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After the summer break, September saw the European Commission publishing a major legislative package intended to reform and increase substantially the powers of the three European Supervisory Authorities (ESAs). The Commission encouraged the European institutions to treat the proposals “as a matter of priority” as it would like to ensure their entry into force before the end of the current legislative term of the Parliament in 2019, although this may be challenging.

On the Brexit front, Theresa May delivered a speech in Florence ahead of the next round of Brexit negotiations with the European Union (EU), while at home the EU Withdrawal Bill passed its second reading in Parliament and progressed to committee stage.

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### Brexit

The **EU Withdrawal Bill** [passed](#) its Second Reading in the UK Parliament, allowing it to proceed to the committee stage where detailed examination of the Bill will take place. As it stands the Bill will, on the day the United Kingdom leaves the EU, repeal the European Communities Act 1972, convert EU law as it stands at the moment of exit into domestic law, and create temporary powers for the UK Government to amend those laws that would otherwise no longer operate appropriately outside the EU.

Theresa May delivered a [speech](#) in Florence on the **future relationship between the EU and the UK**. She argued in favour of an “imaginative and creative” approach to creating a new partnership between the EU and the UK. The Prime Minister also affirmed that the UK will honour its budget commitments through to 2020, and called for a phased implantation period of “around two years”.

Mark Carney, Governor of the Bank of England (BoE), [spoke](#) on the **impact of globalisation on inflation**. Mr Carney said this issue is particularly relevant to the BoE as “the UK inflation outlook will be importantly influenced by the process of de-integration” under Brexit, which he cited as an example to illustrate how global factors can influence domestic inflation dynamics and the ability of central banks to achieve price stability.

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

The Prudential Regulation Authority (PRA) [published](#) a letter on the **transitional arrangement for the capital impact of IFRS 9 expected credit loss accounting**. The letter outlined the main features of the transitional arrangements considered by the EU so far, set out the PRA’s views on UK firms using the arrangements, and requested a response on whether UK firms intend to use the transitional arrangements.

The BoE [released](#) the Financial Policy Committee (FPC) statement from its meeting on September 20. The FPC assessed **the outlook for UK financial stability**, finding that domestic risk levels remained at a standard level, but identified consumer credit risk as a rising concern. The FPC will take steps to ensure that the interaction of IFRS 9 accounting with its annual stress test does not result in a de facto increase in capital requirements. The FPC recommended that the PRA set the minimum leverage ratio requirement to 3.25% and that central bank reserves be removed from the leverage exposure measure.

Donald Kohn, Member of the FPC, [spoke](#) at a conference in Basel, and explored the issues of **cooperation and coordination across monetary policy, macro prudential and micro prudential policies**; how those challenges in the UK are dealt with in the FPC; and what general lessons might be drawn from experiences in the UK.

The European Banking Authority (EBA) [published final technical standards on the Minimum Requirement for Own Funds and Eligible Liabilities \(MREL\)](#) reporting by resolution authorities, specifying templates and procedures to follow. Resolution authorities will report to the EBA the overall amount of MREL required for each institution under their jurisdiction, including all of the components of their MREL decision as set out in the EBA’s Regulatory Technical Standard (RTS).

The EBA [consulted](#) on **significant risk transfer (SRT) in securitisation**. The discussion paper seeks views on the standardisation of the SRT assessment process by National Competent Authorities (NCAs), safeguards and assessments relating to structural features widely present in securitisation transactions, and a set of proposals aimed to removing barriers in the current EU framework for measuring SRT.

The EBA [published](#) its twelfth **CRDIV-CRR/Basel III monitoring exercise for the European banking system**, showing a further improvement of European banks' capital positions, with a total average Common Equity Tier 1 (CET1) ratio of 13.4%. Leverage ratios have increased to an average of 5.0% across all EU banks as of December 2016. The EBA also monitors Net Stable Funding Ratio (NSFR) compliance with the current Basel III standards, and their review showed that around 87.5% of participating banks would already meet the minimum NSFR requirement of 100%.

