



**Risk and Regulation Monthly**

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As expected, August was a quiet month as many took time off over the summer period. Even so, there were pockets of noteworthy activity in the regulatory arena. The UK Government released a number of position papers on Brexit, while the European Commission set out the process for deciding which country will be the next host of the European Banking Authority (EBA). The EBA and BCBS published documents on FinTech developments and the BIS published a paper on regulatory approaches to enhancing banks' cyber-security networks.

This note is produced for information only on a best effort basis, and does not constitute advice of any kind.

### **Brexit**

The European Commission (EC) [started](#) assessing Member States' **applications to host the European Banking Authority (EBA)**. The EC will publish an assessment of all offers by 30 September 2017 and a vote will take place at the General Affairs Council in November 2017 to decide which Member State will host the EBA.

Sam Woods, Chief Executive Officer of the Prudential Regulation Authority (PRA), [responded](#) to Rt Hon Nicky Morgan, Chair of the Treasury Committee (TSC), on the **preparedness of banks and insurers for Brexit**. The Prudential Regulation Committee (PRC) and the Financial Policy Committee (FPC) will reach views on firm's contingency plans in the autumn.

The UK government published a number of **position papers on Brexit**: [continuity in the availability of goods for the EU and the UK](#); [confidentiality and access to documents](#); [exchange and protection of personal data](#); [future partnership paper on enforcement and dispute resolution](#). These papers outline the United Kingdom's (UK) stated position for ensuring a smooth and orderly withdrawal from the European Union (EU) and various possibilities for future arrangements between the UK and the EU.

### **Capital (including macro-economic issues and stress testing)**

Mario Draghi, President of the ECB, [spoke](#) about **sustaining openness in a dynamic global economy**. He stressed the importance of maintaining openness to drive potential output growth, essential in enabling advanced economies to raise their productivity levels. He stated openness had to be fair, and that regulatory convergence, especially in the financial services sector, could protect people from the unintended consequences of openness.

The EBA [updated](#) the list of **public sector entities (PSEs)** that may be treated as regional governments, local authorities or central governments for the calculation of capital requirements, in accordance with the EU Capital Requirements Regulation (CRR). The updated list contains three additional Hungarian PSEs.

The EBA [updated](#) the data used for the **identification of global systemically important institutions**. Denmark based Nykredit was removed from the sample, while German Nordlb and Spanish Banco Sabadell were added to the sample of 35 largest institutions in the EU.

The ESRB [published](#) two **reports on macro prudential aspects of insurance**, recommending greater use of market-based input for determining the value of insurers' Euro denominated liabilities under Solvency II and advocating the development of an effective recovery and resolution (RR) framework for the insurance sector.

The ECB [published](#) consolidated **banking data for end-March 2017**, including an extensive range of indicators on profitability and efficiency, balance sheets, liquidity and funding, asset quality, asset encumbrance, capital adequacy and solvency. The data shows a slight decrease in the number of credit institutions headquartered in the EU, but an increase in their total assets.

The ECB [published](#) a Regulation amending the **reporting of supervisory financial information** relating to the prudential supervision of credit institutions, to take into account the provisions of IFRS 9. The amendments include changes to the templates and instructions regarding reporting of financial information. The scope covers all significant and less significant banks in participating countries, and will cover financial reporting by banks on an individual basis and consolidated financial reporting by banking groups.

The EC [adopted](#) an amending Regulation on the waiver on own funds **requirements for certain covered bonds**. The Regulation makes the waiver permanent by eliminating its review date so that certain covered bond structures can continue to get preferential capital treatment. The qualifying structures are covered bonds collateralised by senior units issued by the French Fonds Communs de Titrisation (mutual securitisation funds) or equivalent securitisation entities.

The International Association of Insurance Supervisors (IAIS) [published](#) an aggregate report on self-assessment and peer review (SAPR) of **Insurance Core Principles (ICPs) 13 and 24**, which respectively cover reinsurance and other forms of risk transfer, and macro prudential surveillance and insurance supervision. Following feedback from the SAPR programme, the IAIS stated it will consider providing additional clarity and guidance for both ICPs.

The IAIS [consulted](#) on a revised version of **ICP 24 on macro prudential surveillance and insurance supervision**. The consultation, which aims to ensure that macro prudential risks are properly assessed as part of the overall supervisory process, forms part of the IAIS' development of an activities-based approach to systemic risk assessment.

#### Conduct of Business (including MiFID)

Mary Starks, Director of Competition at the FCA, [spoke](#) on **competition at the FCA**, explaining how FCA evaluates harm to competition, and how it seeks to ensure regulation supports rather than hinders competition through its initiatives such as Innovate, the Sandbox and the New Bank Start-up Unit.

The FCA and the FCA Practitioner Panel [published](#) their **joint survey of industry views of FCA-regulated firms**. The report found that trust in the FCA has risen in all of FCA's operational objectives: consumer protection, the integrity of the system, and promotion of competition. However, concerns remain over communication about the consequences of Brexit, support by the FCA on new regulation, and the negative consequences of the publication of fines.

The FCA [launched](#) a **survey of mortgages** in the UK, to understand how people manage their mortgage and interact with their lenders. The survey aims to find out whether consumers are able to choose on an informed basis between products and services and can determine whether they represent good value for money. This research will be published in early 2018.

The FCA [issued](#) its **supervisory approach to PPI**, stressing the importance of improving the complaint process for customers. The FCA will continue to monitor firms to ensure that an increase in complaint load doesn't affect the quality of the service and will be closely reviewing operational activities at larger firms to ensure they are dealing with all PPI complaints fairly and promptly.

