Risk and Regulation Monthly

September was notable for a flurry of pre-G20 publications from international regulators, including the **Financial Stability Board** (FSB), the **Basel Committee on Banking Supervision** (BCBS), the **International Association of Insurance Supervisors** (IAIS), and the **International Organisation of Securities Commissions** (IOSCO), on topics such as **insurance loss absorbency**, **bank resolution**, **risk-weighted-asset consistency**, and **non-bank finance**. Meanwhile the **Prudential Regulation Authority** (PRA) finalised its policy on the **supervision of foreign bank branches in the UK,** and there was no shortage of material on the **Single Supervisory Mechanism**.

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

Capital (including stress testing)

The **IAIS** published two sets of principles for the development of international capital standards for insurance: (1) *principles* for the development of the Insurance Capital Standard (ICS) under ComFrame and (2) *principles* for development of the Higher Loss Absorbency (HLA) requirements for Global Systemically Important Insurers (G-SIIs). ICS rules include valuation principles, a definition of qualifying capital resources, and a risk-based capital requirement. HLA requirements reflect the drivers of G-SII designation and the "individual characteristics" of G-SIIs. HLA will have to be met by the "highest quality capital" and will be applicable to insurance and non-insurance activities. In its *updated Q&A document*, the IAIS said that HLA assessments may take into account capital charges imposed by national regulations to mitigate systemic risk.

Stefan Ingves *outlined* progress on regulatory reform at the **BCBS**, focusing on risk-weighted-asset comparability. He confirmed the BCBS intends to introduce capital floors, as well as benchmarks for risk-weighting practices, thereby constraining banks' own risk estimates. Pillar 3 disclosures will be amended, and there will be clarification of "ambiguous" aspects of the Basel framework, reducing the scope for national discretion in implementation.

The **BCBS** *published* the results of its trading book test portfolio exercise as part of the fundamental review of the trading book (FRTB). The impact study looked at the revised internal models-based approach, based on hypothetical portfolios. A second impact study is ongoing, using actual bank data. The study found that capital requirements would increase under the FRTB proposals, with risk measures increasing for all asset classes except equities, although the BCBS said the results should be considered "preliminary."

Recommendations from the **European Systemic Risk Board** (ESRB) to Member States for setting countercyclical buffer rates were *published* in the Official Journal of the EU, with seven principles outlined. The ESRB also provided guidelines on which variables indicate the build-up of system-wide risks associated with periods of excessive credit growth, and which indicate the buffer should be maintained, reduced or fully released.

The **BCBS** *published* the results of its latest Basel III monitoring exercises. The 102 largest cross-border banks now faced an aggregate shortfall of €15bn against the Basel III endpoint of 7% Common Equity Tier 1, a decrease of almost 75% since the previous exercise.

EMEA Centre for Regulatory Strategy

The average leverage ratio (using the new Basel III definition) was 4.4%, although nine would fail to meet the 3% minimum. The BCBS also *published* a revised set of frequently asked questions on Basel III monitoring.

Mark Carney, Governor of the **Bank of England**, and *Gabriel Bernardino*, Chairman of the **European Insurance and Occupational Pensions Authority** (EIOPA), spoke on progress in insurance regulation. Both focused on international developments in insurance capital standards, with the latter stating that in EIOPA's view ICS should contain "fundamental principles such as a total balance sheet approach; clear and transparent target calibration criteria for capital requirements; [and] explicit recognition of risk diversification".

The **European Securities and Markets Authority (ESMA)** *consulted* on draft standards on the definition of "main indices" and "recognised exchanges" under the Capital Requirements Regulation (CRR). The two concepts are used – inter alia – in the specification of "eligible collateral", a component of the calculation of credit risk. The consultation paper also contained a proposed list of main indices and recognised exchanges.

The **European Banking Authority** (EBA) *published* eight new questions and answers on the single rulebook covering validation rules, eligibility of subordinated loans for classification as Tier 2 instruments, and other issues.

Liquidity

The **BCBS** *endorsed* the net stable funding ratio (NSFR) at its meeting in Tianjin, China. Completion of the NSFR is one of the final outstanding pieces of Basel III, following a consultation on a revised version in January 2014. The final document will be published "in the coming weeks"; the NSFR will become a binding standard at the start of 2018. Separately, the BCBS' *monitoring exercise* found that almost 80% of banks in the sample met or exceeded the 100% NSFR requirement. The aggregate NSFR shortfall for banks below the 100% requirement was €817bn. The EBA also *published* the results of its parallel exercise, which showed that the EU's share of the NSFR shortfall stood at €473bn.

