Deloitte.

CENTRE *for* REGULATORY STRATEGY ASIA PACIFIC

Asia Pacific Regulatory Update

August 2017

After a flood of releases from international authorities in July, there was a marked slowdown in August. While these predominantly European based organisations may have had a break for the summer, regulatory activity in Asia Pacific has continued at a high.

India's Household Finance Committee made a comprehensive set of recommendations for improved **participation in financial markets,** including new financial adviser and data protection frameworks. The Chinese government introduced new rules on **outbound investments**, while in Indonesia regulations were made to encourage **infrastructure financing**. The Australian government proposed legislation to establish a regulatory framework for the **Asia Region Funds Passport** and also outlined how it will progress consideration of an **open banking regime.**

China and Australia took steps to bring the growing group of internet based lenders and other **FinTechs within the prudential regulatory remit,** while Japanese regulators identified how they would respond to impediments to market supervision bought about by **technological innovation**. A payments council was set up in Singapore as part of initiatives to develop **e-payments**, and regulators in the city state provided warnings on **digital currencies**.

In Hong Kong and Australia the lists of acceptable regimes for substituted compliance with regards non-centrally cleared **derivative margining rules** were updated by regulatory authorities. The potential impacts of an **ageing population** was a theme for both Korean and Japanese supervisors. Malaysia's central bank cited "values based intermediation" as a means to facilitate **sustainable business practices**, while Korea's government chose to introduce laws that defer **executive bonuses** as a way of incentivising decisions for longer term sustainability. Regulators in Japan, New Zealand and Australia outlined their **priorities for the upcoming year** and beyond.

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

International

The International Organisation of Securities Commissions (**IOSCO**) released a consultative paper on recommendations to improve **transparency in corporate bond markets**. The purpose of the consultation is to identify how corporate bond data is used to assist regulators and what additional data reporting requirements are needed to promote this. IOSCO will also develop recommendations that update the 2004 core measures to reflect current market and regulatory frameworks. Seven recommendations were proposed as part of the consultation, each of which points towards heavier data capture and reporting requirements for firms dealing in corporate bond markets.

The Basel Committee on Banking Supervision (**BCBS**) issued a consultative document on the near to medium term implications of **FinTech** innovations for supervisors and banks' business models. Ten key observations and corresponding recommendations are made. Of note, the BCBS finds that because many bank regulatory frameworks were designed before new technologies and FinTech business models emerged, some FinTech's fall outside regulatory remit and there are also unnecessary barriers to entry. A review of current frameworks is recommended by the BCBS in this regard.

The Financial Stability Institute (FSI), part of the Bank for International Settlements (BIS), announced **a new series of publications** entitled *FSI Insights on Policy Implementation*, with the purpose of stimulating discussion on the policy and implementation issues currently faced by financial sector authorities. Two papers were launched upon announcement, focusing on proportionality and cyber-risk.

The paper on **proportionality** examines efforts in applying proportionality concerns across six jurisdictions: Brazil, the EU, Hong Kong SAR, Japan, Switzerland and the US. It was found that measures and thresholds for becoming regulated, and those Basel standards subject to proportional implementation contrast significantly between jurisdictions. Under Basel, internationally-active banks should be compliant with all Basel principles enforced by their jurisdictional authority in order to promote international financial stability, restrict international contagion and ensure a level playing-field for competition. However, smaller non-internationally active banks will receive a disproportionate compliance burden due to the high fixed cost of identifying and navigating regulation. Overcoming this has been an issue for all members.

The FSI paper on **cyber-risk** examines regulatory and supervisory frameworks regarding cyber-risk across Hong Kong SAR, Singapore, the UK and the US. It notes that member authority perspectives on cyber-risk regulation vary between extremes of no regulation, heavily prescriptive regulation, and the middle-ground of principles-based guidance. Proponents of the 'no regulation' argument note that the speed of change in the industry will mean regulation is prone to become quickly outdated. Contrastingly, the other side notes that enforcing regulations is the first step to ensuring board and senior management buy-in. Despite differences, common requirements were noted across the jurisdictions including for cyber-risk governance frameworks, identification of critical information assets, and penetration testing.

The International Association of Insurance Supervisors (**IAIS**) published an aggregate report of a thematic Self-assessment and Peer Review on Reinsurance and Macro prudential Surveillance and Insurance Supervision (**ICPs 13 and 24**). A total of 77 authorities (39% of the IAIS membership) participated in the SAPR. Key findings of the expert team include: • the number of "observed" assessments is comparatively low and "partly observed" comparatively high when compared to other ICPs, • there is not enough specific supervisory attention dedicated to reinsurance specific risks (e.g. timing of contractual documentation or liquidity risks), and • macro prudential surveillance of the insurance sector lacks systematisation and formalisation. In light of these findings the expert team recommended: • clarity and guidance on reinsurance-specific supervisory considerations, • guidance on tools and other resources for carrying out macro prudential practices in a more systematic fashion, and • clarity on the "division of labour" between macro prudential surveillance and supervision goals and activities.

