total capital requirements. Their CET1, Tier 1 and total capital ratios are above 12%, 13% and 15% respectively. CRD IV requires banks to have a minimum 7% CET1 ratio, 8.5% Tier 1 ratio and 10.5% total capital ratio. The average leverage ratio for both the groups is above 4% against the preliminary minimum requirement of 3%.

Most banks meet the liquidity ratio requirements as well. Some 98% of banks monitored have an LCR above the minimum 70% required by January 2016. The report notes the improvement in LCR could be due to structural adjustments such as an increase in high quality liquid assets and a decrease in net outflows. About 79% of the banks maintain 100% NSFR, although the EU has not finalised the NSFR requirements yet.

Leverage ratio, trading book answers

The Basel Committee published an update to *frequently asked questions on Basel III monitoring* on 16 September 2016. The update includes answers to questions on leverage ratio, trading book and operational risk. It applies to all banks that participate in the Basel III monitoring exercise.

The Basel Committee highlights revisions to the leverage ratio template in the latest publication that should allow automatic calculations on the leverage ratio additional worksheet. The calculations relate to settlement versus trade date accounting. There are also updates to enable banks to provide appropriate information on enforceability of netting and collateral arrangements.

Updates to the trading book section include clarification on how to split residual risk add-on by risk class. The Basel Committee also confirmed risk weights for exotic underlying, gap risk, correlation risk and behavioural risk. And it gives answers to applying multipliers for expected shortfall values and reporting non-securitisation hedges and status of internal model permission for trading desks.

Further updates include rectifying formula errors in the templates related to leverage ratio, operational risk and trading book.

Clarifications on large exposures

The Basel Committee published the *Frequently asked questions on the supervisory framework for measuring and controlling large exposures* on 28 September 2016. When the Basel Committee issued the revised *Supervisory framework for measuring and controlling large exposures* in April 2014 and which takes effect from 1 January 2019, it committed to review the treatment of qualifying central counterparties related to clearing activities and of interbank exposures. It completed its review and decided not to change the existing treatments. As a result:

- exposures to QCCPs are exempt from the large exposures limit
- the large exposures limit applies to interbank exposures – i.e. no exemption applies.

The Basel Committee has incorporated these two issues together with responses to questions on connected counterparties and the values of exposures in this document.

Compensation schemes

Implementing risk-based FSCS levies

The PRA published *Policy Statement PS25/16: Implementing risk-based levies for the FSCS deposits class* on 27 September 2016. It provides feedback on its *Consultation Paper CP7/16: Implementing risk-based levies for the FSCS deposits class* together with Final rules and a *Statement of Policy on Calculating risk-based levies for the FSCS deposits class*.

The FSCS currently calculates levies on the basis of covered deposits. But the recast DGSD requires contributions to DGSs to be adjusted for the degree of risk incurred by each DGS member. In response to feedback on CP7/16, the PRA has abandoned its proposal that legacy cost levies should also be risk-based. As it is not a strict requirement of DGSD, firms argued the removal of risk-based legacy costs would make forecasting and budgeting for levies more predictable. The PRA also adjusted the credit union calculation to reflect feedback and to align it with the Credit Union Part of the PRA rulebook.

The PRA advises reading its Statement of Policy alongside the rules governing the funding of the FSCS in the Depositor Protection part of the PRA rulebook and the *EBA's Guidelines on calculating contributions to DGSs*. The final rules come into force on 1 October 2016 and the FSCS will apply them to the 2017/18 levy which it will collect in July 2017.

Conduct

Reporting conduct rule breaches under SM&CR

The FCA notified firms of the dates for reporting any breaches of its conduct rules under the SM&CR in *Conduct Rule Breaches – Data Submission update* on 9 September 2016. The reporting window to report breaches opened on 1 September 2016 and will close on 31 October 2016. The FCA urges the firms to report any breaches

where disciplinary action has been taken or commenced between 7 March 2016 to 31 August 2016.

In the update, the FCA emphasises that it is mandatory for banks and building societies to report breaches to it via the Gabriel system, including nil returns.

Whistleblowing link to overseas

UK branches of overseas banks may be required to tell their UK-based employees about the regulators' whistleblowing services, in proposals in the PRA's *Whistleblowing in UK branches CP35/16* and the FCA's *CP16/25 Whistleblowing in UK branches of overseas banks from the FCA* published on 28 September 2017.

Any non-EEA banking group with both a UK subsidiary, which is subject to the whistleblowing rules, and a UK branch must also inform branch staff of the subsidiary's whistleblowing arrangements.

Both consultations close on **9 January 2017**. The regulators will then publish policy statements, and expect final rules to come into force in September 2017.

Consumer issues

Preparing for a rate rise

The FCA published *Financially vulnerable customers thematic review: key findings* on 6 September 2016. It found firms are at different stages in developing strategies to mitigate the impact of an interest rate rise on financially vulnerable customers, and says some firms have more work to do.

The FCA reviewed nine firms, including retail banks, building societies and non-deposit taking lenders. It found that the characteristics firms used to identify financially vulnerable customers varied. Some firms excluded certain customer types from their analysis (for example, fixed rate customers, in some cases irrespective of when their fixed rate product ends) which the FCA says could result in poorer outcomes for those customers.

The FCA notes few firms would be able to implement strategies if interest rates were to rise in the near future. It also found that while most firms produced management information as part of analysis to assess the impact of an interest rate rise on their overall mortgage book, only one firm reviewed this regularly. And the FCA highlights the importance of firms tailoring communications to customers' individual circumstances.

See p. 7 for a more detail analysis.

Guiding principles for underserved customers

The Basel Committee published *Guidance on the application of the Core Principles for Effective Banking Supervision to the regulation and supervision of institutions relevant to financial inclusion* on 27 September 2016. The guidance is intended to help supervisors (in both member and non-member countries) respond to changes in products, services and delivery channels designed to reach those consumers who are either unserved or underserved by formal financial institutions. The Basel Committee identifies 19 of the total Basel Core Principles where additional guidance is needed in applying the principles to institutions catering to the underserved.

