



## Regulatory Radar

### Newsletter on regulation for the financial services industry

## Regulatory highlights

Also in this issue:

[Financial Services Industry](#)

[Credit institutions and investment firms](#)

[Investment products and asset management](#)

[Insurance, reinsurance and pensions](#)

[Data protection](#)



### 1. Introduction of the information sheet for financial products postponed

On June 10, the Royal Decree (RD) of 2 June 2015 amending the Royal Decree of 25 April 2014 concerning certain information obligations when distributing financial products to retail clients (Transversal RD) was published in the Belgian Official Gazette (in [Dutch](#) and in [French](#)).

The main purpose of the RD is to postpone the entry into force of some of the requirements of the Transversal RD to avoid potential discrepancies between the Transversal RD and the EU legislation on the key information document for packaged retail investment products and insurance based investment products (PRIIP's). Furthermore, the RD aims to clarify the scope of

the technical aspects of some of the articles of the Transversal RD, correct some material errors and amend some of the articles to take into account the delay of the entry into force of certain articles of the Transversal RD.

More information on the Royal Decree can be found in our [Regulatory Newsflash of 19 June 2015](#).

## 2. PRIIP's Key Information Document & product intervention

On 23 June, the Joint Committee of the European Supervisory Authorities (ESAs) – EBA, EIOPA and ESMA – published a [Technical Discussion Paper on risk, performance scenarios and cost disclosures for Key Information Documents \(KIDs\)](#) for packaged retail and insurance-based investment products (PRIIPs). The Joint Committee is looking for feedback from all concerned stakeholders by 17 August 2015. The Technical Discussion Paper aims to collect views on the possible methodologies to determine and display risks, performance and costs in the Key Information Document (KID) for PRIIPs. The paper is split in a section on risk and reward and a section on costs.

On 29 June, EIOPA published a [Technical Advice on measures specifying the criteria and factors to be taken into account in applying product intervention powers](#) in relation to insurance based investment products under the PRIIPs regulation.

More detailed information on the ESA Discussion Paper and the EIOPA Technical Advice can be found in our Newsflash that will be published in short on our website.

## 3. EBA issues final guidelines and its opinion on mortgage creditworthiness assessments and arrears and foreclosure

On 1 June, the European Banking Authority (EBA) published its final [Guidelines on creditworthiness assessment](#), as well as its final [Guidelines on arrears and foreclosure](#). These Guidelines support the national implementation by Member States of the forthcoming Mortgage Credit Directive ('MCD'). They will ensure that consumers are protected consistently across the European Union when interacting with creditors. The Guidelines apply from 21 March 2016, the transposition date of the MCD. As a further support to the implementation of the MCD, the EBA also published the [Opinion on Good Practices for Mortgage Creditworthiness Assessments and Arrears and Foreclosure](#), including expected mortgage payment difficulties.

More information on the EBA guidelines can be found in our [Regulatory Newsflash of 4 June 2015](#).

## 4. Net Stable Funding Ratio disclosure requirements finalised by the Basel Committee

On 22 June, the Basel Committee on Banking Supervision issued the final [Net Stable Funding Ratio \("NSFR"\) disclosure standards](#), following the publication of the NSFR standard in October 2014.

Similar to the LCR disclosure framework, this requirement will improve the transparency of regulatory funding requirements, reinforce the Principles for sound liquidity risk management and supervision, strengthen market discipline, and reduce uncertainty in the markets as the NSFR is implemented.

It is important that banks adopt a common public disclosure framework to help market participants consistently assess banks' funding risk. To promote the consistency and usability of disclosures related to the NSFR, the Committee has agreed that internationally active banks in all Basel Committee member jurisdictions will be required to publish their NSFRs according to a common template.

In parallel with the implementation of the NSFR standard, supervisors will give effect to these disclosure requirements, and banks will be required to comply with them from the date of the first reporting period after 1 January 2018.

