



Asia Pacific Regulatory Update

July 2017

July saw a wave of international regulatory releases, as supranational bodies rushed to meet reporting deadlines ahead of the G20 Summit in Hamburg. Progress on the **implementation of significant global regulatory reforms** were reported on, covering matters such as Basel III, recovery and resolution planning, derivatives reforms and shadow banking. Updates were also provided on work streams for compensation practices, misconduct risk and the decline in correspondent banking.

There were significant developments in **recovery and resolution planning** during the month. International guidance was published in relation to central counterparties, as well as on access to financial market infrastructures for firms in resolution. In Hong Kong the resolution regime commenced, and a new recovery planning module was released for smaller and foreign institutions. Legislation to enhance resolution measures and align them with international standards progressed in both Singapore and India, while Australia outlined ways it will work with industry to develop resolution planning capabilities.

The Insurance Capital Standard Version 1.0 for extended field testing was released. Australian regulators announced how they intend to ensure Australian banks have "**unquestionably strong capital ratios**", while New Zealand issued a consultation on the types of financial instruments that should qualify as capital.

Governance, conduct and culture continued to be on the regulatory radar. A list of companies who have adopted policies to implement the principles for customer oriented business was published in Japan, Malaysia's regulator outlined the "CARE" approach to corporate governance and Singapore's regulator urged financial advisory firms to put the customer at the centre of everything they do. The Australian government issued a consultation on the proposed new accountability regime for banking directors and executives.

The Chinese insurance regulator was vocal on the industry's weak corporate governance and aggressive strategies and Singapore **insurers** were advised on inadequacies in their risk and solvency assessments. Korean regulators continued to harbour concerns about **household loans** extended by banks and in Thailand new controls on **credit cards** and **unsecured personal loans** were imposed.

Sustainability is an emerging area of interest and during July Indonesia adopted a number of regulations to encourage sustainable finance, Malaysia issued its first green Islamic bond and the Japanese regulator announced a briefing session on the final recommendations of the Task Force on Climate-related Financial Disclosures.

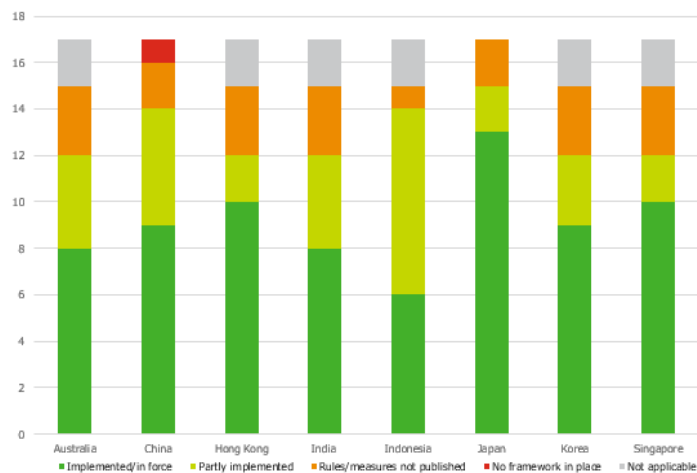
More detail of these and other key international and regional regulatory developments during July can be found in the pages that follow.

International

July saw a whirlwind of releases from international bodies, notably in preparation for the G20 summit. A good overview and starting point is provided in the Financial Stability Board (FSB) Chair's [letter](#), which describes **international reforms** as having "addressed the fault lines that caused the global financial crisis". The tenfold increase in capital held by large banks, measures to eliminate "toxic forms of shadow banking" and over-the counter (OTC) derivatives reforms that are "replacing a complex and dangerous web of exposures with a more transparent and robust system" were noted in this regard. Despite these developments, the Chair warns that there is "no room for complacency" and **areas identified as needing urgent attention** include: the completion and "faithful" implementation of Basel III, making agreed asset management policies operational, and the full realisation of trade reporting for OTC derivatives markets. Correspondent banking and remittances, climate related financial disclosure, FinTech and cyber risk are identified as emerging **areas that will be closely monitored**. To this point, it is noted that the FSB is currently conducting a stock take of supervisory practices, guidance and regulation of cyber security. The Chair encourages "dynamic implementation" of reforms to ensure new regulation keeps pace with a changing financial system and the FSB's new Policy Evaluation Framework is identified as a vehicle to achieve such "efficient resilience". The conclusion of the letter urges against "giving into reform fatigue" and calls on leaders to work together through "reinforced, voluntary, international regulatory cooperation".

FSB progress reports

Progress in the **implementation and effects of the G20 financial regulatory reforms** was one of the key matters the FSB [reported](#) on in July. Asia Pacific's progress is summarised in the figures below.



Globally, the FSB assessed implementation of Basel III capital and liquidity standards, higher loss absorbency (HLA), total loss absorbing capacity (TLAC), and derivatives reforms as progressing well. Shadow banking reforms are evaluated as at a relatively early stage, while more work is needed on implementing some Basel III standards, building effective resolution regimes, operationalising resolution plans for cross-border firms and on compliance with the BCBS Principles on risk data aggregation and risk reporting.

On **resolution reform**, "considerable progress" has been made towards ending "**too big to fail**", but further work is needed to achieve full implementation. Priorities for 2017-2018 include: (i) the launch of central counterparty (CCP) resolution planning and resolvability assessments; (ii) full implementation of the TLAC standard for banks; (iii) a consultative document on the execution of bail-in; and (iv) the development of robust resolution plans for all global systemically important insurers (GSIIs).

