

Pathfinder special edition

2014 Regulatory agenda – Top priorities



Welcome to our special edition of Pathfinder

First of all, we wish you all the best in the coming New Year.

The content of this special edition aims to focus on main hot regulatory topics for financial services industries in 2014, and can be used both as a backward- and forward-looking guide. The following table provides key information on each topic, together with its scope (impacted entities), links to 2013 main publications and overview of the way forward (“next steps”).

We trust this information will be of assistance and remain at your disposal for any questions.

In this special edition for the top 2014 regulatory priorities :

- **Alternative Investment Fund Manager (AIFM)**
 - **CRD IV / CRR**
 - **Prudential reporting of banks and investment firms**
 - **Central administration, internal governance and risk management**
 - **European Market and Infrastructure Regulation (EMIR)**
 - **Exchange Traded Funds (ETFs) and other UCITS issues**
 - **Key information documents for Packaged Retail Investment Products (PRIIPs)**
 - **Modernisation of accounting law**
 - **MiFID II / MiFIR**
 - **Professionals of Insurance Sector**
 - **Solvency II and Omnibus II**
 - **Single Supervisory Mechanism (SSM)**
 - **Single Resolution Mechanism (SRM)**
-

Topic	Scope	Key 2013 publications	Next Steps
<p>Alternative Investment Fund Manager (AIFM)</p>	<ul style="list-style-type: none"> • All EU AIFMs that manage at least one AIF • All non-EU AIFMs that manage at least one EU AIF • All non-EU AIFMs that market at least one AIF in EU <p>This Directive also impacts:</p> <ul style="list-style-type: none"> • Custodian banks • Prime Brokers • Administrative agents 	<p>Luxembourg implemented AIFMD in its regulatory framework via the Law of 12 July 2013 on AIFMs.</p> <p>In 2012 and 2013, the Directive has been supplemented by:</p> <ul style="list-style-type: none"> • Regulation 231/2013/EU on exemptions, general operating conditions, depositaries, leverage, transparency and supervision • Regulation 447/2013/EU on opt-in AIFMs • Regulation 448/2013/EU on the procedure for establishing the member state of reference for non-EU fund managers. <p>The AIFM framework covers:</p> <ul style="list-style-type: none"> • Authorisation • Valuation, leverage and risk management • Reporting and notification • Delegation • Remuneration • Transparency and disclosures <p>Deloitte AIFM Market Challenge web page</p>	<ul style="list-style-type: none"> • July 2014: Pre-existing AIFMs must apply for authorisation at the latest • 2014: Start of reporting. The CSSF made a further press announcement in Q4 2013 – nothing official has been issued yet (estimated: Q3 2014) • 2015: Non-EU AIFM passport • 2018: End of private placement in EU

<p>Capital Adequacy: CRD IV / CRR</p>	<ul style="list-style-type: none"> • Credit institutions • Investment firms 	<p>On 27 June 2013, the CRD IV/CRR package was published in the European Official Journal, thereby implementing the Basel III rules within the EU legal framework.</p> <p>The package introduces important changes to the banking prudential requirements:</p> <ul style="list-style-type: none"> • Strengthened capital base to cover risks • Introduction of new minimum requirements for liquidity • Incentives to clear OTC derivatives on central counterparties (CCPs) • Introduction of various additional capital buffers • Enhanced governance (including stronger corporate governance, amended rules to remuneration policies) • Enhanced transparency • Additional set of possible sanctions in case of breach <p>Deloitte Alert on CRD IV Package</p>	<ul style="list-style-type: none"> • Application of the rules from 1 January 2014, with phase-in of some of the new requirements until 1 January 2019. • Enactment within local legal environment through amendment to the Law of 5 April 1993 on financial services and release of new CSSF regulation superseding CSSF Circulars 06/273, 07/290 and 07/301(as amended).
<p>Capital Adequacy: Prudential reporting of investment firms and banks</p>	<ul style="list-style-type: none"> • Credit institutions • Investment firms 	<p>On 26 July 2013, the EBA published its final ITS on Supervisory Reporting.</p> <p>Expanded COREP to be submitted on an individual and consolidated basis on:</p> <ul style="list-style-type: none"> • Own funds • Losses stemming from lending collateralized by immovable property (IP losses) 	<ul style="list-style-type: none"> • 2014: these ITS will be directly applicable as soon as they are adopted by the European Commission, without any enactment within national law. • First reference dates for reporting: <ul style="list-style-type: none"> – 31 March for own funds, large exposures, leverage and liquidity ratios.

