

Deloitte 2017 Regulatory agenda - Top priorities

In this special edition of the top 2017 regulatory priorities:

- Anti-Money Laundering Directive IV (AML IV)
- Capital Market Union (CMU)
- Common Reporting Standard (CRS)
- European Market and Infrastructure Regulation (EMIR)
- Foreign Account Tax Compliance Act (FATCA) - Section 871(m)
- General Data Protection Regulation (GDPR) & Network and Information Systems Directive (NIS)
- Insurance Distribution Directive (IDD)
- Markets in Financial Instruments Directive and Regulation (MiFID II/MiFIR) & Packaged Retail and Insurance based Investment Products (PRIIPs)
- Mortgage Credit Directive (MCD)
- Payment Services Directive II (PSD II)
- Securities Financing Transaction Regulation (SFTF)
- Single Rulebook – CRR II/CRD V and Basel IV
- Single Supervisory Mechanism (SSM) – SREP
- Resolution and recovery – BRRD/MREL/TLAC/Bail-in

TOPICS	SCOPE	BACKGROUND	NEXT STEPS
Anti-Money Laundering Directive IV (AML IV)	<ul style="list-style-type: none"> • Credit institutions • Investment firms • Investment funds & Hedge funds • Insurance companies • Management companies • Central counterparties • Central securities depositories 	<p>The 4th AML Directive dated 20 May 2015 was published in the Official Journal of the EU in June 2015.</p> <p>Following the multiplication of terrorist attacks in Europe and the Panama Papers scandal, the European Commission called for a swift implementation of the 4th AML Directive rules and proposed additional measures aiming at fighting terrorist financing on 5 July 2016.</p> <p>The proposed amendments to the 4th AML Directive aim at:</p> <ol style="list-style-type: none"> 1. Increasing powers of Financial Intelligence Units 2. Creating an automated centralised mechanism to enable the swift identification of the holders of bank and payment accounts and to allow a faster detection of suspicious ML/TF transactions 3. Harmonising Enhanced Customer Due Diligence measures towards high-risk countries 4. Improving access to information on Ultimate Beneficial Owners 5. Connecting national central registers <p>The EU Commission also urges Member States to integrate properly into the 4th AML Directive directly into the national transposition of the 4th AML Directive. The EU Council commented on these proposed amendments in October 2016.</p> <p>The New Wire Transfer Regulation (WTR2) was published along with the 4th AML Directive on 5 June 2015. The WTR regulations, in line with the Financial Action Task Force (FATF) "Special Recommendation VII", lay down rules on the information on payers and payees, accompanying transfers of funds where at least one of the payment service providers involved in the transfer of funds is established in the Union. WTR2 repeals Regulation (EC) N. 1781/2006, extends the scope and increases obligations on payment services providers.</p> <p>In relation to the implementation of the 4th AML Directive into Luxembourg law, the Law of 23 December 2016 integrates tax crime to the list of predicate offences.</p>	<ul style="list-style-type: none"> • June 2017: Deadline for implementation of the 4th AML Directive • June 2017: Direct application into national law of WTR2 provisions
Capital Market Union (CMU)	<ul style="list-style-type: none"> • Investment funds & Hedge Funds • Credit institutions 	<p>The Capital Market Union (CMU) is a cornerstone to the "growth and jobs" program aiming at offering new opportunities for savers and investors.</p> <p>On 30 September 2015, the European Commission adopted an Action Plan containing 32 actions and related measures in order to establish a true European single market for capital.</p> <p>Under CRS, Financial Institutions will have to identify tax residency of their clients/investors and report certain information to Local Tax Authorities.</p> <p>The scope of CRS reporting is wide: Financial Institutions will have to report the identity, account number, account balance and revenue relative to each individual, non-financial entities and beneficial owners of reportable CRS jurisdictions. With the exception of pre-existing accounts (prior to 1 January 2016) no thresholds are applicable.</p> <p>The Law of 18 December 2015 published in Memorial A - N. 244 - 24 December 2015 implemented the CRS in Luxembourg.</p> <p>Reporting Financial Institutions (RFI) in Luxembourg must apply new account opening procedures, including a record of the tax residency of the account holder since 1 January 2016. In addition, RFI have to carry out due diligence on pre-existing accounts (pre 1 January 2016).</p> <p>Portfolio reconciliation: Counterparties must have agreed procedures and processes to identify, record and monitor disputes. Requirement starting from September 2013.</p> <p>Portfolio compression: When counterparties have at any given time at least 500 trades outstanding. Requirement starting from September 2013.</p> <p>Clearing obligations: EMIR introduces the obligation to clear main classes of OTC derivatives (Interest Rate Swap, Credit Default Swap etc.) in CCPs that have been authorised (for European CCPs) or recognised (for non-EU CCPs) under the regulatory framework. The implementation timeline is phased as per the category of the counterparty.</p>	<ul style="list-style-type: none"> • 2017: The list of Reportable Jurisdictions to be reported to in calendar year 2017 will be issued on the website of the Luxembourg tax authorities • June 2017: First reporting (on calendar year 2016) • December 2017: Remediation of all pre-existing individuals and entities accounts to be completed • End-2019: Completion of CMU program