It also sets out the 'essential' and 'additional' criteria associated with the core principles that have specific relevance to financial inclusion.

Financial stability

EBA releases risk dashboard

The EBA published its *risk dashboard* for the second quarter of 2016 on 30 September 2016, summarising the main risks and vulnerabilities in the banking sector based on a set of risk indicators across the EU. The EBA notes an increase in EU banks' capital ratios which is explained by the growth in capital as well as a slight decrease of RWAs. It highlights that, although the ratio of non-performing loans decreased since the last quarter, credit quality and the level of legacy assets remain a concern. The EBA observes that profitability remains at a low level, with the annualised return on equity in the second quarter remaining unchanged compared with the previous quarter.

Operational resilience

TC challenges regulators on cyber security

Andrew Tyrie, Chairman of the TC, *wrote* to the chief executives of the FCA and PRA on 28 September 2016 seeking further assurances on actions they are taking to strengthen the resilience and security of IT systems in financial services. Tyrie previously wrote to the regulators in January 2016 requesting they take action to improve the resilience of banks' IT systems.

In his latest correspondence, Tyrie explains that the TC isn't aware of robust evidence that the weaknesses in banks' IT systems are being addressed. Tyrie expresses concerns that the FCA and PRA don't have clearly defined responsibilities for each authority regarding cyber security. He asks whether a clear allocation of responsibilities will be in place for the *National Cyber Security Centre* due to open in October 2016. Tyrie also asks whether the SM&CR requires banks to have a specific senior management function with responsibility for IT and that he considers it should if such a responsibility is not in place. Tyrie also seeks further information and assurance about the depth of experience of the regulators' in-house specialists involved in supervising the security and resilience of banks' IT systems.

Payments

Protecting consumers from push payment scams

Which? made a super-complaint to the PSR regarding consumer safeguards for push payments, the PSR announced in a *press release* on 23 September 2016. Under the FSBRA, certain representative bodies can complain to the PSR if they believe features

of the payment systems market are significantly damaging the interests of users. The PSR must respond to a super-complaint within 90 calendar days, and the possible outcomes include regulatory action or the PSR using its competition law powers. This is the first super-complaint the PSR has received.

Which? is concerned that when consumers are tricked into transferring money to a fraudster via a 'push' payment (such as when the consumer instructs their bank to send money), there is not an appropriate level of protection. It believes the PSR needs to investigate to address:

- the extent to which banks could change their conduct to reduce consumer harm from such scams
- possible changes to legislation or regulation, to change the incentives on banks and payment system operators, and to ensure more is done to manage the risks from scams and protect consumers.

The PSR will now examine the evidence Which? has supplied and gather its own, before deciding on a course of action.

BoE consults on new-look RTGS

The BoE published a consultation paper on its proposals for a new real-time gross settlement (RTGS) on 16 September 2016.

In *A new RTGS service for the UK: safeguarding stability, enabling innovation*, the BoE explains that RTGS is the platform for providing safe final settlement for over £500bn of transactions a day between banks. But the changes in payment technology and growing range of payment providers means the BoE is seeking views on its vision for the next generation of RTGS.

The consultation proposes:

- access to RTGS for non-bank payment service providers
- use of the international messaging standard – ISO 20022
- capacity to operate on a true 24x7 basis
- more sophisticated tools for Clearing House Automated Payment System direct participants
- a design based on an explicit resilience framework
- more cost-effective and secure access options for smaller firms.

A new RTGS service with broader access, higher resilience, greater interoperability and a wider range of user functionality will mean a comprehensive rebuild of the RTGS platform. The BoE plans to recoup its upfront capital costs from future users through a temporary increase in the RTGS service tariff.

The BoE intends to publish the final high-level blueprint for the future RTGS service in early 2017 together with a timetable to complete the project by 2020.

Interested parties can attend BoE briefings on 4 and 11 October 2016. The consultation closes on **7 November 2016**.

BoE sets payment standards

The BoE consulted on part one of its draft Code of Practice and a *draft Supervisory Statement (SS) for the operation of Recognised Payment Systems (RPS)*. Through the code and the SS, published on 29 September 2016, the BoE sets out minimum standards that RPS Operators (RPSOs) are expected to meet in relation to the governance of a RPS.

The code applies to inter-bank payment systems recognised by HMT, although RPSs operated by a recognised clearing house or central securities depository are exempt as they are subject to their own requirements. It's based on the principles for FMI set by the Committee on Payment Settlement Systems and IOSCO. While these principles will still apply, the BoE expands on these principles with greater detail in the SS.

Relevant RPSOs are expected to have a clear plan for managing systemic, operational and financial risk. Their governing boards must have clearly defined responsibilities and be subject to annual performance reviews. The board must also be sufficiently balanced with independent non-executive directors making up at least a third of the board. Among the RPSO's written policies and procedures, it must have a procedure for identifying and managing conflicts of interest.

The BoE took into account the requirements of the EU and the governance requirements of the PRA. It has also consulted with the PSR, which is responsible for regulation of payment systems in the UK. If called upon, relevant RPSOs may be required to demonstrate how they comply with each of the separate requirements.

The consultation closes on **2 December 2016**. Part one of the code and the associated SS focuses on governance and related issues. The BoE plans to consult further on other parts of the code and SS.

Following consultation, the BoE intends to issue the final code. RPSOs will have a transitional period of 12 months to comply with the requirements of the code.

Setting liability cover for new PSPs

The EBA proposed *Draft Guidelines on criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance (PII) or other comparable guarantee under Article 5(4) of PSD2* on 22 September 2016. It sets criteria which regulators should adopt for setting the level of liability cover when approving the authorisation of payment initiation service providers (PISPs) or the registration of account information service providers (AISPs).

The EBA acknowledges that it is disproportionate to impose own funds requirements on new PSPs as they don't hold client funds. But under PSD2, Member States must require PISPs and AISPs to

hold PII or a comparable guarantee against relevant liabilities as a condition of their authorisation or registration.