- Large exposures – 30 June for IP losses and asset encumbrance
- Leverage ratio – 30 September for consolidated FINREP
- Liquidity ratios (LCR and NSFR) – 31 December for NPL or forbearance
- New FINREP to be submitted on a consolidated basis:
- Reporting on financial information on a consolidated basis.

In addition, the EBA published its final draft of:

- **Technical standards on NPLs and Forbearance reporting requirements** (21/10/2013); and
- **Technical standards on asset encumbrance** (30/10/2013)

Deloitte Alert on ITS on Supervisory Reporting

Central administration, internal governance and risk management

- Credit institutions*
 - Investment firms*
 - Professionals conducting lending activities
- * Branches of non-EU in scope

CSSF Circular 12/552 on central administration, internal governance and risk management entered into force on 1 July 2013 (with some exceptions). This Circular repeals six main Circulars and reinforces notably the requirements in terms of internal governance.

Deloitte 12/552 Market Challenge web page

- From 1 January 2014, the following rules will be applicable with effect:
 - Composition and the qualifications of the Board of Directors;
 - Specialised committees (with the exception of the audit committee);
 - Prohibition to act both as Chairman of the Board of Directors and as member of the Authorised Management;
 - Setting down in writing by the Board of Directors of guidelines.

European Market and Infrastructure Regulation (EMIR)	<ul style="list-style-type: none"> • AIFM • Credit institutions • Investment firms • Investment funds • Management Companies • UCITS 	<p>On 23 January 2013, the CSSF published Circular 13/557 which highlights the entry into force of EU Regulation 648/2012.</p> <p>EMIR addresses the risk of OTC trading by imposing new requirements:</p> <ul style="list-style-type: none"> • Clearing: standardised derivative contracts should be cleared through central counterparties in order to reduce the risk in the financial system • Margin and capital: clearing counterparty shall have permanent, available and separate initial and variation margins in the form of highly liquid collateral • Reporting: all OTC and listed derivative contracts should be reported to trade repositories 	<ul style="list-style-type: none"> • 12 February 2014: First reporting to Trade Repositories • Q3 2014*: First clearing obligations starts • Q1 2015*: Starting exchange of margins for non-centrally-cleared OTC derivatives <p><i>* To be confirmed by ESMA</i></p>
<p>Deloitte EMIR Market Challenge web page</p>			

Exchange Traded Funds (ETFs) and other UCITS issues	<ul style="list-style-type: none"> • UCITS • UCITS ETFs • Index-tracking UCITS 	<p>On 18 February 2013, the CSSF published the Circular 13/559 implementing the ESMA 832-2012 Guidelines on ETFs and other UCITS issues. These guidelines are already applicable for newly launched UCITS and cover notably:</p> <ul style="list-style-type: none"> • Enhanced disclosure for index-tracking UCITS and UCITS ETFs 	<ul style="list-style-type: none"> • 18 February 2014: for existing UCITS (12 months transition period) • 31 January 2014: deadline for comments submission on ESMA Consultation Paper
--	---	--	--

- Risk management and information disclosure requirements when entering into total return swaps and efficient portfolio management techniques (“EPM”);
- New disclosure requirements in KIID, prospectus, semi-annual and annual report; and
- Criteria that should be respected by financial indices in order to be eligible for UCITS.
- On 20 December 2013, ESMA issued a Consultation Paper on Revision of the provisions on diversification of collateral in ESMA’s guidelines on ETFs and other UCITS issues

[Deloitte Alert on CSSF Circular 13/559](#)

[Deloitte Alert on ESMA Q&A and its update](#)

Key Information Documents for Packaged Retail Investment Products (PRIPs)

- Product manufacturer, and indirectly reseller of products with capital guarantees, investment funds, all structured products and some insurance products

On 20 November 2013, the European Parliament approved the draft rules defining the Key Information Documents (KIDs) for Packaged Retail Investment Products (PRIPs).