Common Reporting Standard (CRS)	<p>Entities considered as Reporting Financial Institutions:</p> <ul style="list-style-type: none"> • Depository Institutions • Custodial Institutions • Investment Entities • Insurance Companies 	<p>Common Reporting Standard (CRS) elaborated by the OECD was introduced in EU law by Directive 2014/107/EU applicable since 1 January 2016.</p> <p>The CRS aims at strengthening the fight against tax evasion by enhancing the automatic exchange of information at a global level.</p> <p>Under CRS, Financial Institutions will have to identify tax residency of their clients/investors and report certain information to Local Tax Authorities.</p> <p>The scope of CRS reporting is wide: Financial Institutions will have to report the identity, account number, account balance and revenue relative to each individual, non-financial entities and beneficial owners of reportable CRS jurisdictions. With the exception of pre-existing accounts (prior to 1 January 2016) no thresholds are applicable.</p> <p>The Law of 18 December 2015 published in Memorial A - N. 244 - 24 December 2015 implemented the CRS in Luxembourg.</p> <p>Reporting Financial Institutions (RFI) in Luxembourg must apply new account opening procedures, including a record of the tax residency of the account holder since 1 January 2016. In addition, RFI have to carry out due diligence on pre-existing accounts (pre 1 January 2016).</p> <p>Portfolio reconciliation: Counterparties must have agreed procedures and processes to identify, record and monitor disputes. Requirement starting from September 2013.</p> <p>Portfolio compression: When counterparties have at any given time at least 500 trades outstanding. Requirement starting from September 2013.</p> <p>Clearing obligations: EMIR introduces the obligation to clear main classes of OTC derivatives (Interest Rate Swap, Credit Default Swap etc.) in CCPs that have been authorised (for European CCPs) or recognised (for non-EU CCPs) under the regulatory framework. The implementation timeline is phased as per the category of the counterparty.</p>	<ul style="list-style-type: none"> • 2017: The list of Reportable Jurisdictions to be reported to in calendar year 2017 will be issued on the website of the Luxembourg tax authorities • June 2017: First reporting (on calendar year 2016) • December 2017: Remediation of all pre-existing individuals and entities accounts to be completed • End-2019: Completion of CMU program
European Market and Infrastructure Regulation (EMIR)	<ul style="list-style-type: none"> • Credit institution • Investment firms • Insurance • Management Companies • Investment Firms • Non financial counterparties in derivatives trades 	<p>On 4 July 2012, the Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (known as "EMIR" - European Market Infrastructure Regulation) was adopted and entered into force on 16 August 2012.</p> <p>The Regulation ensures that counterparties meet the following key requirements:</p> <p>Reporting: All OTC and ETO contracts should be reported to trade repositories the following day (T+1) as from 12 February 2014. Collateral and valuation reporting fields have to be reported since 11 August 2014.</p> <p>Risk Mitigation Techniques: aim at reducing the operational risk of OTC derivative transactions (non-centrally cleared).</p> <p>Timely confirmation: Counterparties must document the agreement of all the terms of a contract. Requirement starting from March 2013.</p> <p>Daily valuation: Counterparties must evaluate their contracts on a daily basis. Requirement starting from March 2013.</p> <p>Portfolio reconciliation: Counterparties must reconcile the key terms (e.g. valuation, asset class, underlying, etc.) of each trade with each counterparty. Requirement starting from September 2013.</p> <p>Dispute resolution: Counterparties must have agreed procedures and processes to identify, record and monitor disputes. Requirement starting from September 2013.</p> <p>Portfolio compression: When counterparties have at any given time at least 500 trades outstanding. Requirement starting from September 2013.</p> <p>Clearing obligations: EMIR introduces the obligation to clear main classes of OTC derivatives (Interest Rate Swap, Credit Default Swap etc.) in CCPs that have been authorised (for European CCPs) or recognised (for non-EU CCPs) under the regulatory framework. The implementation timeline is phased as per the category of the counterparty.</p>	<ul style="list-style-type: none"> • Reporting: Trade shall be reported on 12 February 2017. Back loading will be postponed from February 2017 to 2019 • Risk mitigation: The risk mitigation will apply to very large counterparties - Variable margin shall be exchanged between all counterparties by 1 March 2017 - Initial margin shall be exchanged between category 2 coverage notional amount > 2.25 trillion Euro counterparties by 1 September 2017 • Clearing: Category 1: 9 February 2017 Category 2: 9 August 2017 Category 3: 9 February 2018. The ESMA proposes to postpone to 21 June 2019 Category 4: 9 August 2019