In relation to the **decline in correspondent banking**, the FSB [reported](#) that, while there is good progress in implementing the action plan, further work is required. Future plans include monitoring data on trends in correspondent banking relationships, statements by regulators to clarify expectations following the publication of new Basel Committee on Banking Supervision (BCBS) and Financial Action Taskforce (FATF) guidance, and continued support for technical solutions such as legal entity identifier (LEI) and know your client (KYC) utilities.

Reform	AU	CN	HK	IN	ID	JP	KO	SG
Risk based capital (2013-2019)	Green	Green	Green	Green	Green	Green	Green	Green
LCR (2015-2019)	Green	Green	Green	Green	Green	Green	Green	Green
Basel III								
HLA for G-SIBs (2016-2019)	Green	Green	Green	Green	Green	Green	Green	Green
DSIBs (2016)	Green	Green	Green	Green	Green	Green	Green	Green
Leverage Ratio (2018)	Green	Green	Green	Green	Green	Green	Green	Green
NSFR (2018)	Green	Green	Green	Green	Green	Green	Green	Green
Compensation	Green	Green	Green	Green	Green	Green	Green	Green
OTC derivatives								
Trade reporting (2012)	Green	Green	Green	Green	Green	Green	Green	Green
Central clearing (2012)	Green	Green	Green	Green	Green	Green	Green	Green
Platform trading (2012)	Green	Green	Green	Green	Green	Green	Green	Green
Margin (2016-2020)	Green	Green	Green	Green	Green	Green	Green	Green
Minimum TLAC (2019/25- 2022/28)	Green	Green	Green	Green	Green	Green	Green	Green
Resolution								
Transfer, all in etc. for banks	Green	Green	Green	Green	Green	Green	Green	Green
Resolution and recovery planning	Green	Green	Green	Green	Green	Green	Green	Green
Transfer, bridge etc. for insurers	Green	Green	Green	Green	Green	Green	Green	Green
Shadow banking								
MPIs	Green	Green	Green	Green	Green	Green	Green	Green
Securitisation	Green	Green	Green	Green	Green	Green	Green	Green

The elements of **shadow banking** considered to have contributed to the financial crisis “generally no longer pose financial stability risks” according to the FSB report on same. Nonetheless, “continued monitoring” is required as new forms of shadow banking will likely develop. Improvements in data collection and granularity are flagged as important for forward-looking identification of potential financial stability risks.

The report on implementing the FSB’s **Principles for Sound Compensation Practices** and their Implementation Standards (P&S) found that most member jurisdictions have substantively implemented the P&S for banking organisations. Progress on implementing and embedding the P&S for the insurance sector lags, and practices in the securities sector vary (mainly because of firm diversity). The report notes that a number of markets are focusing more on misconduct, with Singapore highlighted as one such jurisdiction.

In yet another progress report, the FSB outlined its efforts at **reducing misconduct risks**, such as the stock take on governance frameworks and misconduct risk, and work on the use of compensation tools to address misconduct risks. Work planned for completion before year’s end includes: (i) recommendations on compensation and conduct better practice; (ii) recommendations for consistent national reporting and data collection on the use of compensation tools to address misconduct risk; and (iii) a statement on matters for users of financial benchmarks to consider when selecting benchmarks and for contingency planning.

Guidance

Guidance on continuity of **access to financial market infrastructure (FMI) for firms in resolution** was released by the FSB, as part of efforts to ensure such firms maintain critical functions. Some of the matters covered are how providers of critical FMI services can take appropriate steps to plan for the interaction between the resolution regimes of service users and their own risk management framework, and how firms can take measures to facilitate their continued access to critical FMI services in resolution.

Further guidance on **loss-absorbing and recapitalisation capacity of global systemically important banks (GSIBs) in resolution** was also issued by the FSB, providing high-level principles to assist Crisis Management Group authorities in the implementation of TLAC mechanisms.

Signifying the completion of the **CCP Workplan** (a joint initiative between the FSB, BCBS, CPMI and IOSCO) three guidance documents (on resilience, recovery, and resolution) and two reports (on interdependencies and

implementation) were released. The guidance on **CCP resilience** covers: (i) governance (e.g. board accountability, internal risk management frameworks); (ii) stress testing (comprehensiveness of credit and liquidity risk, extreme but plausible scenario analysis); (iii) coverage (sufficient financial resources to meet credit and liquidity requirements resulting from the default of participants); (iv) margin (exposures to different products, portfolios and markets through a risk-based margin); (v) design, testing and update of the margin system; and (vi) CCP contributions to losses (e.g. determining appropriate exposure).

The **CCP recovery** guidance deals with the plans and tools to keep the CCP running during a threat to its viability as a going-concern, particularly those operations deemed critical to its participants and serviced markets (e.g. payment, clearing, and settlement services). Content of recovery plans, triggers for implementation, review by the responsible authority, and oversight of the plan’s implementation are some of the matters dealt with. Further, several tools to recover operations are defined, e.g. using cash calls to recover losses from participant default.

