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Consumer protection was a big theme for September: the European Securities and Markets Authority (ESMA) renewed for a further three months its restriction on the marketing, distribution and sale of contracts for differences (CFDs) to retail clients; and the International Organisation of Securities Commissions (IOSCO) issued measures for securities regulators to consider when addressing the risks arising from the marketing and sale of OTC leveraged products to retail investors. In the UK, Citizen's Advice submitted a super-complaint to the Competition and Markets Authority (CMA) over existing customers paying what it describes as a "loyalty penalty". The Financial Conduct Authority (FCA) response included a commitment saying it would examine this issue in its upcoming market study on pricing in the general insurance market.

On the prudential side, senior figures such as Daniele Nouy of the European Central Bank (ECB) and Elke König of the Single Resolution Board (SRB) have been reflecting on the lessons learned from the financial crisis and post-crisis supervisory priorities.

Meanwhile, a number of important appointments were extended with Mark Carney, Governor of the Bank of England, extending his appointment until 31 January 2020 and Sir Jon Cunliffe, a Deputy Governor of the Bank of England also being re-appointed until 2023.

Brexit

The UK government **published** new Statutory Instruments (SIs), making changes to retained EU law related **to payments and electronic money** to ensure the continuity of the regime after the UK departs the EU. Under the proposals, the UK would remain in the Single Euro Payments Area.

At its inaugural meeting, the US-UK Financial Regulatory Working Group discussed the outlook for financial regulatory reforms and future priorities, including possible areas for deeper regulatory cooperation to facilitate further financial services activities between US and UK markets. They also discussed the implications of Brexit on financial stability and crossborder financial regulation, with a specific focus on contract continuity and other cliff edge risks.

The UK government launched a technical consultation seeking views on the government's approach to transpose the EU Bank Creditor Hierarchy Directive. The consultation explains the Directive's amendments to Article 108 of the Bank Recovery and Resolution Directive (BRRD), which provides that debt instruments that meet specified conditions should have a lower ranking than ordinary unsecured claims, but a higher ranking in an insolvency, than capital instruments and subordinated liabilities that do not qualify as own funds instruments. The consultation also explains the government's proposed approach to implementation, and details the government's draft implementation regulations.

The UK Government published
Technical Guidance setting out
the actions UK organisations should
take to enable the continued flow
of personal data between the UK
and the EU in case of a no-deal
Brexit. The document states that
the UK Government is "ready to
begin preliminary partners in
identifying a legal basis for those
transfers".

The UK Parliament published a Briefing Paper entitled "What if there's no Brexit deal?" The paper highlights the constitutional implications of a 'no-deal' scenario for the UK and devolved administrations, as well as for several policy areas including financial services. The report describes the risks of a 'no deal' scenario around the continuity of contracts in the derivatives market and the insurance sector, as well as the "no passport" problem applying to cross-border clearing houses.

The FCA **published** a Direction clarifying how an EEA market operator may make an application to become a Recognised **Overseas Investment Exchange** (ROIE). The document states that EEA market operators who do not maintain a permanent place of business in the UK may be able to rely on the overseas persons exclusion after Brexit, to the extent that they would otherwise be deemed to be carrying on a regulated activity in the UK. However, EEA market operators who cannot rely on the overseas persons exclusion and who undertake regulated activities in the UK, should seek appropriate FCA permissions such as recognition as a ROIE.

Andrea Enria, Chair of the European Banking Authority (EBA), gave a speech in which he stated that Brexit increases the challenge of fragmentation of EU banking markets, given the role of London as a global financial hub, especially in the area of wholesale banking and derivatives clearing. He also pushed for strong cooperation and information sharing between EU and UK authorities to ensure that the impact of Brexit on financial markets is minimised.

Daniele Nouy gave a speech in which she stated that the ECB wants to ensure that banks which say they are moving to the Eurozone actually do so. She furthermore said that while the ECB can accept that firms will need a transition period to relocate, this period "should not be too long" and firms "should move within two or three years at the most, and they will have to start with resources that are proportionate to the risk they are moving over".