The ESAs Joint Committee [issued](#) its latest report on **risks and vulnerabilities in the EU's financial system**. The report highlights the risks from an uncertain political environment in light of the UK's withdrawal from the EU; valuation risks in the context of an uncertain outlook for yields; low profitability; and challenges introduced by rapid developments in FinTech.

Sabine Lautenschläger, Member of the Executive Board of the European Central Bank (ECB) and Vice-Chair of the Supervisory Board of the ECB, [spoke on the importance of completing Basel III, and the need for a well-written but not too detailed EU rulebook](#) so as to allow supervisors flexibility, while eliminating loopholes in the system.

Mr Vitor Constancio, Vice President of the ECB, [spoke](#) at the European Systemic Risk Board (ESRB) annual conference on the **financial soundness of non-bank financial institutions**, and the development of necessary tools to mitigate potential risk. His comments focussed on financial stability concerns arising from the increased size of the investment fund sector, and the amplified funding stresses stemming from the procyclical nature of existing margin and haircut-setting practices for collateralised securities and derivative transactions.

The Basel Committee on Banking Supervision [published](#) the results of its latest **Basel III monitoring exercise**, finding all 200 banks in the sample met Basel III minimum and CET1 capital requirements, and all 30 G-SIBs met their fully phased-in liquidity requirements. The Basel III minimum capital requirements are expected to be fully phased-in by 1 January 2019.

### Liquidity

The PRA [published](#) a supervisory statement on the **waiver for disclosure requirements on the composition of collateral for exposures to counterparty credit risk**. The ability of central banks to undertake liquidity assistance effectively, including the orderly disclosure of that assistance, is regarded as critical to financial stability. The statement seeks to reduce the risk that firms' compliance with EBA guidelines on disclosure requirements could enable the use, or non-use, of liquidity assistance to be deduced.

### Governance and risk management (including remuneration)

The EBA [published](#) guidance to further harmonise **EU banks' internal governance**. The guidelines emphasise the duties and responsibilities of the management body in its supervisory function in risk oversight; aim to enhance the information flow between the risk management function and the management body; and seek to ensure effective monitoring of risk governance by supervisors. The EBA Guidelines will apply by 30 June 2018.

The EBA and European Securities and Markets Authority (ESMA) [published](#) joint guidelines to assess the **suitability of members of management bodies and key function holders** in line with CRD IV and MiFID II. Members should have sufficient time to cover all the necessary subjects, especially the establishment of business and risk strategies and the management of the main risks. The guidelines apply from 30 June 2018.

### Conduct of Business (including MiFID)

The FCA [published](#) a policy statement on **transaction cost disclosure in workplace pensions**. The rules, effective from 3 January 2018, will require firms managing money on behalf of defined contribution workplace pension schemes to disclose administration charges and transaction costs to the governance bodies of those schemes, using a standard approach.

The FCA [published](#) an Occasional Paper on the **public policy implications of an ageing population** and the resulting impact on financial services. The FCA identified the risk that older consumers' financial services needs are not being fully met, leading to exclusion, poor customer outcomes and potential harm. The FCA set out ideas for firms to consider in ways that fit their business models, such as looking at product and service design, customer support, and reviewing and adapting strategies. The FCA anticipates a further review of these issues in three to five years to assess how the industry is responding.

The FCA [announced](#) that its investigation into Police Mutual, part of its work into the **fair treatment of longstanding customers in the life insurance sector**, has been closed with no further action. The FCA's findings from its thematic review indicated that six firms may have failed to inform customers of exit and paid up charges at the time they were incurred. Investigations into five other firms are continuing and no decisions have been reached yet.

Jonathan Davidson, Director of Supervision – Retail and Authorisations at the FCA, [observed](#) that **culture “may not be measurable, but it is manageable”**. He highlighted that the FCA will assess firms on how management manages culture using four types of levers: i) a clearly communicated sense of purpose and approach; ii) “tone from the top” from senior managers; iii) formal governance processes, structures, policies and systems that specify expected behaviors and decisions; and iv) people related practices, including incentives and capabilities.