Foreign Account Tax Compliance Act (FATCA) – Section 871(m)	<ul style="list-style-type: none"> • Investment funds & Hedge funds • Credit institutions • Insurance • Investment Firms • CSP (Corporate Service Providers) 	<p>Section 871(m) of US Internal Revenue Code was passed in 2010 (together with FATCA as part of the HIRE Act) in order to prevent investors from using derivatives to avoid payment of US tax on dividends from U.S. equities. On 17 September 2015, the Internal Revenue Service (IRS) released final and temporary regulations on Section 871 (m).</p> <p>To achieve their objectives, these regulations impose a 30 percent withholding tax (or a lower treaty rate) on dividend equivalent amounts made from derivatives referencing US equities.</p> <p>Section 871(m) rules strongly impact asset managers of portfolios with instruments linked to US equities, including equity derivatives as well as equity-linked notes and convertible debt instruments. Section 871(m) is also relevant for Luxembourg banks, custodians, brokers and investors alike that issue, trade or are part of the payment chain for such instruments.</p> <p>The regulations apply to any payment made on or after 1 January 2017, with respect to certain transactions on delta-one derivative products issued on or after 1 January 2017.</p> <p>On 2 December 2016, the IRS issued Notice 2016-26 to provide taxpayers with guidance and additional clarifications concerning the administration of, and compliance with, section 871(m) regulations. This Notice includes information about a phased-in application of section 871(m) to take into account timing issues that taxpayers and withholding agents may face. The Notice also obligates taxpayers to demonstrate "best faith efforts".</p> <p>OeES and DSP will have to ensure the security of their networks and systems to promote a culture of risk management and ensure that serious incidents are reported to National Competent Authority or the Computer Security Incident Response Teams (CSIRT) designated by the EU Member State. These would include primarily private networks, and systems for which security is managed either by internal IT staff or by outsourced staff.</p>	<ul style="list-style-type: none"> • 2017-2018: Phased-in application of section 871(m) of the US Internal Revenue Code
Network and Information Systems Directive (NIS) & General Data Protection Regulation (GDPR)	<p>GDPR scope:</p> <ul style="list-style-type: none"> • Any organisation processing personal information including credit and large investment firms <p>NIS Directive scope:</p> <ul style="list-style-type: none"> • Operators of Essential Services (OeES) • Digital Service Providers (DSP) 	<p>On 4 May 2016, the official text of the EU Regulation on Data Protection has been published in the EU Official Journal.</p> <p>GDPR aims at harmonising EU Data Protection Law and increasing legal obligations for businesses that process personal data of European citizens.</p> <p>Organisations will be required to among others:</p> <ul style="list-style-type: none"> • Adopt technical and organisational measures such as designating a Data Protection Officer in certain cases • Keep records of data processing taking place • Conduct privacy impact assessment (PIAs) and if required consult Data Protection Authority • Organise training and awareness sessions • Reviewing privacy compliance (e.g., audits) <p>In a view to achieve a high common level of security of networks and information systems within the European Union, the NIS Directive establishes security and notification requirements for Operators of Essential Services (OeES) such as banking, energy, transport, financial market infrastructure, health, drinking water, digital infrastructure, and Digital Service Providers (DSP). Including online marketplaces, online search engines and cloud services.</p> <p>OeES and DSP will have to ensure the security of their networks and systems to promote a culture of risk management and ensure that serious incidents are reported to National Competent Authority or the Computer Security Incident Response Teams (CSIRT) designated by the EU Member State. These would include primarily private networks, and systems for which security is managed either by internal IT staff or by outsourced staff.</p>	<ul style="list-style-type: none"> • Q2 2017: Planned adoption by the Commission of several delegated acts (i.e. conflicts of interests, inducements, product oversight and governance, and suitability and appropriateness) • 23 February 2017: Planned adoption by the Commission of implementing technical standards regarding a standardised Insurance Product Information Document (IPID) for non-life insurance products • 23 February 2018: Deadline for the transposition of IDD into national law
Insurance Distribution Directive (IDD)	<ul style="list-style-type: none"> • Insurance undertakings • Insurance intermediaries • Ancillary insurance intermediaries (a lighter regime applies) 	<p>On 20 January 2016, the Insurance Distribution Directive (IDD) was adopted. It will be implemented on 23 February 2018 and will replace the 2002 Insurance Mediation Directive (IMD).</p> <p>IDD intends to significantly raise the minimum standards compared to IMD and ensure a level playing field between all participants involved in selling insurance products. IDD offers to insurance product buyers a similar level of protection as offered by MiFID II for other investment products. For general non-life products, IDD requires the use of a standardised product information document (PID), summarising the main features of the proposed contract (for insurance-based investment products a Key Information Document (KID) will be required under PRIIPs Regulation).</p> <p>Other key requirements of IDD:</p> <ul style="list-style-type: none"> • Information and conduct of business • Conflict of interest and remuneration • Standard insurance product information document • Professional knowledge and competence requirements • Cross-border passporting • Bundled products • Product governance • Sanctions 	<ul style="list-style-type: none"> • Q2 2017: Planned adoption by the Commission of several delegated acts (i.e. conflicts of interests, inducements, product oversight and governance, and suitability and appropriateness) • 23 February 2017: Planned adoption by the Commission of implementing technical standards regarding a standardised Insurance Product Information Document (IPID) for non-life insurance products • 23 February 2018: Deadline for the transposition of IDD into national law
