



**Regulatory developments  
in September 2018**

Key regulatory developments  
during the September 2018

**ESAs**   **EU**   **ESAs report finds automation in financial advice slowly growing but scale of market remains limited**   [Link](#)

The ESAs (EBA, ESMA and EIOPA) found that the overall scale of the automated financial advice tools market still appears to be quite limited. Since they have not identified any significant changes in the risks identified in their 2016 report, they will not be taking immediate further action on the subject. The report also highlighted the sectoral work that each ESA is undertaking in relation to the automation of financial advice.

**EBA**   **EU**   **EBA publishes QIS templates to be used in assessing the impact of the finalised Basel III standards in 2018**   [Link](#)

The EBA launched its data collection exercise regarding the implementation of the Basel III framework alongside its regular Basel III monitoring exercise, which included two sets of quantitative impact study (QIS) templates. The templates build on the current Basel III monitoring templates and seek to ensure that “the data collection burden is proportionate to the institution’s size and complexity.” The EBA will provide advice and technical recommendations to the European Commission by the summer of 2019.

**EP**   **EU**   **Better protection against non-cash payment fraud**   [Link](#)

The EU Civil Liberties Committee has given its approval to proposed new rules aimed at better safeguarding EU citizens against non-cash payment fraud such as credit card theft, skimming or phishing. The proposed new rules aim to bridge existing gaps in member state laws, introduce a minimum custodial term of 3 years where a judge orders the national maximum penalty, and help to strengthen assistance for victims through measures including psychological support and free legal aid for those who lack the resources to pursue the matter in court. The committee also approved a mandate to start informal talks with the Council as a next step towards finalising the new rules.

**ECB**   **EU**   **Interview with Danièle Nouy, Chair of the Supervisory Board of the ECB**   [Link](#)

Ms Nouy recommended setting up a single European institution to address money laundering. When discussing Brexit-related issues, Ms Nouy stated that the ECB wants to ensure that banks which say they are moving to the Eurozone actually do so and while the ECB can accept that firms will need a transition period to relocate it “*should not be too long*” and firms “*should move within two or three years at the most, and they will have to start with resources that are proportionate to the risk they are moving over*”. She also stated that she suspects the real estate market could cause the next financial crisis.

**ECB**   **EU**   **ECB launches public consultation on the risk-type-specific chapters of its guide to internal models**   [Link](#)

The consultation includes chapters on credit risk, market risk and counterparty credit risk. The credit risk chapter covers topics regarding the internal ratings-based approach for calculating own funds requirements, including estimation of probability of default, loss given default and conversion factor. The market risk chapter focuses on modelling aspects relating to back-testing of value-at-risk (VaR) models, VaR and stressed VaR methodologies. The counterparty credit risk chapter outlines the ECB's understanding of the requirements for the internal model method as defined by the CRR. The consultation closes on 7 November 2018.

**ESMA**   **EU**   **Published its latest Trends, Risk and Vulnerabilities report**   [Link](#)

The report found that overall risk levels for the EU's securities markets remained at high levels. ESMA also saw a deterioration in outstanding corporate debt ratings and in corporate and sovereign bond liquidity. ESMA is further concerned about cyber risk and Brexit risk for business operations, with the latter remaining "*one of the most significant political risks*". Going forward, EU markets are expected to become increasingly sensitive to the mounting economic and political uncertainty.

**ESMA**   **EU**   **Published an opinion on proposed amendments to SFTR technical standards**   [Link](#)

ESMA decided not to amend the standards relating to legal entity identifiers (LEI) for branches and unique transaction identifiers (UTI) for trade reporting as proposed by the EC. In ESMA's view such amendments would risk timely alignment with developing international reporting standards, deviate from and create inconsistency with the current EMIR reporting standards, and result in a significantly extended timeline for the introduction of global standards in the EU.

**SRB**   **EU**   **SRB publishes article by Elke König on the need for an EU liquidation regime for banks**   [Link](#)

Ms König stated that bank insolvency procedures should be subject to common standards and practices at the EU level. She further noted the challenges in conducting a no-creditor-worse-off assessment and determining whether a bank is failing or likely to fail due to divergences in national-level insolvency laws.

**SRB**   **EU**   **SRB publishes article by Elke König on funding in resolution**   [Link](#)

Ms König noted that the banking union does not currently have temporary public backstop funding mechanisms, as recommended by the FSB, to ensure that a resolved bank has sufficient access to liquidity while analysts and creditors re-assess the bank's financial position. She further stated that solutions to achieving such a backstop need to be explored, particularly with central banks.

**EBA**   **EU**   **Published revised standardised NPL data templates**   [Link](#)

The revisions follow practical feedback from testing of the original templates published in December 2017 and include amendments in data fields, a redesign of the related legal fields, and editorial changes to improve the effectiveness and usability of the templates.