Megan Butler, Executive Director of Supervision for Investment, Wholesale and Specialists at the FCA, [spoke](#) on **priorities in the investment and asset management sector**, including the Senior Managers and Certification Regime and MiFID II. She highlighted that investment and asset managers’ delegation and outsourcing “both work well now”, and announced the launch of a new asset management authorisation hub to support new entrants.

The FCA [published](#) near-final rules on the implementation of the **Insurance Distribution Directive (IDD)**. The rules cover the application of the Directive, professional and organisation requirements; complaints handling; changes to the conduct of business rules for non-investment business; and the regime for Ancillary Insurance Intermediaries. The FCA published near-final rules to give firms more time to implement the IDD, which is due to come into force on 23 February 2018.

The FCA also published a third [consultation paper](#), setting out the FCA's remaining proposals on implementing the IDD. The consultation paper covered proposals relating the IDD Delegated Acts including **product oversight and governance and conduct of business rules for insurance based investment products (IBIPs)**. The FCA aim to publish the final rules and third policy statement in January 2018.

Also related to the IDD, the EU Commission adopted two Delegated Regulations: the [first](#) regulation covers information **requirements and conduct of business rules applicable to the distribution of insurance-based investment products (IBIPs)**; the [second](#) regulation covers product oversight and governance arrangements.

The FCA [published](#) **final guidance on streamlined advice**, as part of its work following the Financial Advice Market Review. In the finalised guidance, the FCA made drafting changes relating to adviser charging; complaints and redress; professional standards; appropriateness; and discretionary investment management.

The FCA and the Pensions Regulator [published](#) a factsheet for employers and trustees on **providing support with financial matters without needing to be subject to regulation**. The documents highlights that FCA authorisation is only needed when there is a ‘commercial benefit’, or when promoting a specific financial product. Other exemptions include promotion of employee share schemes, certain insurance products, and staff loans.

The FCA [published](#) a statement urging firms **seeking new authorisations or variation of permission under MiFID II** to urgently submit a complete application and include contingency planning for the event that new permissions are not in place by 3 January 2018.

The FCA [published](#) a ‘Dear CEO’ letter regarding **material failings found among consumer credit firms in the handling of customer complaints**. This included failure to provide to customers the required information about the Financial Ombudsman Service; failure to provide a clear explanation of the outcome of the complaint and why it had been reached; and lack of management controls to analyse and remedy any root causes of complaints or systemic problems. In light of the findings, the FCA expects firms to conduct a review of their customer complaints handling procedures and may ask for evidence of such a review in future contacts with firms.

The EBA [issued](#) its final recommendation to the EU Commission on the **new prudential regime for MiFID investment firms**. The EBA specified its views on issues including the firm categorisation system; consolidated supervision; capital definition and composition; capital requirements and the methodology for calculation; liquidity requirements; concentration risk; Pillar 2 reporting; requirements for commodity derivatives investment firms; and remuneration and governance.



ESMA [published](#) its final draft RTS **implementing the trading obligation for derivatives**. The report specified the classes of interest rate and credit derivatives that should be subject to the trading obligation. The proposed application date is 3 January 2018, but ESMA would not be opposed to a short delay (no more than three months).

ESMA [laid out](#) the steps for **trading venues to opt-out temporarily from access provisions for exchange-traded derivatives (ETDs)** under MiFIR. Trading venues are obliged to provide access including data feeds on a non-discriminatory and transparent basis to Central Counterparties (CCPs). However, when trading in ETDs, if one trading venue falls below the threshold of EUR 1M of annual notional amount traded in ETDs, the trading venue may notify ESMA and its NCA of its intention to opt-out temporarily from the access provisions.

However, in a separate report, the EU Commission [concluded](#) that, apart from the threshold exemption mentioned above, there is no need to exclude ETDs from the scope of open and non-discriminatory access requirements to CCPs and trading venues under MiFIR.

