

## Banks and investment firms

# Regulatory update

Topics covered in this issue

### UCITS

- CSSF Circular 16/644

### Audit

- EU Audit Market Reform - Go!

### AML/CFT

- Proposal for amending Directive (EU) 2015/849

### AnaCredit

- Regulation objective & timeline

### MCD

- Luxembourg implementation of EU Mortgage Credit Directive in progress

### MiFID II

- Staying aware of the MiFID II agenda...and keeping on track with MiFID II projects

### CRR

- EBA published final guidance on harmonisation of the definition of default

### Non-performing loans

- Draft guidance of the ECB on non-performing loans

### IRRBB

- Update of CSSF circular 08/338

### Remuneration

- Final Guidelines on remuneration policies

### BRRD

- MREL technical standards finalised

## **EMIR**

- Regulatory Technical Standards adopted

## **CSSF**

- Regulatory key points in CSSF annual report

## **TLAC**

- Adopting TLAC in the EU

## UCITS

### CSSF Circular 16/644 repealing CSSF Circular 14/587 on UCITS Depositary function – The key take aways

Circular CSSF 14/587 anticipated different dimensions of the UCITS V framework.

The text was due to be repealed and replaced by a new CSSF Circular as soon as the EU Commission delegated Regulation (EU) 2016/438 would enter in effect, "in order to adapt its content to the provision of the final Commission Delegated Regulation".

[Read more](#)

## Audit

### EU Audit Market Reform - Go!

On 22 March 2016, the Chambre des Députés published draft Law 6969 implementing:

- **Directive 2014/56/EU** amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts; and
- **Regulation (EU) No 537/2014** on specific requirements regarding statutory audit of public-interest entities.

The Luxembourg Law implementing the Audit Market Reform was published on *Mémorial A* on 28 July 2016. The new requirements will impact Public Interest Entities (PIEs), their parent undertakings and controlled undertakings within the European Union.

[Read more](#)

## AML/CFT

### Proposal for amending Directive (EU) 2015/849

The threats associated with money laundering and terrorist financing are constantly evolving. And the recent terrorist attacks in the European Union and beyond demonstrate the urgent need for a strong coordinated European response and also the need to swiftly adapt current rules on a regular basis.

[Read more](#)

## AnaCredit

### Regulation objective & timeline

On 1 June 2016, the European Central Bank (ECB) published the final version of the AnaCredit Regulation on the collection of granular credit and credit risk data as well as the related amending decision on the organisation of preparatory measures for the collection of granular credit data by the European System of Central Banks. This regulation is only the first stage, concerning loans and deposits to legal entities. Further scope and reporting requirements could be published in the future.

[Read more](#)

## MCD

### Luxembourg implementation of EU Mortgage Credit Directive in progress

On 29 July 2016, the draft Law 7025 implementing Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property has been published. The new Law will amend Luxembourg Consumer Law and will enter into force 3 days after its publication in the Official Journal.

[Read more](#)

## MiFID II

### Staying aware of the MiFID II agenda...and keeping on track with MiFID II projects

On 30 June 2016, the Council of the EU published in the Official Journal the text that officially delays the entry into force of MiFID II/MiFIR by one year to January 2018. In parallel to that delay, transposition deadline into national laws was also pushed by one year to 3 July 2017.

[Read More](#)

## CRR

### EBA published final guidance on harmonisation of the definition of default

On 28 September 2016, the European Banking Authority (EBA) published the final report on the application of the definition of default under Article 178 of the Capital Requirements Regulation (CRR). A separate report was published for the results of the quantitative impact study (QIS).

[Read more](#)

## Non-performing loans

### Draft guidance of the ECB on non-performing loans

A number of banks in Member States across the Euro area are currently experiencing high levels of non performing loans (NPLs) which may have a negative impact on bank lending to the economy, as a result of the balance sheet, profitability, and capital constraints faced by the banks with high NPL levels.