Capital (including marco prudential and stress testing) Capital (including macro prudential

and stress testing) David Rule, Executive Director of Insurance Supervision at the Prudential Regulation Authority (PRA), gave a speech on current issues in insurance supervision. He noted progress towards an International Capital Standard, which might reduce the need for multiple overlapping practices in measuring the same risks. He also emphasised that prudential regulators were concerned about insurers taking increased risk, and that the PRA will be alert to insurers seeking to reduce capital requirements through aggressive changes to internal models or overoptimistic business plans.

The PRA **issued** a follow up letter to Chief Actuaries following its review of the **Actuarial Function Reports** (AFRs). The letter shared insights from the PRA's meetings with Chief Actuaries and highlighted further work on firms' business planning, underwriting policies and capital. It also outlines detailed findings from the PRA's targeted reviews of firms' reserving approaches.

Daniele Nouy, Chair of the Supervisory Board of the ECB, gave an interview on lessons learnt following the financial crisis. She explained that banks' recovery plans and authorities' resolution plans are helping to address the issue of 'too big to fail'. She emphasised that there remains a risk of "regulatory fatigue" and listed three post-crisis supervisory priorities, namely (i) European banks' profitability, (ii) regulatory convergence and (iii) the issue of non-performing

loans.

The EBA launched a data collection exercise alongside its regular Basel 3 monitoring exercise. It released two sets of QIS templates as part of the data collection exercise, which will allow it to complete analysis for its response to the Commission's Call for Advice. The templates are aimed at ensuring that "the data collection burden is proportionate to the institution's size and complexity." The Commission has requested that the EBA's advice and technical recommendations be submitted to them by the summer of 2019.

The European Central Bank (ECB) launched a public consultation on the risk-type-specific chapters of its guide to internal models.

The chapters, which follow the ECB's March 2018 consultation on the general topics chapter of the guide, aim at providing transparency on the ECB's understanding of the applicable regulations for using internal model requirements to calculate own fund requirements for credit risk, market risk, and counterparty credit risk. The consultation closes on 7 November 2018.

The Basel Committee agreed next steps on various policy issues including finalising the market risk framework around the end of the year; publication of a newsletter on, and further steps to address, leverage ratio window-dressing behaviour including consulting on the exposure measure in October; and publishing a revised version of its Principles on Stress Testing in October.

The EBA revised its standardised **NPL data templates**. The revisions include amendments in data fields, a redesign of the related legal fields, and editorial changes to improve the effectiveness and usability of the templates.

Elke König, Chair of the SRB, discussed progress made 10 years after the financial crisis, highlighting the establishment of unified supervision of banks in the Eurozone and the development of a single resolution mechanism. She noted that there is work still to be done, including the finalisation of the risk reduction measures legislative package and the completion of EDIS.

The EBA published two reports on **EU banks' funding plans and asset encumbrance.**

The funding plans report found that, over the next three years, banks expect to increase client deposits and long-term market-based funding while decreasing short-term debt and repo funding. Participating banks expect total assets to grow, on average, by 6.2% by 2020, driven by loans to households and non-financial corporates.

The report on the asset encumbrance noted an increase in asset encumbrance from 2015 and 2016. However, it concluded that the recent increase does not pose immediate concern for the funding structure of EU banks, as it mostly arose from a reduced volume of assets rather than an increase in encumbered assets.

The ECON Committee of the European Parliament voted to adopt a draft report on the prudential review for investment firms. A key amendment is the proposed provision to allow national regulators to subject certain investment firms to CRD rules, if certain conditions are met. The file now awaits the European Council's general approach to begin the next phase of negotiations.

Governance and risk management (including remuneration)

Andrew Bailey, Chief Executive of the FCA, gave a **speech** at the FCA's Annual Public Meeting **about some of the FCA's initiatives as a competition authority**. These included the Asset Management Market Study, and the FCA's ongoing work on operational resilience, technological change and innovation, financial crime, data, international developments, and longstanding issues including investigations into the RBS and HBOS cases.

The ECB consulted on Part 2 of the guide to assessments of licence applications. The consultative guide focuses on the assessment criteria for capital requirements and programme of operations, including business plans. It also sets out the main topics of interest for supervisors when assessing the programme of operations, including the business model, risk profile, governance, and the risk management framework. The consultation closes on 25 October 2018.