Governance and risk management (including remuneration)

Michel Barnier, outgoing Vice-President of the **European Commission**, *wrote to* Andrea Enria, EBA Chairman, to express his "strong concerns" with continuing reports of the use of 'allowances' to pay key staff. These "have been characterised in the press as a means of circumventing the legal framework for variable remuneration under CRD IV". Barnier stressed the importance of a "collective proactive stance" in response to the use of allowances, which he said was a violation of the spirit – if not the letter – of Union law. Barnier asked the EBA to report on the issue by no later than the end of September to address any concerns through a "coordinated policy response."

Mark Carney, Governor of the **Bank of England**, *said* that a senior persons' accountability regime was being developed for insurers, and will be consulted on later in 2014. However, the Bank will not seek to apply the banking regime "indiscriminately". The regime will extend to the most senior actuaries, along with Chairmen, Chief Financial Officers, and Chief Risk Officers.

The **PRA** and the **Financial Conduct Authority** (FCA) *published* a joint consultation paper proposing changes to remuneration data reporting requirements, to enable the collection of more detailed data on remuneration broken down by staff category, and on the form in which total remuneration is delivered. Amendments were also proposed to the High Earners Report to require affected firms to submit data on all employees with total remuneration of €1mn or more in a financial year, including for all subsidiaries and branches within a group based in the European Economic Area (EEA) or an EEA branch of a firm with its head office outside the EEA.

The **Financial Reporting Council** (FRC) *issued* an updated version of the UK Corporate Governance Code. The revisions are designed to enhance the quality of information investors receive about the long-term health and strategy of listed companies. Among the changes is the introduction of a 'viability statement' in the strategic report to provide a broader assessment of long-term solvency and liquidity; this statement is expected to look forward significantly longer than 12 months. The revised Code will apply to accounting periods beginning on or after 1 October 2014.

Conduct of Business (including MiFID)

The **FCA** *held* a conference on the Markets in Financial Instruments Directive II/Regulation (MiFID II/MiFIR) where David Lawton, Director of Markets, and Maggie Craig, Acting Head of Savings and Investments, outlined the main changes and considerations for firms from these measures. Lawton *stressed* that "important questions" remained about increasing transparency in wholesale markets without reducing liquidity, including in relation to the granularity of application of the rules. Craig *addressed* MiFID II-related tools and challenges for investor protection in the UK. She called for broader application of the higher standards of investor protection introduced by MiFID II, to extend to all retail investment products, including insurance investment products.

HM Treasury *consulted* on bringing additional financial benchmarks within the scope of the UK regulatory regime, in line with the *recommendations* by the **Bank of England** as part of the Fair and Effective Markets Review. This proposed extending current legislation to seven major benchmarks, including SONIA, RONIA, the WM/Reuters 4pm London Fix, ISDAFix, the London Gold Fixing, the LBMA Silver Price and the ICE Brent futures contract. The Review will publish its final report, which will look at a broader set of issues, in June 2015.

The **Council of the European Union** also *published* a compromise text on the EU proposal for a Regulation on financial benchmarks.

ESMA *published* a consultation paper on guidelines to tighten the definition of derivatives as financial instruments under MiFID. Currently, there is no common definition of "derivative" or "derivative contract" across the EU for some asset classes, due to Member States' varying interpretations, particularly for physically settled forwards. ESMA said there were significant problems in the implementation of the European Market Infrastructure Regulation (EMIR) caused by the lack of a harmonised definition, and its guidelines aimed to eliminate those problems.

William Amos, **FCA** Director of Wholesale Banking and Investment Management, *outlined* recent changes to the fund authorisation process, which seek to align investors' expectations with a fund's own stated objectives. Amos also announced the establishment of the FCA Fund Authorisation and Supervision Team, which is responsible for regulated funds from the authorisation stage all the way through to the fund's termination or closure.

The **FCA** *published* a policy statement setting out amendments to the Retail Mediation Activities Return (RMAR) and to Product Sales Data (PSD) reporting requirements. The amendments are designed to provide more clarity on the adviser charging data that firms should report, and to reduce the reporting obligation on firms by amending templates and reducing the frequency of data collection. The new regime will be phased in from October 2014.

The **FCA** *fined* Barclays Bank £37.75mn for failing to adequately protect clients' custody assets worth £16.5bn in 95 custody accounts in 21 countries. The fine is the highest imposed by the FCA for client asset breaches.

ESMA *consulted* on draft technical advice on depositary functions under the Directive for Undertaking for Collective Investments in Transferable Securities (UCITS) V. To enhance protection of investors' assets, UCITS V extends the duties and liabilities of UCITS depositaries by clarifying the safekeeping, oversight and cash flow monitoring functions. The new rules prescribe the types of entity that may act as a depositary and as such, ESMA's consultation seeks views on proposals in two areas related to the depositary function: insolvency protection when delegating safekeeping, and independence requirements.

