

Risk and Regulation Monthly



July was marked by the announcement of Martin Wheatley's resignation as Chief Executive of the Financial Conduct Authority (FCA). Elsewhere, there were a series of reports on **benchmark remediation and reform**, and the UK regulators finalised rules on the **Senior Managers and Certification Regimes**. In Europe the European Banking Authority (EBA) released another batch of technical standards under the **Bank Recovery and Resolution Directive (BRRD)** and the European Insurance and Occupational Pensions Authority (EIOPA) issued the second set of technical standards and guidelines on **Solvency II**.

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Capital (including stress testing)

The Prudential Regulation Authority (PRA) finalised its approach to setting Pillar 2 capital requirements. There were few substantive changes from the draft proposals. The changes seek to enhance proportionality, e.g. by clarifying the role of supervisory judgement, own capital assessments and methodologies in dealing with specific business models, and come into force on 1 January 2016. The package consists of a *policy statement*; *statement of policy* on PRA methodologies for setting Pillar 2 capital; and a *supervisory statement* on the Internal Capital Adequacy Assessment Process (ICAAP) and the Supervisory Review and Evaluation Process (SREP).

The **Financial Policy Committee (FPC)** published two policy statements on the *housing market* and the *leverage ratio*. The documents set out the FPC's expectations of how its tools will function, their likely impact on financial stability and economic growth, and the conditions under which they could be adjusted. The PRA also *consulted* on its proposed approach to the UK leverage ratio framework, and *outlined* its approach to any future FPC directions on tools for the housing market, based on its implementation of the FPC's 2014 recommendation on loan to income ratios in mortgage lending. The record of the FPC's policy meeting held on 24 June 2015 was also *published*.

The Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO) *finalised* the criteria for identifying **simple, transparent and comparable (STC) securitisations**. The 14 criteria aim to help parties identify and evaluate the structures and risks of securitisation through detailed information about the underlying assets' characteristics. The EBA also issued an *opinion* and accompanying *report* on a European framework for qualifying securitisation. It recommended a holistic review of the regulatory framework for securitisation and a re-calibration of the BCBS framework applicable to STC securitisation. For additional information see our blog: '*Qualifying securitisation: what is it and what does it mean for the market*'.

The BCBS *consulted* on revisions to the **credit valuation adjustment (CVA)** framework. The proposals capture a wider set of risks, including the market risk exposure component of CVA along with its associated hedges; and increase alignment with industry practices in accounting. Various changes were proposed to increase consistency with the market risk framework set out in the fundamental review of the trading book (FRTB). The BCBS will also conduct a quantitative impact study (QIS) later in 2015.

The European Commission *consulted* on the impact of **Capital Requirements Directive IV (CRD IV)** on bank financing of the economy: on its effect on the level of capital held by banks; whether the requirements are proportionate; their effect on lending; and whether the rules can be simplified without compromising their efficacy. The Commission will publish a report and host a hearing in 2015, ahead of a final report in 2016.

The EBA *provided* an update on its 2015 transparency exercise and 2016 **stress test**. The *draft sample of participating banks* for the transparency exercise includes four UK banks (Barclays, HSBC, Lloyds and RBS); draft *reporting templates* were also released. The 2016 stress test will include many of the aspects of the 2014 exercise, and will be based on a constrained bottom-up approach, including a static balance sheet assumption, to assess EU banks' solvency. The exercise will be more aligned with the SREP cycle to ensure the results of the stress test are incorporated as an input into that process. The detailed scenario and methodology are expected in Q1 2016, and the results in Q3 2016.

The EBA *reported* on CRD IV **macro-prudential policy measures** employed since January 2014. Excluding the countercyclical capital buffer and capital conservation buffer, 15 countries introduced 32 measures, approximately half related to real estate and half to other systemic risks and systemically important institutions. The most common measures included stricter criteria for standardised risk weights for exposures secured by mortgages; the systemic risk buffer; and increased Pillar 2 requirements. The **report said that greater** transparency around the objectives of such policy measures was required.

The EBA *reported* on the **consistency of risk-weighted assets (RWAs)** across major EU banks for large corporate, sovereign and institutions' Internal Ratings-Based portfolios (collectively, *low default portfolios (LDP)*), and for the calculation of *counterparty credit risk (CCR)* exposures. The LDP report found that much of the variability in RWAs was determined by differences in riskiness, i.e. idiosyncratic portfolio features, while three-quarters of the differences in "global charge" levels across firms was due to the proportion of defaulted exposures in the portfolio. The CCR report concluded that there was "significant" variability in the calculation of CCR and advanced credit value adjustments, particularly for equity and foreign exchange derivatives.