Markets in Financial Instruments Directive and Regulation (MiFID II/MiFIR) & Packaged Retail and Insurance based Investment Products (PRIIPs)	<ul style="list-style-type: none"> • Investment firms • Market operators • Data reporting services providers • Third-country firms providing investment services or performing investment activities through the establishment of a branch in the EU 	<p>The Directive 2014/65/EU and Regulation (EU) n°609/2014 on markets in financial instruments (MiFID II & MiFIR) were published in the Official Journal of the EU on 12 June 2014. MiFID II seeks to improve transparency and regulation of more opaque markets, such as derivatives.</p> <p>The key themes include the following:</p> <ul style="list-style-type: none"> • Increased investor protection, transparency requirements on product and service costs • Inducements • Robust requirements for corporate governance • Market structure: additional financial instruments in scope for non-equity instruments and third country firms have to establish a branch in each EU country (when serving retail clients) or register with ESMA to gain EU passport (for professionals) • Extended reporting to prudential authority and additional publication rules apply • Reinforced supervisory powers to permanently ban financial products or activities and impose dissuasive administrative sanctions, fines and penalties that will be made public <p>On 30 June 2016, a Directive and a Regulation delaying the application date of MiFID II and MiFIR by one year have been published in the Official Journal of the EU. In addition, the co-legislators agreed on limited substantive amendments to MiFID II and MiFIR, notably regarding the pre-trade transparency for package transactions, the exemption for non-financial entities dealing on own account and the transparency for securities financing transactions.</p> <p>The implementation Regulation n°1286/2014 on Key Investor Information Documents for Packaged Retail and Insurance based Investment Products (PRIIPs) has also been delayed by one year and aligned to MiFID II/MiFIR. PRIIPs aims at providing investors with sufficient information prior making their investment decision. Insurance and banks will soon be required to use a similar document to the Key Investor Information Document (KIID) introduced under the UCITS IV Directive.</p>	<ul style="list-style-type: none"> • 3 July 2017: Deadline for the transposition of MiFID II into national laws • End of 2017: Publication of remaining MiFID II/ MiFIR technical standards • 3 January 2018: Application date of MiFID II & MiFIR • 1 January 2018: The entry into application of PRIIPs has been postponed to 1 January 2018
Mortgage Credit Directive (MCD)	<ul style="list-style-type: none"> • Credit institutions • Credit intermediaries 	<p>The Mortgage Credit Directive 2014/17/EU (MCD) on credit agreements for consumers relating to residential immovable property was adopted in 2014 and EU Member States were expected to transposition it into national laws by March 2016.</p> <p>The provisions of the MCD are not subject to maximum harmonisation, and therefore discrepancies between the Member State transpositions of the Directive exist.</p> <p>In Luxembourg, the Law implementing the MCD was published in the Memorial A on 28 December 2016. The scope of the new Law will cover any credit agreement secured either by a mortgage or by another comparable security, but also any credit agreement whose purpose is to acquire or retain property rights in land or in an existing or projected building, regardless of its collateral. The new law will have a retroactive effect and apply to all loans entered into after the 21 March 2016.</p> <p>Key provisions of the Directive include:</p> <ul style="list-style-type: none"> • Advertising obligations prohibiting wording that may create false expectations for a consumer regarding the availability or the cost of a credit • Pre-contractual information disclosure and adequate explanations to consumers • Obligation to calculate a standardised "annual percentage rate of charge" (APRC) • Obligation to assess the creditworthiness of the consumer • Standards for advisory services • Provisions to limit the exchange risk for consumers when they take out loans in a foreign currency • Disclosures to consumers relating to changes in the borrowing rate • Early repayment conditions 	<ul style="list-style-type: none"> • 21 March 2017: Luxembourg deadline for MCD compliance for credit intermediaries that have been exercising their activities prior to 21 March 2016