PISPs must cover their liabilities for unauthorised payment transactions, non-execution, defective execution or late execution of payment transactions and any rights of recourse. AISPs must cover their liabilities arising from non-authorised or fraudulent access to or use of payment account information. The EBA sets out:

- the proposed criteria and their indicators
- a formula for calculating the minimum monetary amounts
- the calculation methods for the indicators.

The EBA also includes two worked examples of the calculation of minimum monetary amounts. The consultation closes on **30 November 2016**.

Helping consumers compare payment accounts

The EBA *consulted* on 22 September 2016 to address standard terminology for services linked to a payment account and standard formats for disclosure. The EBA aims to make it easier for consumers to compare offers from different PSPs and take informed decisions on the payment account that best suits their needs. The EBA proposes draft:

- RTS setting out the Union standardised terminology for the most common services linked to a payment account under Article 3(4) PAD
- ITS on the standardised presentation format of the fee information document (FID) and its common symbol under article 4(6) PAD
- ITS on the standardised presentation format of the statement of fees (SoF) and its common symbol under Article 5(4) PAD.

The EBA proposes eight standard terms for services to be used by PSPs together with consumer-friendly definitions in all EU official languages. It identifies the terms from the lists developed by Member States in line with the EBA's *Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee under the PAD* published on 18 March 2015.

In addition, the EBA proposes that PSPs must use the standard terms from the RTS in the two disclosure documents – The pre-contractual FID and the post-contractual annual SoF. To ensure ease of understanding for consumers the two draft ITS cover standard templates and symbols for each document. They also include instructions for PSPs on completing the templates consistently.

The development of these proposals included consumer testing of the FID and SoF templates in eight Member States. The EBA intends to hold a public hearing on 21 November 2016. The consultation closes on **22 December 2016**.

PSR board responds to forum strategy

The PSR released *minutes* of its July 2016 board meeting on 28 September 2016. The meeting was the first attended by Andrew Bailey, Chief Executive of the FCA. The PSR acknowledged the uncertainty following the EU referendum but confirmed that its own agenda remains unchanged.

Responding to the Payment Strategy Forum's report, the board noted there were important links between the forum's draft strategy and the potential remedies from the PSR's Infrastructure Market Review. The review examines the impact of infrastructure ownership arrangements on competition and innovation. The board concluded that implementation of the strategy needs to be industry led, and its success hinges on effective planning and a clear cost benefits analysis.

The board approved the PSR's approach to assessing access disputes set out in its *draft guidance to handling applications under sections 56 and 57 FSBRA*, agreeing that the substantive test must be consistent with the forthcoming PSD2. It also approved the final report of the Infrastructure Market Review for publication.

Payment providers raise their standards

Payments UK published a *voluntary Code of Practice* for PSPs that allows other indirect PSPs (IPSPs) to use their payment systems on 29 September 2016. The updated code, first published by Payments UK in September 2015, applies to BACS, Faster Payment Services, CHAPS, Cheque and Clearing and LINK (for settlement services only). It sets out four standards IPSPs can expect when using the payments systems.

Subscribers to the code commit to:

- give IPSPs a written agreement setting out the contractual arrangement between the two parties
- ensure important information, critical to the use of the payment systems, is communicated to the IPSPs
- safeguard the integrity of the ISPSs' services and
- maintain the security and confidentiality of IPSPs' information.

The payments industry developed the code in consultation with the PSR. While subscribers will self-certify compliance, Payments UK will administer the code and be responsible for dispute resolution and monitoring. The code is effective immediately.

Recovery and resolution

Maintaining detailed records under BRRD

Regulation (EU) 2016/1712 supplementing BRRD with regard to RTS specifying a minimum set of the information on financial contracts that should be contained in the detailed records and the circumstances the requirement should be imposed appeared in the Official Journal on 24 September 2016.

The minimum details comprise 43 data items and cover information on: the parties to the contract, financial contract type, transaction and clearing. The scope for regulatory authorities to impose the requirement is broad, extending to 'where necessary to ensure comprehensive and effective planning'. The RTS enter into force on 14 October 2016.

Remuneration

Focusing on remuneration buy-outs

The PRA issued *PS 26/16: Buy-outs of variable remuneration* on 28 September 2016. The PRA does not want remuneration buy-outs to blunt the beneficial incentive effects of the existing rules on malus and clawback, or allow employees to avoid the proper consequences of their actions.

Buy-outs concern the practice of new employers compensating an employee for the loss of unvested variable remuneration awarded by previous employers on taking up that new employment. The PRA requires a new employer acts on 'reduction notices' received from previous employers. This results in the current employer recovering remuneration from an employee where wrongdoing justifying clawback or cancellation from that employee has come to light at the previous employer.

The PRA does not consider that it has departed materially from the original proposals. But the PRA does acknowledge that it has made changes to amend the responsibility for determining the relevant buy-out data from the new employer to the employee and former employer to reflect their ease of access to that information. These requirements apply to buy-out contracts concluded on or after 1 January 2017.

Clarifying expectations on remuneration

The PRA published *CP 33/16: The PRA's expectation on remuneration* on 28 September 2016. It proposes to consolidate three existing supervisory statements into a single statement. The PRA also gives additional guidance, including on the application of the EBA *Guidelines on sound remuneration policies under Articles 74(3) and 75(2) of CRD IV and disclosures under Article 450 of CRR*.

Firms must comply with the EBA Guidelines from 1 January 2017. The PRA notified the EBA of UK compliance with all aspects of the EBA guidelines except the provision requiring that the bonus cap must be applied to all firms. It reiterates that its existing proportionality approach (and in parallel also the FCA) continues to apply. The additional guidance covers material risk takers, remuneration committees, long term incentive plans and the application of malus and clawback to variable remuneration.