# Financial Services Industry

Also in this issue:

[Regulatory highlights](#)

[Credit institutions and investment firms](#)

[Investment products and asset management](#)

[Insurance, reinsurance and pensions](#)



## Normative documents

### Belgian Official Gazette

#### Supervision of central securities depositories

On 19 June, the [↗](#)Royal Decree of 11 June 2015 on the appointment of the competent authority responsible for authorisation and supervision of central securities depositories under Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories was published in the Belgian Official Gazette. The Royal Decree defines the supervisory powers of the National Bank of Belgium and the FSMA with respect to central securities depositories. In the Royal Decree:

- The National Bank of Belgium is appointed as the prudential supervisor of central securities depositories established in Belgium;
- The FSMA is appointed as the supervisor responsible for supervising compliance with market integrity requirements and conduct of business rules.

### Official Journal of the European Union

#### Anti-Money Laundering & Combating Financing of Terrorism

On 5 June, [↗](#)Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 and [↗](#)Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC ("The Fourth AML Directive") were published in the Official Journal of the European Union (see also our May 2015 Regulatory Radar)

More information on the new Anti-Money Laundering & Combating Financing of Terrorism framework can be found in our [Regulatory Newsflash of 16 June 2015](#).

## Consultative or informative documents

### European Commission (EC)

#### Securities financing transactions

In a [↗press release](#) of 17 June, the European Commission announced that a political agreement on the proposal for a regulation on reporting and transparency of securities financing transactions (known as SFTR) has been reached between itself, the European Parliament and the Council of the European Union. The proposed regulation contains three measures to improve the transparency of securities financing transactions (SFTs). First, all SFTs, except those concluded with central banks, will be reported to central databases known as trade repositories. Second, information on the use of SFTs by investment funds will be disclosed to investors in the regular reports and pre-investment documents of funds. Finally, minimum transparency conditions will need to be met on reuse of collateral, such as disclosure of the risks and the need to grant prior consent.

### European Banking Authority (EBA)

#### Passport notifications for mortgage credit intermediaries

On 4 June, the European Banking Authority (EBA) launched a consultation on the [↗draft Guidelines for passport notifications for mortgage credit intermediaries under the Mortgage Credit Directive \(MCD\)](#). The Guidelines will ensure that information about credit intermediaries that carry out business in one or more Member States is exchanged consistently between the national authorities of the home and host Member States respectively. This public consultation closed on 4 July 2015.

### European Central Bank (ECB)

#### European Reporting Framework

On 8 June, the European Central Bank published a [↗Q&A document](#) with respect to the European Reporting Framework project of the European System of Central Banks. The aim of the project to establish a framework ("the European Reporting Framework" or "primary reporting framework") for the collection of all of the data required for different statistical purposes and

for banking supervision using an integrated and harmonized cross-country approach. The framework is intended to reduce redundancy and the reporting burden for both recipients and reporting institutions.

At present the European Reporting Framework project is in its early stages and many aspects, including the timeline, are still a “work in progress”.

## Financial Action Task Force (FATF)

### De-risking

On 26 June, the FATF published a [statement on the issue of “de-risking”](#). In the statement the FATF provides update on the work it is currently undertaking with respect to de-risking. In this regard it is indicated that:

- The FATF has gathered preliminary information on the potential drivers of “de-risking”, with input from the private sector. This information has highlighted that there is a continued need to improve the evidence base in order to determine the causes, scale and impact of de-risking.
- The taskforce is currently undertaking work to further clarify the interplay between the FATF standards on correspondent banking (Recommendation 13) and other intermediated relationships, and the FATF standards on customer due diligence (Recommendation 10) and wire transfers (Recommendation 16). In doing so, the FATF will consult with regulators and the private sector, and will take into account relevant work on correspondent banking and account closure being undertaken by the Committee on Payments and Market Infrastructures (CPMI), the Financial Stability Board (FSB), the Global Partnership for Financial Inclusion (GPII), the International Monetary Fund (IMF) and the Union of Arab Banks (UAB), the World Bank Group (WBG), and the World Trade Organisation (WTO).