On **CCP resolution**, guidance is provided on processes to ensure an orderly wind-down, should recovery not be in the best interests of stakeholders. The objective is that critical CCP services be maintained or restored to prevent disruption to participants and other stakeholders. In order to achieve this, domestic authorities should have certain powers, including to operate the CCP, transfer critical operations to a third-party and wind-down non-critical functions.

The report analysing **CCP interdependencies** draws on data collected from 26 CCPs across 15 jurisdictions. Notably, the 10 largest CCPs account for 88% of all financial resources and 20 of the 307 clearing members account for 75% of all financial resources.

Other

The BCBS is consulting on new criteria for identifying **simple, transparent and comparable (STC) short term securitisations**. Criteria is provided at both the conduit and transaction level in relation to asset, structural, and fiduciary/servicer risk for an asset-backed commercial paper conduit to be considered STC.

The International Association of Insurance Supervisors (IAIS) announced the release of the **Insurance Capital Standard (ICS) Version 1.0** for extended field testing. This extended field testing is an extension of the existing voluntary field testing process, containing additional data requests on technical and policy issues that will inform the development of ICS Version 2.0. Data is due by September 2017.

Australia

The Australian Prudential Regulation Authority (APRA) announced it will **raise minimum capital ratios** for authorised deposit taking institutions (ADIs), with the impact for larger banks estimated as a 100bps increase and for smaller banks 0-50bps. Industry has been waiting on the announcement since the Financial Services Inquiry recommended in 2014 that Australian banks have "**unquestionably strong**" capital ratios. APRA plans to incorporate Basel III calibrations into a discussion paper to be issued in late 2017, suggesting that long awaited changes to credit risk, operational risk and the capital floor could be close to conclusion. APRA also released a consultation on draft **revisions to the capital framework for mutually owned ADIs** to allow them to directly issue CET1 eligible capital instruments. Following consultation, revisions will be made to APS 111.

APRA outlined ways it will progress the **resolution planning framework**. The regulator plans to work with institutions to: (i) determine critical functions, map these to group structure and identify key intra-group dependencies (e.g. critical shared services); (ii) use this information to assess current resolvability, based on a preferred resolution strategy identified by APRA; (iii) identify potential barriers to resolution (e.g. operational complexities or inadequate financial capacity); (iv) agree the steps and timeframes for removing barriers; and (v) reflect the preferred resolution strategy in an operational plan. APRA says plans should not be "set and forget" but involve an "iterative process of improving resolvability over time". Resolution measures will be formally incorporated into the prudential framework in due course.

The Australian Securities and Investments Commission (ASIC) released a consultation on new **client money reporting rules**, which will impose **record-keeping, reconciliation and reporting** requirements on all AFS licensees that hold "reportable client money" (essentially retail client money that relates to **OTC derivatives**). The proposed rules are broadly consistent with requirements that apply to domestic exchange-traded derivatives.

ASIC is also consulting on the **financial benchmark regulatory regime**, to complement legislative changes currently being progressed that will require administrators of significant benchmarks to be licensed and regulated by ASIC. It is proposed to align measures with IOSCO's benchmarks principles, as well as with other core licensing regimes administered by ASIC (e.g. sufficient resources, adequate risk management, business continuity plans). Administrators of the BBSW

will also be required to maintain a final stage method. The following 5 benchmarks are identified as likely to meet the criteria for being "significant": (i) the BBSW (ii) Standard & Poor's (S&P)/ASX 200 index (iii) the ASX bond futures settlement price (iv) the cash rate (v) the consumer price index. Administrators of nonsignificant benchmarks may also apply for a licence.

Another ASIC consultation proposes to implement a **tiered market licence regime** to facilitate operation of **alternative and specialised markets** (e.g. crowdsourcing venues). Tier 1 market venues will include those that are significant to the Australian economy, or to financial system efficiency/integrity, and will need to meet risk-based criteria and wider licence obligations. Tier 2 will apply to other market venues, including specialised and emerging venues, who will only need to comply with a specified subset of core licence obligations.

The ASIC Chairman has flagged key challenges for the regulator as including (i) culture and conduct; (ii) building investor and consumer financial capability; (iii) digital disruption and cyber resilience; (iv) globalisation; and (v) structural and demographic change (e.g. ageing population).

APRA's regulatory remit is set to expand under proposed legislation that will enable it to make rules relating to the **lending activities of non-ADI lenders** (where APRA has identified material risks of instability in the financial system) and to improve its ability to collect data from non-ADI lenders.

Treasury is also consulting on draft legislation to **remove restrictions on use of the term 'bank'**, with a view to **reducing barriers to new entrants to the banking sector** and to provide a more level playing field amongst ADIs. Currently, only ADIs with Tier 1 capital exceeding \$50 million can describe themselves as a bank, but the proposed legislation will allow any entity with an ADI authorisation from APRA to do so.

AUSTRAC has assessed the overall **money laundering/ terrorist financing (ML/TF) risk for the securities and derivatives sector** as medium. Key sources of vulnerability are identified as (i) use of agents and third parties (especially when located offshore); (ii) customers increasing use of online services (raising cybercrime issues), (iii) the practice of 'white labelling' trading platforms; and (iv) complacency around obligations on the part of front office staff (e.g. traders and advisers) in favour of a greater focus on credit risk and retaining client business.

Australia (cont.)