The ECB published the results of its thematic review of profitability and business models, which was conducted from 2016 to the first quarter of 2018. It found that significant institutions' (SIs) profitability and business models remain under pressure. The ECB does not expect SIs will return to pre-2008 return on equity levels due to changes in the business environment, risk profiles and capitalisation.

The EBA launched its fifth annual **EU-wide transparency exercise**. In December 2018, together with the Risk Assessment Report (RAR), the EBA will release over 900,000 data points on circa 130 EU banks. The data will cover capital positions, risk exposure amounts, sovereign exposures, and asset quality.

Conduct of Business (including MiFID)

Charles Randell, Chairman of the FCA, gave a **speech** at the FCA Annual Public Meeting 2018. He said the **FCA faces "tough choices" about how to prioritise work** and resources in the coming year, particularly due to developments in international affairs and the arrival of new technologies, but reiterated the FCA's focus on protecting vulnerable customers and tackling financial crime.

The CMA **published** a summary of the symposium it held in July on vulnerable consumers. The event focused on the **challenges for vulnerable** consumers presented by regulated markets and digital technologies, and on wider issues including the relationship between competition policy and the political economy. Issues raised included use of customer data, price discrimination, and access to technology.

The CMA opened a market investigation into investment consultants, focusing on the supply and acquisition of investment consultancy and fiduciary management services. The investigation follows a provisional decision report from July this year and consideration of the responses. The CMA intends to publish the final report before the end of 2018.

Andrew Bailey **spoke** on **pension freedoms**, highlighting his belief that they are an appropriate response to the changes in the lifetime savings model. He noted concerns about the proportion of non-advised drawdown consumers wholly holding cash and stated that while the FCA was not convinced about charge capping in the pensions market, it remains an option.

The FCA announced the outcome of its investigation into 4 four life insurance companies following its 2016 thematic review into the fair treatment of longstanding customers in the life insurance sector. The FCA found the conduct of the firms did not warrant enforcement action, and any issues that had been identified during the investigations were being addressed as part of the FCA's ongoing supervision of those firms.

ESMA **opined** on proposed amendments to the **transparency requirements for equity instruments** under MiFIR (RTS 1).

In order to ensure timely application of quoting obligations for systematic internalisers (SIs), ESMA agreed to limit the application of tick sizes to SIs' quotes for shares and depositary receipts.

The FCA and PRA published a joint Dear CEO letter seeking "assurance that firms' senior managers and boards understand the risks associated with LIBOR transition and are taking appropriate measures to transition to alternative rates ahead of end-2021". The regulators requested boardapproved summaries of firms' assessments of key risks of LIBOR discontinuation and details on how they plan to mitigate those risks. The deadline for responses is 14 December 2018.

Citizens Advice **submitted** a **super** complaint to the Competition and Markets Authority (CMA), on the grounds that people who stay with their provider – often on default or roll over contracts - can end up paying significantly more than new customers. The complaint identified five "essential" markets where Citizens Advice has concerns, namely savings accounts, mortgages, household insurance, mobile and broadband. Citizens Advice also asked the CMA to focus on vulnerable consumers. The CMA will publish a response within 90 days.

The FCA responded to Citizen Advice's complaint. Its response included a commitment undertake a market study on pricing practices in the general insurance market. Details of the market study are expected in a few weeks' time.

The FCA is **consulting** on extending the **Senior Managers and Certification Regime ("SM&CR") to Claims Management Companies (CMCs)**. Responses are invited by the 6th December 2018.

ESMA renewed its restriction on the marketing, distribution and sale of contracts for differences (CFDs) to retail clients for a further three-month period. The restrictions include leverage limits and a margin close-out rule. ESMA also updated its Q&As on product intervention measures confirming that rolling spot forex products (which do not qualify as an option, future, swap or forward rate agreement) are within the scope of the CFD decision.

IOSCO published guidance for regulators to address conflicts of interest and conduct risks in equity capital raising. The guidance set out measures to mitigate risks arising from conflicts of interest and pressure on analysts during the formation of their views on an issuer in the pre-offering phase of a capital raising; conflicts of interest during the allocation of securities; conflicts of interest and conduct risks in the pricing of securities offerings; and conflicts of interest and conduct risks stemming from personal transactions by staff employed within firms managing a securities offering.