The KID has to be provided by professionals to small investors beforehand contracting for investment products. The KID aims to provide clear, comparable and complete information on investment products.

[Deloitte PRIPs Market Challenge web page](#)

- 2014: Expected entry into force of the regulation (with three to five years of transitional period).

MiFID II / MiFIR

- Credit institutions
- Investment firms
- Investment funds

On 17 June 2013, the European Council agreed its position on new MiFID/MiFIR rules:

- **MiFID**, amending rules on the authorisation and organisational requirements for providers of investment services and on investor protection.
- **MiFIR**, improving transparency and competition of trading activities by limiting the use of waivers on disclosure requirements and by providing for non-discriminatory access to trading venues and central counterparties (CCPs) for all financial instruments, and requiring derivatives to be traded on organised venues.

Debates at EU level within the Trialogue (Commission, Council and Parliament) are approaching the end of the process and convergence to a stable version of the text.

[Deloitte MiFID II Market Challenge web page](#)

Please refer also to **[EMIR](#)**.

- Finalisation of the debates of the Trialogue (Commission, Council, Parliament) and convergence to a single text (est. early 2014)
- Vote, translation and official publication (est. summer 2014)
- Implementation and production of Level 2 measures (est. end 2015 or early 2016)

Modernisation of accounting law

- Undertakings referred to in Article 8 of the *Code de Commerce* (except as provided in Article 13 of the *Code de Commerce*), such as but not limited to commercial companies, PSFs, SPVs, Management companies and securitisation vehicles.

On 2 October 2013, the Law of 30 July 2013 on modernisation of accounting Law and reform of the CNC was published.

Eight key changes potentially impact companies:

- The optional scope of the principle of “substance over form”
- Changes to the names of certain balance sheet headings
- Changes to the names of certain income statement headings
- Fixed balance sheet and income statement formats
- Off-balance sheet review
- Simplification measures for medium-sized companies
- Different format options for consolidated accounts
- Support PSF: filing of the trial balance in accordance with the standard chart of accounts (PCN)

Other key amendments solely concern companies adopting IFRS or applying the fair value option:

- Overview of procedures governing the use of the fair value method
- Calculation of distributable reserves in the event of fair value measurement or if IFRS is adopted.

- 1 January 2014: Entry into force of amendments impacting balance sheet (Article 34) and income statement (Article 46) formats come into effect from 1 January 2014 (new standardised form on the eCDF platform).

The other provisions introduced by the Law are binding for companies in 2014 (namely for financial years starting on 5 October 2013 and after)

Deloitte Alert on Law of 30 July 2013

Professionals of insurance sector

- New regulated Professionals of Insurance Sector
- Insurance
- Reinsurance intermediaries

On 22 July 2013, **the Law of 12 July 2013 on Professionals of Insurance Sector (PSA)** was published.

The purpose of this Law is amongst other:

- to introduce and set up new regulated PSAs providing support services to insurance and reinsurance undertakings (ex: reinsurance or insurance captive management companies or insurance portfolio managers);
- to strengthen the provisions applicable to the insurance and reinsurance intermediaries;
- to gather the provisions already existing on the different professionals of the insurance sector in a dedicated section of the Law of 6 December 1991 on insurance business (as amended).

