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CENTRE for REGULATORY STRATEGY ASIA PACIFIC

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Executive Summary

Competition and business model sustainability

The impact that FinTech is having on business model sustainability was a common theme during February. The **Basel Committee on Banking Supervision** (BCBS) released a report that highlighted banks could struggle to maintain their operating models because of the rise in competition from new FinTech players, as well as changes in technologies available and customers' expectations. **Hong Kong**'s Monetary Authority issued a letter urging authorised institutions to study the BCBS report "carefully" and advising that major banks will be asked how they plan to cope with the challenges brought by technological advancement. The Governor of Bank Negara **Malaysia** warned financial institutions not to "lay idle as innovations will be relentless in accessing and penetrating the traditional market". **Australia**'s Productivity Commission meanwhile made several recommendations to boost competition in the financial services industry, which it found had been subordinated to concerns about financial stability over the past ten years, potentially paving the way for increased participation of new FinTechs in the Australian financial services ecosystem.

Basel III capital requirements

Regulators also responded to final calibrations of the Basel III capital framework, which were announced by the BCBS in December 2017. The Bank of **Japan** urged major jurisdictions to implement Basel III faithfully in accordance with the agreed timeline to ensure a level playing field. The **Australia**n Prudential Regulation Authority outlined proposed revisions to the risk-based capital requirements for authorised deposit taking institutions that, compared to Basel III, impose higher capital ratios for several asset classes, as well as earlier implementation dates.

Conduct and culture

Korean and **Singapore**an regulators identified culture and conduct as a priority for the year ahead, while **China**'s banking regulator issued comprehensive guidelines on employee conduct management. Following similar developments in Hong Kong (Managers-in-Charge) and Australia (BEAR), **Malaysia**'s central bank set out a proposed accountability framework for individuals who have senior roles in financial institutions.

Foreign investment and recovery/resolution planning

Regulators in **China** and **India** further revised rules to facilitate foreign investment. India's central bank introduced a new framework for the resolution of stressed assets, **Hong Kong**'s recovery planning legislation was updated in accordance with international norms, and Chinese regulators took control of one of the country's biggest insurers amidst concerns about financial mismanagement.

Identity verification and virtual/crypto currency

Back on the theme of innovation in financial services, regulators in **Hong Kong** and **Singapore** amended identify verification requirement to facilitate non-face-to-face and technology enabled customer on-boarding. Virtual currencies (VCs), cryptocurrency trading and initial coin offerings (ICOs) continued to be a hot topic. Following the theft of ¥580mn in cryptocurrency, **Japan**'s Financial Services Agency required VC exchange companies to review and report on their system risk management. In **Malaysia** VC exchanges were ordered to comply with anti-money laundering (AML) rules, **Thailand**'s central bank urged financial institutions not to engage in or support transactions involving cryptocurrency, and Singapore's Deputy Prime Minister said that although there is presently no strong case to ban cryptocurrency trading in that a country, intermediaries will be subjected to AML regulations. Hong Kong's securities regulator meanwhile issued a second warning on ICOs and cryptocurrency exchanges, this time drawing attention to the role of gatekeepers and advisers.

The following pages provide more detail of these and other significant international and regional regulatory developments during February.

International

The **Basel Committee on Banking Supervision** (**BCBS**) released a consultation on an updated framework for **Pillar 3 disclosure requirements** for banks, as part of the finalisation of the Basel III reforms. The package includes new and revised requirements for credit risk, operational risk, and the leverage ratio; benchmarking of risk-weighted assets (RWA) between the internal model and the standardised approach; and an overview of risk management. This is the third phase of revised disclosure requirements after releases in January 2015 and March 2017, which together will make up the finalised Pillar 3 framework. Consultation for these new revisions close in May 2018.

The BCBS published a report on the **implications of Fintech developments for banks and bank supervisors.** Five stylised scenarios were identified as part of the analysis: (i) modernisation of current players, (ii) replacement of incumbents by modern technology-driven banks, (iii) fragmentation of financial services across specialised FinTechs and incumbent banks, (iv) commoditisation of incumbent through customer-facing FinTechs, and (v) banks cease to be relevant as FinTechs take over. The report highlights that, in the future, banks will struggle to maintain their operating models because of the rise in competition from new FinTech players, as well as changes in technologies available and customers' expectations. Nevertheless, the extent to which FinTech will disrupt and change the banking sector remains uncertain. Given such uncertainty, the BCBS concludes that it should first contribute to a common understanding of the risks and opportunities associated with FinTech in the banking sector, before engaging in the design of requirements or technical recommendations. The BCBS says that key considerations for supervisors include balancing compliance and soundness in financial stability with innovation, the growing use of third-party outsourcing, potential opportunities in supervisory technology (SupTech), and relevance of existing frameworks in regulating new innovative business models such as FinTechs.

The **Bank for International Settlements' (BIS)** Committee on Payments and Market Infrastructures (CPMI) published a report on the issues and challenges in the **cross-border retail payments market**. The CPMI finds that the risks, complexity and opacity of international payments increases transactional costs, but "can often feel disproportionate" to expectations garnered from domestic payments. The rise in use of cryptocurrencies is a market signal that consumers want a cheaper and faster mechanism for international transfers. Two options are proposed: (i) an interconnected payments network, which is complex and difficult to set-up, or (ii) many 'closed-loop' systems, which is easier to establish but with challenges in risk and regulatory management and fragmentation due to interoperability. However, if these challenges can be overcome, a variety of interoperable systems could improve the efficiency of the international payments system.