The **FCA** *alerted* financial advisers and consumers to the possibility that some investors in the EEA Life Settlements Fund may have been mis-sold products. The Fund is an unregulated collective investment scheme made up of traded life policy investments (TLPIs).

The FCA believes that TLPIs are complicated products generally unsuitable for the mass retail market, and has banned the promotion of TLPIs to most retail investors.

Peter Carron, a former financial adviser at St James's Place Wealth Management, *was fined* £300,000 by the **FCA** and banned from all regulated activities in financial services for breaching the FCA's Principles. Between 2004 and 2010, Carron advised 11 clients to invest a total of £2.4mn in three companies of which he was director and majority shareholder without adequately disclosing this fact to them. The clients later lost approximately £2.2mn when the companies went into liquidation.

The **FCA** *published* its latest regulation roundup, focusing on the use of internal specialists in giving independent financial advice. It clarified that its rules allowed firms to use internal specialists, provided appropriate systems and controls were in place to ensure that personal recommendations provided by advisers met the required standard.

The **FCA** *published* new complaints data which showed that financial services firms received over 2.3mn new complaints between January and June 2014, a 5% decrease from the second half of 2013. The most complained about product or service continued to be payment protection insurance (1.2mn complaints).

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

The **PRA** *issued* its final policy approach to supervising UK branches of non-EEA banks. This is based on whether a firm's home state supervisor is "sufficiently equivalent" to its UK counterpart, the type of activities (e.g. wholesale or retail) of the branch, and whether assurances from home supervisors over resolution plans are in place. The paper also set out a new rule which requires internationally headquartered banks to take all steps within their control to ensure that their resolution plan provides adequately for the resolution of the UK branch. The PRA will also introduce a new Branch Return – a semi-annual report which all UK branches must submit. A pilot of the Branch Return will run until November.

The **FSB** *consulted* on cross-border recognition of resolution actions. While many jurisdictions now have, or will soon have, resolution regimes in place, there remain hurdles to cross-border resolution actions, particularly in relation to temporary stays on early termination rights for contracts such as derivatives, and bail-in of instruments governed by foreign law. While statutory recognition of cross-border resolution actions is the "preferred goal", the FSB will pursue contractual solutions in the interim, such as amendments to ISDA Master Agreements and other market documentation, and contractual recognition clauses for bail-in-able debt.

The **EBA** published a set of consultation papers on implementation of the Bank Recovery and Resolution Directive (BRRD). Papers included draft guidelines on *conditions* for using early intervention measures, on *interpretation* of triggers for resolution, on *critical services* or facilities necessary to enable a recipient to operate a business transferred to it, on *recovery plan indicators*, and on the application of *simplified obligations* for smaller, less complex institutions, along with *technical standards* for national authorities to report the application of such simplified obligations to the EBA. The BRRD requires a large number of EBA texts to be completed by July 2015.

The **EBA** *published* final guidelines which set out the tests to determine if credit institutions, investment firms and related entities may receive extraordinary public support measures in line with BRRD without triggering resolution. Although the BRRD is designed to eliminate the need for public support of banks, it recognises circumstances in which it may be necessary for solvent institutions to receive additional capital injections, such as in the aftermath of stress tests or asset quality reviews. The EBA guidelines set out timelines, scope, and a common methodology, among other aspects of the assessment process.

The **EBA** *consulted* on payment commitments under the Deposit Guarantee Schemes Directive (DGSD), providing guidelines that banks need to meet if they intend to honour their ex-ante contributions to a DGS (up to 30%) through payment commitments. The guidelines included criteria for eligibility, management and access to collateral and the haircut which needs to be applied to the value of the low-risk assets provided as collateral.

The **EBA** *published* data on systemic risk indicators from 28 large institutions in the EU whose leverage ratio exposure measure exceeds €200bn. The data disclosed is that used as part of the scoring process for designating institutions as global systemically important institutions, although not all 28 banks will necessarily be designated as such. Designation will lead to a higher capital requirement, and will take place in January 2015, following publication of the FSB's G-SIB list expected in November 2014.

The **EBA** *launched* an investigation into alleged breaches of the EU DGS in Bulgaria, related to the conservatorship of Bulgarian bank Corporate Commercial Bank AD (KTB). Access to KTB deposits has been suspended since June this year.

Regulatory perimeter

The **FSB** *finalised* its report on foreign exchange (FX) benchmarks. It judged the current FX market structure to be flawed, providing opportunities and incentives for dealers to try to influence the exchange rate.