The EBA *consulted* on the conditions that authorities must consider when tightening **capital requirements for mortgage exposures**. The consultation also considered the appropriate level of indicative benchmarks for loss expectations when setting higher risk weights.

The EBA *set out* the key metrics it used to identify **global systemically important institutions (G-SIIs)** in the EU, disclosing information on the size, interconnectedness, substitutability, complexity and cross-jurisdictional activity of 37 EU banks whose leverage ratio exposure measure exceeded €200bn in 2014. Across those five broad categories, twelve metrics were specified, including total exposures; intra-financial system assets/liabilities; payments and underwriting activity; and cross-jurisdictional claims/liabilities.

The PRA *requested* general insurance (GI) firms to participate in a **stress test** exercise. It asked firms to calculate losses under 11 catastrophic scenarios that are either market-wide (e.g. European windstorm and flood) or firm-specific (e.g. cyber loss and supply chain disturbance). Participants have until 1 October 2015 to submit their responses.

EIOPA *published* the second set of draft implementing technical standards (ITS) and guidelines that cover different areas of the **three pillars of Solvency II**. These included capital add-ons; valuation of assets and liabilities; and reporting and disclosure requirements. The draft ITS and guidelines are expected to apply from 1 January 2016. The PRA also *published* a supervisory statement setting out its expectations on the treatment of sovereign debt in internal models under Solvency II.

The PRA *said* it expects the approval process for **matching adjustment (MA) applications under Solvency II** to be consistent across firms. As a result, it will make final decisions on all formal MA applications received prior to 1 July in late October 2015, and communicate the decisions to firms simultaneously shortly thereafter. The PRA also *updated* its supervisory statement on applying EIOPA's set 1 guidelines to PRA-authorized firms, to reflect the fact that it applies to Lloyd's managing agents rather than just to the Society of Lloyd's.

Andrew Bulley, PRA Director of Life Insurance, and Chris Moulder, PRA Director of General Insurance, *provided* a **Solvency II Directors' update**. This set out the PRA's views on a number of issues, including key principles when considering outwards reinsurance cash-flows; and a reminder that firms should take practical steps to prepare for the Senior Insurance Managers Regime.

Sam Woods, Executive Director of Insurance Supervision, *outlined* the Bank of England's **approach to capital** under Solvency II. He clarified that although the Bank does not intend to use the Directive to increase the aggregate level of required capital, some firms might still see movements in their regulatory capital position.

EIOPA *consulted* on its proposed advice to the European Commission on the **identification and calibration of infrastructure investment risk categories**.

It highlighted the importance of understanding whether the investments and systems of governance requirements in Solvency II are sufficient to manage infrastructure risk. Among the issues on which it is seeking views are the calibration for qualifying infrastructure investments; and possible obstacles to infrastructure investments that are not justified by prudential considerations.

The Society of Lloyd's *updated* its guidance on **Solvency II** technical provisions and *published* a corresponding market bulletin. The majority of the 2011 guidance still holds, with the most significant update relating to contract boundaries to be considered for outwards reinsurance.

The European Commission published an exchange of letters between Roberto Gualtieri and Jonathan Hill, setting out Gualtieri's *concerns* about the Delegated Regulation supplementing **Solvency II** and Commissioner Hill's *response*. In these letters, the Commissioner agrees to incorporate technical corrections to the Delegated Regulation as part of the amendment to include the European Long-Term Investment Funds in the treatment of type 1 equity, to review the approach to sub-tiers on the basis of an impact assessment within 3 years, and to adopt Delegated Acts on third country equivalence on the basis of one Act per country and per area as soon as possible.

The European Supervisory Authorities (ESAs) *consulted* on the guidelines for the **prudential assessment of acquisitions of qualifying holdings**. This aims to provide legal certainty and clarity on assessment processes relating to increases in control and acquisitions in banks, investment firms and insurance firms; and increase harmonisation and transparency in the prudential assessment made by national regulators.

Liquidity

The PRA *published* a supervisory statement on interim **"liquidity coverage requirement"** (LCR) reporting arrangements. These will apply from 1 October 2015, when the LCR standard applies in accordance with the European Commission's delegated act, until the adoption of technical standards, when mandatory reporting of the new LCR return will apply. Among other transitional requirements, firms may report monthly, with a 30 calendar day delay, on an "all currency basis" only, i.e. not by significant currency.