### Jurisdictions that may pose a risk to the international financial system

On 26 June, the FATF published an updated lists of the jurisdictions that may pose a risk to the international financial system:

- [Jurisdictions with strategic anti-money laundering and combating the financing of terrorism \(AML/CFT\) deficiencies for which a call for action applies](#)
- [Jurisdictions with strategic AML/CFT deficiencies for which they have developed an action plan with the FATF](#)

### Combating the abuse of non-profit organizations

On 26 June, the FATF published a [revised best practices paper on combating the abuse of non-profit organisations \(NPOs\)](#). The paper was revised to reflect some of the findings of the [2014 Typologies Report on the Risk of Terrorist Abuse in Non-Profit Organisations](#) along with additional input and examples of good practice from governments and the private sector. The examples of best practice set out in the paper are intended to assist, amongst others, financial institutions in the proper implementation of a risk-based approach when providing financial services to NPOs.

### Risk-based approach to virtual currencies

On 26 June, the FATF published [guidance for a risk-based approach to virtual currencies](#). The purpose of the guidance is to:

- Explain the application of the risk-based approach to AML/CFT measures in the virtual currency context, identify the entities involved in virtual currency payment products and services (“VCPPS”), and clarify the application of the relevant FATF Recommendations to convertible virtual currency exchangers;
- Help the private sector better understand the relevant AML/CFT obligations and how they can effectively comply with relevant requirements.

## Financial Services and Market Authority (FSMA)

### FAQ on advice on financial planning

On 29 June, The FSMA issued a FAQ [in Dutch](#) and in [French](#) concerning the provision of advice on financial planning and the statute of independent financial planners. The FAQ provides guidance for the application of the legislation in relation to the provision of advice on financial planning in Belgium.

## International Organisation of Securities Commissions (IOSCO)

### Implementation monitoring of Principles for Financial Market Infrastructures

On 11 June, the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) published the [second update](#) to the [Level 1 assessments of implementation monitoring of the Principles for financial market infrastructures](#) (PFMIs).

Level 1 assessments are based on self-assessments by individual jurisdictions on how they have adopted, within their regulatory and oversight frameworks, the PFMIs’ 24 Principles for FMIs and four of the five Responsibilities for authorities.

The initial Level 1 assessments were conducted in mid-2013 and a report was published in August 2013. The current report is the second update to the Level 1 assessments and shows that good progress has been made by the 28 participating jurisdictions since the previous update in May 2014. In particular, the gap in the progress on implementation measures applicable to central securities depositories and securities settlement systems vis-a-vis other types of FMI has now closed. The next update of the Level 1 assessments will be conducted in 2016.

## Joint Committee of the European Supervisory Authorities (ESAs)

### Margin requirements for non-centrally cleared derivatives

On 10 June, the European Supervisory Authorities (ESAs) launched a second [consultation on draft Regulatory Technical Standards \(RTS\)](#) outlining the framework of the European Market Infrastructure Regulation (EMIR). The consultation builds on the proposals outlined in the ESAs' first consultation paper published in April 2014. The ESAs are only seeking feedback on a the following set of topics as most of the issues which arose in the last consultation paper have been addressed in the amended version of the RTS included in the consultation paper:

- Treatment of non-financial counterparties domiciled outside the EU;
- The timing of calculation, call and delivery of initial and variation margins;
- Possible unintended consequences of the RTS concerning the design or the implementation of initial margin models;
- Concentration limits for initial and variation margins;
- The requirements on trading relationship documentation;
- The review of segregation arrangements and the documentation supporting the legal basis for compliance of the arrangements in each jurisdiction;
- The use of cash for initial margin.

Comments on the consultation are due by 10 July 2015.