On the same day the FCA published *Consultation Paper CP16/28: Remuneration in CRD IV firms: new guidance and changes to Handbook.* The proposed changes bring its handbook in line with the EBA Guidelines. It is proposing new non-handbook guidance in the form of 'frequently asked questions' to address key areas of ambiguity informed by enquiries from firms and supervisory feedback. The FCA is also taking the opportunity to simplify the remuneration guidance in its handbook and its general guidance on proportionality. Both consultations close on **28 November 2016**.

Guiding sales staff remuneration

The EBA published final *Guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services* on 28 September 2016. The EBA aims to improve the links between incentives and the fair treatment of consumers and reduce the risk of mis-selling and resultant conduct costs for firms. In response to feedback, the EBA has:

- separated the requirements related to the approval and the monitoring of remuneration policies and practices
- clarified the type of information that firms should record and is in the scope of the guidelines
- confirmed that whilst the management body may delegate the design and monitoring of policies and practices, it retains ultimately responsibility for them
- clarified that the need to obtain advice on remuneration policies and practices is limited to firms that have established remuneration committees.

These guidelines complement the EBA *Guidelines on product oversight and governance arrangements for retail banking products* issued in July 2015. They apply to firms involved with providing deposits, payment accounts, payment services, e-money, residential mortgages and other forms of credit to consumers. The guidelines apply from 13 January 2018 to align with the application of MiFID II and PSD2. This is a change from the original proposals which indicated application from 3 January 2017.

Reporting

Making minor changes to COREP

Regulation (EU) 2016/1702 amending Implementing Regulation (EU) 680/2014 as regards templates and instructions appeared in the Official Journal on 29

September 2016. This reflects the draft submitted by the EBA to the EC in March 2016 to update the ITS on COREP and other supervisory reporting of financial information. The EBA made minor changes to the templates and instructions to:

- reflect some of the answers published in its Single Rulebook Q&A
- align with disclosure requirements for capital buffers
- correct legal references and other clerical errors.

The EBA replaced several templates of Annexes I, III and IV and amended some of the instructions laid down in Annexes II, V, VII and IX. But, as the amendments did not involve significant changes, the EBA did not consult on the changes. The regulation comes into force on 19 October 2016. It will apply from 1 December 2016 with the first reporting reference date being 31 December 2016.

Reporting buy-to-let lending data

The BoE published *a loan-level data collection for buy-to-let lending: details of phase 2 of the collection* on 29 September 2016. The data will support the needs of the MPC, FPC and the PRA board and combines statistical and regulatory data requirements in one collection for the first time. The first phase is already in place to start reporting based on Q3 2017 data – first submission by the end of October 2017. This second phase is set to collect additional data based on Q1 2018 data. The BoE has added four additional data items for second phase reporting since the initial consultation.

The reporting applies to all UK firms that undertake buy-to-let lending in excess of £20m of new lending annually. The BoE is working with firms and the Council of Mortgage Lenders to refine a third phase for reporting of data relating to corporate lending based on Q3 data. It aims to publish the details in due course.

Retail products

Toughening buy-to-let mortgage underwriting

The PRA issued policy statement *PS28/16: Underwriting standards for buy-to-let mortgage contracts* on 29 September 2016. This follows a consultation in March 2016. The outcome from this is supervisory statement *SS13/16: Underwriting standards for buy-to let mortgage contracts statement*, which is relevant to all firms regulated by the PRA that undertake buy-to-let lending that is not subject to FCA regulation.

The PRA sets out criteria for affordability testing which includes the need to take account of likely future interest rate increases on affordability. It expects firms to use a method to assess affordability that includes:

- whether the income derived from the property is sufficient to support the monthly interest cost of the mortgage payments using an interest coverage ratio (ICR) test and/or
- if firms take account of personal income as a means for the borrower to support the interest and capital (if applicable) monthly mortgage payments, whether that income, in addition to any income derived from the property, is sufficient to support the mortgage payments using an income affordability test.

The PRA indicates that the current industry standard ICR of 125% is the minimum but that specific firm factors may lead to a higher threshold. It also introduces an interest rate affordability stress test that incorporates a minimum 2% increase in the mortgage interest rate with a minimum rate of at least 5.5%. The PRA also confirms that the CRR-related SME supporting factor that reduces the credit risk capital requirement of applicable SME lending by about 25% should not be applied where the purpose of borrowing is to support buy-to-let business.

The PRA has agreed a phased implementation. Firms must implement the changes to the ICR tests and the interest rate affordability stress tests by 1 January 2017. The remaining requirements need to be in place by 30 September 2017.

Supervision

Can't pay won't pay?

The ECB launched a public consultation on its *Guidance to banks in the SSM on non-performing loans (NPLs)* on 12 September 2016. It also published supporting documents including a *Guidance summary*, *Stocktake of national supervisory practices and legal frameworks for NPLs* and *FAQs*.

The ECB identifies best practices for NPLs. It tells banks to adopt a clear NPL strategy and operational plan with an urgency that reflects the severity of their NPL issues. Banks must set quantitative targets by portfolio, introduce dedicated NPL workout units and have clear ownership and escalation procedures. Senior management must approve the NPL strategy and operational plan annually and monitor progress at least quarterly.

The guidance provides:

- short-term and long-term options on forbearance
- guidance on measuring impairment and write-offs
- policies and procedures for valuing real estate collateral.

While the guidance is non-binding, it sets the bar for ECB expectations going forward. Banks will need to explain any deviations from it and the ECB warns that non-compliance may trigger supervisory measures. The guidance will not be a static document. As a next step, the ECB plans to focus on enhancing the timeliness of provisions and write-offs.

Alongside the guidance, the ECB carried out a stocktake of national supervisory practices

and legal frameworks for NPLs in eight Member States. It found that a number of countries had taken proactive measures to tackle NPLs but others could improve their legal systems to ensure the timely workout of NPLs.

It notes that some issues go beyond banking supervision – for example, the absence of a liquid secondary market for NPLs. But it warns this cannot serve as an excuse for failing to address NPL issues.

The ECB will hold a public hearing in Frankfurt on 7 November 2016. The consultation closes on **15 November 2016**.