Australia

The Australian Prudential Regulation Authority (**APRA**) released its corporate plan, an annual publication identifying ways the regulator will progress strategic initiatives over **the next four years**. **Recovery and resolution planning** will continue to be top of mind for APRA, with objectives including assisting in the passage of the Crisis Management Bill and strengthening internal and external crisis readiness. On **FinTech** and **cybercrime** APRA plans to: • review its licensing processes to examine how FinTech benefits can be harnessed without unduly adding risks, • review how cyber security risks are being managed by regulated entities, and • enhance its own processes for effectively mitigating cyber risks. APRA's interest in **risk governance and culture** will persist, with particular attention on enhancing governance and risk management practices in the **superannuation** industry and promoting quality outcomes for members. Other focus areas for APRA will be **profitably** challenges for life insurance and **prudent lending** standards in authorised deposit institutions (ADIs).

A revised consultation package on **counterparty credit risk (CCR)** was released by APRA, following on from an initial release in September 2016. The package is APRA's response to, and proposed implementation of, BCBS standards. The consultation package includes a discussion paper on CCR for ADIs, revised draft changes to APS112 and APS180, and three draft reporting standards. Notably, ADIs with immaterial exposure to CCR will be allowed to use the simpler *Current Exposure Method* of CCR measurement, as opposed to APRA's initial position of requiring all ADIs to move to the standardised approach for CCR. APRA intends to finalise these revised requirements by late 2017 and has extended the commencement date to January 2019.

Following consultation, APRA has finalised its Prudential Standard on ***Margining and risk mitigation for non-centrally cleared derivatives*** (CPS226) and has agreed to allow **substituted compliance** (where regulated entities may substitute APRA compliance for compliance with a foreign authority with similar requirements). The purpose of substituted compliance is to prevent the burden of double compliance where a regulated body would be subject to both CPS226 and the regulations of a foreign authority. The revised CPS226 will take effect in September 2017.

APRA has opened for consultation, a discussion paper on changes to the process for **authorising new entrants to the banking industry**. The changes aim to simplify the ADI licensing process and reduce barriers to enter the banking sector, particularly for non-traditional banking institutions and FinTechs. A phased approach has been proposed which greatly shortens the assessment of the licensing process and instead includes a "restricted ADI" stage, which allows the institution to have restricted banking operations until such time as it can show all requirements of the prudential framework have been met. The restricted ADI license will have a maximum lifetime of two years, at which stage the institution will move to a standard ADI licence or exit the sector.

APRA provided responses to submissions for its proposed **modernisation of data collection**, the Economic and Financial Statistics (EFS) collection. Twenty-nine submissions were made during the consultation period, leading to several key changes to the proposed reporting requirements. Most importantly, the implementation date has been delayed from 1 July 2018 to 31 March 2019 and the proposed data quality elements have been combined into a revised reporting practice guide (not a standard) with the assurance elements transferred to a separate reporting standard.

APRA has announced that it will release several **changes to the superannuation framework** for consultation in the coming months. These changes include: • requiring APRA-regulated superannuation trustees (RSE licensees) to maintain an operational governance framework that includes policies and processes to support strategic and business planning, and • requiring RSE licensees to undertake an outcomes assessment for all members.

The Australian Securities and Investments Commission (**ASIC**) said results of audits conducted by eight Australian banks indicated improvements should be made to the sale of **consumer credit insurance** (CCI, a type of add-on insurance sold with credit cards, personal loans, home loans and car loans). In response, ASIC set up a Consumer Credit Insurance Working Group to progress a range of reforms, including a deferred-sales model for CCI sold with credit cards over the phone and in branches. The Australian Bankers' Association will incorporate these measures into the revised Code of Banking Practice and will accelerate their introduction so that they commence in the first half of 2018.

Australia (cont.)

Treasury issued a consultation proposing legislative amendment to provide vulnerable consumers with greater protections and increase competition between **credit card** issuers. Amendments proposed include: • a prohibition on unsolicited credit increase offers, • simplification of the calculation of interest and backdating of interest charges, and • requiring online options to cancel credit cards and reduce credit limits.

A short issues paper on introducing an **open banking regime** in Australia was also released by Treasury. The global trend toward giving customers greater access and control over their financial data is noted, and the paper briefly outlines how this can help consumers make better choices, enhance competition and facilitate innovation. The paper then identifies the particular issues that will be examined going forward, namely: • what data should be shared, and between whom, • how data should be shared, • how to ensure shared data is kept secure and privacy is respected, • the appropriate regulatory framework, and • the implementation timeline, roadmap, and costs.

Draft legislation to give APRA **additional powers in the case of resolution of banks and insurers** was released for consultation**.** The draft legislation includes provisions aimed at enhancing APRA's statutory and judicial management regimes, improving the regulators ability to implement a transfer, ensuring effective conversion and write-off of capital instruments, enhancing stay provisions, and simplifying powers in relation to the wind-up or external administration.

Treasury is further consulting on draft legislation to establish a regulatory framework for the **Asia Region Funds Passport** (Passport) and **Corporate Collective Investment Vehicle** (CCIV). The Passport is intended to support the development of an Asia-wide managed funds industry by setting up a multi-lateral regulatory framework across member countries (current signatories are Australia, Japan, Korea, New Zealand and Thailand). The Passport will allow eligible funds based and regulated in one economy (the home economy) to be sold to investors in other economies in the region (host economies). Each member country must incorporate Passport rules into their domestic law to facilitate mutual recognition. The home economy regulator will generally be responsible for supervision and enforcement of requirements relating to the operation of the funds (as set out in the home economy laws and regulations, as well as in the Passport rules). The host economy regulator will generally be responsible for supervision and enforcement of investor-facing requirements such as disclosure.