The EBA *indefinitely extended* the application date for additional liquidity monitoring metrics under **CRD IV**, and will specify the new date once the ITS are published in the EU Official Journal.

Governance and risk management (including remuneration)

The BCBS *updated* its principles on **corporate governance** for banks, to stress the importance within this of risk governance, and promote the value of strong boards and committees, and effective control functions. The revisions expand the guidance on the board's oversight of the implementation of risk management systems, strengthen expectations of risk governance, and underline the importance of a sound risk culture. The principles state that the board and senior management of a bank should use the remuneration framework to convey acceptable risk-taking behaviour and reinforce the bank's operating and risk culture.

The FCA and PRA published final rules on the **Senior Managers Regime**. The PRA published a *policy statement*; a *supervisory statement* outlining its expectations of firms; and a *statement of policy* on the approval process for individuals. The FCA *set out* its final handbook text and its responses to earlier consultations, and also consulted on extending the Certification Regime to a wider set of individuals active in wholesale markets. These include any individuals dealing with clients, e.g. those dealing and arranging deals in investments, or acting as an investment manager or bidder's representative; and individuals engaged in algorithmic trading. Following publication, Martin Wheatley *spoke* about the need to move from policy to implementation.

The Lloyd's Market Association (LMA) *published* guidance for managing agents on the **Senior Insurance Manager Regime** (SIMR), with a simplified explanation of the rules and practical tips for implementation. It covered all the significant components of the new regime, including Governance Maps and Key Function Holders. It also provided a brief example of how a firm could set out its approach to SIMR implementation.

The EBA *published* a peer review of authorities' assessments of the suitability of **management body members and key function holders**. Authorities largely complied with relevant EBA guidelines, but this had not led to sufficient supervisory convergence. Supervisors differed in their definitions of "suitability" and "independence"; their approaches to judging the suitability of key function holders; and their criteria to assess candidates' suitability. The EBA will propose amending existing guidelines to include examples of best practice, e.g. greater use of interviews, and may suggest legislative amendments to the Commission to enhance supervisory convergence.

The PRA *published* instructions to assist firms complete the high earners report required by its **Remuneration Rules**, including guidance on dates, currency, group consolidation, data elements and reporting templates.

The EBA *published* its final **product oversight and governance** guidelines for manufacturers and distributors of retail banking products. The requirements for manufacturers relate to their internal control functions, identification of the target market, product testing, disclosure, product monitoring, remedial actions, and distribution channels. The requirements for distributors relate to their governance, identification and knowledge of the target market, and information requirements. The guidelines will apply from 3 January 2017.

The European Securities and Markets Authority (ESMA) *consulted* on its guidelines for remuneration policies under **UCITS V** (the Undertaking for Collective Investment in Transferable Securities Directive V). These are based on those for the Alternative Investment Fund Managers Directive (AIFMD). The guidelines allow for the disapplication of specific UCITS V remuneration rules in certain cases under the proportionality principle.

Conduct of Business (including MiFID)

The FCA *published* a report on its thematic review on the oversight and controls of **financial benchmarks**. The review assessed all benchmarks apart from LIBOR and foreign exchange (FX). Although the FCA identified some positive changes, none of the firms it reviewed had “fully implemented changes across all benchmark activities” and it was disappointed by the lack of urgency in reforming practices. Amongst other messages, the FCA recommended firms adopt a broad interpretation of the IOSCO definition of benchmark. For more information see our blog: *‘Financial Benchmarks: Last Chance for the Industry?’*

The Bank of England (BoE) *consulted* on plans to collect data on **sterling money markets** and reform the SONIA benchmark interest rate. Data on secured and unsecured market activity will be collected from banks, building societies and major investment firms with a view to assisting the BoE’s analysis of monetary and financial conditions. SONIA will be reformed to broaden the basis of the benchmark ahead of the BoE taking over as the benchmark administrator in 2016.

The Financial Stability Board (FSB) *published* an interim report on the progress made on reforms to major interest rate **benchmarks**, including LIBOR, EURIBOR and TIBOR (collectively known as IBORs) and the introduction of alternative near risk-free interest rate benchmarks (RFRs). The report noted that: since July 2014, administrators of IBORs had all taken steps in strengthening oversight of benchmarks; as had benchmark administrators and market participants from other jurisdictions, e.g. Hong Kong, Australia and Canada.

The Bank for International Settlements (BIS) *announced* the establishment of the **Foreign Exchange Working Group**, which seeks to facilitate the development by May 2017 of a single code of conduct with standards and principles for foreign exchange markets.