The EU Commission [adopted](#) the RTS on **indirect clearing arrangements under MiFIR**. The rules set out requirements relating to the management of the default of a client providing indirect clearing services; allowance of indirect clearing services to be provided in chains beyond the client of a direct client; and homogeneous requirements for indirect clearing arrangements relating to OTC and exchange-traded derivatives.

The EU Commission [published](#) a draft RTS for the **authorisation, organisational requirements and the publication of transactions for data reporting services providers** under MiFID2. The RTS specifies provisions for consolidated tapes for bonds, structured finance products, emission allowances, and derivatives, as well as transitional provisions requiring that the first assessment period for determining the coverage ratios by Consolidated Tape Providers would apply as of 1 January 2019.

The EU Commission [adopted](#) a Delegated Regulation amending the **definition of Systematic Internaliser (SI)**. The text has been amended to reflect that non-intra-group matching arrangements are not considered to be dealing on own account. This means that financial instruments cannot be transacted through matching arrangements (riskless back-to-back transactions) between third-party SIs.

The FICC Markets Standard Board [issued](#) its Annual Report setting out the progress it has made to enhance **standards of behaviour in the wholesale Fixed Income, Currencies and Commodities markets**. The report identified emerging vulnerabilities such as adaptations of existing malpractice techniques to new markets and issues created by electronic trading and post-trade protocols.

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

HM Treasury [published](#) the consultation outcome on the **implementation of the Central Securities Depositories Regulation**. It proposed the FCA as the relevant competent authority for supervising investment firms for CSDR purposes and the BoE as the relevant competent authority for enforcing the relevant requirements of CSDR related to settlement internalisers. The consultation also set out information gathering and enforcement powers for the FCA and the BoE.

The BoE [published](#) a feedback request on **ring-fencing reporting taxonomy**. The PRA also confirmed that the GABRIEL system will be used to collect ring-fencing reporting data.

Daniele Nouy, Chair of the Supervisory Board of the ECB, [spoke](#) on **bank resolution frameworks**. While she welcomed the progress made towards achieving the safety and soundness of banks, she reiterated that banks should be allowed to fail in a well-functioning market, but that it is crucial they do so in an orderly fashion. She highlighted that the Bank Recovery and Resolution Directive is currently being reviewed to make improvements, and that the EU has yet to complete the banking union by implementing a European Deposit Insurance Scheme.

### **Regulatory perimeter**

The FCA published its final [policy statement implementing PSD2](#). The FCA and the Payment System Regulator (PSR) also published their [Approach Documents](#), designed to help firms navigate payment services and e-money regulatory requirements. The FCA confirmed that applications for firms which need to become registered or authorised (or re-registered or re-authorised) as a result of PSD2 will open on 13 October 2017.

The EBA [published](#) guidelines on the criteria on how to stipulate the **minimum monetary amount of the professional indemnity insurance (PII)** or other comparable guarantee to be held for the authorisation to provide payment initiation or account information services under the revised Payment Services Directive (PSD2).

The PSR and the BoE [announced](#) the official **formation of the New Payment Systems Operator (NPSO)**, which will consolidate the operators of three existing payment systems: Bacs Payment Schemes Ltd, Cheque and Credit Clearing Company, and the Faster Payments Scheme Ltd. Work will continue to complete the consolidation and deliver the NPSO by the end of 2017.

The FCA [published](#) a statement, warning consumers about the **risks of Initial Coin Offerings ('ICOs')**, highlighting that most ICOs are not regulated by UK regulators and are often based overseas. The FCA also flagged that the 'white paper' ICOs usually provide is not a regulated prospectus and might be unbalanced, incomplete or misleading.

The ECB [published](#) two draft guides for the assessment of license applications for credit institutions. The first guide sets out the general process and requirements, while the second is directed specifically at firms with a **FinTech business model seeking a full banking license**. The guide for FinTech firms includes additional considerations for the supervisory assessment, including the level of technological knowledge of the management bodies; the adequacy of the initial capital held to ensure sound and prudent operation for at least three years; and the presence of specific and enhanced controls for IT, cyber, and outsourcing risks.