The CCIV legislation aims to create an internationally recognisable investment vehicle that can be readily marketed to foreign investors, including through the Passport. The proposed CCIV legislation will see the current **managed investment scheme** (MIS) regime replaced with a new model based on European-style corporate funds (e.g. UCITS, OEIC). For example, the current MIS trust-based structure is planned to be replaced with a corporate structure. However, features of the MIS regime have also been incorporated into the design of CCIVs so that regulatory parity can be maintained to the best extent possible.

"Creating a sustainable business today is not only about the quality of the product or service that is delivered. It is also about the quality of a firm's conduct, both internally and externally. If the culture and values of a business are not aligned with customer outcomes, it is easy to see how a trust deficit will emerge, and this will impact its long-term sustainability."

Greg Medcraft
Chairman
Australian Securities and Investments Commission
11 August 2017

Mainland China & Hong Kong SAR

The People's Bank of China (**PBOC**) has created a **centralised online clearing platform** with a view to enhancing oversight of the country's large online payment market. The PBOC reached agreement with 45 nonbank financial firms (including Alibaba Group Holding Ltd. and Tencent Holdings) to connect and route transactions through the new platform. The PBOC is also proposing to include FinTechs in macro-prudential assessments (hitherto reserved for large banks). This is another move that recognises the increasingly important role played by internet based financial service providers in the Chinese financial system. Starting in the first quarter of 2018, the PBOC will also **include negotiable certificates of deposit** (NCDs) in its quarterly risk assessments. This follows concerns that lenders should reclassify NCDs as interbank liabilities to provide a more holistic view of risks.

New rules requiring banks to take **audio and video recordings when selling** wealth management products were issued by the China Banking Regulatory Commission (**CBRC**) and will commence in October. The regulator indicated the requirements have been made in light of the sale of more varied and complex products, which is more "prone to misleading and fraudulent" behaviour that is not in the interest of consumers. Provisions include that products should not be sold to anyone who does not agree to be recorded and for keeping records for six months after a contract ends (or longer if there is a dispute). The CBRC said the vast majority of banks have already started to put in place relevant measures, but the rules will further deepen and standardise practices.

The CBRC was reported as saying that moves to crack down on illicit banking activities have achieved initial targets, but that **20 sets of new regulations** to increase supervision will be issued this year and will address matters such as online lending, interest rate risks and asset management firms.

China's **State Council** issued new guidelines on **outbound investments** by Chinese businesses. The guidelines specify the types of investments that are encouraged, restricted or prohibited. Encouraged investments include those that will support the government's Belt and Road initiative, those that involve investment collaboration between Chinese businesses and high-tech manufacturing enterprises in overseas markets, and those that support financial institutions in establishing overseas branch networks. "Restricted" investments include real estate and may require approval rather than simple filings. Examples of "prohibited" investments are gaming and pornography.

The State Council also approved regulations on the supervision and administration of **financial guarantee companies**, with a view to enabling better support for small and micro enterprises. The regulations provide, among other things, governance thresholds, required regulatory approvals, capital requirements, relevant skills and qualifications for leaders, and good internal management systems such as sound business norms and risk controls.

The CBRC issued a consultation on new guidance regarding **debt-for-equity swaps**. The guidance is designed to promote the active and prudent reduction of corporate leverage and to tackle temporary financial difficulties. Under the proposed guidance banks will need to establish a subsidiary to isolate potential risks. These new institutions can be funded by issuing bonds and through the interbank market, but cannot accept funding from the original bank.

The head of China's Insurance Regulatory Commission (**CIRC**), Chen Wenhui, urged insurance funds to cultivate a **prudent investment culture** with a focus on fixed income products and equities. Moreover he stressed that insurance funds need to ensure that investment is a secondary function and that their primary attention should be on building the core insurance business.

"Like taking hold of the nose of an ox, we grasped the main problems in the banking sector, namely the interbank, wealth management and off-balance-sheet businesses…In the last few years, these businesses grew fast and even wild, lacking restraint. And the problem of money idling was most prominent in these fields, rather than having the money flowing into the real economy"

Xiao Yuanqi
Head of the Prudential Regulation Bureau
China Banking Regulatory Commission
18 August 2017

Mainland China & Hong Kong (cont)

The Securities and Futures Commission (**SFC**) sent a circular on irregularities and deficiencies identified within firms engaged in **managing private funds** and **discretionary accounts**. Some of the "questionable" practices highlighted by the SFC included: • discretionary account holders having sizeable concentrated stock positions in their accounts, • asset managers acting solely at the direction of their clients without exercising investment discretion, and • fund investors or discretionary account holders being related (e.g., as a substantial shareholder, director or affiliate) to the listed companies invested by the funds or the discretionary accounts.

The SFC published its quarterly report, outlining **key regulatory developments for April to June 2017**. Of note, the total number of licensed corporations, individuals and registered institutions reached a "record high" of 43,204. The number of licensed corporations also grew by 13, and fines totalled HK$11 million. The SFC advised that it will be **hosting a forum** on 1 December 2017 for European Union and Asia Pacific regulators at which cross-border regulatory issues and further collaboration will be discussed.