ASIC Chairman Greg Medcraft gave a speech on **conduct risk**, which he defined as “the risk of inappropriate, unethical or unlawful behaviour on the part of an organisation’s management or employees”. The Chairman said that ASIC looks at conduct risk through the lens of fair outcomes for consumers and investors, and is particularly interested in reward and incentive structures, recruitment and training, whistleblower policies, conflicts of interest, complaints and complaints handling, remediation measures, and corporate governance frameworks that support a customer-centric culture. He identified culture as a key driver of conduct and in this regard noted two ASIC projects that are looking at whether stated firm values focus on delivering good consumer outcomes and supporting strong compliance. Commissioner John Price also spoke about ASIC’s approach to **culture**, and set out some questions that boards can consider to evaluate and encourage positive culture. These include (i) do the firm’s stated values match the experiences of customers, employees, suppliers etc.?; (ii) is culture a regular feature on the board and audit committee agenda?; (iii) is data captured on key indicators (e.g. employee surveys, customer complaints, progress on training on culture issues)?

Treasury is consulting on the Banking Executive Accountability Regime (BEAR), which will apply a heightened responsibility and **accountability framework** to “accountable persons” within an ADI. “Accountable persons” are identified as individuals in prescribed oversight or executive roles (e.g. chairs), and others who have significant influence over conduct and behaviour and whose actions could pose risks to the business and its customers (e.g. head of a key business area). Key proposals include: (i) registering accountable persons with APRA prior to appointment; (ii) providing APRA with maps of roles and responsibilities; (iii) enhancing APRA’s powers to remove accountable persons and to impose penalties on ADIs not appropriately monitoring suitability; (iv) deferring for at least 4 years a minimum of 40% of executive’s variable remuneration (and 60% for certain executives e.g. CEO); and (v) stronger powers for APRA to require reviews and adjustments to remuneration policies. The consultation also outlines conduct expectations for ADIs and accountable persons (e.g. acting with integrity, due skill, care and diligence). The BEAR will cover all entities within a group that has an ADI parent, including those subsidiaries that are not APRA-regulated, that provide non-banking services or that are foreign.

“Poor culture very often leads to poor outcomes for investors and consumers, impacts on the integrity of the Australian financial markets, and erodes investor and consumer trust and confidence. Companies should also be interested in culture because many studies have found that good culture is good for business and generating long-term shareholder value. Good culture enhances brand loyalty and bolsters reputation, which has a very real financial impact.”

John Price
ASIC Commissioner
19 July 2017

Mainland China & Hong Kong SAR

The biggest financial services regulatory news in China during July was the five-yearly financial leadership summit, at which improving financial institutions' risk management frameworks, internal controls, and timely and full disclosure was stressed. The government announced it would establish a **cabinet-level committee to coordinate oversight of the financial services industry**, which will be housed within the Peoples Bank of China (PBOC) and tasked with formulating development plans for the financial sector, coordinating regulatory policies, forging coherent regulatory efforts and plugging regulatory loopholes.

The PBOC released its **annual financial stability report**, which indicated that risks in the nation's financial sector are manageable, but that regulatory bodies will continue to focus on shadow banking, real estate financing, local government financing platforms, internet financing, and illegal fundraising activities.

In an extensive speech, the Vice Chairman of the China Insurance Regulatory Commission (CIRC) Liang Tao said **the insurance industry needs greater self-discipline** and should ensure strict implementation of regulatory rules and requirements, enhance practitioner qualifications and professionalism, strengthen risk prevention and controls, fully cooperate with regulatory authorities, concentrate on serving the real economy, and work to become the economic "shock absorber" and a social "stabilizer."

The CIRC was later reported as saying it plans to **step up supervision on insurers' asset liability management** in response to concerns about weak corporate governance and aggressive operational and investment strategies. Plans reportedly include increased regulatory scrutiny of duration management, cost benefit management, risk budgeting, and mid and short-term insurance products. Insurers whose asset-liability matching management is deemed poor by the CIRC will face restrictions on investment levels and sales of short term products, as well as increased requirements for solvency levels.

The **resolution regime** for financial institutions in Hong Kong **commenced operation** on July 7. The regime is cross-sectoral, designed to meet FSB standards and has the Hong Kong Monetary Authority (HKMA), the Insurance Authority (IA) and the Securities and Futures Commission (SFC) as resolution authorities.

The HKMA released "wave" three of implementation of the Supervisory Policy Manual module RE-1 "**Recovery Planning**", as well as further guidance. Most large, locally incorporated authorised institutions (AIs) have prepared recovery plans and submitted these to the HKMA during the first two "waves". This third wave will cover **overseas-incorporated AIs** with branch operations in Hong Kong and **smaller, less complex locally-incorporated AIs**. These AIs will be individually notified of the timeline for submitting recovery plans.

The **IA assumed its responsibilities** in regulating insurers in Hong Kong (replacing the Office of the Commissioner of Insurance). The IA's powers are broader than those available to its predecessor, for example it has enhanced powers to scrutinise and supervise key persons appointed by authorised insurers, can impose disciplinary sanctions and can prosecute. The new regime for insurance regulation is closely modelled on the SFC regime.

The SFC published consultation conclusions on the proposed **regulatory capital regime** for licensed corporations engaged in **OTC derivatives** activities. Modifications to the original proposals include (i) reducing the minimum capital requirements for fund managers' central dealing desks which meet certain conditions, and (ii) extending the transitional period for full compliance with the new FRR requirements from six months to one year. The SFC will also introduce into the FRR an internal models approach benchmarking to the latest standards set by the BCBS.