The BIS spoke out about the dangers of **cryptocurrencies**, stating "authorities must be prepared to act against the invasive spread of cryptocurrencies". The fact that cryptocurrencies are not backed by a central authority or accepted as legal tender, like fiat currency is, poses a key problem in using them as a broad medium of exchange. Protection of consumers, investors, and financial stability against the "bubble…Ponzi scheme and environmental disaster known as cryptocurrency" must be at the forefront of authorities, said BIS General Manager Agustin Carstens.

The **International Organisation of Securities Commissions (IOSCO)** has proposed guidance to help member authorities in addressing **conflicts of interest** (COI) and misconduct risks within the equity raising process. The key COI risks identified in the report result from: •pressure on analysts during the pre-offering phase, •the timing and sequencing of information provided during investor education which can influence independent analysis and thereby impact price discovery, and •the allocation of securities during an offering. Eight proposed measures to limit COI are suggested by IOSCO, including requiring firms to: •support the provision of a wide range of independent information to investors, •maintain a formal allocation policy, and •maintain copies of allocation decisions.

International (cont.)

IOSCO issued recommendations for **managing liquidity risk for open-ended collective investment schemes** (CIS). The report supplements and revises the key risks identified in a 2013 report. Four systemic risks are identified: (i) mismatch in liquidity risk profiles between investments and redemption terms, (ii) the use of leverage, (iii) transferring of investment mandates in times of stress, and (iv) securities lending activities of asset managers. Key recommendations include: •requiring the formal documentation of liquidity risk management processes, •better governance during the design phase of dealing arrangements to ensure liquidity risk measures are built into the scheme, and •appropriate disclosure of liquidity risks and mitigation practices within investor offer documents.

IOSCO released proposed policy measures for investor protection in regards to the **offer and sale of over the counter (OTC) derivatives**, particularly on a cross-border basis. Contracts for difference, rolling-spot FX products, and binary options were central to the report due to their prevalence in OTC markets. The following policy measures were recommended for regulators: •licensing requirements for all firms selling products both domestically and cross-border, •leverage limits and minimum margin requirements to help prevent investors losing more than their initial investment and •measures to improve disclosure of the costs and risks these products.

The **Financial Stability Board (FSB)** released **country peer reviews** for Singapore and Hong Kong finding good progress in the implementation of Financial Sector Assessment Program recommendations and G20/FSB commitments. Both reports examined the macro prudential policy framework, whilst the Singapore report focused also on the resolution framework for financial institutions, and the Hong Kong report on reforms in the OTC derivatives market. Despite strong progress in both jurisdictions, several areas of improvement were noted. For Singapore: •clarifying responsibility within the Monetary Authority of Singapore for macroprudential policy, •enhancing the macro prudential risk assessment frameworks, and •continuing work to refine and operationalise resolution planning for domestic systemically important banks. For Hong Kong: •adopting a tailored regulatory regime for OTC derivatives trading, •enhancing transparency in public disclosure, pricing and counterparty reporting for OTC derivatives, •completing the remaining elements of the resolution framework, and •operationalising resolution funding mechanisms.

Australia

The **Australian Prudential Regulation Authority (APRA)** released a consultation on proposed changes to better align the Basel III **capital framework** to domestic risks (such as housing lending). The focus of the proposals is on aligning the framework to current risks in the industry, such as by: •decreasing risk weights for low loan-to-value ratio mortgages and increasing weights for interest only loans, •placing constraints on parameters used by internal ratings based authorised deposit institutions (ADIs) for particular exposures, and •developing a single methodology for current approaches to operational risk. For small ADIs, efforts are being made to streamline the regulatory burden. APRA has specifically stated that it does not intend to "increase capital requirements" as part of the proposals.

A second APRA consultation sets out the proposed implementation of the **leverage ratio**. APRA is proposing to introduce a 4% leverage ratio for ADIs using the internal ratings based approach, as compared to the 3% stipulated under the Basel III reforms, and will extend the 3% leverage ratio to ADIs using the standardised approach. Further, APRA will include within APS110 Capital Adequacy a provision to allow APRA to take targeted action by increasing the leverage ratio of individual ADIs. Changes to the leverage ratio are aimed to be implemented as a minimum requirement from July 2019.

APRA announced a suite of proposed measure to improve **governance and decision-making in the private health insurance industry**. The package seeks to replace the industry-specific standard HPS510 on governance with the cross-industry equivalent (CPS510), extend CPS520 to private health, introduce a new standard on Audit and Related Matters (HPS310) similar to that for other industries, and streamline disclosures by revoking HPS350 Disclosure to APRA.

The **Australian Securities and Investments Commission (ASIC)** reported on a market-wide surveillance of the governance arrangements, transparency and disclosure processes of the six **credit rating agencies** (CRAs) currently acting within Australia. The following key recommendations were made: •regular board meetings to consider whether the CRA is complying with its license, •ensuring full compliance with license training requirements for persons performing analysis outside of Australia, and •considering whether changes to voting processes at rating committees would improve robustness in decision-making.

ASIC released guidance on the **new professional standards for financial advisors**. This is aimed to assist financial advisors in navigating the reforms, by giving information on scope, commencement dates, obligations of advisors, and updates to the financial adviser register.