This will be based on regional FX codes and accompanying principles, with the Group considering ways to promote greater adherence to such codes. There will also be a Market Participants Group, chaired by David Puth, CEO of CLS.

ESMA *published* its final draft **MiFID II** technical standards on authorisation, passporting, registration of third country firms and cooperation between competent authorities. ESMA will publish the remaining final draft technical standards later in 2015.

The FCA *published* a thematic review examining consumers’ experience when receiving **mortgage advice** and the extent to which firms are recommending suitable mortgages. The overall quality of advice was mixed. While some firms provided suitable recommendations, others delivered advice with little or no structure that failed to ensure sufficient understanding of a consumer’s needs, or placed heavy reliance on completion of point-of-sale application systems that allowed little flexibility for advisers to apply their own judgement.

The FCA *published* results of a thematic review on the fair treatment of consumers who suffer **unauthorised transactions**. The review focused on current accounts and credit cards. Firms were making good efforts to deliver fair outcomes through active monitoring of decisions, particularly where refunds were declined; ensuring the most complex cases were handled by the most senior staff; and sharing knowledge between experienced and less experienced case handlers. The FCA concluded that further thematic work was not required.

The FCA *consulted* on two measures designed to improve transparency and facilitate easier **switching of cash savings accounts**. The disclosure remedy would improve the presentation, timing and frequency of communication so that consumers were notified of all disadvantageous rate changes and expiring bonus rates and reminded of these if the original notification was sent more than 14 days before the event. The switching remedy would enable consumers to switch to another account from the same firm within seven working days.

The FCA *finalised* its guidance to mitigate risks to consumers from inappropriate **performance management practices** in firms. The FCA observed an increasing level of intelligence about poor practices during 2014, including a growing number of whistleblowing reports to the FCA. Although no evidence was found of widespread issues, there was an inherent risk that poorly executed performance management could lead to mis-selling. Firms should mitigate the risks effectively, and pay particular attention to identifying poor practices that may create an undue level of pressure on staff, and further increase the risk of mis-selling.

The FCA *published* a policy statement on improving **complaints handling** that explained its new rules and responded to feedback to its initial consultation. The new rules included extending the “next business day rule”, that allows firms to handle complaints less formally and not send a final response letter, to three business days; and introducing a “complaints return” which requires firms to send complaints data twice a year to the FCA.

The FCA *published* a policy statement on implementation of the **Mortgage Credit Directive** (MCD), covering consequential changes to the Consumer Credit Sourcebook (CONC). The FCA said the final rules “do not differ from the draft rules in a way which is significant.” It will consult in September on minor changes to the Handbook to address outstanding issues relating to MCD lending not secured on the home. Meanwhile, HM Treasury (HMT) intends to designate the administration of first charge CCA mortgages as a regulated mortgage activity, and is considering legislative changes; the FCA will consult “later this year” on any resulting amendments to its rules. The FCA also *brought forward* the opening date for applications for entry on the register of consumer buy-to-let mortgage firms under the MCD from 21 September 2015 to 20 July 2015.

Tracey McDermott, FCA director of supervision, *spoke* about the **Fair and Effective Markets Review** (FEMR) at the ICMA Public Sector Issuers Forum. She explained the purpose and process of the FEMR and drew out the key themes of individual accountability, the collective responsibility of the market for maintaining high standards, the extension of the market abuse regime to spot FX markets and the importance of engaging with international authorities. She also *spoke* at a BBA Conference about wholesale conduct risk, stressing the need for regulators and industry to work together and for firms to see conduct risk as significant.

HMT *consulted* on early **exit charges** that may apply when individuals transfer from one pension scheme to another, or access their pension savings flexibly under the new rules. The proposals include three options to cap exit charges: firstly, a cap on all exit charges for those aged 55 and over and before their scheme retirement date; secondly, the introduction of a flexible cap that could, for example, be limited to pots above a certain de minimis threshold; thirdly, a voluntary approach that would provide scope for trustees and managers to consider action on exit charges. It also asked if the process for pension transfers can be made easier and more efficient.

The FCA *issued* an update on the impact of the new **pension flexibilities**, including its work on pensions and a market update. The FCA’s work has been informed by the Retirement Income Market Study, and it is currently working with a number of stakeholders to test new “wake up” packs. It will conduct a follow-up market study in 2016. The FCA issued a request for information to all pension and retirement income providers to better understand barriers faced by consumers when seeking to access their pension savings.