The SFC and the Autorité des Marchés Financiers signed a MoU which will allow eligible **Hong Kong public funds** and **French UCITS funds** to be distributed to retail investors in each other's market through a streamlined authorization process.

CEO Ashley Alder gave a speech about the SFCs new "front-loaded, transparent and direct" approach to regulation, which he said was developed to **improve efficiency and effectiveness of supervision**, and against a background "characterised by an accumulation of serious governance and misconduct issues". The approach aims to get ahead of issues, more targeted intervention, and a focus on the greatest threats or the most significant or systemic risks.

India

A bill was introduced to give the Reserve Bank of India (RBI) new powers to initiate insolvency **resolution processes** on specific stressed assets and to issue other directions for resolution. Another bill is due to be considered that will set up a resolution corporation and provide **a comprehensive framework for insolvency** for financial services firms so as to ensure resilience of the financial system and limit public bail out of distressed institutions.

The RBI issued revised **directions for determining when a customer has zero or limited liability for unauthorised transactions**. The directions require banks put in place: (i) appropriate systems and procedures to ensure security of customer electronic banking transactions; (ii) robust and dynamic fraud detection and prevention mechanisms; (iii) mechanisms to assess the risks resulting from unauthorised transactions and to measure liabilities; (iv) appropriate measures to mitigate risks and protect against liabilities; and (v) a system of continually advising customers on how to protect themselves from electronic banking and payments related fraud. The directions further provide that banks must make it mandatory for customers to register for SMS alerts and to notify the bank of any unauthorised electronic banking transaction. Banks must also provide customers with 24/7 access through multiple channels (e.g. website, phone banking, SMS, e-mail, toll-free helpline) for reporting unauthorised transactions. In addition, it is a requirement that banks put in place a mechanism and structure for the reporting of customer liability cases to the board or one of its committees which includes, *inter alia*, number of cases, aggregate value involved, and distribution across various categories of cases.

RBI Deputy Governor Dr. Viral V. Acharya has argued for the setting up of a **Public Credit Registry (PCR)**, to provide an extensive database of credit information for India that is accessible to all stakeholders. The Deputy Governor said a PCR would help in (i) credit assessment and pricing by banks; (ii) risk-based, dynamic and countercyclical provisioning at banks; (iii) supervision and early intervention by regulators; (iv) understanding if monetary policy is working; and (v) effective restructure of stressed bank credits.

The Securities and Exchange Board of India (SEBI) announced it had signed a **MoU with the European Securities and Markets Authority to establish cooperation arrangements**, including the exchange of information regarding CCPs.

In an effort to reduce price fluctuations in **agricultural commodities**, SEBI issued a circular creating three distinct categories with **limits that investors can hold**. Position limits for "sensitive" commodities will be 0.25% of deliverable supply, for "narrow" commodities 0.5%, and 1% for "broad" commodities.

"Currently we have a project underway within RBI which would enable extraction of data directly from banks' Core Banking Systems ... data infirmity has been a major factor and in some sense, has become an impediment for banks in arriving at right conclusion and right strategies... once this is implemented, it should not once again be seen as a data cleaning and compliance exercise. This is a great opportunity for banks because they can use the data, apply analytics and prepare the right sort of strategy. They can decide on their focus area and product once this robust set of data is available. It is important that the senior-level functionaries appreciate this exercise in that sense."

Shri S S Mundra
Deputy Governor, Reserve Bank of India
15 July 2017

Indonesia

Indonesia's parliament approved a regulation to give tax authorities **access to information on accounts held at financial institutions**. The new law will require banks, insurance companies and other financial institutions to report client information to Indonesia's tax office, who can then share this with authorities in other countries in accordance with the OECD's Automatic Exchange of Information framework.

The Financial Services Authority (OJK) announced that a number of regulations were adopted on 19 July. As part of the efforts to incorporate sustainable principles into the financial system, regulation 51/POJK.03/2017 on the Implementation of **Sustainable Finance for Financial Services Companies, Issuers, and Public Companies** will introduce specific and binding measures for the financial services sector. Among other things, the regulation sets requirements for Action Plans on Sustainable Finance to be submitted to the OJK. Regulation 52/POJK.04/2017 on Infrastructure Investment Funds in form of Collective Investment Contracts (POJK DINFRA) aims to enhance **financing of infrastructure development** through new, **innovative investment products** that can offer flexibility when managing investment portfolios. Two other capital markets regulations (53/POJK.04/2017 and 54/POJK.04/2017) seek to **facilitate SME access to the capital market** through a public-offering mechanism, and complement other OJK actions such as encouraging the Indonesia Stock Exchange to develop incubator programs for SMEs and start-ups.

The OJK released a consultation on **good corporate governance in the provision of remuneration** for sharia commercial banks and sharia business units. The aim is to encourage good conduct and prudent risk taking, create market discipline, align with international standards and enhance transparency on remuneration.

Guidelines for **standards of internal control systems for commercial banks** were also circulated by the OJK. The main components identified are: (i) ensuring management oversight and control of culture; (ii) identification and evaluation of risks; (iii) adequate control activities (e.g. policies, procedures and processes that are consistently complied with); (iv) separation of functions; (v) appropriate accounting, information and communication systems; (v) continuous monitoring of overall effectiveness of implementation of internal controls; and (vi) corrective action for non-compliance.