The bill to establish the **Australian Financial Complaints Authority** (ACFA) was passed this month. ASIC deputy Chair, Peter Kell, welcomed the passing, stating that "Fair, timely and effective dispute resolution is a cornerstone of the financial services consumer protection framework". Minister for Revenue and Financial Services, the Honourable Kelly O'Dwyer noted that AFCA will "ensure consumers get a fair deal in resolving disputes with banks, insurers, super funds, and a small amount of credit providers". AFCA will act as a centralised institution for dealing with financial complaints and disputes and will build on work by the Financial Ombudsman Service, the Credit and Investments Ombudsman and the Superannuation Complaints Tribunal. AFCA will start receiving disputes no later than November 2018.

> "We have, however, committed to ensure that changes in capital requirements emanating from Basel will be accommodated within the unquestionably strong target we have set. In other words, given the banking system has largely built the necessary capital, the recent Basel announcement does not have any real impact on the aggregate capital needs of the Australian banks. They will change the relative allocation of capital within the system, but not add to the aggregate requirement beyond what has already been announced."
>
> **Wayne Byres**
> **Chairman, Australian Prudential Regulation Authority**

Australia (cont.)

Treasury released exposure draft legislation to implement a **mandatory comprehensive credit-reporting** regime that would require large ADI*s* to participate fully in the credit reporting system. The aim is to improve assessments of a borrower's credit position and their ability to meet loan repayments. By 28 September 2018, ADIs will need to supply comprehensive credit information on 50% of their active credit accounts to all credit reporting bodies (CRBs) for contracts in place at 2 November 2017. Following this initial bulk supply, the ADI will need to keep the information supplied to CRBs up to date, including providing information on new accounts.

Treasury published the final report on the **Review into Open Banking in Australia**. 50 recommendations are made, including implementation of **a new 'consumer data right'** (CDR) that would give consumers (both individuals and businesses) across all sectors open access to their data and the power to direct its transfer to a third party in usable machine readable format. The aim of CDR is to make it simpler for consumers to access, share, use and derive value from their information. The Australian Competition and Consumer Commission (ACCC) is proposed as the primary regulator and it is recommended that a Data Standards Body be established to develop standards for each sector. Open banking will be the first step in rolling out the CDR, with the four major Australian banks initially implementing the new regime, followed by remaining banks within 12 months. Only transactions from 1 January 2017 will be covered and data resulting from the efforts of the data holder, including value-added data and aggregated data sets, are excluded.

The **Productivity Commission** published its Draft Report on **Competition in the Australian Financial System**. With the overview alone counting 55 pages and the full report 640 pages, it is a daunting read and difficult to summarise. Key preliminary findings include: •that the Australian financial services regulatory framework **has favoured prudential stability over competition** since the financial crisis of 2007/8, • the Australian financial system is highly concentrated, •customer loyalty is high, which means providers are able to keep prices high, •product abundance has created confusion for consumers, made comparison shopping too daunting, and has actually inhibited consumer choice, •new entrants are not a primary source of competitive pressure, partly because onerous prudential regulation has created barriers to entry, and •the competition mandate is broadly shared across agencies (APRA, ASIC, ACCC and RBA), leaving none as its champion.

The Commission makes **25 draft recommendations** including: •a current regulator (likely ASIC) to receive a mandate to champion competition in the financial system, •a publicly available database of the relationships between parents and subsidiary companies, •ongoing notification of mergers or acquisitions, •APRA annual publication of quantitative post-implementation evaluations of its macro-prudential policies, including costs and benefits to market participants and effects on competition, •APRA to design a tiered prudential regime for Purchased Payment Facilities (PPF) to reduce barriers to growth, •APRA and ASIC to develop an online tool that promotes interest rate transparency for home loans, •ASIC to impose a clear legal duty on mortgage aggregators owned by lenders to act in the consumer's best interests and require mortgage brokers to provide more information to clients prior to recommending loans, •insurers to provide an up-to-date list of the brands they underwrite to ASIC, who will then publish on its website, and •Payments System Board to introduce a ban on card payment interchange fees and impose an access regime for the New Payments Platform. The Commission's final report and recommendations are due 1 July 2018.

Mainland China

The **China Banking Regulatory Commission (CBRC)** issued measures to **simplify procedures for foreign banks** to conduct business on the mainland and to clarify eligibility requirements for investments in local financial institutions. The measures streamline market access standards (e.g. one approval instead of two to add branches), abolish aspects of the current examination/pre-approval process (e.g. need for a legal opinion from a Chinese law firm) in favour of a reporting system, and standardize senior executive qualification process. The regulator also said it would be shifting to a dynamic prudential supervision style, with an emphasis on visits and checks.

The CBRC released for public comment draft guidance on **employee behaviour management**. The guidelines cover matters such as: •board and senior management responsibility for conduct, •appointing full-time personnel for conduct management, •establishing an appropriate management information system, •developing codes of conduct and guidelines, •implementing education and training programs, •establishing ad hoc and long-term monitoring and investigation of behaviour, •incorporating conduct assessments in recruitment, remuneration and promotion processes, and •implementing a whistleblowing system. The guidelines also provide that banks shall submit their codes of conduct and employee assessment reports to the CBRC for review.

The CBRC announced the publication on its website of **green credit information and statistics**, which is based on the activity of 21 major domestic banks. Information disclosed includes: energy conservation and environmental protection projects, asset quality and loan support. There are seven environmental benefit indicators: standard coal saving, carbon dioxide emission reduction, chemical oxygen demand, ammonia nitrogen, sulfur dioxide, nitrogen oxides and water saving. The CBRC will refresh the information every six months.

