

## Risk and Regulation Monthly Cover Note

### September 2016

#### September wrap-up

September brought us back to work with a rush. Besides continuous Brexit updates and statements, the past few weeks included a likely delay of the Packaged Retail and Insurance-based Investment Products Regulation (PRIIPs) implementation date, the EU's reassurance of its strong commitment to the Capital Markets Union (CMU) project, and the UK Treasury's Brexit-inspired inquiry into Solvency II.

#### Key highlights

The FSB reported on implementation of the **G20 regulatory agenda**, citing significant, but uneven progress. OTC derivatives trade reporting received particular criticism, as more work was still needed in this area (please also read our [blog on tackling misconduct risk – FSB's areas of focus and forward agenda](#)).

The recent **G20 meeting in Hangzhou** did not skip the topic of Brexit as it was clearly on the minds of several countries in attendance. Notably, Japan called for a **Brexit deal** which would ensure the consistency of regulations and standards between the UK and the EU, and said Japanese firms "might have to [...] relocate their operations from the UK" if passporting arrangements were not protected.

Despite a number of statements by UK and EU officials, little further clarity on what **Brexit** will look like has emerged so far. In his annual State of the Union speech, the European Commission's Jean-Claude Juncker ruled out an "a la carte access to the Single Market" warning the UK that it could not retain access to the EU's single market if it did not accept free movement of people. Juncker also reconfirmed the Commission's commitment to the **CMU** and proposed plans to accelerate reforms under this project.

In the meantime, the UK parliament got to work to assess the **impact of Brexit on financial services**. The BBA's Anthony Browne expressed concerns regarding the equivalence of the regulatory regime and reiterated the view that the industry did not want a "bonfire" of regulations if that would put equivalence and market access at risk. The Treasury Committee's Andrew Tyrie said the significant numbers of passports held by UK and EEA financial services firms (5,500 and 8,000 respectively, according to the FCA figures) meant that "the business put at risk [by Brexit] could be significant". **Solvency II** became the first major piece of regulation to be potentially revisited as the Treasury Committee launched an inquiry into the Directive, citing Brexit as an opportunity for the UK to gain more control of its insurance regulatory regime.

Probably September's biggest surprise came as the European Parliament rejected the Commission's Delegated Regulation on **PRIIPs** and called on the EU Commission to postpone the application date of PRIIPs (See [our blog on the likely PRIIPs delay](#)).

**MiFID II/MiFIR** is still firmly on the agenda, as many technical issues remain undefined. ESMA published a discussion paper on the trading obligation under MiFIR. The FCA published its third consultation on MiFID II (primarily focused on conduct issues) and set out the areas where the FCA intended to extend MiFID II rules to UCITS management companies, AIFMs, non-MiFID energy and oil market participants, and UK branches of third country firms. HM Treasury consulted on amending the definition of financial advice in the UK to better align with the EU definition of 'investment advice' set out under MiFID, which may generate new opportunities for firms.

Publication of the final technical standards for calculating the minimum requirement for own funds and eligible liabilities (MREL) under the BRRD ended an almost two year process of drafting and revision. The EBA, however, has already put forward suggestions for how to amend MREL, and the Commission will bring forward legislation to implement the international TLAC standard later this year, which will likely entail amendments to MREL.

Fintech and payments are increasingly receiving more regulatory and supervisory attention. Among notable September developments were the BBA Fintech Banking Conference and a number of publications in relation to RSD II and PAD. (Also read [our new blog on the PSD2 RTS on authentication and communication](#)).

### Looking ahead

End November will see a publication of the **UK bank stress test results**. In addition, the seven banks participating in the 2016 stress test will be subject to both the annual Cyclical Scenario and the new biennial Exploratory Scenario in 2017. Both 2017 scenarios will be published in Q1 2017.

In the autumn, the PRA will publish its supervisory statements relating **to supervision of subsidiaries of overseas banks**, and in relation to **booking models**. (Please see our [paper](#) on global bank booking models).

The EU has not dropped the November target date for its **CRDV/CRR II package**, although that looks like a challenging timescale.



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Fax: +44 (0) 20 7583 1198.

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