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Regulation

Investment funds

Identifying EuVECA and EuSEF funds

In response to a request from the EC, the ECB published an *Opinion on a proposal for a Regulation amending regulation (EU) No 345/2013 on European venture capital funds and Regulation (EU) No 346/2013 on European social entrepreneurship funds* on 12 September 2016. The ECB recommends that fund managers be required to provide the LEIs of the funds upon registration. The ECB believes this should be a priority because EuVECAs and EuSEFs have reporting obligations under Regulation (EU) No 1073/2013 concerning statistics on the assets and liabilities of investment funds. Likewise, their shares or units are included in the ECB's centralised securities database.

The ECB's opinion calls on legislative changes emanating from the CMU agenda to require the provision of such identifiers so that regulators can have a better understanding of risks arising from capital market activity. The ECB also advocates that unique identifiers should be used more frequently for investor disclosure, to include the issuer, the offeror, guarantors and the securities themselves.

Improving SME access to EU funding

The EC celebrated the one-year anniversary of its efforts to review the effectiveness of its European Structural Investment Funds (ESIF) programme by re-publishing the *first set of findings* from its high-level group on 27 September 2016. ESIFs are the primary means by which the EU identifies investment opportunities in public infrastructure, private sector projects, job programmes and other initiatives that will have EU-wide benefit. The findings focused on the ease with which SMEs could apply for investment funds, recommending improved use of technology to better match projects with resources. While ESIFs predate CMU, the EC's efforts should provide a useful case study in how to improve funding access for the types of small businesses that have historically been overly-reliant on bank financing.

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Regulation

Conduct

Smaller concerns over Big Data

The FCA published *Feedback Statement (FS16/5)* to its *Call for Inputs on Big Data in retail general insurance* on 21 September 2016. The FCA wanted to better understand how firms use Big Data and how this affects consumer outcomes and competition in the general insurance sector.

The FCA found that Big Data resulted in broadly positive consumer outcomes, encouraging innovation. But the FCA also identified two areas of potential concern: increased risk segmentation, such as higher risk consumers no longer being able to obtain or afford insurance, and pricing practices that don't reflect a consumer's risks or the cost of serving them.

Big Data may improve firms' abilities to identify opportunities to charge certain customers more based on their ability or willingness to pay, rather than based on risk or cost. The FCA didn't find evidence that the growing use of Big Data currently limits competition in the sector, so decided not to launch a market study at this time. But it plans discovery work looking at pricing practices in a small number of firms later in 2016.

Solvency II

EC adopts documentation ITS

The EC adopted an *ITS with regard to the procedures for the application of the transitional measure for the equity risk sub-module* on 9 September 2016. This represents the finalisation of the draft ITS submitted to the EC for approval in October 2015. It sets out details of the documentation insurers require to be able to demonstrate to supervisors they have correctly identified equities purchased on or before 1 January 2016 to which the transitional measures apply. The ITS entered into force on 30 September 2016.

EIOPA looks at Solvency II challenges

EIOPA published *Looking back to look ahead: First experience with Solvency II Implementation and the way forward*, a speech by EIOPA Head of Regulations Manuela Zweimueller on 6 September 2016. She considered the first lessons from the implementation of Solvency II, the challenges ahead and key areas for future focus. She identified the following as key areas of focus for Solvency II implementation:

- reinforcing risk culture: the benefits of the ORSA
- rethinking business models: the use of transitional measures
- importance of dialogue between supervisors and industry
- fostering the understanding of the regime's disclosure element to inform the market
- enhancing policy holder protection within and beyond prudential supervision
- the review of Solvency II
- macro-prudential supervision as an integral element of the Solvency II regime.

She emphasised how consumer protection will need to evolve to ensure fair treatment and meet Solvency II's ultimate goal of protecting consumers.

Planning for market-turning events

The PRA published *CP32/16 Dealing with a market turning event in the general insurance sector* on 21 September 2016. It considers how Solvency II insurers, especially those in the London market, should plan for and respond to a market-turning event causing significant general insurance loss. It is particularly focused on requirements for firms that breach or may breach their SCR or MCR in the three months following an event.

The PRA published a *Speech - Dealing with a market-turning event in the general insurance sector* by Chris Moulder, Director of General Insurance at the BoE, on 29 September 2016. He discussed the background to the consultation and reflected on the issues that regulators and firms could be faced with in such a scenario, and how they can ensure they are well prepared.

PRA finalises model change requirements

The PRA published *SS12/16 Solvency II: changes to internal models used by insurance firms* on 21 September 2016. It finalises guidance for firms applying for approval for a major change to their approved internal model as consulted on in May 2016 (*CP19/16*). The supervisory statement covers interaction with the PRA before and during a model change application, the quality of a model change application and the information to be provided with the application.

PRA proposes updated reporting requirements

The PRA published *CP31/16 'Solvency II: updates to SS25/15 and SS26/15'* on 21 September 2016. It proposes to update *SS25/15: Solvency II – regulatory reporting, internal model outputs* and *SS26/15: Solvency II – ORSA and the ultimate time horizon* in the following areas:

- consolidation of internal and ultimate time-horizon templates into one document
- separating entity line of business level and outputs at Solvency II line of business level
- reserve risk and premium risk templates
- template ID codes
- new qualitative template.

The PRA also plans to make a number of other minor changes to the templates. The comment period ends on **21 December 2016**.

PRA finalises Solvency II audit rules

The PRA published *PS24/16 Solvency II: external audit of the public disclosure requirement* and *SS11/16 Solvency II: external audit of the public disclosure requirement* on 9 September 2016. It sets out the final rules on the audit of Solvency II public disclosure in the UK, and confirms that the following elements of the Solvency and Financial Condition Report of UK insurers and groups will be in audit scope:

- the Solvency II balance sheet and own funds
- the SCR calculated using the standard formula (where applicable), and the MCR
- narrative disclosures on the valuation of the Solvency II balance sheet, capital and own funds
- reporting of the entities within the scope of the group.