The **China Insurance Regulatory Commission (CIRC)** announced that it had **taken over the operation and management of Anbang Group**. The regulator further advised that Anbang's Chairman and key shareholder, is being prosecuted in relation to conduct that "seriously endangered the solvency of the company". Anbang will be managed by a group of officials from the CIRC, the People's Bank of China (PBOC) and other key government agencies, with a view to keeping the company operating as usual and protecting consumer interest.

CIRC also announced that it had issued a circular on **insurance companies overseas investment activity**, which responds to ongoing regulatory concerns about high leverage, as well as liquidity and refinancing risks within industry. Among other things, the circular provides a clear definition of a foreign loan and sets out rules for when investments can be made (e.g. need to set up a special purpose company, need for a domestic bank guarantee, robust asset and liability management capabilities, comprehensive due diligence investigations on the projects invested in).

The CIRC released regulations on **insurance brokers**, which will come into force on 1 May 2018. Matters covered include: •optimisation of market access and exit processes, •investigation of shareholders and their funds, •corporate governance and internal control and information systems, •requirements for branches operating insurance brokerage business, •refinements to the reporting process, and •conditions for the sale of non-insurance financial products.

The **China Securities Regulatory Commission (CSRC)** said companies whose first '**back-door listing**' is rejected, will have to wait at least three years before they are able to try again. A back door listing generally refers to a situation where a private company buys a publicly-traded company to avoid initial public offering/listing requirements.

Mainland China (cont.)

The **Peoples Bank of China (PBOC)** reported on its 2018 work conference, noting **major tasks for 2018** as including: •maintaining a prudent and neutral monetary policy stance, •enhancing support for supply-side structural reform, •taking various measures to mitigate financial risks (e.g. strengthen macro-prudential regulation of shadow banking and real estate finance), •promoting market-based interest rate reform, •adopting uniform categorization for market access and information disclosure of corporate credit bond issuance, •improving the bond default resolution mechanism, •establishing a financial support system for the housing rental market, •developing long-term system for internet finance regulation and risk control, and •promoting RMB internationalization.

The PBOC reported on the most recent **G20 Sustainable Finance Study Group meeting**, which it co-chaired with the Bank of England. The PBOC advised that the meeting discussed and approved three research topics for 2018: (i) securitization of sustainable assets, (ii) development of sustainable PE/VC, and (iii) digital innovations for mobilizing sustainable finance.

The PBOC and the CBRC sent **a comment letter to the European Union (EU)** about proposals to further strengthen the resilience of EU banks. The Chinese regulators urged the EU to: •reconsider the €30bn threshold for requirements around having non-EU groups establish intermediate EU parent undertakings *(*IPU*),* •reconsider the appropriateness of calculating total assets including those of branches, •reconsider incorporation of existing branches of Chinese banks in EU into a new IPU, •consider overlaps between the IPU requirements and existing FSB requirements (e.g. recovery and resolution plans and TLAC that support "bail-in" arrangements) and •provide further clarification on the supervisory treatment of FHC and mixed FHC.

Hong Kong SAR

The **Hong Kong Monetary Authority (HKMA)** released its 2017 **Year-end Review and Priorities for 2018**. The following major risk scenarios and responses were identified for 2018: (i) the growing penetration of Fintech firms (strategic risk): the HKMA will continue to engage on with senior management of banks to understand their latest strategies, (ii) cyber attacks on critical infrastructure or major players (tech risk): HKMA will complete iCAST by Phase 1 institutions and enhance cyber security intelligence sharing within the industry, (iii) credit cycle reversal (credit risk): the HKMA will promote sound underwriting practices, particularly in relation to lending to property, and enhance surveillance of exposures to large corporates), (iv) geopolitical events (a ML/TF risk): the HKMA will focus on sanctions compliance, information and intelligence sharing, and risk-based approach, (v) abrupt reversal of capital flows (liquidity risk): the HKMA will strengthen banks' internal liquidity stress testing, assess management of USD funding risk and monitor implementation of net stable funding ratio (NSFR), and (vi) mis-selling amid prevailing positive market sentiment (conduct risk): the HKMA will review selling practices around popular investment products and new insurance products.

The HKMA announced that enactment of the Banking (Amendment) Ordinance 2018, which updates the regulatory regime in accordance with latest international standards on **large exposure limits and recovery planning**. Notably the new ordinance gives the HKMA the power to make rules prescribing limits on the exposures incurred by authorized institutions (AIs), and the regulator will use this power to implement the BCBS new large exposures framework. In relation to recovery planning, the ordinance provides that the HKMA may: •require an AI to prepare, maintain and submit a recovery plan, •impose requirements to ensure that the recovery plan is fit for the purpose, •require an AI to revise the recovery plan to address any deficiencies identified, and •direct an AI to implement one or more measures in the recovery plan under specific conditions. AIs will also be required to notify the HKMA of the occurrence (or likely occurrence) of any trigger events specified in their recovery plans. The provisions on recovery planning took effect in February, new rules on equity exposures should commence within 2018, and the rest of the new rules by 1 January 2019.

Hong Kong SAR (cont.)