The FCA *banned* Lee Stewart, a former trader at Rabobank, for **LIBOR misconduct**, following an earlier criminal conviction in the US. The FCA has to date issued 14 warning notices related to interest rate benchmarks, while wider investigations into individuals’ conduct in relation to LIBOR are ongoing.

Ariste Holding Limited, trading as Cash Genie, *agreed* with the FCA to provide **£20mn** redress to over 92,000 **consumers who suffered detriment due to unfair practices**, which included rolling over or refinancing loans without the consumers’ explicit request or consent; and failing to send annual statements to consumers who had not repaid their loans after 12 months and subsequently charging them further fees and interest. The redress package agreed with the FCA will be a combination of cash refunds and balance write-downs.

The National Audit Office (NAO) *announced* it will report on the mis-selling of financial products, and consider how well the FCA, the Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme (FSCS) are working together to detect problems and secure redress for consumers. It will examine if the regulatory regime provides the right incentives to deter mis-selling, and how the FCA identifies and responds to mis-selling risks.

EIOPA *published* its final report and technical advice to the European Commission on product intervention powers under the **Packaged Retail and Insurance-based Investment Products Regulation** (PRIIPs). It specified the criteria and factors that should be taken into account to determine if supervisory intervention is required, including the degree and complexity of the insurance-based investment product, the type of financial activity, or practice of an insurance undertaking; the size of the potential problem and detriment; and the degree of transparency of the product, activity or practice.

The International Association of Insurance Supervisors (IAIS) *consulted* on **conduct risk** and its management focusing mainly on risks to retail consumers. It identified issues that supervisors may wish to consider, including identifying risk indicators that are specific for conduct supervision; publishing a forward-looking assessment of foreseeable risks in the near to medium term; and if prudential and conduct supervision are separated (i.e. “Twin Peaks” supervision), establishing coordination amongst the authorities. The paper also included a list of potential indicators of risks of which supervisors and firms should be aware.

Crisis management (including special resolution, systemically important firms, and business continuity)

The PRA *consulted* on changes to **depositor and policyholder protections** provided by the FSCS. The changes are due to the recast DGSD, and included amending the deposit protection limit to £75,000 from £85,000 starting 3 July 2015; implementing transitional UK legislation that allows most depositors to be protected up to £85,000 until 31 December 2015; and amending PRA rules to ensure that firms update disclosures and procedures for new limits and scope of the regime. The PRA subsequently *finalised* those rules, and then *updated* its recent policy statement to reflect the changes.

The EBA published a raft of technical documents related to the **BRRD**. These include final draft RTS on the criteria for minimum requirement for own funds and eligible liabilities (*MREL*); the *contractual recognition of bail-in*; *resolution colleges* and *notifications and notice of suspension* when a bank is failing. The EBA also published *final guidelines* and *final draft ITS* on the eligibility of institutions for simplified obligations; final draft ITS on *information on resolution plans*; and *final guidelines*, *final draft RTS* and *final draft ITS* on the provision of intra-group financial support. Final draft RTS were also issued on the *criteria against which independent valuers* should be assessed to judge if they comply with the legal requirement of independence.

The EBA *consulted* on draft guidelines on cooperation agreements between deposit guarantee schemes (DGSs) under the revised **DGSD**. The guidelines set out the objectives and minimum content of the cooperation agreements between DGSs; a multilateral framework cooperation agreement which the DGSs should adhere to; and further guidance on the process of depositors' payout for cross-border institutions.

The FSCS *released* a Guide to Single Consumer View (SCV), replacing its Faster Payout Q&A due to the adoption of the **DGSD**. The guide sets out changes in the following areas: reporting requirements; SCV file structure; depositor, address and account details; eligibility of depositors; balance calculations and exclusions. The majority of changes take effect in December 2016, but firms already subject to SCV requirements will need to make some minor adjustments from 3 July 2015 to support DGSD requirements.

The BCBS *finalised* its updated **guidelines for identifying and dealing with weak banks**. Key changes include a new emphasis on early intervention and the use of recovery and resolution tools; and increased focus on issues stemming from liquidity shortfalls, excessive risk concentrations, misaligned compensation and inadequate risk management. Further guidance was included to improve supervisory processes, such as incorporating macro-prudential assessments, stress testing and business model analysis, and reinforcing the importance of sound corporate governance at banks.

The documents also expanded the guidelines for information-sharing and cooperation among authorities.