In light of the significant development and demand for mutual funds in Indonesia, the OJK issued a regulation on **target date mutual funds** that covers, among other things, (i) characteristics of a target date mutual fund (specified target date, an investment portfolio comprised mostly of foreign securities); (ii) requirements for managers to prepare an investment policy amendment schedule and to conduct the management of the investment in line with this; and (iii) OJK administrative penalty powers.

The OJK sent a circular on **transparency of prime lending rate information** (SBDK). Matters covered include: (i) the SBDK is calculated each year in the form of a percentage; (ii) the calculation is done based on the cost of funds for credit, overhead expenses, and profit margin, and applies for all types of credit (e.g. corporate loans, micro loans, and consumer loans); and (iii) reporting on SBDK is submitted to OJK monthly and should contain details of the calculation for each component, type of credit, components of estimates of risk premiums, loan interest rates.

Wimboh Santoso was inaugurated as **Chairman of the OJK for the period 2017 to 2022**, while Nurhaida, Tirta Segara, Riswinandi, Heru Kristiyana, Hoesen, and Ahmad Hidayat were installed as Members for the period.

"Preparations for dealing with crisis cannot be completed in an instant, instead, they are a result of a continuous journey."

Rahmat Waluyanto
OJK Deputy Chairman
13 July 2017

Japan

The Bank of Japan (BoJ) published a research paper about **the FX Global Code** (the Code) which states that the bank expects a wide range of market participants to adhere to the Code. The report also outlines initiatives taken by the Tokyo FXC (comprised of the BoJ, private financial institutions, and other entities) to support the Code, such as issuing a set of complimentary local standards, releasing a Japanese translation, and reaching out to market participants to provide and exchange information. Further, the Tokyo FXC plans to run a Public Register for the Tokyo market, which details the financial institutions and other entities that have committed to Code adherence and sought commitments from their counterparties.

The Financial Services Agency (JFSA) published a list of companies who have adopted policies to implement the **Principles for Customer Oriented Business**, released earlier in the year. The regulator also announced results of a consultation on revisions to Cabinet Office Ordinances on transactions of securities and disclosure of company content. The consultation is part of measures to strengthen **corporate governance**, and to ensure **remuneration and compensation** for management incentivises medium and long term corporate value creation.

The JFSA announced it would be holding a briefing session in the first week of August on the Final Report from the FSB sponsored **Taskforce on Climate-Related Financial Disclosure**.

“It is problematic that banks' main revenue sources are loans to households and they rely heavily on mortgages for profits...I'm not saying earning a lot is bad. And the problem of household debt is not only the fault of banks...However, it is questionable whether their business practices are socially desirable, even though expanding loans to households is profitable.”

Choi Jong-ku
Chairman, Korea Financial Services Commission
July 2017

Korea

Choi Jong-ku took office as **Chairman of the Financial Services Commission (FSC)** on 19 July 2017. A week later, he announced the FSC's financial policy roadmap. **Improving productivity and encouraging innovation** is one pillar, with plans including: (i) measures to encourage job creation through innovation; (ii) easing licensing procedures to facilitate entry of innovative companies; (iii) new capital regulations to ensure investments are made in productive areas; (iv) steps to manage household wealth; and (v) monitoring of financial institution's risk management and credit assessment, as well comprehensive measures to curb household debt. **Financial inclusion** is the other policy pillar and will include: (i) lowering the maximum legal lending rate to 24% starting 1 January 2018; (ii) measures to help debtors pay back certain long-term overdue small-sum loans; and (iii) enhancing accessibility to financial products for those with mid-to-low credit scores.

The FSC is consulting on amendments to the Credit Information Use and Protection Act (CIUPA) to address inconsistencies with overlapping or conflicting legal and regulatory provisions relating to personal **credit information**. The key proposals are: (i) the CIUPA's scope is limited to financial institutions, credit information service providers, and credit information collection agencies (personal credit information not handled by financial institutions is to be governed under other legislation); (ii) no distinction will be made between personal information and credit information, and all counterparty information handled by financial institutions is to fall under credit information; (iii) the legal meaning of the term “information processing” is to be expanded to include data collection, use, provision, and destruction in addition to computer-assisted data entry, storage, and processing; and (iv) exclusion of financial institutions from credit information-related provisions in other legislation.

The FSC is also consulting on proposals to set **higher monetary awards for reporting accounting irregularities**. The maximum whistleblower award is proposed to increase from KRW50million to KRW500million. Specific criteria for determining the amount of the award will also be set, with consideration given to the whistleblower's contribution to the investigation of accounting irregularities.

Plans by the Korean government to fully **regulate cryptocurrency trading** were widely reported, with requirements to include minimum capital resources and anti-money laundering/counter terrorist financing (AML/CTF) and KYC measures.