Payment Services Directive II (PSD II)	<ul style="list-style-type: none"> • Credit institutions • Payment institutions 	<p>On 23 December 2015, the Directive 2015/2366 on payment services (PSD II) was published in the Official Journal of the EU. PSD II replaces PSD, in place since 2007. The new Directive has to be transposed into local law by January 2018, bringing several changes to the payment industry.</p> <p>New actors</p> <ul style="list-style-type: none"> - Third-party Payment Service Providers will become regulated to ensure merchants and customers security. It will impact on: - Account Information Service Providers (AISP) aggregating customer payment account information - Payment Initiation Service Providers (PISP) initiating payments between payee's and payer's accounts (Payment execution is not impacted). <p>Expanded scope of Transactions</p> <ul style="list-style-type: none"> - "One leg out" transactions where money is being sent out of or into Europe are subject to transparency requirements <p>Security provisions</p> <ul style="list-style-type: none"> - New concept of "strong customer authentication" when buyers access payment account online, initiate an electronic payment transaction or carry out remote actions with risk of fraud <p>Liability and compliance provisions</p> <ul style="list-style-type: none"> - Decreased user liability in case of unauthorised payment - Customer refund, transparency of fees and maximum execution time - Internal control and incident reporting frameworks to be applied by impacted payment service providers <p>Access to Accounts (X52A)</p> <ul style="list-style-type: none"> - All EU banks will have the obligation to open up their existing online bankings and provide PISP and AISP with an open Application Programming Interface (API) to retrieve payment account information or initiate payments. 	<ul style="list-style-type: none"> • January 2018: Entry into force of EBA RTS on cooperation with authorities for passport notifications (Draft RTS released) • January 2018: Entry into force of EBA Guidelines on professional indemnity insurance, authorisation and registration, and major incidents reporting (all three consultation processes ongoing) • October 2018: Entry into force of EBA RTS on strong customer authentication and common & secure communication (Draft RTS released) • July 2017: Start date for application by AISP and PISP for authorisations or registrations • January 2018: Deadline for PSD II transposition and implementation
Securities Financing Transaction Regulation (SFTF)	<ul style="list-style-type: none"> • Credit institutions • Investment firms • Investment funds & Hedge funds • Insurance companies • Management companies • Central counterparties • Central securities depositories 	<p>The Securities Financing Transactions and Reuse (SFTF) entered into force on 12 January 2016.</p> <p>The requirements that will come into force in 2017 aim at strengthening transparency of SFTF:</p> <ul style="list-style-type: none"> • Periodical report (Article 13 SFTF): AIFM and UCITS (Self-managed Sicav and Manco) shall inform investors about the details on the use they make of SFT and total return swap (TR) by providing specific information in the annual report (AIFM) and annual and half-yearly report (UCITS). • Pre-contractual documents (Article 14 SFTF): UCITS prospectus and AIFM's documents shall specify details on the SFT and TR that they are authorised to use and a clear statement that these transactions and instruments are used. • Transaction reporting: all counterparties of SFT (broadly securities and commodities lending, repo and margin lending transactions) shall comply with transaction reporting and record keeping requirements. This obligation applies to investment firms, credit institutions, central counterparties, central securities depositories, other financial counterparties and non-financial counterparties and shall enter into force after the adoption by the Commission of RTS on transaction reporting for SFT. <p>2. Interest rate risk in the Banking Book (IRBBB) – disclosures: The revised framework for IRBBB is laid out in CRD V. The Commission has proposed disclosure rules on exposures to IRBBB. These will apply two years after the entry into force of CRD II.</p> <p>3. Net Stable Funding Ratio (NSFR): The Commission has proposed a requirement for a NSFR. A number of modifications relative to the BCBS standard are proposed, including in relation to covered bonds, trade finance, the treatment of derivatives, short-term interbank transactions, and of High Quality Liquid Assets.</p> <p>4. Standardised Approach for Counterparty Credit Risk (SA-CCR): Implementation of the 2014 BCBS standard from SA-CCR, while making small adjustments aimed at ensuring proportionality in its application. Replacement of Mark-to-Market Adjustment, removal of the Standardised Method and preservation of a modifier Original Exposure Method.</p> <p>In 2017, the next wave of capital requirements standards should be completed by the Basel Committee.</p> <p>More specifically, the following proposals should be finalised in Q1 2017:</p> <ol style="list-style-type: none"> 1. New standardised approach for credit risk 2. Risk data aggregation capabilities 3. Risk reporting practice 4. Supervisory review, tools and cooperation <p>The EBA is asked to do secondary-level work on detailing the standardised methodology and will be inspired by the BCBS work.</p>	<ul style="list-style-type: none"> • 13 January 2017: Deadline for AIFM and UCITS (Self-managed Sicav and Manco) to comply with the periodical reporting obligation • 13 July 2017: Pre-contractual document: AIFM and UCITS (Inca, Manco) shall apply this reporting obligation for funds that existed prior to 12 January 2016 • Transaction reporting: investment firms, credit institutions, central counterparties, central securities depositories, other financial counterparties and non-financial counterparties shall apply this reporting obligation between 2018 and 2019