The HKMA issued revised **anti-money laundering and counter-terrorist financing** (AML/CTF) guidelines for authorised institutions (AIs) and stored value facility licensees (SVFLs), which took effect on 1 March 2018. Key amendments include: •changing beneficial ownership threshold from 'not less than 10%' to 'more than 25%', • more flexible approaches for identity verification, including the use of technology, •expanding the categories of intermediaries which can be relied upon to perform customer due diligence (CDD) measures, and •revising record keeping requirements (a 'minimum of 5 years' instead of current 6 years).

The HKMA published a consultation on **revised guidelines for the authorization of virtual banks**. Many of the basic principles in the existing guidelines (last updated in 2012) are to be retained (e.g. having adequate capital, a concrete and credible business plan, and treating customers fairly). Key updates include that both financial and non-financial firms may apply, and that virtual banks should: •play an active role in promoting financial inclusion, •take care of the needs of their target customers, •not impose any minimum account balance requirement or low-balance fees, •operate in the form of a locally-incorporated bank, •engage primarily in retail business, and •provide an exit plan at the time of application. Finalised revised guidelines are planned for May 2018.

The HKMA urged AIs to "carefully" study the BCBS' paper on the **implications of FinTech developments** for banks and bank supervisors, noting in particular the potential for change in the nature and scope of risks (e.g. cyber-risk, third-party service providers) and the "common theme … that banks will find it increasingly difficult to maintain their current operating models, given technological changes and customer expectations". The regulator said it had been engaging with the senior management of major banks to understand how they plan to cope with the challenges brought by technological advancement and would continue to monitor and assess how AIs manage technology related risks.

The **Hong Kong Insurance Authority (HKIA)** welcomed the insurance industry initiatives announced in the 2018-19 Budget, in particular offering **tax concessions** to encourage the development of the **deferred annuity market** and to give people more financial planning options for their retirement. The regulator indicated it will consult with industry in the near future to develop guidelines for implementing the tax concession.

The Securities and Futures Commission (SFC) identified its **2018 enforcement priorities** as corporate fraud, insider dealing, market manipulation, intermediary and sponsor misconduct, and money laundering internal control failures. The SFC also noted that the Manager-In-Charge regime will help in the identification of individuals responsible for misconduct.

The SFC issued a second warning on the potential risks of dealing with **cryptocurrency exchanges** and investing in **initial coin offerings** (ICOs). The regulator noted hacking, misappropriation and volatility risks and said it had taken regulatory action against a number of cryptocurrency exchanges and issuers. Professionals who advise on offer structure were also urged to "do proper gatekeeping … and to assist us in ensuring compliance with the law".

The SFC issued a circular on expected standards of conduct and internal controls when providing **client facilitation services**. It follows a thematic review of selected licenced corporations (LC) and ongoing concerns about the conflicts of interest that may arise when LCs assume a risk-taking principal position rather than an agency position. The SFC highlights instances of **good and substandard practices** it observed during the thematic reviews. For example, in relation to management oversight, an example of good practice was having senior management sign off on daily reports capturing exceptions. On policies and procedures, good practices included clearly defining the scope of client facilitation services (e.g. stating that only client facilitation traders were responsible for providing risk prices to clients). A substandard practice for managing conflicts of interest was having policies and procedures that only covered conflicts as a general topic. Management approval for any major change in the logic of surveillance systems was identified as a good monitoring practice, while trade surveillance systems that generated a large number of false alerts closed by the surveillance team without sufficient written justification or follow-up action was an example of a substandard practice. In relation to physical segregation, the SFC noted as a good practice having compliance staff between agency and client facilitation traders, but disapproved of client facilitation desks seated next to agency desks. Other examples of good and poor practices for consent, disclosure and indications of interest are also set out in the circular.

India

The **Reserve Bank of India (RBI)** announced guidelines which provide that loans up to Rs 25 crore disbursed to micro, small and medium enterprises (MSMEs) would now only be **classified as bad loan or non-performing assets** (NPAs) after 180 days. At present, banks and non-bank financing companies (NBFCs) in India generally classify a loan account as NPA based on 90-day and 120-day delinquency norms, respectively. The new guidelines also change the criteria for classifying MSMEs, such that enterprises having annual turnover of: less than or equal to Rs5 crore will fall under the 'micro' category; between Rs 5 crore to Rs 75 crore will be classified as small enterprises; and between Rs 75 crore and Rs 250 crore will be classified as medium enterprises. Further, all bank loans to MSMEs engaged in providing or rendering of services as defined in terms of investment in equipment under Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, shall qualify as priority sector without any credit caps. In addition, the guidelines provide that in order to ensure proper discipline in reporting currency chest transactions, a flat penalty of Rs 50,000 may be levied for delayed reporting.

RBI introduced a revised framework in relation to the **resolution of stressed assets**, withdrawing all extant instructions in this regard, such as SDR, S4A and CDR. For borrower accounts with an aggregate exposure of Rs 20 billion and above which are in default, a resolution plan has to be implemented by all the lenders within 180 days from 1 March 2018. If the lender has not implemented the plan, they are required to file insolvency applications within 15 days.

RBI launched the **Ombudsman Scheme for NBFCs** for redress of complaints against them. The scheme aims to provide a cost free dispute resolution facility for deficiencies in the services concerning deposits, loans and advances and other specified matters. The complainant/ NBFC will also be given the option to appeal against a decision of the Ombudsman.

The RBI issued revised guidelines on risk management and inter-bank dealings in regards participation of a person resident in India (residents) and foreign portfolio investors (FPIs) in the **exchange traded currency derivatives** (ETCD) market. Under the new guidelines, residents and FPIs will be permitted to take long or short positions without having to establish the existence of underlying exposure, up to a single limit of USD 100 million equivalent across all currency pairs involving INR, put together, and combined across all exchanges.