# Credit institutions and investment firms

Also in this issue:

[Regulatory highlights](#)

[Financial Services Industry](#)

[Investment products and asset management](#)

[Insurance, reinsurance and pensions](#)

[Data protection](#)



## Normative documents

### Official Journal of the European Union

#### Materiality of extensions and changes of internal approaches when calculating own fund requirements for market risk

On 19 June, the [Commission Delegated Regulation \(EU\) 2015/942 of 4 March 2015 amending Delegated Regulation \(EU\) No 529/2014 supplementing Regulation \(EU\) No 575/2013 of the European Parliament and of the Council as regards regulatory technical standards for assessing the materiality of extensions and changes of internal approaches when calculating own funds requirements for market risk](#) was published in the Official Journal of the European Union. The Regulation amends Commission Delegated Regulation (EU) No 529/2014 by adding the conditions for assessing materiality of extensions and

changes to Internal Models approaches (IMA), which are used for the calculation of own funds requirements for market risk. Previously, Commission Delegated Regulation (EU) No 529/2014 only covered the criteria for the assessment of materiality of extensions and changes of Internal Ratings Based (IRB) Approaches and Advanced Measurement Approaches (AMA), used for the calculation of capital requirements for credit and operational risk.

### Capital deduction for indirect and synthetic holdings

On 17 June, the [Commission Delegated Regulation \(EU\) 2015/923 of 11 March 2015 amending Delegated Regulation \(EU\) No 241/2014 supplementing Regulation \(EU\) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for own funds requirements for institutions](#) was published in the Official Journal of the European Union. In order to avoid regulatory arbitrage and ensure harmonised application of the own funds requirements in the EU, it is important to ensure that there is a uniform approach concerning the deduction from own funds items of indirect and synthetic holdings in institutions' own funds instruments and indirect and synthetic holdings in financial sector entities. With a view of implementing such a uniform approach, Commission Delegated Regulation (EU) 2015/923 amends Commission Delegated Regulation (EU) No 241/2014 to also include rules in relation to the deduction from own funds items of indirect and synthetic holdings in institutions' own funds instruments and indirect and synthetic holdings in financial sector entities.

### Own fund requirements for exposures to central counterparties

On 9 June, the [Commission Implementing Regulation \(EU\) 2015/880 of 4 June 2015 on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in Regulations \(EU\) No 575/2013 and \(EU\) No 648/2012 of the European Parliament and of the Council](#) was published in the Official Journal of the European Union. The Regulation extends a transitional period during which all CCPs with which institutions established in the EU clear transactions will be considered qualifying CCPs until 15 December 2015.

### Distributions constituting a disproportionate drag on own funds

On 2 June, the [Commission Delegated Regulation \(EU\) 2015/850 of 30 January 2015 amending Delegated Regulation \(EU\) No 241/2014 supplementing Regulation \(EU\) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions](#) was published in the Official Journal of the European Union. For the purpose of determining whether a capital instrument can be considered as CET1 capital, the Regulation sets out:

- Criteria for determining when multiple distributions on any individual Common Equity Tier 1 instrument as well as the distributions on the total own funds of the institution will not entail a disproportionate drag on own funds; and
- A definition of preferential distributions.

## Consultative or informative documents

### Basel Committee on Banking Supervision (BCBS)

#### Interest rate risk in the banking book

On 8 June, the Basel Committee on Banking Supervision issued a [consultative document on the risk management, capital treatment and supervision of interest rate risk in the banking book \(IRRBB\)](#). This consultative document expands upon and is intended to ultimately replace the Basel Committee's 2004 Principles for the management and supervision of interest rate risk. The Committee's review of the regulatory treatment of interest rate risk in the banking book is motivated by two objectives: First, to help ensure that banks have appropriate capital to cover potential losses from exposures to changes in interest rates. This is particularly important in the light of the current exceptionally low interest rate environment in many jurisdictions. Second, to limit capital arbitrage between the trading book and the banking book, as well as between banking book portfolios that are subject to different accounting treatments.