The Hong Kong Monetary Authority (**HKMA**) advised that from 1 December 2017 the coverage of commercial credit data sharing through a **Commercial Credit Reference Agency** (CCRA) will be expanded to include non-listed limited companies with an annual turnover of up to HK$100 million.

The HKMA announced that training and simulation tests covering **OTC derivatives products under phase 2** reporting (which came into effect on 1 July 2017), will be conducted in the second half of this year. Entities subject to mandatory reporting obligations must sign up for the HKTR's reporting service and must complete a scenario test and a product specific test.

In view of recent international developments regarding the Democratic People's Republic of Korea, the HKMA reminded authorised institutions (AIs) of "the importance of continued vigilance for possible activities or transactions that are suspected to be related to the proliferation of **weapons of mass destruction**" and said it expects that AIs will "maintain a comprehensive and up-to-date watch list database for effective identification of names that may trigger suspicion".

India

The Reserve Bank of India (**RBI**) published the Household Finance Committee's Report on Household Finance in India (the Report). The report spans 160 pages and provides a comprehensive exploration of the current state of Indian household's **participation in formal financial markets**, as well as numerous **recommendations for reform**. Key characteristics of Indian households that the Committee sees as requiring policy responses include: • the "near total absence" of pension wealth, • a tendency to borrow and take out mortgages later in life (meaning an increased likelihood of reaching retirement age with positive debt balance), • high levels of unsecured debt, • high levels of debt taken from non-institutional sources (e.g. moneylenders), • low levels of insurance despite numerous sources of risk, and • a relatively large fraction of wealth being in the form of physical assets (in particular, gold and real estate). The Committee's recommendations aim to address the noted issues and more generally enhance Indian household's participation in the financial markets. In this regard, enabling "financial innovation to cater to the twin imperatives of customisation and scalability" is seen as critical.

Committee recommendations include: • banks should **quote loans** to customers using RBI's repurchase rate, rather than the marginal cost of funds-based lending rate, • all banks to use one month **period for resetting** floating loan rates, • a new **product and industry agnostic framework** for financial advice, • **separation of distribution and advisory** businesses (with the "RBI to immediately require banks to have a separate entity to sell products"), • a **regulatory sandbox** to encourage development of more tailored and affordable financial products • regulatory guidance on **robo-advice,** • an **e-KYC** system, • more **granular reporting** of loan and insurance data, • removal of certain tax exemptions and creation of new **tax incentives,** • the introduction of **new types of gold bonds,** • **default access** to a list of certain simple financial products, and • a new **rights based data protection** framework.

The Securities and Exchange Board of India (**SEBI**) issued a circular requiring listed firms to publicly disclose bond or **loan defaults within one working day**, with a view to addressing a "critical gap in the availability of information to investors" and noting that "many banks are presently under considerable stress on account of large loans to the corporate sector turning into stressed assets". The requirements take effect on 1 October 2017.

India (cont.)

SEBI constituted a **Committee on Financial and Regulatory Technologies** (CFRT). The Committee will advise SEBI on: • technology trends, • opportunities and challenges, • FinTech solutions for Indian securities market, • a regulatory sandbox framework, • preparing for FinTech adoption while promoting market integrity, market development, and consumer protection, • technological solutions for SEBI's regulatory functions, and • technology capacity building by SEBI.

A **Fair Market Conduct Committee** was also set up by SEBI to provide advice on: • improvements to regulations on insider trading and fraudulent and unfair trade practices, • short and medium term measures for improved surveillance of markets, • high frequency trades, • harnessing technology and analytics in surveillance, and • evidentiary issues in antifraud enforcement. The Committee is expected to report to SEBI before the end of the year.

The Insurance Regulatory Development Authority of India (**IRDAI)** proposed amendments to regulations on payment of **commission, remuneration or reward to insurance agents and intermediaries**. Amendments proposed include: • a carve-out for the IMF with regards to rewards for life insurance business, • allowing a commission/remuneration of 2.5% on motor TP part of the motor (comprehensive) policy from the fourth year of registration of the automobile vehicle, and • dividing the motor category into "two wheelers"' and "other than two wheelers", with a higher commission remuneration of 17.5% allowed for the two wheeler segment. Changes are planned to take effect on 1 November 2017.

IRDAI clarified that insurers who have **raised capital by issuing debentures** need to create a Debenture Redemption Reserve (DRR) pursuant to the Companies Act 2013 and associated rules. As per present stipulations, a DRR of 25% of the value of outstanding debentures is adequate. The regulator also clarified that the DRR should be ignored and not considered as a liability for the purpose of computation of solvency margin and ratio.

IRDAI constituted a working group to facilitate **early adoption** of a new standard on insurance contracts in India equivalent to the International Accounting Standards Board (IASB) **IFRS 17** *Insurance Contracts*.

RBI Governor Dr. Urjit R. Patel spoke of India's "multi-pronged approach" for **resolution** of stressed assets, drawing particular attention to the Insolvency and Bankruptcy Code of 2016, the recent Banking Regulation (Amendment) Ordinance, the Central Repository of Information on Large Credits, and measures by SEBI that will require listed entities to disclose defaults on bank loans within one working day. On the need for higher provisioning by public sector banks (PSBs), the Governor said that a package of measures is being discussed, designed to help PSBs shore up requisite capital, such as through capital raising, dilution of government holdings, mergers and sale of non-core assets. Deputy Governor Viral Acharya was also reported as calling for banks to have a more "proactive and counter cyclical" approach, and "to provision in good times to save for the rainy day rather than start looking for provisions when things have already gone [bust]".