The **Securities and Exchange Board of India (SEBI)** issued a circular advising that additional TER of up to 30 basis points would be allowed for **inflows from beyond top 30 cities** instead of beyond top 15 cities. Currently, fund houses can charge a maximum of 2.5% of assets under management (AUM) for managing an equity scheme. On top of this, 20 basis points of AUM can be charged in lieu of an exit fee, and another 30 basis points for promoting mutual fund penetration in small towns. This takes the total charges to a maximum of 3%. Distributors operating from cities ranking 16th to 30th as per AMFI will no longer receive additional incentives. The cities ranking 16th to 30th are: Guwahati, Coimbatore, Ludhiana, Panaji, Indore, Patna, Rajkot, Bhubaneshwar, Nashik, Cochin, Jamshedpur, Varanasi, Bhopal, Ranchi and Raipur.

SEBI eased the norms for **foreign portfolio investors (FPIs)**, including doing away with the prior-approval requirement in case of change in local custodian. The guidelines also permit appropriately regulated private banks and merchant banks to invest on behalf of their clients, subject to certain conditions. By the new policies SEBI is working towards attracting and securing more FPIs, with a view to boosting the Indian economy by facilitating capital inflows.

SEBI issued revised guidelines to enhance **fund governance for mutual funds**. The revisions permit existing independent trustees and independent directors who have held office for nine years or more (as on 30 November 2017), to continue in their respective position for a maximum of one additional year. Further, auditors who have conducted audit of the mutual fund for nine years or more may continue until the end of the 2018/19 financial year.

SEBI issued a circular under which **retail individual investors applying for shares in IPOs** would need to be compensated if banks fail to make the allotment despite eligibility. In addition, the public issue bank would need to pay an interest amount of 15% to the investors for failing to resolve the grievance within 15 days. No compensation will be payable to the applicant if the listing price is below the issue price

Indonesia

Indonesia's **Financial Services Authority (OJK)** issued a circular on Sharia Supervisory Board's that advise and **oversee Sharia pension plans**. The circular sets out coverage and content for Board reporting on supervision and compliance with Sharia principles, and also the timelines and methods for submitting reports to the OJK (e.g. must be signed by all Board members and submitted by 30 April).

The OJK issued a new regulation on the **financial health of insurance companies**. The regulation covers matters such as: •minimum solvency levels (at least 100% of the risk-based minimum fund), •restrictions on assets and investments (e.g. prohibition on derivative transactions except in specific circumstances), •calculation of liabilities (e.g. must include all liabilities of the company, including technical reserves), •asset segregation, •establishing a guarantee fund, •reporting obligations (e.g. monthly, quarterly and annual financial statements, with the latter being audited and submitted to OJK), and •requirements around financial restructuring plan when solvency targets not met.

The OJK announced the launch of the **Bond Issuance Information Service**, which gives the community access to information and guidance on local bond issuance.

The **Directorate General of Tax** was reported as stating that **financial data exchange** and automatic exchange of information (AEOI) for taxation purposes with Singapore will begin in September 2018 and that Indonesia plans to implement similar reciprocal exchange of financial information processes with 101 other jurisdictions, including Japan and Hong Kong.

"OJK encourages the formation of a more accountable, transparent, and long-term financial services sector to respond to these sustainable financing needs, financial service actors are encouraged to innovate, develop both financial products and services both short and long term."

Wimboh Santoso
Chairman, Otoritas Jasa Keuangan

Japan

It was reported that **Japan's Financial Services Agency (JFSA)** is preparing to **overhaul the financial services legal framework** so that all providers are subject to the same rules. The move responds to the growth in FinTech players and would see a shift from entity-based rules to rules based on activity or function. The JFSA is reportedly designing the new rules around four key functions: settlements, credit, investing and risk transfer. The treatment of deposits was the subject of debate at Financial System Council meeting.

Following a hacking incident at Coincheck Inc. that led to the theft of ¥580mn in NEM coin, the JFSA issued orders requiring all 31 **virtual currency exchange companies** to review and report on their system risk management, announced plans to conduct on-site inspection for 15 virtual currency exchange operators currently going through the registration process, and met with the National Police Agency and the Consumer Affairs Agency to exchange information and formulate a collaborative response to the cyber incident.

The JFSA announced that the new **Zengin Electronic Data Interchange** (ZEDI) system will be adopted in December 2018 for all Japanese banks. The new system is designed to accelerate **payment-clearing** process, streamline the financial transfer processes, particularly in terms of bulk bank transfers, and enabling transmission of distribution information (e.g. number IDs of payment notices and invoices).

New **AML/CTF** guidelines were published by the JFSA, which clarify expected standards around governance and risk management, and stress the importance of a risked based and forward looking approach.

The JFSA finalized guidelines on the **fair disclosure rule**, which set out the regulators expectations on managing corporate information. The guidelines will take effect on 1 April 2018.

The JFSA published the list of institutional investors who have notified the regulator of their intention to accept the **Stewardship Code**. The JFSA will update the list as and when it receives new acceptance notifications from institutional investors.

"Though we have finalized the rule-making phase of Basel III, we are still facing significant challenges in its implementation phase. Since Basel rules concerning risk weighted asset calculations involve significant implications on level playing field concerns, it is all the more important for every jurisdiction to implement them in a globally harmonized manner. To be frank, Asian regulators are proud of our excellent track records in implementing Basel rules. Therefore, we would like to urge other major jurisdictions to implement Basel III faithfully in accordance with the agreed timeline."