The ECB [published](#) the first report from its joint research with the Bank of Japan to assess the **applicability of Distributed Ledger Technology (DLT) solutions in the area of financial markets infrastructures**. The report found that DLT solutions could meet the needs of a Real-Time Gross Settlement system and potentially strengthen its resilience and reliability, but it also found that DLT performance is affected by network size and distance between nodes.

### **Rethinking the domestic and international architecture for regulation**

The EU Commission [published](#) a communication on reinforcing integrated supervision and [adopted](#) a **package of proposals to amend the regulations establishing the ESAs and the ESRB**, along with associated changes to the Solvency II and MiFID II Directives. The legislative proposals are intended to increase substantially the ESAs' powers, and also make material changes to their governance and funding.

The EU and the United States [signed](#) a **bilateral agreement on the prudential supervision of insurers and reinsurers**. The agreement will remove the need for EU reinsurers to post collateral in the U.S., as well as the requirement that entities be supervised by both EU and US regulators at the global level. Supervisory measures will take effect immediately, while collateral requirements will take effect in 5 years.

The BIS [appointed](#) **Mark Carney as chair the Global Economy Meeting (GEM) and the Economic Consultative Committee (ECC)**, effective on 1 December 2017. The GEM's main role is to assess developments, risks and opportunities in the world economy and the global financial system, and provide guidance to three Basel-based central bank committees. The ECC supports the GEM by preparing proposals for its consideration.

### **Disclosure, valuation and accounting**

The EU Commission [published](#) the final draft of the RTS for the **disclosure of encumbered and unencumbered assets under the Capital Requirements Regulation**. The rules require the disclosure of the balance sheet value per exposure class, broken down by asset quality, and the total amount of the balance sheet value that is unencumbered.

### **Information security and data privacy**

The UK Government [published](#) the **Data Protection Bill**, which will bring the EU's new General Data Protection Regulation (GDPR) into UK law. Although GDPR has direct effect, Member States have the opportunity to make limited provisions for how it applies in their country. The UK Government has created the Bill to set out some of these details. Most notably for Financial Services, the Bill outlines scenarios (e.g. processing data of individuals on suspicion of terrorist financing or money laundering) in which processing would have "substantial public interest" and therefore would not need to rely on data subjects' consent.

The EU Commission [outlined](#) proposals for a **new EU Cybersecurity Agency** to assist Member States in preventing and responding effectively to cyber-attacks. The EU Cybersecurity Agency will organise yearly pan-European cybersecurity exercises and will work to ensure better sharing of intelligence.

### Financial Crime

The ESAs [published](#) guidelines to **prevent the abuse of funds transfers for terrorist financing and money laundering purposes**. The guidelines explain what payment service providers should do to detect and manage missing or incomplete information on payer and payee and transfers of funds.

### Other

The FCA published its [final decision](#) to make its **first Market Investigation Reference to the Competition and Markets Authority** in relation to investment consultancy and fiduciary management services. The FCA's concerns included: a weak demand side, with pension trustees relying heavily on investment consultants but having limited ability to assess or compare the quality of their services; high levels of concentration with the largest three firms together holding between 50-80% market share; and vertically integrated business models creating conflicts of interest.

The PRA [consulted](#) on a new method for allocating **periodic fees paid by designated investment firms**. The method will be based on two equally weighted metrics: the size of firms' trading book assets, and the size of firms' financial and operating income.

The PRA [published](#) a new consultation paper on **regulated fees and levies** for 2018 to correct the fee rates published in the previous policy statement. The amended rates are lower than those previously published.

The EU Commission [issued](#) a draft regulation on the **final system of contributions to the administrative expenditures of the Single Resolution Board**. Under the proposal, banks will contribute in proportion to the resource requirements they place on the Board, according to the size and risk of their activities.

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