"Weak credit discipline in banks, right from the appraisal to sanction stage, is one of the main bank specific factors in the build-up of stressed assets... During the Annual Financial Inspections (AFIs) of the banks, it is usually observed that there is a divergence between the NPAs and provisions declared by the banks and those assessed during the AFI process."

Dr Urjit R Patel,
Governor of the Reserve Bank of India
19 August 2017

Indonesia

Indonesia's Financial Services Authority (**OJK**) issued a regulation expanding the choice of **investment instruments for non-bank financial services institutions** in an effort to facilitate project financing of infrastructure projects. The expanded list includes investments in asset-backed securities, limited participation mutual funds and real estate investment funds whose use is for government infrastructure project financing.

The OJK sent a circular to the directors of insurance and reinsurance companies about appropriate **fraud control and anti-fraud strategies**. The circular includes a definition of fraud and anti-fraud, and stresses the importance of active management supervision. Other matters covered are: ● appropriate policies and procedures, ● monitoring, incident evaluation and follow-up, ● reporting and escalation, ● processing, storage, and data security, ● education and training, ● "know your employee" procedures, ● whistleblowing policies that include whistle-blower protection provisions, and ● independent third party review. Covered entities will be required to submit their strategies and report incidents to the OJK.

Another OJK circular provided guidance to insurers and reinsurers on **liquidation balance sheets**, which covers: ● purpose and basic assumption (e.g. prepared on accrual basis), ● contents (e.g. assets, liabilities, estimated costs of liquidation), ● data and information requirements (e.g. list of assets and their classification, list of creditors), and ● OJK submissions and approvals.

"Risk factors to the overseas economic outlook are wide ranging, … the U.S. economic policies and their impact on global financial markets,… negotiations on the United Kingdom's exit from the EU and their effects, …geopolitical risks. I hold the view that it is important to stay vigilant regarding these risk factors"

Yukitoshi Funo
Member of the Policy Board, Bank of Japan
2 August 2017

Japan

The Securities and Exchange Surveillance Commission (**SESC**) released a report on its activities for the year to 31 March 2017 and its **plans going forward**. The SESC observes that various disclosure violations over the year had **governance** malfunctions, inadequate compliance awareness and poor intra-company communication at their root. In order to proactively address these risks, the regulator "will carefully examine not only financial information on disclosure statements but also nonfinancial information". **Technological innovation** is another area of concern, with the "dramatic changes to the face of transactions" meaning new risks will continue to emerge. In this regard, the regulator raises the use of blockchain and cloud computing as potentially impeding regulatory data collection, while transaction monitoring may become even more difficult as the volume of data for analysis grows to "excessive levels" because of high frequency and algorithmic trading. In response, the SESC will focus on keeping up to date with advances in technology and also develop its own **RegTech** capabilities.

The Financial Services Agency of Japan (**JFSA**) released an overview of the most recent **Policy Expert's meeting**, which provides a view of areas of regulatory interest. These include: ● regulation of FinTech, ● enhancing skills and knowledge of new technologies, ● improving firm profitability, ● thinking about the impacts of an ageing population, ● strengthening governance and conflicts of interest management in investment management firms, ● shifting the emphasis from formulation of regulations to implementation and oversight, and ● reflecting on the cumulative effects of regulation to identify any unintended impacts.

It was reported that the JFSA will **dismantle its inspection bureau** in 2018, with on-site inspection functions to be integrated into the supervisory bureau. New teams will be set up to work on regulatory issues associated with **FinTech**, preventing **cyberterrorism** and money laundering, and strengthening financial markets in Japan with a view to moving from a savings to an investment culture.

The JFSA designated the **OTC margin rules** of the Australian Prudential Regulation Authority (APRA), the Hong Kong Monetary Authority (HKMA), and the Monetary Authority of Singapore (MAS) as equivalent, meaning compliance with these foreign rules is deemed as compliance with the corresponding Japanese rules.

Korea

Regulations to defer payment of **senior executive bonuses** were approved in Korea. From December 2017, 40% of a senior executive's annual bonus will be paid out over three years, instead of up-front. If a loss is incurred during this time the bonus can be cut, and in cases of severe loss a bonus can be lost entirely. The regulation aims to prevent adverse effects of short-term incentive payments and encourage decisions that support longer term sustainability.

Korea's Financial Services Commission (**FSC**) announced it will **tighten loan-to-value (LTV) and debt-to-income (DTI) rules** in an effort to curb speculative demand in the housing market and as part of the government's effort to stabilize housing market prices. Specifically, LTV and DTI ratios will be tightened to 40% for home buyers in "bubble-prone" regions (e.g. Seoul and Busan), regardless of types of housing, amount and maturity of such mortgages. To protect "real demand" for housing, the ratios of both LTV and DTI will be relaxed to 50% for first-home buyers, low-income households with annual income of less than KRW 60 million, or low-price housing of less than KRW 600 million. For mortgage borrowing to own multiple homes, LTV will be tightened by a further 10% across the country, while DTI will be tightened by 10% for home buyers in designated areas.