The EBA *published* its semi-annual **risk assessment of the EU banking sector**. While banks had strengthened their capital positions (aggregate CET1 ratio increasing from 9.2% to 12.1% between December 2011 and 2014), challenges and vulnerabilities remained. These included high private and public debt overhang; geopolitical risk and uncertainties in some euro area countries, e.g. Greece; the possibility of "search for yield" behaviour in a low inflation and low interest rate environment contributing to asset price bubbles; and heightened concern around operational risks such as litigation and IT risks. Despite "generally benign" funding conditions, the EBA concluded that financial markets remained fragile and volatile partly due to concerns around funding in foreign currencies, subdued cross-border interbank markets and market liquidity.

The BoE *published* the results of its **systemic risk survey** for H1 2015. The probability of a "high-level event" in the UK financial system over the short term increased for the second consecutive survey. Sovereign risk was most commonly cited by respondents as a threat to the financial system, with particular concerns over European sovereigns (especially Greece), followed by the risk of an economic downturn. Concerns around geopolitical risk fell "noticeably", while the risk of cyber-attack increased markedly to its highest recorded level.

Regulatory perimeter

The FSB *delayed* finalisation of its assessment methodologies for **non-bank non-insurer global systemically important financial institutions** (NBNI G-SIFIs) until its current work on financial stability risks from asset management activities is completed. This will evaluate the role that activity-based policy measures could play in mitigating potential systemic risks, making policy recommendations as necessary.

The Committee on Payments and Market Infrastructure (CPMI) and IOSCO *started* the first level 3 assessment of the implementation of the **principles for financial market infrastructures** (PFMI). The review is focused on the PFMI that relate to the risk management of central counterparties (CCPs) including stress-testing, collateral, liquidity and recovery. The final report is expected in 2016.

IOSCO *reported* on the progress countries have made in adopting measures in the six key reform areas previously identified for **derivative market intermediaries** (DMIs), such as capital and conduct standards. It found that significant progress had been made and that most of the regulatory frameworks should be well advanced or complete by 2016, although different approaches to regulating DMIs had been adopted.

The European Payments Council (EPC) *reported* on a **pan-European instant payments** solution, based on desk research and discussions among EPC members. It highlighted potential issues, including the decision to implement a single payment solution across the European Union, or establish interoperability between existing national solutions; and the balance between instant payments within seconds and the need for security and validation processes based on anti-money laundering and counterterrorism obligations.

The Payment Systems Regulator (PSR) *published* its first annual report that set out the work it undertook to ensure it was operational on 1 April 2015. It outlined significant milestones including publication of its first Work Programme, and the launch of two in-depth market reviews assessing the supply of indirect access, and the supply of and competition in the provision of payment systems infrastructure.

The PSR *launched* the **Payments Strategy Forum** (PSF) to bring together the PSR, the payments industry and user representatives to work together to increase innovation and competition. It subsequently *appointed* Ruth Evans, current chair of The Authority for Television on Demand (ATVOD), to chair the PSF, and *issued* a call to find 20 individuals to be members of the Forum.

HMT *consulted* on implementing the EU regulation on **interchange fees** for card-based payment transactions. The new rules, agreed earlier this year, introduce an EU-wide cap on the fees charged by banks to business customers for processing credit and debit card payments. While there is national discretion to set caps below 0.3% and 0.2% for domestic credit and debit card transactions respectively, HMT does not intend to do so.

ESMA *published* its final report on interoperability arrangements between EU-based CCPs. The report maps the current interoperability arrangements between EU-based CCPs for different instrument types. ESMA recommends extending interoperability arrangements under the European Market Infrastructure Regulation (EMIR) to exchange traded derivatives (ETDs) but not at this stage to OTC derivatives.

The European Systemic Risk Board (ESRB) published reports on the *efficiency of margining requirements* to limit pro-cyclicality and on *other issues* relating to EMIR to inform the European Commission's review and forthcoming report. The findings are preliminary as technical standards for non-cleared trades have not yet been adopted and CCPs have only recently started to apply margin rules under EMIR. There was no evidence of pro-cyclical effects from margin requirements or haircuts, but improvements to the framework could be made, e.g. by allowing less flexibility in the calibration of haircuts. Other issues to be considered included a process to quickly remove a clearing obligation, provision for the replenishment of default funds and skin-in-the-game rules, where the ESRB encouraged the CPMI and IOSCO to develop international standards.