Malaysia

Sri Dato' Seri Ranjit Ajit Singh, Chairman of the Securities Commission of Malaysia (SCM), gave a speech in which **good corporate governance** was identified as a central theme for Malaysian regulators, noting in this regard the enhanced Malaysian Code on Corporate Governance released in April. The Code introduced **the "CARE" approach**, which the Chairman said requires firms to (i) comprehend: understand the spirit and intention behind each principles and practices, including the intended outcomes; (ii) apply: implement the practices in substance to achieve the outcomes of building and supporting a strong corporate governance culture throughout the company; and (iii) report: fair and meaningful disclosure on the company's corporate governance practices. The Commissioner said that, going forward, two developing themes for the SCM will be "incubating good governance practices amongst nascent small and medium enterprises" and leveraging technology to enhance internal governance compliance and practices.

Meanwhile, SCM Deputy Chief Executive, YBhg Dato' Ahmad Fairuz Zainol Abidin, spoke about the importance of **boosting productivity through innovation**. He highlighted the role that FinTech is playing, noting that the focus is now shifting from disruption to "collaboration between incumbent and innovator", and from "where or how disintermediation can happen" to how "innovative business models and state-of-the-art solutions can be scaled up in a safe and viable manner". The role of regulators in this ecosystem was identified as ensuring that "innovation takes place on a level playing field and occurs in a safe and sustainable manner that does not prejudice investors". The Deputy Chief Executive also spoke about how **the SCM is easing access to the capital market** by reducing time-to-market for issuers and increasing operational efficiencies. In this regard he noted the "Lodge and Launch (LOLA)" initiative (which allows for wholesale products to be offered to the market upon submission of the requisite disclosures to the SCM), the introduction of alternative market-based financing channels (e.g. equity crowdfunding and peer-to-peer platforms), and the launch of the digital investment management framework earlier in the year.

The SCM announced the issuance of **Malaysia's first green sukuk (Islamic bonds)**, which complements other incentives to encourage green sukuk issuers (e.g. financing under the Green Technology Financing Scheme, tax concessions on certain green technology activities).

New Zealand

The Reserve Bank of New Zealand (RBNZ) issued a consultation on **the types of financial instruments that should qualify as bank capital** (e.g. common equity, preference shares, contingent debt capital instruments). Five options for reform are presented. The RBNZ's preference (option 4) defines Tier 1 capital as common equity plus appropriately configured preference shares. Appropriately configured long-term subordinated debt (without triggers) would qualify as Tier 2 capital. Subordinated debt with triggers, write off and/or conversion would not qualify as regulatory capital and regulatory recognition of existing instruments with these features would be phased out.

The RBNZ is also consulting on the **implications of foreign margin requirements for uncleared OTC derivatives**. New Zealand currently has no legislative margin requirements for OTC derivatives and there is currently no intention to change this. However, several local banks will need to comply with foreign margin rules and the consultation considers potential impediments in domestic legislation to compliance with such rules and the costs of non-compliance. A number of targeted legislative amendments are also proposed (e.g. **amendments to insolvency laws** in relation to some derivative creditors).

Toby Fiennes, RBNZ's Head of Prudential Supervision, gave a speech on **cyber security** in which he said cyber attacks pose a "significant threat" to the global financial system. Mr. Fiennes indicated that the RBNZ does not currently plan to make **cyber risk** a stand-alone risk nor to issue prescriptive cyber security regulations for the financial sector. He noted, however, that supervised institutions are expected to manage operational risks, which indirectly covers IT and cyber security risks. He encouraged firms to: (i) adopt a nimble approach "focused on outcomes, rather than prescriptive compliance exercises"; (ii) stay abreast of internal vulnerabilities and the external threat environment, as well as up to date with ways to protect and manage these; (iii) draw on international standards and best practice guidance (e.g. US NIST or UK CBEST frameworks); and (iv) share information on threats and attacks. Mr. Fiennes also took the opportunity to share some thoughts on **prudential risks posed by FinTech**, noting the potential for FinTech credit to be pro-cyclical, loss in investor confidence during times of stress leading reduced credit availability, and lowering banks' profitability buffers due to increased competition.

Singapore

The Monetary Authority of Singapore (Amendment) Bill 2017 was read for the second time. One of the core aims of the bill is to **update Singapore's resolution laws and regulations** so as to ensure effective handling of distressed financial institutions, avoid contagion or a loss of confidence in the system, and align with the FSBs Key Attributes of Effective Resolution Regimes for Financial Institutions. The bill will introduce: (i) explicit powers for the Monetary Authority of Singapore (MAS) to require financial institutions that are systemically important or maintain critical functions to prepare recovery plans and submit to MAS for resolution planning; (ii) provisions for MAS to temporarily block counterparties' rights to terminate contracts with an institution in resolution; (iii) a statutory bail-in regime to enable MAS to write down or convert debt into equity; (iv) a framework for MAS to recognise resolution actions taken by a foreign resolution authority on financial institutions in Singapore (subject to safeguards); (v) a compensation framework for creditors who are more adversely affected in a resolution than they would have been in a liquidation; and (vi) funding arrangements to support the implementation of resolution measures (MAS will provide a temporary loan to the Resolution Fund for immediate operating needs, with subsequent withdrawals to be recovered from the industry via ex-post levies).

MAS released an information paper outlining **observations from a focused review of insurers' own risk and solvency assessments (ORSA) reports**. Areas for improvement were identified as better integration with the business planning, more in-depth risk assessments and more robust board level discussions. Other observations included: (i) both current and emerging risks should be considered when determining business strategies; (ii) some insurers failed to consider group risk; (iii) assessments of emerging risks and inter-dependencies between material risks could be improved; (iv) there was a tendency to focus on financial risks, while non-financial risks (such as operational risk) were more limited; (v) ORSA reports that were primarily a collation of pre-existing risk management documentation and processes suggest that material and emerging risks may not have been adequately considered; (vi) there is scope for improvement in use of stress tests (e.g. those that only used MAS-prescribed stress test scenarios without clear justifications might have missed out other scenarios that are more relevant for their risk profiles).