Measures to reduce consumer borrowing costs were also announced by the FSC. The measures **lower the legal limit on interest rates** that moneylenders and specialised credit finance companies can charge to 24% a year.

The FSC released proposed amendments to prepare for **IFRS 17 implementation** in 2021. The aim is to improve the Liability Adequacy Test (LAT) and phase in higher policy reserves standards beginning at the end of 2017. The reserves to be subject to LAT are specified, as are the methods to be used to evaluate the adequacy of policy reserves. There are also provisions for agreement between the Financial Supervisory Service and insurers whose solvency ratio is less than 100% to achieve prudential soundness with additional policy reserves. Insurance companies setting aside additional policy reserves under the enhanced LAT are to be permitted to partially calculate the reserves as capital resource in the solvency ratio calculation.

The FSC issued new measures to curb excessive **short selling**. The short-selling limit will be reduced from 20% to 18% of the Korea Composite Stock Price Index (KOSPI) and 15% to 12% on Korea Securities Dealers Automated Quotations (KOSDAQ). Illicit short selling will also be identified as intentional, light, or heavy and the maximum fine doubled.

The Bank of Korea (**BOK**) published a wave of papers looking at how **population ageing** will impact the economy. One paper investigates the way that the financial sector will be affected, the structural changes that may result, and supervisory responses. Key findings include: ● the financial industry will keep growing until the late 2020s, ● ageing-induced low economic growth and low interest rates, together with flattened yield curves, will likely lead to lower profitability for financial institutions, ● under low interest rates, households will increase their stock or fund investments to seek higher yield, and ● population ageing could increase the concentration of household assets into real assets. The authors suggest: ● the supply of long-term bonds needs to be increased, ● financial institutions should diversify their income sources and strengthen their risk management to cope with lower profitability, and ● authorities need to help households reduce liquidity and price risk related to real estate by making reverse mortgages more accessible.

Malaysia

Bank Negara Malaysia (**BNM**) released a consultation on a **Leverage Ratio (LR) framework** for banking institutions, as part of efforts to meet Basel III regulatory reforms. It is proposed that banks comply with a minimum LR of 3% effective 1 January 2018. Other key elements are that: • application is at entity level (which includes global operations such as overseas branches), • reporting is on a consolidated basis (entity level and subsidiaries, but not including insurance operations), and • replacement cost and potential future exposures are to be used for calculation of derivatives exposures. The Bank is seeking written feedback, including suggestions on areas to be clarified and alternative proposals. In addition, the consultation asks for specific information, such as the size of trade exposures to central counterparties and the size of LR exposure for cash pooling arrangements calculated on a gross basis.

BNM Governor, Muhammad bin Ibrahim, gave a speech on the role and the future of the **captive insurance** industry. He predicts captives will "move beyond the predominant focus on the single parent-captive model and the exclusive domain of large corporates", to a situation where SMEs consider captives as a feasible risk management option, with a consequential growth in group captive models (where assets and risks are pooled across members). Innovations in technology will also provide opportunities for captives, as new business models and risks emerge that "will create new insurance gaps and demand for bespoke solutions". The Governor further identified a need for regulators to understand the specific risks relating to captives at a much deeper level, but noted a "paucity of data" in this regard, which he said "needs to be addressed as a matter of priority".

Meanwhile, BNM's Deputy Governor, Encik Abdul Rasheed, gave a speech on **value-based intermediation** (VBI), which he described as "a holistic approach for our industry players to deliver the intended outcomes of Shariah that generate positive and sustainable impact to the economy, community and environment" and "the way to propel the Islamic finance industry to the next level of growth". The DG advised that the Bank is developing guidance on VBI and that a values based scorecard will be introduced "to realign behaviours and expectations towards the desire to impact the community and the environment in a positive way".

The importance of robust **cybersecurity** was the subject of another BNM presentation, this time from the Assistant Governor. The AG said regulators with financial inclusion mandates care about cybersecurity as less experienced consumers, and those with low financial and technology literacy, may be more vulnerable to cyber-attacks and fraud, and may also struggle to recover from a loss of savings. In order to fulfil regulatory and fiduciary obligations, as well as maintain trust, financial services firms "must invest in technical, procedural and human capabilities to detect when a compromise occurs". The AG urged against a "protective" approach and "check the box" compliance, instead favouring an integrated, cross-discipline and enterprise-wide program of cyber risk management focused on detection and response, which is "tailored to business objectives, while also maintaining a tolerable level of risk".

The eligibility criteria for companies to apply to the **Corporate Debt Restructuring Committee** (CDRC) was revised from a minimum total outstanding debt threshold of RM30 million to RM10 million. This revision aims to enable a wider group of companies to apply to the CDRC for assistance to resolve their debt obligations.

BNM issued a statement discouraging participation in **offshore MYR markets**, saying that the "Malaysian ringgit is a non-internationalised currency and thus, offshore trading of ringgit, in any form whether as a non-deliverable forward traded out of offshore financial centres or as a futures, options and other derivative contracts on exchanges outside of Malaysia, is against Malaysia's policy."

"There is a need to rethink, reassess and re-strategise the role and contribution of the financial industry. Undoubtedly, there is an increasing expectation for the financial sector to deliver greater impact to the economy and society."