Shunsuke Shirakawa
Vice Commissioner, Financial Services Agency

Korea

Financial Supervisory Services (FSS) Governor Heungsik Choe delivered a speech in which he identified **key priorities for the FSS during 2018**. The Governor divided the 2018 regulatory agenda into four areas: (a) consumer protection, (b) improving the stability of the financial system, (c) maintaining orderly and disciplined markets, and (d) innovation and growth through financial reform. On consumer protection, the FSS plans to: •work toward a less reactive and more **proactive approach to regulation**, •"work…to put an end to financial firms' misconduct", •focus on firms "cultivating a healthy pro-consumer business culture" and embracing "**consumer-first" principles**, and •enlist **behavioural economics** to better understand consumers. The FSS also plans to employ a forward-looking approach to ensuring stability of the financial system, which will include **top-down stress test** models to evaluate risk both at individual firm and sector level. With regard orderly and disciplined markets, the Governor referred to volatility associated with "**politically themed" stocks and virtual currencies** and said the FSS would "make it our mission to go after anything and everything that is illegal". On innovation and growth, the FSS will be looking both inward and outward, revising "bureaucratic, heavy-handed" supervision practices, as well as **simplifying and streamlining regulatory processes** (e.g. licensing and consumer contract review).

"The whole world is now framing the outline [for cryptocurrency] and therefore [the government] should rather work more on normalisation than increasing regulation"

Choe Heung-sik
Governor, Finance Supervisory Service

The **Financial Services Commission (FSC)** released its plan for a comprehensive **supervisory framework for financial conglomerates**. The aim of the framework is to capture and manage the full spectrum of group-wide risks, close regulatory gaps between holding and non-holding financial groups, and help prevent any possible contagion of group-wide risks into financial affiliates. Any group of companies with financial affiliates of KRW5 trillion or more in assets in at least two sectors of banking, insurance or securities will be subject to comprehensive supervisory rules. Among other things, such financial conglomerates will be required to: •report group-wide capital adequacy and aggregate risk management to regulators, and also disclose to the public, •have the financial company which is at the top of the group's organizational structure (or holds biggest shares of the group's assets and equity capital) identified as a representative company to take responsibilities of group-wide risk management, •assess capital adequacy on a group-wide basis to limit excessive leverage, •maintain group-wide capital adequacy at a higher level than the sum of minimum capital requirements of its financial affiliates, •conduct group-wide stress tests to assess the impact of risk contagion on financial affiliates in the event of a crisis, and •have a contingency plan for financial affiliates. The FSC also plans to: •develop an assessment program to evaluate the size and possibility of risk contagion in a financial conglomerate, •strengthen 'firewall' measures between financial and non-financial affiliates to prevent conflict of interests in governance, intra-group transactions and ownership structures, and •publish best practice guidelines in March 2018 to trial the framework. The FSC intends to submit a draft bill for comprehensive supervision by the end of 2018, with a view to phase in the new framework during 2019.

The FSC made revisions to its guidelines on **P2P lending platforms** to strengthen disclosure requirements (e.g. disclose external audit report, major shareholder details, loan status of borrower) to increase general investor limit from KRW10m to KRW20m (subject to some restrictions).

Malaysia

Bank Negara Malaysia (BNM) issued a discussion paper seeking views on a 'Responsibility Mapping' framework. The paper sets out a proposed **accountability framework** for individuals who have senior roles in financial institution**s** (FIs). The proposed framework complements and clarifies legal and regulatory requirements for individual and collective accountability, and will apply to licensed banks (including investment and Islamic), licensed insurers and takaful operators, prescribed development FIs, and financial holding companies. BNM identifies the existing (e.g. Board Chair, CEO, CFO) and proposed new (e.g. Head of Key Business Function) 'prescribed senior roles' that FIs must establish. In addition, existing and new 'basic' responsibilities that attach to these senior roles are identified. For example, senior management will have a new basic responsibility of taking all reasonable steps to ensure that the activity for which they are responsible complies with relevant legal and regulatory requirements. FIs will have the discretion to add to senior roles and develop specific responsibilities. The new proposals mainly impact senior management. Rules are also set out for allocating roles and responsibilities to individuals (e.g. each senior role must be assigned to an individual, their responsibilities are to be clearly articulated and documented and double-hatting will only be permitted in some circumstances). Finally, the discussion paper identifies when individuals will be accountable for contraventions. BNM plans to finalise policy on responsibility mapping and individual accountability during 2018, with a view to implementing in 2019.

BNM ordered **digital currency exchanges to comply with AML/CTF** rules applicable to other financial companies.

BNM announced that the Shariah Advisory Council ruled that the practice of **collateralising deposits and investment accounts to secure a financing** obligation is permissible. The account can be utilised by Islamic financial institutions (IFIs) (as pledgee) with the consent of customers (as pledgor), provided that: (i) customers are allowed to choose any type of account, including deposit or investment account as collateral against the payment of financing obligation, and (ii) the financial obligation or liability owed by the customer to the IFI does not arise from a loan (qard) contract.