The guidance, issued in september 2016 is a supervisory tool with the aim of clarifying the supervisory expectations regarding NPL identification, management, measurement and write-offs in areas where existing regulations, directives or guidelines are silent or lack specificity.

The NPL guidance is currently non-binding in nature but banks should explain and substantiate any deviations upon supervisory request.

[Read more](#)

## IRRBB

### Update of CSSF circular 08/338

The CSSF Circular 16/642 updates CSSF circular 08/338 regarding stress test aiming to assess the interest rate risk arising from non-trading book activities and update of CSSF circular 12/552 regarding central administration, internal governance and risk management following the guidelines adoption of EBA on the management of interest rate risk arising from non-trading activities.

The main update regards the CSSF Circular 12/552 and particularly article 245 (new section added in the circular) related to IRRBB 2 EBA's orientation. Based on this orientation, credit institutions should assess the interest rate risk exposure coming from activities other than negotiation not only in terms of change in the economic value but also in terms of change in revenue (interest margin).

New requirements are applicable from 1st December 2016 and consequently, the stress test based on the situation of the institution as at 31 December 2016 should be done based on those new requirements.

[Read more](#)

## Remuneration

### Final Guidelines on remuneration policies and practices related to sales staff in the financial sector

On 28 September 2016, the European Banking Authority (EBA) published its final guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services.

The given guidelines specify requirements for the design and implementation of remuneration policies and practices, in relation to the offering or provision of banking products and services to consumers by institutions, with a view to protecting consumers from undesirable detriment arising from the remuneration of sales staff.

These guidelines will be applicable to credit institutions, creditors, credit intermediaries, payment institutions and electronic money institutions and will enter into force as of 13 January 2018.

[Read more](#)

## BRRD

### MREL technical standards finalised

The final technical standards for calculating the minimum requirement for own funds and eligible liabilities (MREL) under the Bank Recovery and Resolution Directive (BRRD) were published in the EU's Official Journal, ending an almost two year process of drafting and revision. The standards articulate the criteria for resolution authorities to consider when setting MREL, including how to ensure that firms have sufficient bail-in-able liabilities to enable recapitalisation in a resolution. The European Banking Authority (EBA) has, however, already put forward suggestions for how to amend MREL, and the European Commission will bring forward legislation to implement the international total loss-absorbent capacity (TLAC) standard, likely involving amendments to MREL, later this year.

[Read more](#)

## EMIR

### Regulatory Technical Standards adopted

On 4 October 2016, the European Commission has endorsed the Commission Delegated Regulation (CDR) with regards to the Regulatory Technical Standards (RTS) for risk mitigation techniques for OTC derivative contracts not cleared by a central counterparty.

[Read more](#)

## CSSF

### Regulatory key points in CSSF annual report

The CSSF, in its 2015 annual report, has included opinions and recommendations regarding the main risks on Luxembourg banking sector.

[Read more](#)

## TLAC

### Adopting TLAC in the EU

The European Commission has decided to integrate its planned review of the own funds and eligible liabilities (MREL) framework with its upcoming legislative proposal on bank capital (dubbed "CRD5/CRR2") in order to make the substantial changes necessary to adopt Total Loss-Absorbing Capacity (TLAC) requirements in the EU.

[Read more](#)

# Contacts



**Martin Flaunet**  
Partner - Banking Leader  
mflaunet@deloitte.lu



**Stéphane Césari**  
Partner - PSF Leader  
scsari@deloitte.lu



**Anne-Françoise Liégeois**  
Director - Regulatory watch  
afliegeois@deloitte.lu

Deloitte is a multidisciplinary service organisation which is subject to certain regulatory and professional restrictions on the types of services we can provide to our clients, particularly where an audit relationship exists, as independence issues and other conflicts of interest may arise. Any services we commit to deliver to you will comply fully with applicable restrictions.

**About Deloitte Touche Tohmatsu Limited:**

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/lu/about](http://www.deloitte.com/lu/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited 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, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte has in the region of 200,000 professionals, all committed to becoming the standard of excellence.