Encik Abdul Rasheed
Deputy Governor, Bank Negara Malaysia
24 August 2017

New Zealand

The Deputy Governor of the Reserve Bank of New Zealand (RBNZ), Grant Spencer, gave a speech discussing **regulatory initiatives planned** for the coming years. He flagged adoption of key elements of the **Basel framework** as desirable, given the integration of New Zealand's banking system with international financial markets, and also noting the recent IMF conclusion that the country needs to be brought more into line with the international orthodoxy. Mr Spencer said RBNZ takes a less activist and less prescriptive approach that emphasizes industry self-discipline and market discipline, but indicated that there will be an increased use of **thematic reviews**. A greater use of targeted assessments by **external experts** in cases of serious non-compliance by an institution is also planned. A particular focus will be placed on **internal risk models** used by the four largest banks, with a consultation paper due for release in mid-September. A review of **capital ratios** is also in the works and will be guided by the principle that New Zealand will be more conservative relative to international peers. Improvements to the **disclosure** regime will be another focus area and in this regard a "dashboard" is being set up on the RBNZ website to provide more timely and comparable quarterly data. The dashboard will cover capital, liquidity, asset quality, profitability and balance sheet positions. The DG further said the RBNZ is anticipating greater use of **big data technologies** in its supervisory assessments and in providing warning signs of crises, as well as by regulated institutions with regard their disclosure and data management. Mr Spencer finished his speech by commenting on the current **review of the Insurance Prudential Supervision Act**, which covers legislative scope (who is required to be licensed), the treatment of overseas insurance business, governance requirements and distress management mechanisms. The DG said the IMF report will be an important input in the Bank's thinking, in particular findings about the development of clearer and more enforceable prudential requirements, enhancements to verification and improvements to disclosure and market conduct requirements.

The Financial Markets Authority (**FMA**) published its annual Corporate Plan, setting out areas of focus and key milestones for the year **to June 2018**. In relation to governance and culture, the FMA says it wants "Boards and senior management leading organisational culture and placing customer interests at the centre of their business strategies". Licence holders will be asked to show how internal controls, information flows, and governance demonstrate their commitment to **good customer outcomes**, and **conduct expectations for wholesale and listed markets** will be established. Several thematic reviews are planned, covering: • the governing documents of Managed Investment Schemes and Statements of Investment Policy and Objectives, • outsourcing arrangements, • use of wholesale investment managers, • incentive structures and **conflicts management** in vertically integrated firms, and • the impact of conflicted remuneration (including soft commissions) on advice. Assessments of peer-to-peer and crowdfunding platforms compliance with conduct expectations is also on the to-do list and, if appropriate, the regulator will finalise a class exemption for personalised **robo-advice.** Harm to investors arising out of innovative and non-traditional offer structures will continue to be monitored. The FMA will also articulate its approach to **cyber resilience**, including clarification on what processes, systems and controls entities should have in place. Initiatives to support transition to the **new financial adviser regime** will be another priority and the FMA will map out transitional arrangements in this regard. The design and scope of the FMA's **data analytics** operating model and systems requirements is scheduled for completion, and the regulator will work to deepen its understanding of **RegTech** as well as explore use of **behavioural insights** in its supervisory work. It looks set to be a busy year ahead for regulator and regulated.

"In theory, internal models allow banks to more accurately manage their risks, and thereby more efficiently align capital with those risks. On the other hand, internal models add complexity to the regulatory framework that may not be warranted in some risk areas, and the banks' assigned risk weights are often lower than would be prescribed by standardised models"

Grant Spencer
Deputy Governor, Reserve Bank of New Zealand
2 August 2017

Singapore

Following on from the recent approval of legislative amendments to enhance Singapore's recovery and resolution framework, the Monetary Authority of Singapore (**MAS**) published a monograph outlining its approach to **resolution of financial institutions** (FIs).

In the monograph, MAS indicates that crisis management and resolution powers may be invoked if a FI is classified as "viability threatened" and the regulator identifies factors to indicate that a FI has reached this stage (e.g. erosion of regulatory capital or inability to meet regulatory and licensing requirements on an on-going basis). MAS says that it will be prepared to take resolution measures for FIs whose failure is assessed as having **systemic repercussions** or to be detrimental to public confidence. In the case of an FI with cross-border operations, MAS will consider the impact of its resolution actions on the financial stability in other jurisdictions.

In regards **recovery and resolution planning** (RRP), MAS confirms that this will only be required of FIs that are assessed as systemically important. One RRP obligation is to prepare a recovery plan and expectations in this regard include: ● appointment of an executive officer to lead and oversee the process, ● a framework of qualitative and quantitative recovery triggers, ● a menu of credible recovery options to address capital shortfalls and liquidity pressures, and ● a framework to regularly test the effectiveness of plans. MAS will develop resolution plans for systemically important FIs, but FIs are required to maintain information and systems needed to facilitate this, such as identifying critical functions and potential barriers to effective resolution.

An overview is given of the different **resolution tools** available to MAS, which include: ● transfer of business or shares to a private sector acquirer, ● bail-in the liabilities of a non-viable FI, and ● run-off the insurance business of the distressed insurer. The monograph further outlines the recovery and resolution regime for **financial market infrastructures** (FMIs), which generally follows Financial Stability Board guidance. In conclusion, the **financing framework** for the resolution regime is detailed, which is broadly: ● MAS may provide temporary liquidity to support the implementation of resolution measures, ● costs incurred in resolving an FI will first be borne by that FI and losses will be imposed on its shareholders and unsecured subordinated creditors,● if this is insufficient, resolution costs will be recovered via contributions from the FI's industry.