ESMA published its *advice* on the extension of the **AIFMD** passport to non-EU jurisdictions and its *opinion* on the functioning of the EU AIFMD passport and national private placement regimes (NPPRs). ESMA had considered a possible extension of the AIFMD passport to 6 non-EU jurisdictions. Only in Guernsey and Jersey were there no significant obstacles to extending the passport, although the same would apply to Switzerland once legislation comes into force. More time was needed to consider Hong Kong, Singapore and the US. ESMA suggested waiting until it had delivered positive advice on more countries before extending the passport. ESMA found several areas where interpretations were not consistent in the current operation of the EU passport across Member States but concluded that more time was needed for a definitive assessment.

The FSB *launched* a peer review on the implementation of its **policy framework for financial stability risks of shadow banking entities** other than money market funds. The review aims to evaluate progress in implementing the framework (including assessing the economic function of shadow banking entities) and to adopt tools where necessary to mitigate risks to stability. A final report is expected in early 2016.

Rethinking the domestic and international architecture for regulation

The FCA *published* final guidance on its concurrent **competition** powers together with amendments to the FCA Handbook to reflect these new powers. The guidance sets out how the FCA will exercise its new powers to enforce against infringements of competition law, to conduct market studies and to refer financial services markets to the Competition and Markets Authority for in-depth investigation. The Handbook amendments reinforce the obligation on authorised firms to disclose actual or potential competition law infringements to the FCA and will apply from 1 August 2015.

In response to an earlier HMT *review*, the FCA *updated* the criteria and outlined the process it uses when deciding whether to refer a firm or individual to its **enforcement** division for a formal investigation. Under the new criteria, the FCA will consider if an enforcement investigation is likely to further its aims and statutory objectives, the strength of evidence and proportionality of an enforcement investigation, and the purpose of taking enforcement action. In its commentary, the FCA stated that enforcement action is expensive and resource-intensive for both the FCA and the subject of the investigation and that the FCA will carefully consider using other tools before starting such an investigation.

The BCBS *reported* on the implementation of its **principles for effective supervisory colleges**, saying that their functioning had improved, with supervisors making good progress in implementing the principles. Colleges had evolved into “key forums”, enhancing supervision of global firms and contributing to supervisory assessment planning, though firms indicated that they would prefer greater feedback on college discussions. The largest implementation challenges related to the role of colleges in crisis preparedness, partly because crisis management groups have assumed some of these responsibilities.

The FOS *published* a feedback statement on proposed amendments to FCA Handbook rules on **alternative dispute resolution** (ADR) and pension transfers. The amendments include the FOS being able to consider complaints “early”, if certain criteria are met. John Griffith-Jones, FCA chairman, *wrote* to Caroline Wayman, FOS chief ombudsman, approving its application to become a certified ADR entity under the ADR Directive. This is in the expectation that the FOS will meet all of the requirements “within a reasonable period of time”.

HMT *published* a technical consultation on **reforms to the BoE**. Under the proposals, the PRA will become the Prudential Regulation Committee of the BoE (ending its status as a subsidiary), though the “PRA name and brand will remain unchanged”. Resolution planning and crisis management arrangements between HMT and the BoE will be amended, e.g. the BoE must provide HMT with drafts of any papers regarding resolution policy at least 14 days ahead of publication. In addition, the BoE will be brought more clearly within the purview of the National Audit Office. The government will bring forward the Bank of England Bill this autumn.

HMT *published* the Chancellor of the Exchequer’s proposed **remit and recommendations for the FPC** for the coming year. The remit is largely the same as in 2014, though it was expanded to reflect the new Government’s policy priorities, in particular encouraging “productive investment.” As part of this, the FPC should consider how its actions might affect competition, innovation, and the competitiveness of the UK financial system.

The IAIS *published* a draft application paper on the supervision and regulation of **captive insurers**. It noted the IAIS Insurance Core Principles that are relevant to captive insurers, and provided guidance to supervisors with a separate section relating to cell company structures and insurance managers of captive insurers.

Disclosure, valuation and accounting

EIOPA *stressed* the importance of high quality public information and the relevant use of external audit services in relation to public disclosures under **Solvency II**. It added that public disclosure will provide consumers with an opportunity to receive consistent information on the solvency and financial condition of firms.

The **London Stock Exchange (LSE)** privately censured and *fined* one of its members £225,000 for failing to report certain fixed income trades since 2007. The failure had had a significant impact on market transparency, as the non-reported volumes sometimes represented a significant share of trading in certain securities.