**EC**   **EU**   **Proposed to further strengthen the supervision of EU financial institutions to better address money-laundering and terrorist financing threats**   [Link](#)

The European Commission announced a proposal to concentrate Anti-Money Laundering (AML) powers in the EU financial sector within the European Banking Authority (EBA). It will do this by strengthening the EBA's mandate to ensure that risks of AML activity are effectively supervised by all Member State competent authorities. The EBA will have to ensure that breaches of AML rules are investigated by national competent authorities. Moreover, it will require that national AML supervisors comply with EU rules on the matter and cooperate with prudential supervisors.

**ECB**   **EU**   **The private sector working group on euro risk-free rates recommended ESTER as euro risk-free rate**   [Link](#)

ESTER will also provide a basis for developing fallbacks for contracts referencing the EURIBOR. It will be produced by the ECB by the end of October 2019 and it aims to reflect wholesale euro unsecured overnight borrowing costs of euro area banks. The recommendation is a key step in the move to alternative euro benchmarks.

**ECB**   **EU**   **Published an interview of Daniele Nouy, Chair of the supervisory Board, in Les Echos, on supervision priorities and regulatory fatigue**   [Link](#)

Daniele Nouy gave an interview on lessons learnt following the financial crisis. On the question of whether we have seen the end of the 'too big to fail' era, she explained that banks' recovery plans and authorities' resolution plans are helping to address the issue which she perceives to be concentrated in the United States, admitting that European banks have not increased in size over the last 10 years. She emphasised that there remains a risk of "regulatory fatigue" and listed three post-crisis supervisory priorities (i) European banks' profitability, (ii) regulatory convergence and (iii) the issue of non-performing loans.

**ECB** **EU** **Launched a public consultation on Part 2 of the Guide to assessments of licence applications** [Link](#)

The consultative Guide focused on the assessment criteria for capital requirements and programme of operations, including business plans. It also sets out the main topics of interest to supervisors when assessing the programme of operations, including the business model, risk profile, governance, and the risk management framework. The consultation closes on 25 October 2018.

**ESMA** **EU** **Published a report finding high level of diversity in national markets for structured retail products** [Link](#)

The report (from page 52, part of ESMA's Report on trends, risks, and vulnerabilities) identified that, although there is a wide range of different structured products available to retail investors across the EU, each national market is concentrated around a small number of common types, in particular capital protection products, yield enhancement products and participation products. It also found that the search for yield had been a common driver of changes in the distribution of product types.

**ESRB** **EU** **Published its EU Shadow Banking Monitor** [Link](#)

It found that the size of the EU shadow banking system changed little last year and accounts now for 40% of the EU financial system (€42 trillion in total assets). The report identified several risks and vulnerabilities, such as liquidity risks and risks around leverage among some investment fund types, interconnectedness and risk of contagion across sectors and within shadow banking, and procyclicality, leverage and liquidity risks around derivatives and securities financing transactions.

**ESAs** **EU** **The ESAs Joint Committee published a report on risks and vulnerabilities in the EU Financial System** [Link](#)

The report mentions risks related to valuations, repricing of risk premia and increasing interest rates, and contagion risks if valuation risks materialise. Its recommendations included continuing to conduct and develop stress test exercises across all sectors, and continued attention by supervisors of financial institutions' risk appetite.

**SRB** **EU** **Published an interview with Elke König on "10 years after the crisis"** [Link](#)

She highlighted the progress that has been made, including the establishment of unified supervision of banks in the Eurozone and the development of a single resolution mechanism. She further noted that there is some work still to be done, including the finalisation of the risk reduction measures legislative package and the completion of EDIS.

**EBA**   **EU**   **The European banking sector -  
towards a single jurisdiction**   [Link](#)  
**Speech by Daniele Nouy**

The Chair of the Supervisory Board of the ECB gave a speech in which she argued that the Banking Union and the SSM must further progress to be a single jurisdiction. This requires three things: 'harmonisation' 'co-operation' and 'solidarity'. She began by advising that the banking rulebook needs to "truly European" and suggested the need to introduce fewer directives and more regulations to reduce the likelihood of uneven implementation at national level. She continued by stating that whilst ring-fencing by national banking sectors was "reasonable" during the crisis supervisors should, in her view, "pull down these fences".

**EBA**   **EU**   **EU banks funding plans indicate  
increased appetite for client  
deposits and market-based funding  
in the coming years**   [Link](#)

The EBA issued a report which found that banks expect to increase client deposits and long-term market-based funding while decreasing short-term debt and repo funding. Participating banks expect total assets to grow, on average, by 6.2% by 2020, driven by loans to households and non-financial corporates.