MAS is seeking feedback on proposals to **enhance the Deposit Insurance (DI) Scheme** from the current S$50,000 to S$75,000 per depositor. The DI Scheme insures Singapore dollar deposits held at a full bank or finance company in Singapore. The proposals will restore the percentage of fully insured depositors to above 90%, in line with international norms. MAS intends to extend the build-up period of the DI fund from 2020 to 2028, and to revise the annual premium rates levied on full banks and finance companies from 2.0-7.0 basis points to 2.5-8.0 basis points

As part of initiatives to facilitate the creation of an e-payments society in Singapore, MAS announced the set-up of a **Payments Council**. The Council is made up of 20 leaders from banks, payment service providers, businesses, and trade associations, and its inaugural meeting was held on 11 August. Establishing interoperable electronic payments was one topic of discussion, with the Council seeing scope to enhance user interface and experience of bank solutions riding on PayNow (e.g. SMS notifications to both senders and recipients of funds). QR codes were another matter for discussion, with the Council noting that the proliferation of more proprietary QR codes risked fragmentation of payment solutions and inefficiency among merchants and consumers. To address this issue, the Council agreed that an industry taskforce be established to develop **a common QR code for Singapore**.

Digital tokens were the subject of two MAS communications during August. The regulator clarified that the offer or issue of digital tokens in Singapore will be regulated by MAS if this falls within the Securities and Futures Act (SFA). Examples cited by MAS include: ● when digital tokens represent ownership or a security interest over an issuer's assets or property (which could be an offer of shares or units in a collective investment scheme), or ● where digital tokens represent a debt owed by an issuer (and could be a debenture). It was further noted that if the digital tokens fall within the SFA, disclosure, licensing and AML/CTF requirements would apply. In addition, platforms facilitating secondary trading of such tokens would need to be a MAS approved exchange or recognised market operator. A warning to consumers about the potential risks of digital token and virtual currency-related investment schemes was also issued by MAS. The warning noted: ● the heightened risk of fraud when investing in schemes that operate online or outside Singapore, ● the lack of secondary market liquidity, ● the highly speculative nature of such investments, and ● the potential for such schemes to be misused for illegal activities.

Singapore (cont.)

Jacqueline Loh, MAS Deputy Managing Director, gave a speech which underscored the importance attached by the regulator to compliance with the **Global FX Code** (the Code). Ms Loh identified the benefits of the Code as including: • giving guidance in areas where clarity is needed, • providing principles on information sharing, • stating explicitly that market colour can be given, and • providing positive and negative examples of conduct. She noted that the Code will apply to all market participants (not just sell-side), but incorporates proportionality principles to provide appropriate flexibility. The Deputy MD said MAS expects "strong buy-in from market participants" and noted in this regard that the Code was "developed by an unprecedented public-private partnership". Ms Loh further said "the Code has to be embedded into your practices", citing training, education and monitoring as particularly important. Firms should also demonstrate publicly that their conduct in the FX market is in line with the Code, according to Ms Loh. In terms of external monitoring of compliance, the Deputy MD drew attention to: • a survey that will be conducted by the Global FX Committee later this year (which will form a baseline for ongoing progress monitoring), • settlement service provider CLS has established an online public register where members can post their statements of commitment to the Code, and • MAS is in the process of embedding the Code within its practices and will make Code adherence a condition for membership to its Foreign Exchange Committees.

It was reported that over 130 financial institutions and MAS underwent "Exercise Raffles", which involved simulated terrorist and **cyber attacks** and was designed to ensure firms have sound plans in place in the event of a crisis.

Thailand

The Securities and Exchange Commission of Thailand (**SEC**) issued draft rules on paid-up registered capital of securities firms that conduct **derivatives business**. The rules aim to better reflect respective types of risks and facilitate development of different types of securities businesses. Under current rules, low risk businesses may be subject to high minimum capital rules and also be impeded from making use of financial innovations. The SEC is further consulting on rules regarding outsourcing by securities firms, as well as on infrastructure funds and REITs.

"The Code is a tool to rebuild trust in the FX market, and we are confident that it can achieve its full potential with your support. Together, we can raise standards, professionalism and accountability of market participants within the FX market in Singapore and globally"

Jacqueline Loh
Deputy Managing Director
Monetary Authority of Singapore
23 August 2017

Contacts

Kevin Nixon
Global and Asia Pacific Lead, Centre for Regulatory Strategy
P: +61 2 9322 7555
E: kevinnixon@deloitte.com.au

Benny Koh
Regulatory Risk Leader, SEA Risk Advisory
P: +65 6800 2266
E: bekoh@deloitte.com

Somkrit Krishnamra
Financial Risk Leader, SEA Risk Advisory
P: +66 2034 0134
E: somkrishnamra@deloitte.com

Tsuyoshi Oyama
Asia Pacific Risk & Capital Management Lead
P: +81 90983 44302
E: tsuyoshi.oyama@tohmatsu.co.jp

Tony Wood
China Financial Services Risk & Regulatory Lead
P: +852 2852 6603
E: tonywood@deloitte.com.hk