Single Rulebook – CRR II/CRD V and Basel IV	<ul style="list-style-type: none"> • Credit institutions • (Large) investment firms 	<p>In November 2016, the Commission proposed amendments to the Capital Requirement Directive (CRD) and Regulation (CRR). The amendments include measures that will strengthen the resilience of the banking sector by introducing more risk-sensitive capital requirements.</p> <p>The proposals incorporate the remaining elements of the regulatory framework agreed recently within the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board (FSB). They include in particular:</p> <ol style="list-style-type: none"> 1. Market Risk (Fundamental Review of the Trading Book – FRTB): The Commission has specified details on the SFT and TR that they are authorised to use and a clear statement that these transactions and instruments are used. 2. Interest rate risk in the Banking Book (IRBBB) – disclosures: The revised framework for IRBBB is laid out in CRD V. The Commission has proposed disclosure rules on exposures to IRBBB. These will apply two years after the entry into force of CRD II. 3. Net Stable Funding Ratio (NSFR): The Commission has proposed a requirement for a NSFR. A number of modifications relative to the BCBS standard are proposed, including in relation to covered bonds, trade finance, the treatment of derivatives, short-term interbank transactions, and of High Quality Liquid Assets. 4. Standardised Approach for Counterparty Credit Risk (SA-CCR): Implementation of the 2014 BCBS standard from SA-CCR, while making small adjustments aimed at ensuring proportionality in its application. Replacement of Mark-to-Market Adjustment, removal of the Standardised Method and preservation of a modifier Original Exposure Method. <p>In 2017, the next wave of capital requirements standards should be completed by the Basel Committee.</p> <p>More specifically, the following proposals should be finalised in Q1 2017:</p> <ol style="list-style-type: none"> 1. New standardised approach for credit risk 2. Risk data aggregation capabilities 3. Risk reporting practice 4. Supervisory review, tools and cooperation <p>Finally, the EBA also launched a consultation on its draft "Guidelines on Information and Communication Technology (ICT) Risk Assessment" in October 2016. These guidelines are consistent with the ECBS 2016 priorities to enhance financial institutions' IT and cyber security resilience. These new guidelines are expected to impact banks' supervisory scoring and assessment, leading to potential impacts on SREP engagement and capital requirements.</p>	<ul style="list-style-type: none"> • Q1 2019: Expected finalisation of the European Council and European Parliament legislative process. At that point, secondary rulemaking by the European Banking Authority (EBA) and national regulators must also occur. • Q2 2017: The Guidelines on Information and Communication Technology (ICT) Risk Assessment will be finalised • BCBS 239 Domestic Systemically Important Banks (D-SIBs): <ul style="list-style-type: none"> • Q1 2016 – Q1 2018: Expected spot-checks from ECB and design and implement target operating model • Q1 2019: Expected compliance with BCBS 239 guidelines • Other institutions: Timeline for full compliance has not been set for other banks. Regulators (incl. CSSF) have however communicated that supervisory oversight of Data Quality as part of the SREP process will be inspired by BCBS 239 guidelines, taking proportionality into account.
Single Supervisory Mechanism (SSM) – SREP	<ul style="list-style-type: none"> • Credit institutions • (Large) investment firms 	<p>Under the Single Supervisory Mechanism (SSM), supervisors (i.e. European Central Bank (ECB) for systemically important institutions and the National Competent Authorities (NCA) for the less significant institutions) are required to regularly assess and measure the risks of each bank according to a structured methodology, the Supervisory Review and Evaluation Process (SREP), which consists of a set of tools to examine a bank's risk profile from four different angles: (i) Business models; (ii) Governance and risk management; (iii) Risk to capital (CAAP) and (iv) Risk to liquidity and funding (ILAAP).</p> <p>For 2017 three priority areas will guide banking supervision:</p> <ol style="list-style-type: none"> 1. Business models and profitability drivers, especially in view of protracted ultra-low/negative interest rates, with a specific focus on possible impact of Brexit and Fintech emergence on the banks' sustainability 2. Credit risk, with a focus on Non Performing Loans (NPLs), concentration risk and a thematic review on FRS 9 3. Risk management, with a focus on compliance with BCBS 239 (principles for effective risk data aggregation and risk reporting), a targeted review of internal models (FRM), a thematic review on outsourcing risks and the implementation of new guidelines on ICAAP and ILAAP <p>The European Banking Authority (EBA) indeed published on 3 November 2016 its final Guidelines on the collection of information related to the internal capital adequacy assessment process (ICAAP) and the internal liquidity adequacy assessment process (ILAAP). These Guidelines aim at facilitating a consistent approach to the supervisory assessment of ICAAP and ILAAP Frameworks across the EU as part of the SREP.