Our *Hot topic - Solvency II – PRA finalises Solvency II audit rules* summarises the rules that apply for financial years ending on or after 15 November 2016. It also considers changes from the previous consultations and expected future developments.

The transition to Solvency II reporting is being closely watched by analysts and the market, in addition to regulators, policyholders and other stakeholders. Getting the move to the new disclosures right is therefore critical for insurers, as the first public reports start to be issued. We believe that external assurance plays a valuable role in building confidence in the numbers and to increase the external credibility of disclosures.

Treasury Committee announces Solvency II inquiry

The TC announced details of its *EU insurance regulation inquiry* and its *terms of reference* on 13 September 2016. This inquiry is aimed at exploring the impacts of Solvency II and the options available to the UK following the vote to leave the EU.

The objectives of the inquiry are to:

- consider the options for the UK insurance industry that are created by the decision to leave the EU
- assess any impact of Solvency II on the competitiveness of the UK insurance industry
- examine the impact of Solvency II on the role of insurance in meeting the needs of UK customers and the wider UK business economy
- assess any learning for both regulators and industry from the introduction of this major piece of insurance harmonising legislation.

The terms of reference include a number of questions for the insurance industry and interested parties. The comment period ends on **11 November 2016**.

EIOPA updates taxonomy

EIOPA updated the *list of known issues and list of validations* on 26 September 2016.

EIOPA updates Q&As

In September 2016, EIOPA updated its *questions and answers* on:

- *guidelines on reporting for financial stability purposes*
- *guidelines on recognition and valuation of assets and liabilities other than technical provisions*
- *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)*

EIOPA also changed the numbering of published questions as of 22 September 2016.

Supervision

FCA analyses appointed representative concerns

The FCA published on 7 September 2016 the *presentation slides* and *video* from an event for general insurers held on 17 August 2016. These set out its findings and expectations following a thematic review *TR16/6: Principals and their appointed representatives (ARs) in the general insurance sector*. The FCA highlights widespread shortcomings and significant risk of customer detriment found during the review. It expects principal firms to be able to demonstrate they:

- have considered the impact of ARs on their own business and ability to meet threshold conditions
- have assessed the solvency and suitability of their ARs
- have put in place compliant contractual arrangements with their ARs
- have adequate controls over their ARs' regulated activities for which the firm is responsible
- have adequate resource to oversee the ARs and enforce compliance with relevant Handbook obligations
- have ensured ARs are fit and proper to deal with clients in their name so that clients dealing with the ARs are afforded the same level of protection as if they had dealt with the firm itself
- can demonstrate that ARs treat customers fairly and do not mis-sell general insurance products
- appropriately identify and protect client money, or ensure effective risk transfer arrangements are in place
- ensure ARs deliver post-sales services compliantly.

Insurers need to ensure that they have considered all of the issues raised by this review as it is likely to remain an area of close supervisory focus.

Regulators consult on fee basis

The PRA published *CP30/16: PRA fees and FSCS levies for insurers: proposals for a transitional approach in 2017/18* and the FCA published *CP16/23: FCA Regulated fees and levies: Insurers' tariff data for 2017/18* on 9 September 2016. Both regulators are proposing a 12-month transitional provision for calculating fees and levies. They will base the 2017/18 calculations on the data already used in the 2016/17 calculations subject to adjustments for insurance business transfers and firms going into run-off.

As fees and levies for 2017/18 will be based on the 2015 data, firms will generally not have to provide the regulators with any new data for the 2017/18 calculations. But, insurers will have to notify the FCA of any insurance business transfer between the end of their 2015 financial year and 31 December 2016. This includes details to allow the FCA to establish the extent their tariff data has increased or decreased as a result of the transfer. Similarly, insurers that have gone into run-off in the period

have the option of submitting updated Solvency I data for the year ending in 2016. These submissions must be made to the FCA (as the PRA's and FSCS's collection agent) by 28 February 2017.

Going forward the regulators intend to develop a new basis for calculating fees and levies aligned to data available under the new Solvency II and non-directive firms regimes. The comment period for both consultations ends on **9 November 2016**.

PRA speech on soft market implications

The PRA published *Managing Risk in a Soft Market*, a speech by David Rule, Executive Director for Insurance Supervision at the PRA, at the General Insurance Research Organisation Conference 2016. He considered the risks facing general insurers arising from the current soft market. Rule also stressed 'the critical professional role of actuaries' given their key role of 'providing assurance on reserves and opinions on both the underwriting and reinsurance strategies of firms'.

In addition, he highlighted that, for long-tail business, claims inflation is a key assumption in setting reserves. And Rule questioned whether it's reasonable to assume that future claims inflation will continue at the current low levels.

Accounting

Accounting

FRC proposes UK GAAP changes

The FRC published a *Consultation Document: Triennial review of UK and Ireland accounting standards - Approach to changes in IFRS* on 27 September 2016. It seeks feedback on potential improvements to FRS 102 including a number based on recent changes to IFRS. It proposes minor improvements and clarifications to FRS 102 which it plans to publish in detail in an exposure draft towards the end of the first quarter of 2017, for implementation from 1 January 2019.

The FRC is also proposing to include in FRS 102 the expected loss model for impairment of financial assets from IFRS 9 and to ensure lease accounting by lessees is consistent with IFRS 16. As these are more significant amendments, the FRC intends to publish the detailed proposals towards the end of the third quarter of 2017 for implementation from 1 January 2022. Until these changes take effect, it proposes that the option to choose to apply the recognition and measurement requirements of IAS 39 to financial instruments should remain.

The comment period ends on **31 December 2016**.

IASB allows new flexibility in IFRS 9 application

The IASB published *Amendments to its existing insurance contracts standard (IFRS4)* on 12 September 2016. This is in response to concerns arising from the implementation of the new financial instruments standard (IFRS 9) before the implementation of the new insurance contracts standard. It has amended IFRS 4 to allow insurers the option to apply two new approaches: The deferral approach and the overlay approach.