**ECB**   **EU**   **Mario Draghi speech on Economic  
and Monetary Union**   [Link](#)

The President of the ECB spoke on both the history and future of European integration using the lessons of the past as a potential blueprint for an improved Monetary Union ("the Union"). He advised that three elements should guide in implementing the "necessary" reforms to the Union. These elements are (i) focusing integration efforts on common challenges where the EU could clearly help; (ii) recognising that integration in one area creates an interdependence with other areas; and (iii) equipping the EU with the tools and institutions to manage that interdependence and ensure stability and convergence. The speech was concluded by listing the current priorities which include youth unemployment and strengthening social models.

**ECB**   **EU**   **SSM thematic review  
on profitability and business  
models: Report on the outcome  
of the assessment**   [Link](#)

The thematic review, which was conducted from 2016 to the first quarter of 2018, found that significant institutions' (SIs) profitability and business models have improved but remain under pressure. SIs' 'strategic steering' (management's ability to set a course towards the bank's long-term objectives) is a differentiator in terms of SIs' profitability. The ECB does not expect SIs will return to pre-2008 return on equity levels due to changes in the environment, risk profiles and capitalisation.

**BIS Int'l** **Monitoring changes in fast-paced electronic markets** [Link](#)

The BIS Market Committee surveyed central banks on their priorities for monitoring the markets, and presented developments in foreign exchange and other fast-paced electronic markets (FPMs), including structural trends such as the changing nature and location of trading across a range of FPMs.

**Bank of France Int'l** **Financial supervision and the role of national authorities in Europe - Speech by François Villeroy de Galhau** [Link](#)

He stated that making the Single Resolution Mechanism fully operational should be a top priority, and that establishing the common backstop to the Single Resolution Fund will be key to achieving this priority. He further noted his belief that the establishment of a credible and efficient mechanism for resolution will make it easier to reach a compromise on deposit insurance.

**IOSCO Int'l** **IOSCO guidance addresses conflicts of interest and conduct risks in equity capital raising** [Link](#)

IOSCO published guidance for regulators to address conflicts of interests that may occur when intermediaries manage an equity securities offering. The guidance comprises measures to mitigate risks arising from connected analysts, conflicted research during investor education and price formation, conflicts of interest during the allocation of securities, underwriting risk by firms managing the offering and conflicts associated with personal transactions by staff employed within firms managing the offering.

**IOSCO Int'l** **IOSCO issues policy measures to protect investors of OTC leveraged products** [Link](#)

The report provides measures for securities regulators to consider when addressing the risks arising from the marketing and sale of OTC leveraged products to retail investors. It covers the offer and sale of rolling spot forex contracts, CFDs and binary options. Separately, IOSCO released a public statement on the risks of binary options and the response of regulators for mitigating the risks and harm to retail investors transacting in these products.

**EBA EU** **Launched its 2018 EU-wide transparency exercise.** [Link](#)

The EBA launched its fifth annual EU-wide transparency exercise. In December 2018, together with the Risk Assessment Report (RAR), the EBA will release over 900,000 data points on about 130 EU banks. The data will cover capital positions, risk exposure amounts, sovereign exposures and asset quality.

**EBA**   **EU**   **Slavka Eley, Head of Banking Markets, Innovation and Products at the ECB, delivered a speech to the EBA on the regulatory framework for mitigating key resilience risks.**   [Link](#)

Eley said that increasing digitisation, use of third party providers and cyber attacks meant that ICT related risks remained a priority within the EU and globally. Eley noted that though there are limits to what can be achieved in this area of regulation, a combined effort between institutions and supervisors will help to guard against resilience risks. She concludes by stating that the EBA's role includes ensuring coordinated approaches across the EU single market.

**EC**   **EU**   **Vice-Presidents Maroš Šefčovič and Valdis Dombrovskis and Commissioner Neven Mimica gave updates on the EU's initiatives in support of climate action.**   [Link](#)

In particular, they supported putting sustainable finance at the top of the agenda for the EU's low carbon transition, which will require around €180 billion in extra investment every year until 2030 in energy efficiency, renewable energy and clean transport.

**ECB**   **EU**   **Published a report showing a fall in card fraud in 2016.**   [Link](#)

The report showed that total fraud involving Single Euro Payments Area cards fell to €1.8 billion in 2016, i.e. 0.4% less than in 2015, and that card fraud at ATMs dropped by 12.4% from 2015 to 2016. It also showed that online fraud rose slightly from 2015 and accounted for 73% of total value of card fraud in 2016. According to the ECB, this trend can be explained by increased security measures in the industry encouraged by EU regulators. The ECB also stated that online card fraud is "naturally increasing" as digital services develop further and is becoming more and more sophisticated.