</p> <p>With BCBS 239, the regulators address existing gaps in Risk Data Aggregation and Reporting (RDAR). It introduces 14 principles which banks designated as G-SIB must already have complied with since January 2016, while D-SIBs are due to comply 3 years after designation.</p> <p>The principles are divided in 4 major areas:</p> <ol style="list-style-type: none"> 1. Overarching governance and infrastructure 2. Risk data aggregation capabilities 3. Risk reporting practice 4. Supervisory review, tools and cooperation <p>Finally, the EBA also launched a consultation on its draft "Guidelines on Information and Communication Technology (ICT) Risk Assessment" in October 2016. These guidelines are consistent with the ECBS 2016 priorities to enhance financial institutions' IT and cyber security resilience. These new guidelines are expected to impact banks' supervisory scoring and assessment, leading to potential impacts on SREP engagement and capital requirements.</p>	<ul style="list-style-type: none"> • Q1 2019: Expected finalisation of the European Council and European Parliament legislative process. At that point, secondary rulemaking by the European Banking Authority (EBA) and national regulators must also occur. • Q2 2017: The Guidelines on Information and Communication Technology (ICT) Risk Assessment will be finalised • BCBS 239 Domestic Systemically Important Banks (D-SIBs): <ul style="list-style-type: none"> • Q1 2016 – Q1 2018: Expected spot-checks from ECB and design and implement target operating model • Q1 2019: Expected compliance with BCBS 239 guidelines • Other institutions: Timeline for full compliance has not been set for other banks. Regulators (incl. CSSF) have however communicated that supervisory oversight of Data Quality as part of the SREP process will be inspired by BCBS 239 guidelines, taking proportionality into account.
Resolution and recovery – BRRD/MREL/TLAC/Bail-in	<ul style="list-style-type: none"> • Credit institutions • (Large) investment firms included in the Bank Recovery and Resolution pillar of banking supervision 	<p>In November 2016, the Commission proposed amendments to the Bank Recovery and Resolution Directive (BRRD). The amendments include measures that will further strengthen the European resolution framework and the ability of relevant authorities to achieve resolution outcomes that are effective in safeguarding financial stability and public funds.</p> <p>Harmonising MREL and TLAC: In order to implement the Total Loss-Absorbing Capacity (TLAC) and to amend Minimum Requirement for own funds and Eligible Liabilities (MREL), amendments have been made to the BRRD in alignment with the revised CRR.</p> <p>The Commission has proposed:</p> <ul style="list-style-type: none"> • To introduce a minimum harmonised MREL requirement in line with the scope of the TLAC (applicable to G-SIBs only) • A bank specific MREL under a Pillar 2 approach will be set for non-G-SIBs defining their total loss-absorbency requirements • A number of constraints on host resolution authorities to set higher levels of loss-absorbency for banks under a range of circumstances <p>Contractual recognition of bail-in: The Commission has proposed to allow resolution authorities to grant waiver from compliance with the Article 55 requirement to include in contracts that are governed by the law of a third country a clause by which the creditor recognises the bail-in power of the EU resolution authorities.</p>	<ul style="list-style-type: none"> • Q1 2019: Expected finalisation of the European Council and European Parliament legislative process. At that point, secondary rulemaking by the European Banking Authority (EBA) and national regulators must also occur.

TOPICS	SCOPE	BACKGROUND	NEXT STEPS
Anti-Money Laundering Directive IV (AML IV)	<ul style="list-style-type: none"> • Credit institutions • Investment firms • Investment funds & Hedge funds • Insurance companies • Management companies • Central counterparties • Central securities depositories 	<p>The 4th AML Directive dated 20 May 2015 was published in the Official Journal of the EU in June 2015.</p> <p>Following the multiplication of terrorist attacks in Europe and the Panama Papers scandal, the European Commission called for a swift implementation of the 4th AML Directive rules and proposed additional measures aiming at fighting terrorist financing on 5 July 2016.</p> <p>The proposed amendments to the 4th AML Directive aim at:</p> <ol style="list-style-type: none"> 1. Increasing powers of Financial Intelligence Units 2. Creating an automated centralised mechanism to enable the swift identification of the holders of bank and payment accounts and to allow a faster detection of suspicious ML/TF transactions 3. Harmonising Enhanced Customer Due Diligence measures towards high-risk countries 4. Improving access to information on Ultimate Beneficial Owners 5. Connecting national central registers <p>The EU Commission also urges Member States to integrate properly into the 4th AML Directive directly into the national transposition of the 4th AML Directive. The EU Council commented on these proposed amendments in October 2016.</p> <p>The New Wire Transfer Regulation (WTR2) was published along with the 4th AML Directive on 5 June 2015. The WTR regulations, in line with the Financial Action Task Force (FATF) "Special Recommendation VII", lay down rules on the information on payers and payees, accompanying transfers of funds where at least one of the payment service providers involved in the transfer of funds is established in the Union. WTR2 repeals Regulation (EC) N. 1781/2006, extends the scope and increases obligations on payment services providers.</p> <p>In relation to the implementation of the 4th AML Directive into Luxembourg law, the Law of 23 December 2016 integrates tax crime to the list of predicate offences.</p>	<ul style="list-style-type: none"> • June 2017: Deadline for implementation of the 4th AML Directive • June 2017: Direct application into national law of WTR2 provisions