IOSCO issued policy measures for securities regulators to consider when addressing the risks arising from the marketing and sale of OTC leveraged products to retail investors, including rolling spot forex contracts, CFDs and binary options. Separately, IOSCO released a public statement on the risks of binary options and the response of regulators for mitigating the risks and harm to retail investors transacting in these products.

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

Elke König, Chair of the SRB, published an article on gaps in the Banking Union regarding funding in resolution. She noted that the **Banking Union does not have** temporary public backstop funding mechanisms in place for funding in resolution, as recommended by the FSB. She further stated that any backstop should give resolution authorities certainty that the tool can be relied upon for finalising all features of the resolution scheme, and that the tool must be sizeable and flexible enough to support the effective implementation of any resolution strategy.

Ms König, published a further article on the need for an EU liquidation regime for banks. She stated that bank insolvency procedures should be subject to common standards and practices at the EU level. She further noted the challenges in conducting a no-creditor-worse-off assessment and determining whether a bank is failing, or likely to fail, due to divergences in national-level insolvency laws.

ESMA published its latest Trends, Risk and Vulnerabilities report. It found that overall risk levels for the EU's securities markets remained stable but at high levels. ESMA also saw a deterioration in outstanding corporate debt ratings and in corporate and sovereign bond liquidity. ESMA was further concerned about cyber and Brexit risks for business operations, with the latter being characterised as one of the most important political risk for the EU.

ESMA consulted on stress testing rules for money market funds (MMFs). The consultation proposed common parameters and scenarios for the tests, taking into account a number of hypothetical risk factors. They include liquidity changes of MMF portfolio assets, credit risk, interest and exchange rate changes, redemptions, index spread changes, and macro-economic shocks.

Regulatory perimeter

The Treasury Committee (TSC) published a report on

cryptocurrencies, examining the role of digital currencies and distributed ledger technology in the UK, including the opportunities and risks these technologies may bring to consumers, businesses and the government. It also evaluated the regulatory responses to digital currencies from the government, the FCA and the BoE, and how regulation could be balanced to provide adequate protection for consumers and businesses without stifling innovation.

The PRA reported on the impact of climate change on the UK banking sector. Its survey, covering 90% of the UK's banking sector, found that 60% of banks view climate change as a financial risk, while a further 10% take a "forward-looking view grounded in long-term financial interests". The PRA also announced that it will shortly set out its supervisory expectations for banks and insurers' governance, strategy and risk management in relation to the financial risks arising from climate change.

Alex Brazier, Executive Director at the Bank of England, gave a speech in which he reflected on the role that shadow banks played in contributing to the financial crash of 2008 and how they helped spread problems in the financial system. He highlighted that non-banks such as investment funds, pension funds and insurance companies have now taken the place of shadow banks. He also set out the BoE's assessment that the financial system is more diverse, banks are better capitalised and derivatives markets are safer.

Sabine Lautenschlager, Vice-Chair of the Supervisory Board of the ECB, delivered a speech discussing progress made towards establishing a more integrated European Banking system. She suggested the following to strengthen the work already being done:

- (i) the need to establish a truly unified legal basis;
- (ii) harmonising administrative practices and
- (iii) the need for greater time commitments and increased cooperation efforts.

Lastly, Ms Lautenschlager encouraged national authorities to "embrace the European idea".

European Commission Vice-Presidents Maroš Šefčovič and Valdis Dombrovskis and Commissioner Neven Mimica gave updates on the EU's initiatives in support of climate action. In particular, they supported putting sustainable finance at the top of the agenda for the EU's low carbon transition, which will require around €180 billion in extra investment every year until 2030 in energy efficiency, renewable energy and clean transport.

The ECON Committee of the European Parliament voted in favour of the creation of a Pan-European Personal Pension Product (PEPP). The final shape of the text adopted by the committee will be subject to upcoming negotiations between the European Parliament, the Austrian Presidency and the Commission.

The European Systemic Risk Board (ESRB) published its EU Shadow Banking Monitor. It found the size of the EU shadow banking system changed little last year and now accounts for 40% of the EU financial system (€42 trillion in total assets). The report highlighted risks and vulnerabilities in areas such as liquidity interconnectedness, including the risk of contagion across sectors and within shadow banking.