### European Banking Authority (EBA)

#### Reporting of liquidity coverage ratio

On 24 June, the European Banking Authority (EBA) published its final draft [Implementing Technical Standards \(ITS\) on supervisory reporting of liquidity coverage ratio \(LCR\) for EU credit institutions](#). The draft ITS include templates and instructions to update the LCR reporting framework following the Commission's adoption of the Delegated Act on the liquidity coverage requirement on 10 October 2014. As part of the EU Single Rulebook in the banking sector, these standards aim at harmonizing reporting of the LCR across the EU by providing credit institutions with uniform templates and instructions.

#### Revised list of ITS validation rules

On 16 June, the European Banking Authority (EBA) issued a revised list of [validation rules in the Implementing Technical Standards \(ITS\)](#) on supervisory reporting, highlighting those which have been deactivated either for incorrectness or for

triggering IT problems. Competent Authorities throughout the EU are informed that data submitted in accordance with these ITS should not be validated against the set of deactivated rules.

### **Leverage ratio disclosure and reporting**

On 15 June, the European Banking Authority (EBA) published its final draft [Implementing Technical Standards \(ITS\) on disclosure and supervisory reporting of leverage ratio for EU institutions](#). The draft ITS include changes to templates and instructions to update the leverage ratio disclosure and reporting framework following the Commission's adoption of the Delegated Act on the Leverage Ratio on 10 October 2014. As part of the EU Single Rulebook in the banking sector, these standards aim at harmonising reporting and disclosure of the leverage ratio across the EU by providing institutions with uniform templates and instructions.

### **Contributions to the Single Resolution Fund**

On 10 June, the European Banking Authority (EBA) provided its [technical advice to the European Commission on the criteria and principles that will be used to determine the uniform level of contributions by banks](#) in the participating EU Member States to the Single Resolution Fund. Pooling financial resources into this common fund will be crucial for a successful implementation of the Banking Union. The EBA's technical advice will inform a delegated act to be adopted by the Commission on the initial period for the contributions to the Single Resolution Fund.

### **Assessment methodologies to use Advanced Measurement Approaches for operational risk**

On 5 June, the European Banking Authority (EBA) published its final draft [Regulatory Technical Standards \(RTS\)](#), which specify the criteria that Competent Authorities need to take into account before granting institutions permission to use advanced measurement approaches (AMA) for calculating their capital requirements for operational risk. These RTS are part of the overall review of internal models undertaken by the EBA and are part of the Authority's efforts to harmonise practices for the approval of internal models in the area of credit, market and operational risk models across the EU banking sector. These RTS will be part of the Single Rulebook aimed at enhancing regulatory harmonisation in the banking sector across the European Union.

### **Interactive ITS on supervisory reporting**

On 3 June, the European Banking Authority (EBA) published an [interactive version of its Implementing Technical Standards \(ITS\) on supervisory reporting](#) that links the provisions of the ITS to relevant Q&A's in the Single Rulebook Q&A.

### **Regulatory equivalence of third countries**

On 2 June, the European Banking Authority (EBA) published a [questionnaire to guide its assessment of non-EU countries' equivalence with the EU prudential supervision and regulatory requirements specified in the Capital Requirements Regulation \(CRR\) and Directive \(CRD\)](#). The questionnaire, which will be sent to a selected number of countries in different rounds, will facilitate the collection of data and allow the EBA to provide technical advice on the supervisory regimes of these non-EU countries, as mandated by the European Commission.

### **European Systemic Risk Board (ESRB)**

#### **Review of macro-prudential policy in the EU**

On 25 June, the ESRB published a [report on its review of macro-prudential policy in the EU one year after the introduction of the CRD/CRR](#). The report describes the macro-prudential measures adopted in the EU in this first year (that is, until end 2014) and draws some general conclusions, such as which Member States have been particularly active in the use of measures and what objectives they aim to achieve, etc. In addition to the above, the report contains a more in-depth analysis of the specific instruments used by the national authorities (such as counter-cyclical capital buffers, systemic risk buffers,...). Based on the outcome of the review, the ESRB formulated the following forward-looking considerations:

- The ESRB will perform a review of macro-prudential policy in the EU on a regular basis with a view of identifying emerging approaches, best practices and shortcomings and inconsistencies in macro-prudential regulation as well as areas of divergent interpretations of Union law;
- A series of capital buffers are available under the CRD/CRR and whereas their end effect is the same (more capital), the conditions and procedures for their use are very different. This feature may encourage the pragmatic use of the capital rules, whereby the desirable end result (more capital) is achieved in the procedurally least burdensome way rather than by using the most appropriate instrument. Also it may not always be clear to banks which buffer should be used in which circumstances. It should further be noted that more capital may not always be the appropriate response to a macro-prudential concern;

- The ESRB will investigate how the measures have been calibrated and how effective and efficient they have been in addressing the concerns they are expected to address. Another area of further work will be to investigate whether there is a natural sequencing order and/or combination of instruments.

### Misconduct Risk in the Banking Sector

On 25 June, the ESRB published a [report on misconduct risk in the banking sector](#). The report analyses misconduct risk in the banking sector from a macro-prudential perspective. Misconduct risk refers to risks attached to the way in which a firm and its staff conduct themselves. As such, it includes how customers and investors are treated, misselling of financial products, violation of rules and manipulation of markets. Based on the above analysis, the ESRB highlights the following steps to support prevention of misconduct, to ensure sufficient provisioning by banks, and to improve coordination between the relevant authorities:

- Prevent misconduct at all levels by requiring banks to adopt behaviours, practices and internal control and compliance mechanisms that are conducive to limiting the opportunities for misconduct;
- Explore extending the Legal Entity Identifier (LEI) scheme to a larger range of counterparties;
- Ensure that Supervisory Review and Evaluation Process (SREP) assessments take into consideration the systemic impact of potential misconduct. Where relevant, competent authorities can apply Pillar 2 measures, such as requiring the strengthening of internal governance and compliance or applying capital add-ons to cover systemic misconduct risk.;
- Promote improved coordination and transparency between the members of international bodies, such as the Financial Stability Board (FSB) and the Basel Committee on Banking Supervision (BCBS), by establishing a framework for coordination that embraces best practices in banking and principles to ensure that any spill-over effects associated with enforcement and sanctioning actions are well managed;
- Include potential misconduct risks adequately in future stress tests. The European Banking Authority (EBA) should, in cooperation with the European Systemic Risk Board (ESRB), devise a minimum methodology for banks to apply when calculating the potential cost of misconduct under stress situations.

### Macro-prudential leverage ratio buffers

On 25 June, the ESRB published an [addendum to its Handbook on Operationalising Macro-prudential Policy in the Banking Sector](#) that adds a chapter on macro-prudential leverage ratio buffers to the Handbook. The new chapter provides detailed guidance to macro-prudential authorities on how to design and implement macro-prudential leverage ratio buffers. More concretely, it includes:

- A description of possible motivations for considering structural and cyclical macro-prudential leverage ratios and possible alternatives;
- An analysis of the possible role of macro-prudential leverage ratios in tackling both the structural and cyclical dimensions of systemic risk;
- A guidance in relation to the design of possible macro-prudential leverage instruments which correspond to different static and time-varying buffer requirements in the risk-weighted framework;
- A description of transmission mechanisms, including unintended consequences, and links to other regulatory, monetary and fiscal policies; and
- An overview of design issues, including around reciprocity.

### Lending in foreign currencies

On 23 June, the ESRB published a [follow-up report on the implementation of its Recommendation on lending in foreign currencies](#). The report provides the ESRB's assessment of the implementation of its Recommendation on lending in foreign currencies by the Member States. The assessment has shown that the overall level of implementation of the Recommendation was high. On the basis of the information provided, no country received a non-compliant grade. In total, 13 countries were assessed as fully compliant, 14 countries as largely compliant and one as partially compliant. The implementing measures developed by the EBA were also evaluated as fully compliant. Notwithstanding the aforementioned the ESRB is of the view that there is still scope for immediate action with regard to information exchanges between national supervisory authorities. Recommendation G, which created a mechanism for the transmission of information between home and host authorities and to the ESRB and EBA on measures to address vulnerabilities, has only been partly successful. While there is evidence that information exchanges took place in colleges of supervisors, the ESRB considers that an ESRB-wide multilateral mechanism to share publicly available macro-prudential information seems warranted.