MAS issued a consultation on proposed amendments to MAS Notice 637 on **risk based capital adequacy requirements** for banks incorporated in Singapore to implement requirements of revised BCBS standards. In addition, proposed amendments to the disclosure frequencies under MAS Notice 651 on Liquidity Coverage Ratio Disclosures and MAS Notice 653 on Net Stable Funding Ratio Disclosures have been included. The proposed amendments aim to improve the consistency and comparability of disclosure.

Chua Kim Leng, MAS Assistant Managing Director, spoke at a symposium about strengthening the financial system's resilience to financial crimes, with a focus on **managing ML/TF risks**. His key messages were that firms should: (i) ensure strong on-boarding and customer review practices, as well as robust transaction monitoring, with proper follow-through to address "red flags"; (ii) develop strong risk cultures and mind-sets that dis-incentivise excessive risk-taking and "the unethical pursuit of toxic client relationships"; (iii) have the board and senior management send the message (through words and actions) "that profits do not come at the expense of unethical behaviour or misconduct"; (iv) share information on a group-wide basis (which he assured would not breach the Banking Act or the Personal Data Protection Act); (v) enlist new technology and advanced data analytics to help with KYC measures and transaction monitoring; and (vi) constantly upgrade workforce skills and expertise. The Assistant Managing Director also flagged that the AML/CTF Industry Partnership (launched in April) will be releasing material to highlight ways in which criminals have set up and abused legal persons and propose a set of measures on same (e.g. "red flag" indicators). Typologies, industry best practices and detective analytical tools for trade-based money laundering are also being developed

Merlyn Ee, MAS Executive Director, gave a speech about the importance of **financial advisory businesses putting customers at the centre** of everything they do. She observed a mix of good as well as undesirable practices within industry in this regard. Harnessing technology (e.g. to enhance fact finding, ensure product suitability, to identify sales trends concentration or misconduct) and optimising people's competency (e.g. training, in-house product specialists) were highlighted as areas of good practices.

Singapore (cont.)

Ms Ee identified four areas for improvement within the financial advisory sector: (i) implementation of the Balanced Scorecard (BSC) framework (e.g. incorrect classification of infractions); (ii) marketing practices at roadshows and public places; (iii) identifying emerging trends and risks (e.g. failing to conduct trend analysis of infractions and complaints, restricting analysis of consumer complaints to substantiated cases); and (iv) supervisory oversight (e.g. supervisors validating the sales of their representatives despite inadequacies, treating customer call-backs as merely a procedural step and mechanically following scripts). MAS' supervisory focus for the financial advisory industry in the year ahead will include mystery shopping (results of which will be shared with the public) and stepping up efforts to investigate misconduct, as well as taking enforcement actions in cases of serious wrongdoing or blatant disregard of our rules.

“It is thus crucial to instill confidence that [financial advisory] firms and their representatives put customers at the centre of everything they do... ‘putting customers at the centre’ needs to go beyond having systems and processes in place and mere compliance with regulations. Boards and senior management must inculcate a culture in their firms where fair dealing is embedded in all aspects of their business and deeply ingrained in the psyche of their representatives.”

Merlyn Ee
MAS Executive Director
6 July 2017

Thailand

The Securities and Exchange Commission of Thailand (SEC) is seeking comments on **revisions to the net capital fund rules for securities and derivatives businesses**. A change to the criteria for funding is proposed so as to reduce the minimum capital for firms who operate a low risk business model. Adjustments are proposed to the terms of subordinated debt and secured debt with respect to the remaining maturity and the right to early repayment, as well as the method of calculating risk premiums for derivatives trading. The SEC is also consulting on **disclosure of corporate governance practices** for securities companies licensed to undertake mutual funds management business, as well as on revisions to **crowdfunding criteria** and the potential of technologies such as blockchain and smart contracts in this regard.

The Bank of Thailand (BoT) issued measures to strengthen **controls on credit cards and unsecured personal loans** in an effort to reign in high household debt levels. Under the measures, the maximum interest rate will be reduced from 20% to 18%. Maximum credit lines will also be limited, so that applicants with a monthly salary (a) below 30,000 baht can be offered 1.5 times their income, (b) below 50,000 baht three times this income, and (c) of at least 50,000 baht, five times this monthly salary. The measures will be effective from 1 September 2017.

BoT announced it had signed a **MoU with the China Banking Regulatory Commission** (CBRC) to enhance the supervision of banking institutions operating in both countries (e.g. through increased information exchange and cooperation in the areas of licensing, on-site examinations, supervisory colleges, and crisis management).

Ruchukorn Siriyodhin, BoT Deputy Governor Financial Institution Stability, gave a speech urging financial service providers and payment system operators to develop and keep pace with **blockchain and other innovative technology**. The Deputy Governor also outlined the ways that the BoT is supporting such developments (e.g. the regulatory sandbox) and spoke of the importance in developing shared infrastructure, common standards and strong KYC and cyber security controls.

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