IMF Managing Director Christine
Lagarde spoke on financing the
2030 sustainable finance
agenda. She expressed support for
Sustainable Development Goals
(SDGs) to eliminate poverty and
deprivation by 2030. In particular,
Ms Lagarde confirmed that "SDGs
are aligned with the IMF's mandate
for sustainable and inclusive
economic growth accompanied by
financial stability", and suggested
that one of the ways to achieve
SDGs would be for countries to raise
tax revenues.

Disclosure, valuation and accounting

The PRA consulted on updates to reporting requirements in line with version 2.9 of the EBA's reporting taxonomy. Amongst other things, the changes would extend the scope of new financial reporting (FINREP) templates on non-performing loans and forborne exposures to firms not required to report using FINREP templates under the CRR. The consultation closes on 12 December 2018.

The working group on euro risk-free rates recommended the Euro Short-term Rate (ESTER) as the new euro risk-free rate and replacement for the Euro Overnight Index Average (EONIA). ESTER will also provide a basis for developing fallbacks for EURIBOR-linked contracts. It will be produced by the ECB by October 2019.

ESMA opined on proposed amendments to SFTR technical standards; it will not amend the standards on legal entity identifiers (LEI) for branches, and unique transaction identifiers (UTI) for trade reporting. In ESMA's view such amendments would risk timely alignment with developing international reporting standards, create inconsistency with the current EMIR reporting standards, and result in a significant delay in the introduction of global standards in the EU.

ESMA amended the RTS on the clearing obligation for intragroup transactions. The amendment relates to the deferred date of application for the treatment of certain intragroup transactions concluded with a third country entity. ESMA proposed to extend the current temporary exemptions to 21 December 2020, for all products currently subject to the clearing obligation.

ESMA has announced it intends to publish new data completeness indicators for trading venues.

The two indicators - the Completeness Ratio and the Completeness Shortfall - will assist trading venues in delivering timely complete and accurate data on a timely basis in respect of double volume cap (DVC) and bond liquidity data required under MiFIR. The Completeness Ratio will provide information on data completeness of an individual venue, whereas the Completeness Shortfall will measure a venue's performance in relation to other venues. The indicators will be published for the first time on 8 October for DVC and by 1 November for bond liquidity data.

The ESAs published a report highlighting the return of volatility risk, and risks related to valuations, repricing of risk premia and increasing interest rates, and contagion risks if valuation risks materialise. The report's recommendations included continuing to conduct and develop stress test exercises across all sectors, and continued attention by supervisors to financial institutions' risk appetite.

The Task Force on Climate-related Financial Disclosures (TCFD) published its first status report. After surveying disclosures of over 1,700 firms across multiple sectors, the TCFD concluded that the majority of firms surveyed publish information aligned with one of the TCFD recommended disclosures. However, it also concluded that climate-related financial disclosures so far tended to focus on risks and opportunities, rather than quantifying the financial impact of climate change. The TCFD will publish a further status report in mid-2019.

Information security and data privacy

The PRA and FCA launched their New Insurer Start-up Unit (NISU), which seeks to support prospective new insurers through each step of the authorisation process. As part of the NISU, the PRA and FCA also launched a call for firms' views on perceived barriers to entry in the insurance industry and possible measures to address them.

The FCA issued a consultation on the implementation of PSD2, in particular on the Regulatory Technical Standards (RTS) for strong customer authentication and common and secure open standards of communication (SCA-RTS). Most of the SCA-RTS provisions have to be applied by firms from 14 September 2019. In order to publish its final position in early 2019, the FCA is consulting ahead of the finalisation of EBA guidance. The FCA is also consulting on new fraud reporting requirements that will affect the data collected and reported by all payment services providers.

The ESAs (EBA, ESMA and EIOPA) published a report on automation in financial advice. This found that the overall scale of the automated financial advice tools market still appeared to be limited. Since they did not identify any significant changes in the risks identified in a previous report, the ESAs confirmed they would not be taking immediate further action on the subject. The report also highlighted the sectoral work that each ESA is undertaking in relation to the automation of financial advice.

Slavka Eley, Head of Banking Markets, Innovation and Products at the ECB gave a **speech** on the

Regulatory Framework for Mitigating Key Resilience Risks.