**ESMA**   **EU**   **Published its final report amending RTS on the clearing obligation for intragroup transactions.**   [Link](#)

The draft RTS relate to the deferred date of application for the treatment of certain intragroup transactions concluded with a third country group entity. In light of some of the deferred dates soon approaching, ESMA proposed to extend the current temporary exemptions to 21 December 2020, for all products currently subject to the clearing obligation.

**ESMA EU** **Announced it will publish new data completeness indicators for trading venues.** [Link](#)

The two indicators – the Completeness Ratio and the Completeness Shortfall – will assist trading venues in delivering complete and accurate data on a timely basis in respect of double volume cap (DVC) and bond liquidity data required under MiFIR. The Completeness Ratio will provide information on data completeness of an individual venue, whereas the Completeness Shortfall will measure a venue's performance in relation to other venues. The indicators will be published for the first time on 8 October for DVC and by 1 November for bond liquidity data.

**ESMA EU** **Consulted on stress testing rules for money market funds (MMFs).** [Link](#)

The consultation proposed common parameters and scenarios for stress tests of MMFs, which would take into account a number of hypothetical risk factors. They include: liquidity changes of the assets in an MMF portfolio, credit risk (including credit events and rating events), interest and exchange rate changes, redemptions, index spread changes, and macro-economic shocks. The consultation is the first step in developing detailed specifications for MMF stress testing.

**FSB Int'l** **Published a report showing momentum building for climate-related financial disclosures.** [Link](#)

After surveying disclosures of over 1,700 firms across multiple sectors, the Task Force on Climate-related Financial Disclosures (TCFD) concluded that the majority of firms surveyed publish information aligned with one of the TCFD recommended disclosures. However, climate-related financial disclosures so far tend to focus on risks and opportunities, rather than quantifying the financial impact of climate change. The TCFD will publish a further status report in June 2019.

**FSB/IMF Int'l** **Published the 2018 progress report on G20 Data Gaps Initiative.** [Link](#)

The progress report highlighted some progress made by economies participating in DGI-2, particularly in the areas of shadow banking monitoring, reporting of data on global systemically important banks, and improved coverage, timeliness, and periodicity of sectoral accounts. The report indicated, however, some remaining challenges, including adequate resource allocation in terms of skills and information technology, appropriate maintenance of the new DGI datasets and infrastructure for data access and data sharing, and strengthening inter-agency cooperation.

**CNB**   **CZ**

### **CNB has a new division for FinTech regulation.**

[Link](#)

A new division was set up at the Czech National Bank, which will deal with FinTech's regulation issues. The division will be headed by Mr. Michal Vodrážka, who previously worked at the Czech National Bank as Director of the Cash Circulation Supervision and Payment Systems Oversight Division of the Cash and Payment Systems Department.

**CNB**   **CZ**

### **The CNB responded to the question on concurrence status of investment intermediaries and tied agents**

[Link](#)

In this response, the Czech National Bank draws attention to the cases of some forbidden collisions of functions on the capital market and other cases of overlapping of functions which are not explicitly prohibited, but a condition for the concurrence of these functions is the effective management of the associated risks, in particular the effective management of the risk of conflict of interest.

**CNB**   **CZ**

### **In the Collection of Laws a Decree on professional qualification for the distribution of insurance was published**

[Link](#)

This Decree was issued in connection with the issuance of a new law on the distribution of insurance and reinsurance, which implements the European IDD Directive. Compared to current examinations, insurance intermediaries will have to demonstrate more detailed knowledge than before. The professional exams will consist of a theoretical and practical part, will contain five areas of expertise and will be held before the Examining Board. Within the practical part of the professional examination, case studies will also assess the ability of the intermediary to properly explain to insurers the offered insurance product and its properties. The tests will no longer be carried out by the Czech National Bank, but by accredited entities.

**This quarter****List of regulatory publications and events expected this quarter**

<b>Bank prudential framework</b>			<b>Due Date</b>
EU	EC	Expected report on the impact of IFRS 9 on long-term investments	Q4 2018
Int'l	FSB	FSB Cyber Lexicon	Q4 2018
<b>Conduct and competition</b>			
EU	ESMA	ESMA to publish guidance on fund performance fees	Q3 2018
EU	EC	European Commission consultation on the review of AIFMD	Q4 2018
<b>Payments, technology and innovation</b>			
EU	ESMA	Initial Coin Offering market analysis	Q3 2018
EU	EBA	EBA report/Opinion on regulatory sandboxes	Q4 2018
EU	EBA	Report/Opinion on authorisation and regulatory perimeter	Q4 2018
<b>Economic and Monetary Union</b>			
EU	EC	Expected communication on corporate bond market liquidity	Q3 2018
<b>Capital market structures</b>			
EU	ESMA	ESMA follow-up on closet-indexing	Q4 2018

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