The deferral approach gives insurers a temporary exemption from IFRS 9 until 2021 as long as they meet specific requirements (applied at the reporting entity level). In the meantime they will have to continue to apply the existing financial instruments standard, IAS 39. The overlay approach allows insurers to recognise the volatility that could arise when IFRS 9 is applied before the new insurance contracts standard is issued in other comprehensive income, rather than profit or loss.

Our publication, *More flexibility in the application of IFRS 9 – the IASB publishes an amendment to IFRS 4*, gives an overview of these options and considers their impact. The forthcoming new insurance contracts standard will supersede IFRS 4 and both these amendments once it is implemented.

Monthly calendar

Open consultations

Closing date for responses	Paper	Institution
11/10/16	CP16/20: Rules and guidance on payment protection insurance complaints: feedback on CP15/39 and further consultation	FCA
12/10/16	Consultation on the draft RTS specifying the requirements on strong customer authentication and common and secure communication under PSD2	EBA
14/10/16	FRED 65: Draft Amendments to FRS 101 Reduced Disclosure Framework – Notification of Shareholders	FRC
14/10/16	Binary options standard for the commodities markets	FICC Markets Standards Board
16/10/16	Establishment of the Enforcement Decision Making Committee	PRA
17/10/16	Discussion note: Essential aspects of CCP resolution planning	FSB
17/10/16	Good practices for the termination of investment funds	IOSCO
18/10/16	Resilience and recovery of CCPs: Further guidance on the PFMI	IOSCO
19/10/16	Consultation on Risk-based Global Insurance Capital Standard (ICS) Version 1.0	IAIS
21/10/16	CP26/16: Occasional Consultation Paper	PRA
21/10/16	Tackling the hidden economy: sanctions	HMRC
21/10/16	Tackling the hidden economy: conditionality	HMRC

Closing date for responses	Paper	Institution
21/10/16	*Tackling the hidden economy: extension of data-gathering powers to money service businesses*	*HMRC*
24/10/16	*Review of the EU macro-prudential policy framework*	*EC*
24/10/16	*Proposal for ITS on a standardised presentation format of the Insurance Product Information Document under the IDD*	*EIOPA*
24/10/16	*Digital comparison tools market study*	*CMA*
26/10/16	*Consultation on Guidelines on Connected Clients under Article 4 (1) (39) of Regulation (EU) No 575/2013*	*EBA*
26/10/16	*Draft guidelines on credit institutions' credit risk management practices and accounting for expected credit losses*	*EBA*
28/10/16	*CP16/19: MiFID II implementation*	*FCA*
28/10/16	*CP27/16: The PRA's implementation of the systemic risk buffer*	*PRA*
28/10/16	*CP28/16: Ensuring operational continuity in resolution: reporting requirements*	*PRA*
31/10/16	*Consultation on a potential EU personal pension framework*	*EC*
31/10/16	*Feedback on FRS 102*	*FRC*
31/10/16	*CP29/16: Residential Mortgage Risk Weights*	*PRA*
07/11/16	*A new RTGS service for the UK: safeguarding stability, enabling innovation*	*BoE*
09/11/16	*CP16/23: FCA regulated fees and levies, insurers' tariff data for 2017/18*	*FCA*
09/11/16	*CP30/16: PRA fees and FSCS levies for insurers: proposals for a transitional approach in 2017/18*	*PRA*

Closing date for responses	Paper	Institution
09/11/16	*The draft Pension Protection Fund (Modification) (Amendment) Regulations 2017*	*Department for Work and Pensions*
10/11/16	*Transposition of the Fourth Money Laundering Directive*	*HMT*
15/11/16	*Draft guidance to banks on non-performing loans*	*ECB*
15/11/16	*Amending the definition of financial advice*	*HMT*
28/11/16	*CP16/28: Remuneration in CRD IV firms: new guidance and changes to Handbook*	*FCA*
28/11/16	*CP33/16: The PRA's expectations on remuneration*	*PRA*
30/11/16	*Draft guidelines on the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee under Article 5(4) of Directive (EU) 2015/2366*	*EBA*
30/11/16	*Draft RTS and ITS under SFTR and amendments to related EMIR RTS*	*ESMA*
02/12/16	*Draft technical standards under the Benchmarks Regulation*	*ESMA*
02/12/16	*Draft Code of Practice and Supervisory Statement relating to governance in recognised payment system operators*	*BoE*
13/12/16	*CP16/24: Review of the FCA's appropriate qualification exam standards*	*FCA*
21/12/16	*CP31/16: Solvency II, updates to SS25/15 and SS26/15*	*PRA*
21/12/16	*CP32/16: Dealing with a market-turning event in the general insurance sector*	*PRA*
22/12/16	*Draft RTS and ITS under PAD*	*EBA*
31/12/16	*Triennial review of UK and Ireland accounting standards and approach to changes in IFRS*	*FRC*

Closing date for responses	Paper	Institution
04/01/17	*CP16/29: MiFID II implementation – Consultation Paper III*	*FCA*
09/01/17	*CP16/27: Applying conduct rules to all non-executive directors in the banking and insurance sectors*	*FCA*
09/01/17	*CP16/25: Whistleblowing in UK branches of overseas banks*	*FCA*
09/01/17	*CP16/26: Guidance on the duty of responsibility: amendments to the Decision Procedure and Penalties Manual*	*FCA*
09/01/17	*CP34/16: Strengthening accountability in banking and insurance: amendments and optimisations*	*PRA*
09/01/17	*CP35/16: Whistleblowing in UK branches*	*PRA*

Forthcoming publications in 2016

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

Date	Topic	Type	Institution
Conduct			
Autumn 2016	Smarter consumer communications: removing certain ineffective requirements in our Handbook – PS to CP15/32	Policy statement	FCA
November 2016	Creditworthiness assessments in consumer credit	Consultation	FCA
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	Fair, reasonable and non-discriminatory access to regulated benchmarks – PS to CP 15/18	Policy statement	FCA
February 2017	Implementation of the Benchmarks Regulation	Consultation	FCA
Financial crime, security and market abuse			
Autumn 2016	Changes to the handbook in line with ESMA guidelines under MAR	Consultation	FCA
Q4 2016	MAR	Guidelines	ESMA
TBD 2016	Enhanced due diligence under AMLD4	Guidelines	EBA