"Regulation is never intended to make market players 'boring'. If they feel that way, it only tells us one thing – that they have become too complacent in their comfort zone and should undertake a reality check. Malaysia's financial institutions especially must not lay idle as innovations will be relentless in accessing and penetrating the traditional market long enjoyed by the banks. Using the disguise of being tied by regulations is not a valid excuse…So beware. Those bankers who are complacent and meek might experience the rug being pulled from underneath them."

Tan Sri Muhammad Ibrahim
Governor, Bank Negara Malaysia

Malaysia (cont.)

In an effort to boost vibrancy and liquidity of the equity market, the **Securities Commission Malaysia (SCM)** and Bursa Malaysia announced the following new measures: •waiver of stamp duty on shares of mid and small cap companies for three years from 1 March 2018, •waiver on trading and clearing fees for six months for new individual investors, •removal of the current margin financing limit of 200% of the effective PO’s shareholders’ funds, and •intraday short selling allowed for all investors.

The SCM, Monetary Authority of Singapore (MAS) and the Securities and Exchange Commission of Thailand (SECT) announced the signing of a Memorandum of Understanding to **enhance the ASEAN Collective Investment Schemes (CIS) Framework**. The framework enables fund managers operating in one jurisdiction to offer funds to retail investors in the other two jurisdictions under a streamlined authorisation process. The revisions: •lower qualifying criteria to US$350 million assets under management from the current US$500 million, •shorten the time-to-market for the launch of funds, as the signatories have committed to reviewing within 21 calendar days a complete application from fund managers for the authorisation of a fund, and •increase from 20% to 100% the proportion of the fund’s assets that can be sub-managed by a manager that is not regulated by a signatory.

SCM and MAS also announced that they will establish a **stock market trading link** between Bursa Malaysia (BM) and Singapore Exchange (SGX) by the end of this year. The aim is to allow investors to trade and settle shares listed on each other’s stock market in a more convenient and cost efficient manner. MAS and SCM will set up cross-border supervisory and enforcement arrangements.

Singapore

The **Monetary Authority of Singapore (MAS)** and the Central Bank of Egypt signed an agreement to **strengthen FinTech cooperation**, including a framework under which the regulators can explore potential joint innovation projects and share information on emerging FinTech trends.

MAS launched a consultation on proposed **electronic payments guidelines**. The guidelines: •set out liability caps, which clarify the amounts that the account user and the financial institution will be liable for in any unauthorised payment transaction, •set out the notification duties of account users and financial institutions, and •propose clear resolution processes for unauthorised or erroneous payment transactions. Users of e-payments will be expected to adopt good security practices to protect their passwords and e-payment accounts, and account holders will be liable for losses that occurred primarily due to their recklessness. MAS plans to publish final guidelines in the first half of 2018.

MAS issued guidance to on the use of innovative technology solutions to facilitate safe, **non-face-to-face (NFTF) customer on-boarding**. In addition to biometric identification, real-time video conferencing, and secure digital signature using Public Key Infrastructure (PKI)-based credentials, MAS will allow the use of ‘MyInfo′ for NFTF customer identification and verification.

MAS Executive Director Lim Cheng Khai delivered a speech at an investment manager’s forum in which he identified the following matters as **key regulatory priorities for 2018**: •progressing the policy and tax framework, as well as the fund registration system, for the **Singapore Variable Capital Company Framework**, •engaging with financial institutions to understand how they embed the desired **conduct and culture** in their day-to-day decision-making and operations, and sharing with industry conduct and culture best practice, •good **corporate governance**, including through support of the Corporate Governance Council in Singapore’s Code of Corporate Governance, and •reviewing the **Technology Risk Management** Guidelines, including more specific guidance on areas such as cyber security operations, surveillance, assessment and exercises, as well as risk management principles on new technologies such as open application programming interfaces, cloud and virtualisation.

Tharman Shanmugaratnam, Deputy Prime Minister and Minister in charge of MAS, said that there is presently no strong case to ban **cryptocurrency trading** in Singapore, but intermediaries will be subjected to AML regulations and MAS “will keep highlighting to Singaporeans that they could lose their shirts when they invest money in cryptocurrencies”.

> **“**Let me now turn to a topic that is at the heart of the financial sector – that of culture and conduct. In the quest for business growth, financial institutions…need to keep at their core an ethos to do the right things, and do things right…We will look beyond compliance frameworks to assess if the manager has embedded a sound “risk and ethics DNA” – one in which employees are aware of the risk boundaries; are being held accountable for their actions; and are empowered to speak up when they suspect or encounter malpractices”
>
> **Lim Cheng Khai**
> **Executive Director, Monetary Authority of Singapore**

Thailand

The **Bank of Thailand (BOT)** asked financial institutions not to engage in or support transactions involving **cryptocurrency**. In addition, the BOT requested that all financial institutions be cautious about offering deposit and credit services that may lead to transactions involving cryptocurrency, and said robust know your customer (KYC) and customer due diligence (CDD) should be carried out.

The BOT issued **net stable funding ratio** (NSFR) guidelines requiring commercial banks to maintain a ratio of not less than 100%.

Suttiphol Taveechai, the Secretary General of the **Insurance Regulatory Commission,** indicated that the rules for **selling insurance products**, as well as the regulation of **insurance intermediaries**, will be reviewed and there will also random checks of representative offices and insurance brokerage offices.

It was reported that the **Finance Ministry** wants to set up an autonomous body to **regulate non-bank financial institutions** that are not supervised by the central bank, and that a bill is being drafted to oversee non-bank financial institutions that engage in leasing, factoring, picofinance and nanofinance.

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