Ms Eley said that increasing digitisation, use of third party providers and cyber-attacks meant that ICT related risks remained a priority within the EU and globally. She went on the explain that, though there are limits to what can be achieved in this area of regulation, she explained that a combined effort between institutions and supervisors will help to quard against resilience risks and concluded by stating that the EBA's role includes ensuring coordinated approaches across the EU single market.

The BIS Market Committee surveyed central banks on their priorities for monitoring fast-paced electronic markets (FPMs), and presented developments in foreign exchange and other FPMs. These included structural trends such as the changing nature and location of trading across a range of FPMs.

The FSB and the IMF published their third progress report on the Second Phase of the G20 Data Gaps Initiative (DGI-2), which looks at the data gaps identified after the global financial crisis, and promoting the regular flow of timely and reliable statistics for policy use. It found that considerable progress was made by participating economies during the second year of DGI-2, but key challenges remained, such as ensuring there is an appropriate infrastructure for data access and data sharing.

Financial Crime

The PSR welcomed the publication of a draft industry code designed to help prevent Authorised Push Payment (APP) scams and give consumers better levels of protection. The code is now open to consultation until the 15 November. In parallel, the PSR has confirmed that it plans to consult by December 2018 on using its regulatory powers to give a General Direction to banks and payment service providers to implement confirmation of payee – an important tool for preventing APP scams.

The EU Civil Liberties Committee **approved** new rules aimed at better safeguarding EU citizens against **non-cash payment fraud** such as credit card theft, skimming or phishing. The new rules are aimed at bridging existing gaps in Member State laws.

The European Commission announced a proposal to concentrate Anti-Money Laundering (AML) powers in the EU financial sector within the European Banking Authority (EBA). It will do this by strengthening the EBA's mandate to ensure that risks of AML activity are effectively supervised by competent authorities in all Member States. The EBA will have to ensure that breaches of AML rules are investigated by national competent authorities. Moreover, it will require that national AML supervisors comply with EU rules and cooperate with prudential supervisors.

Rethinking the domestic and international architecture for regulation

Andrew Bailey gave a speech at the EUROFI Financial Forum, on multilaterialism and global **coordination**. He said that there are four key elements of strong regulatory co-ordination: comparability of rules (but not exact mirroring), supervisory coordination, exchange of information, and a mechanism to deal with differences. He argued that outcomes-based equivalence arrangements between jurisdictions were fundamentally important to support the balance between autonomy and co-operation and avoid outcomes that will damage economic well-being and successful financial markets.

Daniele Nouv gave a speech in which she argued that the **Banking** Union and the SSM must progress toward a single jurisdiction. This would require three things: 'harmonisation' 'cooperation' and 'solidarity'. She commented that the banking rulebook needed to be 'truly European' and highlighted the need to introduce fewer directives and more regulations to reduce the likelihood of uneven implementation at national level. She stated that whilst ring-fencing by national banking sectors was "reasonable" during the crisis supervisors should now, in her view, "pull down these fences".

François Villeroy de Galhau, Governor of the Bank of France, **spoke** on financial supervision and the role of national authorities in Europe. He stated that making the Single Resolution Mechanism fully operational should be a top priority and noted his belief that the establishment of a credible and efficient mechanism for resolution will make it easier to reach a compromise on deposit insurance.

Mario Draghi, President of the ECB, spoke on the history and future of European integration using the lessons of the past as a potential blueprint for an improved Monetary Union ("the Union"). He advised that three key practical approaches should guide in implementing the "necessary" reforms to the Union. These approaches are (i) focusing integration efforts on common challenges where the EU could clearly help; (ii) recognising that integration in one area creates an interdependence with other areas; and (iii) equipping the EU with the tools and institutions to manage that interdependence and ensure stability and convergence

Other

The FCA has appointed Sheldon Mills as its new director of competition. Mr Mills is currently Senior Director for Mergers and State Aid at the CMA and will take up his new role in November.

The Chancellor announced that Mark Carney, current Governor of the Bank of England, will remain in his role until 31 January 2020. Sir Jon Cunliffe, Deputy Governor of the Bank of England with responsibility for Financial Stability, has also been reappointed, effective from 1 November 2018.

Professor Julia Black, and Jill May were appointed to the Prudential Regulation Committee (PRC).

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