## National Bank of Belgium (NBB)

### Guiding principles Simplified Obligations Recovery Plans

On 8 June, the National Bank of Belgium published Communication NBB\_2015\_19 setting out guidance for the drafting of simplified recovery plans (in [Dutch](#) and in [French](#)). The Communication sets out a number of principles that need to be complied with when drafting a simplified recovery plan. Pursuant to these principles, a credit institution applying the simplified recovery plan regime must draft a recovery plan that:

- Is in line with the nature, scope and complexity of its activities, its business model, its shareholder structure; and
- Consists of the following components:
  - A short summary of the recovery plan and the outcome of the self-assessment of its recovery capacity;
  - A description of its main vulnerabilities and relevant risk scenarios that can have a significant impact on it;
  - A description of the recovery options that can be used to cope with an extreme solvability- or liquidity shock;
  - Information in relation to the activation of the recovery plan, incl. the set-up of a monitoring framework to detect stress at a sufficiently early stage.

### Clarification of the regulatory framework of EEA banks which operate in Belgium based on the freedom to provide services.

On 5 June, the FSMA and NBB published [a statement](#) clarifying the following aspects of the regulatory framework of EEA banks which operate in Belgium based on the freedom to provide services (especially internet banks without a permanent establishment in Belgium):

- The prudential supervision of EEA banks operating in Belgium within the framework of the freedom to provide services: The prudential supervision of these banks is carried out by the supervisory authority of the home member state, and not by the supervisory authority of the host member state. Therefore, the NBB has no prudential competence with regard to these banks;
- The applicable deposit guarantee legislation and deposit guarantee scheme: If deposits from Belgian private individuals or SMEs deposited at an EEA bank operating in Belgium within the framework of the freedom to provide services, are no longer available as a result of, for instance, the failure of this bank, it is not the Belgian Guarantee Fund which will be responsible for paying out the equivalent of (maximum 100,000 euros of) these deposit but deposit guarantee scheme of the home member state;
- The provision of information with respect to the applicable deposit guarantee legislation and deposit guarantee scheme.

# Investment products and asset management

Also in this issue:

[Regulatory highlights](#)

[Financial Services Industry](#)

[Credit institutions and investment firms](#)

[Insurance, reinsurance and pensions](#)

[Data protection](#)



## Normative documents

/

## Consultative or informative documents

### International Organisation of Securities Commissions (IOSCO)

#### International Standards on Fees and Expenses of Investment Funds

On 25 June, the International Organization of Securities Commissions published the consultation report on [↗Elements of International Regulatory Standards on Fees and Expenses of Investment Funds](#), which proposes an updated set of common international standards of best practice for the operators of Collective Investment Schemes (CIS) and regulators to consider.

This consultation report builds on the recommendations made in the 2004 paper on International Regulatory Standards on Fees and Expenses of Investment Funds. It seeks to determine whether these standards are still valid or might be updated or supplemented in light of market and regulatory changes.

The report examines and consults on issues identified as being key across jurisdictions. Such issues concern, inter alia:

- Types of permitted fees and expenses;
- Performance-related fees;
- Disclosure of fees and expenses;
- Transaction costs;
- Hard and soft commissions on transactions.

Comments should be submitted on or before Wednesday 23 September 2015.

#### Good practices on reducing reliance on CRAs in Asset Management

On 9 June, the International Organization of Securities Commissions (IOSCO) published its final report on [↗Good practices on reducing reliance on CRAs in Asset Management](#), which provides a set of good practices for reducing over-reliance on external credit ratings in the asset management industry.

The report stresses the importance of asset managers having the appropriate expertise and processes in place to assess and manage the credit risk associated with their investment decisions. To help managers avoid over-reliance on external ratings, the report lists eight good practices that they may consider when resorting to external ratings. The good practice address national regulators, investment managers, and investors, where applicable.