Deloitte Pathfinder - Edition of August 2013

- Entry into force from the publication date with transitional period until 31 December 2019 for insurance and reinsurance intermediaries authorised before 31 December 2012. The provisions of Article 110-1 of the Law on the institution of the *Commissaire* are applicable for the financial year starting on 1 January 2014 or any subsequent date during 2014.

<p>Solvency II and Omnibus II</p>	<ul style="list-style-type: none"> • insurance undertakings • reinsurance undertakings 	<p>In October 2013, the European Commission put forward a draft directive scheduling the application date of the Solvency II Directive for 1 January 2016.</p> <p>Three pillars:</p> <ul style="list-style-type: none"> • Pillar I: Solvency Capital requirement and Capital modelling (internal models) • Pillar II: Risk management and governance requirement • Pillar III: Risk management and capital disclosure <p>Deloitte Solvency II Alert</p>	<ul style="list-style-type: none"> • Transposition of the directive into national law required by 31 March 2015. • Implementation on 1 January 2016.
<p>Single Supervisory Mechanism (SSM)</p>	<ul style="list-style-type: none"> • Credit institutions 	<p>On 29 October 2013, the European Union formally adopted the creation of a SSM, led by the European Central Bank.</p> <p>The European Central Bank will have direct supervision of euro-area banks that have assets of more than €30 billion or constitute at least 20% of their home country's GDP (subject to group considerations).</p> <p>Deloitte Banking Union Market Challenge web page</p>	<ul style="list-style-type: none"> • Expected for November 2014 • Between November 2013 and October 2014, the ECB will conduct a comprehensive assessment exercise of the 124 most significant Eurozone banking groups. The assessment comprises a business model assessment, asset quality review and stress test.

**Single
Resolution
Mechanism
(SRM)**

- Credit institutions

On 10 July 2013, the European Commission proposed a **SRM** for the Banking Union. On 19 December 2013, the Council agreed the general approach on a Single Resolution Mechanism.

- Expected for January 2015

Key points of the proposal are:

- Strong central decision-making would ensure that resolution decisions were taken effectively and quickly, avoiding uncoordinated action.
- A central body with expertise and experience on bank resolution would be able to resolve banks more effectively.
- A Single Resolution Fund would be able to pool significant resources from bank contributions.

**[Deloitte Banking Union
Market Challenge web page](#)**

[Back to top](#)

Deloitte publishes and distributes numerous documentations written by local and international experts, our publications offer valuable insights on worldwide and Luxembourg specific developments. These publications can be downloaded in PDF format **[here](#)**.

Should you need any further information or assistance in any of the above topics, please contact directly one of our partners.

Your contacts

Vincent Gouverneur

Partner | EMEA IM Leader
vgouverneur@deloitte.lu

Martin Flaunet

Partner | Banking Leader
mflaunet@deloitte.lu

Thierry Flamand

Partner | Insurance Leader
tflamand@deloitte.lu

Stéphane Césari

Partner | PSF Leader
scsari@deloitte.lu

Laurent Berliner

Partner | EMEA FSI ERS Leader
lberliner@deloitte.lu

Xavier Zaegel

Partner | Capital Markets Leader
xzaegel@deloitte.lu

Lou Kiesch

Partner | Regulatory Consulting
lkiesch@deloitte.lu

Johnny Yip

Partner | Investment Funds Leader
jyiplanyan@deloitte.lu

Georges Kioes

Partner | Middle Market Leader
gkioes@deloitte.lu

Benjamin Lam

Partner | Private Equity / Real Estate Leader
blam@deloitte.lu

Benjamin Collette

Partner | EMEA FSI Consulting Leader
bcollette@deloitte.lu

Related links

www.deloitte.lu

[Home](#) | [Security](#) | [Legal](#) | [Privacy](#)

Deloitte General Services
Société à responsabilité limitée
560, rue de Neudorf
L-2220 Luxembourg

© 2014 Deloitte General Services

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/luxembourg/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

 [Deloitte RSS feeds](#)

[Subscribe](#) / [Unsubscribe](#)