Date	Topic	Type	Institution
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			
TBD 2016	Review of the client money rules for insurance intermediaries – PS to CP12/20	Policy statement	FCA
Mortgages			
TBD 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	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

Date	Topic	Type	Institution
Pensions			
Autumn 2016	Secondary annuity market – PS to CP16/13	Policy statement	FCA
Autumn 2016	Redress methodology for pension transfers	Consultation	FCA
December 2016/ January 2017	Pension Wise standards: changes required for secondary annuity market guidance – PS to CP16/22	Policy statement	FCA
Prudential			
TBD 2016	Money Market Funds Regulation – advice and technical standards	Advice	ESMA
TBD 2016	Impact of LCR	Report	EBA
TBD 2016	Disclosure of LCR	Guidelines	EBA
TBD 2016	Intraday liquidity risk	Guidelines	EBA
TBD 2016	Report and advice on NSFR	Report	EBA
TBD 2016	Downturn loss given default (LGD) calculation	Guidelines	EBA
TBD 2016	LGD in default ELBE and IRB shortfall calculations	Guidelines	EBA
TBD 2016	PD computation	Guidelines	EBA
TBD 2016	RTS on eligible collateral within the CRM framework	Technical Standards	EBA
TBD 2016	RTS on conditional guarantees	Technical Standards	EBA
TBD 2016	RTS on the definition of default thresholds for past due items	Technical Standards	EBA
TBD 2016	Default of an obligor, including QIS	Guidelines	EBA

Date	Topic	Type	Institution
TBD 2016	Corrections to the modified duration of debt instruments	Guidelines	EBA
TBD 2016	RTS on assessment methodology	Technical Standards	EBA
TBD 2016	Incremental default and migration risk	Guidelines	EBA
TBD 2016	Stress in correlation trading portfolios	Guidelines	EBA
TBD 2016	RTS on exclusion of CVA for third-country NFCs	Technical Standards	EBA
TBD 2016	Stressed VaR	Guidelines	EBA
TBD 2016	Implicit support with regard to securitisation	Guidelines	EBA
TBD 2016	The Supervisory Formula Method on securitisation under Article 262(3) of CRR	Guidelines	EBA
TBD 2016	Securitisation retention rules	Guidelines	EBA
TBD 2016	Proposals for simple, standard and transparent synthetic securitisation	Guidelines	EBA
TBD 2016	RTS on disclosures of unencumbered assets	Technical Standards	EBA
TBD 2016	Stress testing	Guidelines	EBA
Recovery and resolution			
Autumn 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

Date	Topic	Type	Institution
Securities and markets			
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
Q4 2016	MiFID II implementation – consultation paper IV	Consultation	FCA
February 2017	Implementation of the Benchmarks Regulation	Consultation	FCA
H1 2017	MiFID II implementation – policy statement to CP16/19	Policy statement	FCA
H1 2017	MiFID II implementation – policy statement to CP15/43	Policy statement	FCA
H1 2017	MiFID implementation – policy statement to CP16/29	Policy statement	FCA
Structural reform			
TBD 2016	RTS, ITS and guidelines on core credit institutions and trading entities	Technical standards	ESMA
TDB 2016	Ring-fencing: disclosures to consumer by non-ring-fenced bodies – PS to CP 15/23	Policy statement	FCA
Supervision, governance and reporting			
Q3 2016	Report on trends, risks and vulnerabilities	Report	ESMA
October 2016	Statement on the common enforcement priorities for 2016 year-end financial statements	Statement	ESMA

Date	Topic	Type	Institution
October 2016	Updating and clarifying consumer credit reporting provisions	Consultation	FCA
November 2016	Regulatory fees and levies: policy proposals for 2017/18	Consultation	FCA
Q4 2016	Proposed implementation of the Enforcement Review and the Green Report – PS to CP16/10	Policy statement	FCA
Q4 2016	RTS on European Single Electronic Format	Technical standards	ESMA
Q4 2016	Advice to the EC on depository frameworks of non-EU jurisdictions under Article 21(6) of AIFMD	Advice	ESMA
Quarterly	Risk dashboard	Report	ESMA
TBD 2016	IT risk supervision	Guidelines	EBA
TBD 2016	FSCS funding review	Consultation	FCA
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
DEPP	The FCA's Decision Procedure and Penalties Manual
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
FSBRA	Financial Services (Banking Reform) Act 2013
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 and Customs
HMT	Her Majesty's Treasury
IA	Investment Association
IAIS	International Association of Insurance Supervisors
IASB	International Accounting Standards Board
IBA	ICE Benchmark Administration
ICAAP	Internal Capital Adequacy Assessment Process
ICAS	Individual Capital Adequacy Standards
ICOBS	Insurance: Conduct of Business Sourcebook
IDD	The Insurance Distribution Directive (EU) 2016/97 – also known as 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
KID	Key Information Document
KYC	Know your client
LCR	Liquidity coverage ratio
LEI	Legal Entity Identifier
LIBOR	London Interbank Offered Rate
MA	Matching Adjustment
MAD	Market Abuse Directive 2003/6/EC
MAR	Market Abuse Regulation (EU) 596/2014
Material Risk Takers Regulation	Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the EP and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify

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

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
SPV	Special purpose vehicle
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
TC	Treasury Committee
TLAC	Total Loss Absorbing Capacity
TR	Trade Repository
TPR	The Pensions Regulator
UCITS	Undertakings for Collective Investments in Transferable Securities
UCITS V	UCITS V Directive 2014/91/EU
UKLA	UK Listing Authority
UTI	Unique Trade Identifier
XBRL	eXtensible Business Reporting Language

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