# Insurance, reinsurance and pensions

Also in this issue:

[Regulatory highlights](#)

[Financial Services Industry](#)

[Credit institutions and investment firms](#)

[Investment products and asset management](#)

[Data protection](#)



## Normative documents

/

## Consultative or informative documents

### European Commission

#### Third country equivalence decisions under Solvency II

On 5 June, the European Commission has adopted its first third country equivalence decisions under Solvency II, the EU's new prudential regulatory regime that sets out rules to develop a single market for the insurance sector. After receiving equivalence, EU insurers can use local rules to report on their operations in third countries, while third country insurers are able to operate in the EU without complying with all EU rules. These equivalence decisions take the form of delegated acts and they concern Switzerland, Australia, Bermuda, Brazil, Canada, Mexico and the USA. They will provide more legal certainty for EU insurers operating in a third country as well as for third country insurance companies operating in the EU.

The Commission has adopted the following equivalence decisions under Solvency II:

- [↪ Equivalence decision concerning Switzerland](#)
- [↪ Equivalence decision concerning Australia, Bermuda, Brazil, Canada, Mexico and the USA](#)

#### Exemption from the clearing obligation for pension scheme arrangements

On 5 June, the European Commission published a [↪ proposal for a Commission Delegated Regulation](#) that will extend the exemption from the clearing obligation for pension scheme arrangements with an additional two years (i.e. until 16 August 2017). It should be noted that the exemption only applies to OTC derivative contracts concluded by pension scheme arrangements that are objectively measurable as reducing investment risks directly relating to the financial solvency of pension scheme arrangements. OTC derivative contracts that do not meet the aforementioned condition and that have been declared subject to a clearing obligation will need to be cleared.

### International Association of Insurance Supervisors (IAIS)

#### Higher Loss Absorbency (HLA) Requirement for Global Systemically Important Insurers

On 25 June, the International Association of Insurance Supervisors (IAIS) launched [↪ public consultation](#) to help finalise development of the Higher Loss Absorbency (HLA) requirement for global systemically important insurers (G-SIIs). The IAIS is seeking feedback through 21 August on several options to further support and inform the design, development and calibration of the HLA.

#### Financial inclusion

On 22 June, the IAIS released the following papers for consultation:

- [The Draft Issues Paper on Conduct of Business in Inclusive Insurance](#): As an Issues Paper the paper intends to provide an overview of the issues in respect of conduct of business in inclusive insurance markets that affect the extent to which customers are treated fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.
- [The Draft Paper on Issues in Regulation and Supervision in Microtakaful](#) (Islamic Micro-insurance): The objective of the paper is to provide an overview of the issues in respect of Microtakaful and its role in enhancing financial inclusion.

The web-based consultation tool will go live on 22 June 2015 and will close on 6 August.

# Data Protection

Also in this issue:

[Regulatory highlights](#)

[Financial Services Industry](#)

[Credit institutions and investment firms](#)

[Investment products and asset management](#)

[Insurance, reinsurance and pensions](#)



## Deloitte Privacy Newsflash

*The Deloitte Privacy Newsflash is a newsletter that is being developed on a bi – monthly basis by the Deloitte Belgium Security and Privacy team, part of the Enterprise Risk Services business unit. In this regulatory radar, every two months, we include a reference to the latest issue of this newsflash, together with a list of the topics treated in that newsflash.*

**No update this month.**

We are always interested in your feedback. Please let us know what you think of this newsletter and send your comments to [Regulatory Radar](#). Visit our website [here](#).

[Homepage](#)



[Deloitte Enterprise Risk Services](#)

Berkenlaan 8B  
1831 Diegem  
Belgium

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a more detailed description of DTTL and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte’s more than 200,000 professionals are committed to becoming the standard of excellence.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2015. For information, contact Deloitte Belgium.

To no longer receive emails about this topic please send a return email to the sender with the word “Unsubscribe” in the subject line.