Capital Market Union (CMU)	<ul style="list-style-type: none"> • Investment funds & Hedge Funds • Credit institutions 	<p>The Capital Market Union (CMU) is a cornerstone to the "growth and jobs" program aiming at offering new opportunities for savers and investors.</p> <p>On 30 September 2015, the European Commission adopted an Action Plan containing 32 actions and related measures in order to establish a true European single market for capital.</p> <p>Under CRS, Financial Institutions will have to identify tax residency of their clients/investors and report certain information to Local Tax Authorities.</p> <p>The scope of CRS reporting is wide: Financial Institutions will have to report the identity, account number, account balance and revenue relative to each individual, non-financial entities and beneficial owners of reportable CRS jurisdictions. With the exception of pre-existing accounts (prior to 1 January 2016) no thresholds are applicable.</p> <p>The Law of 18 December 2015 published in Memorial A - N. 244 - 24 December 2015 implemented the CRS in Luxembourg.</p> <p>Reporting Financial Institutions (RFI) in Luxembourg must apply new account opening procedures, including a record of the tax residency of the account holder since 1 January 2016. In addition, RFI have to carry out due diligence on pre-existing accounts (pre 1 January 2016).</p> <p>Portfolio reconciliation: Counterparties must have agreed procedures and processes to identify, record and monitor disputes. Requirement starting from September 2013.</p> <p>Portfolio compression: When counterparties have at any given time at least 500 trades outstanding. Requirement starting from September 2013.</p> <p>Clearing obligations: EMIR introduces the obligation to clear main classes of OTC derivatives (Interest Rate Swap, Credit Default Swap etc.) in CCPs that have been authorised (for European CCPs) or recognised (for non-EU CCPs) under the regulatory framework. The implementation timeline is phased as per the category of the counterparty.</p>	<ul style="list-style-type: none"> • 2017: The list of Reportable Jurisdictions to be reported to in calendar year 2017 will be issued on the website of the Luxembourg tax authorities • June 2017: First reporting (on calendar year 2016) • December 2017: Remediation of all pre-existing individuals and entities accounts to be completed • End-2019: Completion of CMU program
Common Reporting Standard (CRS)	<p>Entities considered as Reporting Financial Institutions:</p> <ul style="list-style-type: none"> • Depository Institutions • Custodial Institutions • Investment Entities • Insurance Companies 	<p>Common Reporting Standard (CRS) elaborated by the OECD was introduced in EU law by Directive 2014/107/EU applicable since 1 January 2016.</p> <p>The CRS aims at strengthening the fight against tax evasion by enhancing the automatic exchange of information at a global level.</p> <p>Under CRS, Financial Institutions will have to identify tax residency of their clients/investors and report certain information to Local Tax Authorities.</p> <p>The scope of CRS reporting is wide: Financial Institutions will have to report the identity, account number, account balance and revenue relative to each individual, non-financial entities and beneficial owners of reportable CRS jurisdictions. With the exception of pre-existing accounts (prior to 1 January 2016) no thresholds are applicable.</p> <p>The Law of 18 December 2015 published in Memorial A - N. 244 - 24 December 2015 implemented the CRS in Luxembourg.</p> <p>Reporting Financial Institutions (RFI) in Luxembourg must apply new account opening procedures, including a record of the tax residency of the account holder since 1 January 2016. In addition, RFI have to carry out due diligence on pre-existing accounts (pre 1 January 2016).</p> <p>Portfolio reconciliation: Counterparties must have agreed procedures and processes to identify, record and monitor disputes. Requirement starting from September 2013.</p> <p>Portfolio compression: When counterparties have at any given time at least 500 trades outstanding. Requirement starting from September 2013.</p> <p>Clearing obligations: EMIR introduces the obligation to clear main classes of OTC derivatives (Interest Rate Swap, Credit Default Swap etc.) in CCPs that have been authorised (for European CCPs) or recognised (for non-EU CCPs) under the regulatory framework. The implementation timeline is phased as per the category of the counterparty.</p>	<ul style="list-style-type: none"> • 2017: The list of Reportable Jurisdictions to be reported to in calendar year 2017 will be issued on the website of the Luxembourg tax authorities • June 2017: First reporting (on calendar year 2016)