The FCA [launched](#) an advertising campaign urging people to make a decision about making a **PPI complaint** before the deadline on 29th August 2019.

The FCA [listed](#) the commodity derivative contracts that it has currently identified as trading on a UK trading venue which, from 3 January 2018, will be subject to position limits, using ESMA's methodology in **RTS 21** under **MiFID II**. Any other commodity derivatives not listed in the table and traded on a UK trading venue (but not traded in significant volumes on a venue in another Member State) will be subject to a limit of 2,500 lots.

Margrethe Vestager, EU Commissioner for Competition, [spoke](#) on why **global markets need rules**. Talking about data protection, with new rules coming into play in 2018, she stressed the need for a balance between incentives for innovation by companies and ensuring a fair outcome for customers that need to trust these companies to *"use big data to make their lives better"*.

ESMA [issued](#) guidelines on the **transfer of data between trade repositories (TRs)**. The principles cover the conditions of transfer of data, the transfer of data requested by a TR participant, the transfer of data in case of withdrawal of registration and aim to facilitate a consistent application of the relevant EMIR requirements and ensure the quality of data available to NCAs.

ESMA [published](#) its first three opinions on **position limits regarding commodity derivatives under MiFID II**. The opinions agreed with the proposed position limits by the Autorité des Marchés Financiers regarding **rapeseed, corn** and **milling wheat**.

The ESA's [published](#) additional guidance on the **Key Information Document (KID) for PRIIPs**. The guidance includes additional questions and answers to supplement those already published, and diagrams explaining the risk and reward calculations required to prepare the KID.

The EC [adopted](#) Implementing Regulation laying down a standardized presentation format for the **insurance product information** document under the IDD, covering things like name and company logo of manufacture, reference to complete pre-contractual and contractual information, length, presentation and order of content, plain language, headings and information, and use of icons.

The EC [adopted](#) the RTS under MiFID II establishing a methodology for determining those **package orders for which there is a liquid market**. The RTS specifies the conditions which determine that there is a liquid market for a package order as a whole, as well as asset-class specific criteria.

The EC [consulted](#) on further **reducing barriers to post-trade services** under the Capital Markets Union (CMU), following the submission of a [report](#) from the European Post-Trade Forum expert group. The consultation focuses on two areas of EU and global trends: new technologies and competition in post-trade; and remaining post-trade barriers and solutions to remove them.

IOSCO [consulted](#) on regulatory reporting and public transparency in the **secondary corporate bond markets**. The report recommends that regulatory authorities should ensure they have access to sufficient information to perform regulatory functions; and should consider steps to enhance pre-trade transparency in corporate bond markets and implement regimes that require post-trade transparency.

The CMA [consulted](#) on revised guidance on the appropriate amount of a penalty against **anti-competitive agreements** and abuse of a dominant position. Major changes concern how the CMA addresses the seriousness of an infringement, details on requirements for mitigating factors, financial indicators used to assess deterrence, and how the CMA applies discounts for leniency, settlement, and redress schemes.

### Regulatory perimeter

The EBA [published](#) a discussion paper on its **approach to FinTech**. The EBA has conducted a significant amount of work in relation to certain types of financial innovations, such as crowdfunding and virtual currencies, but is stepping up its FinTech-related work to investigate the impact of FinTech on the financial system and its regulation and supervision.

BCBS [consulted](#) on the implications of **FinTech** developments for banks and bank supervisors. The report highlights that banks will find it increasingly difficult to maintain their current operating models, given technological change and customer expectations.

### Rethinking the domestic and international architecture for regulation

CPMI [revised](#) the methodology for the **statistics on payments and financial market infrastructures**. The 2017 version includes statistics on online and contactless payments, their volume and value, as well as the number of cards that facilitate them. The revised statistics no longer differentiate the value of e-money into e-money stored on card-based products and e-money stored on software or network-based products.

### Disclosure, valuation and accounting

EBA [consulted](#) on **fraud reporting requirements under PSD2**, which will apply from January 2018. The proposed guidelines are designed to ensure that the high-level fraud reporting requirements under PSD2 are implemented consistently among the Member States and that the aggregated data provided by competent authorities to the EBA and the ECB is comparable and reliable.

The ECB [published](#) amendments on the to the **ECB regulation on reporting of supervisory financial information**. The amendments reflect the changes to supervisory reporting to align reporting of financial information with the requirements of IFRS 9.

### Information security and data privacy

The Financial Stability Institution of the BIS [published](#) a paper on regulatory approaches to enhance **banks' cyber-security networks**. The paper offers some high-level policy considerations, such as promoting cyber-security awareness among staff, integrating the cyber-security framework into Banks' overall enterprise-wide risk management strategy and developing an effective control and response frameworks for cyber-risk, which may be helpful for banking supervisory authorities planning to introduce or enhance their cyber-security banking regulations.

### Other

The PSR [appointed](#) the first chair of the **New Payment System Operator** (NPSO), Melanie Johnson. The NPSO will take over the operations of three payment systems: BACS, Faster Payments, and the new Cheque Imaging System during early 2018.

The European Economic and Social Committee [published](#) a paper on **Europe's cooperative banking models**, reviewing their role in the future diversified financial sector, and setting out a route-map to achieving cost-reductions and consolidations.

The EC [issued](#) a press release on **10 years since the start of the crisis**: back to recovery thanks to decisive EU action. It stressed the importance of completing the financial union and promoting continued convergence between economies.

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