The FCA *consulted* on the disclosures **non-ring-fenced banks** (NRFBs) must make to consumers with assets greater than £250,000. NRFBs should outline their investment and commodities trading activities, and detail any “prohibited action” (i.e. an action prohibited within an RFB but allowed within an NRFB) undertaken. The proposals do not go “significantly beyond” current ring-fencing rules, though there are considerable differences around the timing of disclosure. Information should be provided to eligible account holders before the regime applies in 2019, while all new account applicants must also be informed.

Information security and data privacy

The European Commission *published* a letter from the Article 29 Data Protection Working Party (a group of European data protection authorities) which outlined data protection concerns in relation to the draft delegated acts under **MiFID II** and the **Market Abuse Regulation** (MAR). The Working Party recommended that the final legislation should clarify the exact scope of the data to be collected (in line with the proportionality and necessity principles), ensure that proper data protection measures are in place and ensure that there are appropriate controls around the publication of sanctions.

Andrew Gracie, Executive Director for Resolution at the BoE, *spoke* about the growing risk from **cyber-attack**. Cyber risk has specific characteristics which differentiate it from other threats to operational resilience: it is “not a game against nature”; it is adaptive and changing; and detection is particularly difficult, e.g. a network breach is not always obvious (in contrast to physical threats to operational resilience). The PRA’s efforts to improve cyber resilience will target first those firms (irrespective of size) where operational failures could disrupt the provision of critical financial services to the real economy. The BoE will undertake a joint work programme with the FCA and HMT, and report by summer 2016 to the FPC, which will then decide whether additional action is needed to address cyber risk.

Financial crime

ESMA *published* Q&As on **anti-money laundering and combatting the financing of terrorism** (AML/CFT) issues for investment-based crowdfunding platforms. These platforms could be used to finance terrorism, particularly where platforms carry out limited or no due diligence on project owners and their projects, or to launder money, e.g. by collusion between the project owner and investors, or between investors and platforms owners. The Q&As also outline how crowdfunding platforms should be treated under the Third Anti-Money Laundering Directive (AMLD III).

The BCBS *consulted* on its revised **general guide to account opening**. The guide specifies some of the mechanisms and minimum information requirements banks should employ for effective customer identification and verification, to fulfil their obligations around AML/CFT rules.

Je-Yoon Shin, the incoming President of the Financial Action Task Force (FATF), *presented* its objectives for the upcoming year. He listed seven priorities for the Korean Presidency, including enhancing efforts in countering terrorist financing; addressing the organisation's capacity restraints; and developing guidance for effective implementation of international standards on AML/CFT.

The FATF *reported* on **AML/CFT risks** and vulnerabilities from gold, a stable, anonymous, transformable and easily exchangeable asset in which to realise or reinvest illicit profits. Further research should be undertaken to assess the impact of regulation on detecting and discouraging criminal activities in the gold market. The report also identified a number of risk mitigation and preventative measures.

Other

The FCA *announced* that Martin Wheatley will step down as its Chief Executive from 12 September 2015, but will continue to act as an adviser to the FCA Board until 31 January 2016. Tracey McDermott will act as the Chief Executive until a replacement is found. It also announced the following appointments: *Christopher Woolard*, Director of Strategy and Competition, to the Board for a three year term starting 1 August 2015; *Jonathan Davidson* as Director of Supervision – Retail and Authorisations; and *Megan Butler*, who is on secondment from the PRA, to the role of Director of Supervision – Investment, Wholesale and Specialist.

The FPC *published* its bi-annual **Financial Stability Report** (FSR). The outlook for financial stability had remained broadly unchanged, though this was tempered as risks associated with Greece began to crystallise around the time of publication. The main risks to the UK financial system were posed by the global economic environment; the UK current account deficit and housing market; misconduct; the reduction in market liquidity; and cyber-attack. To address market liquidity concerns, the FPC will undertake a "deep analysis" of a range of investment activities, starting over the next year with investment funds and hedge funds, followed by insurance and securities financing and derivatives transactions. The FPC also recommended that regulators should regularly assess systemic firms' resilience to cyber-attack, e.g. through CBEST testing.

The FCA *published* its Annual Report and Accounts for 2014/15. It detailed work it had conducted over the year, such as the Senior Managers Regime (SMR); several markets studies, such as that on cash savings and a review of competition in the wholesale sector; and launching Project Innovate. It noted that since it was established the number of firms it supervised had increased from 26,000 to over 73,000.

The BoE *appointed* David Thorburn, previously CEO of Clydesdale & Yorkshire Banks, and Dr Norval Bryson, previously Deputy Chairman of Scottish Widows Group and Non-Executive Director of the TSB Banking Group, to the Board of the PRA, with effect from 1 September 2015.

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