The FSB proposed a number of recommendations to reform the market, including revising the calculation methodology of the WM/Reuters benchmark rates, requiring the publication of reference rates by central banks, changing market infrastructure in relation to the execution of fix trades, and restricting the behaviour of market participants around the time of the major FX benchmarks (primarily the WMR 4pm London fix). IOSCO *reviewed* the implementation of its Principles for Financial Benchmarks as part of the same work.

The **FSB** and **IMF** *published* a report to the G20 on the data gaps initiative. Although 'significant progress' has been made, more work was needed, with progress in individual G20 countries "at diverse rates". It would be feasible to complete the data gaps initiative by end-2015 "provided that there is continued cooperation" and statistical activities are "appropriately resourced." The report added that a second phase of work could begin in 2016 to consolidate progress, with further details of such work to be set out in a 2015 work plan.

The **FCA** *outlined* its latest review of how non-financial counterparties (NFCs) are complying with EMIR. Overall, NFCs were accurately classifying hedging and non-hedging transactions, and had adequate internal training on EMIR requirements. A significant part of NFC derivatives' trading had migrated from over the counter (OTC) to exchange. However, some NFCs were having issues with their legacy data systems and experiencing mismatching of fields when trade matching, while some trades were still being confirmed manually.

A new charter for the international **Committee on Payment and Settlement Systems** (CPSS) was *endorsed*, and it was renamed the Committee on Payments and Market Infrastructures (CPMI).

The CPMI published papers on *non-banks in retail payments*, and *developments in collateral management services*. In relation to the growing involvement of non-banks in payment systems, the CPMI noted several areas of concern, such as operational risks, level playing field issues, and consumer protection. On collateral management, the CPMI provided a "point in time snapshot of an evolving landscape", but noted that collateral management services could create large networks of dependencies and interconnections across infrastructures and custodian banks, which should be monitored closely.

ESMA *published* revised technical advice on the appropriateness of the development of a European creditworthiness assessment for sovereign debt. The nine Credit Rating Agencies (CRAs) that comprise the EU sovereign rating market exhibited a high level of variation with respect to the type and number of sovereign ratings they assign.

ESMA highlighted four areas of critical importance in the context of the sovereign rating process and the conduct of sovereign creditworthiness assessments; the independence and integrity of the rating process; independence of the review function responsible for the annual review of methodologies; confidentiality of pre-rating information; and sufficient resources for the conduct of the rating process and on-going monitoring.

The **European Commission** *adopted* three technical standards needed to implement stricter rules under the Regulation on Credit Rating Agencies. These covered disclosure requirements on structured finance instruments; reporting requirements for CRAs for the purpose of the European Rating Platform; and fees charged.

Martin Wheatley, Chief Executive of the **FCA**, *responded to a request* from the Economic Affairs Committee of the House of Lords on high-frequency trading (HFT). He drew a distinction between the US and UK markets, arguing that the UK market is less susceptible to the kind of predatory HFT practices alleged in the US.

IOSCO *published* a consultation report proposing nine standards to mitigate risks in the non-centrally cleared OTC derivatives markets. The proposals included the adoption by covered entities of trading relationship documentation; confirmation of material terms of trades; and valuation and reconciliation of trades with counterparties. Different regulatory regimes should co-ordinate to minimise inconsistencies in risk mitigation requirements for non-centrally cleared OTC derivatives across jurisdictions.

The **OTC Derivatives Regulators Group (ODRG)** *updated* the G20 on progress in resolving OTC derivatives cross-border implementation issues. It raised concerns about certain barriers, including data protection laws, blocking statutes and state and bank secrecy laws, which it said prevented reporting of counterparty-identifying information to trade repositories. It argued that such barriers significantly reduced the effectiveness of reporting obligations and impeded the effective supervision of reporting entities.

The **FSB** **published** a report on jurisdictions' ability to defer to each other's OTC derivatives regulatory regimes. While there are some broad similarities in how jurisdictions approach the application of "deference", there are nevertheless still differences in the circumstances under which deference would be applied, and how it would work.

The **FSB** *published* a report on the feasibility of various options for producing global aggregated OTC derivatives trade repository (TR) data. The study compared three basic options for aggregating data: a physically centralised model, a logically centralised model, and the collection and aggregation by authorities themselves of raw data from trade repositories. The first two options, the study concluded, were highly preferable to the third.

IOSCO *updated* the 2012 review of implementation of its principles for commodity derivatives markets, covering the design and review of physical commodity derivatives contracts, surveillance of the markets, addressing disorderly markets, enforcement and information sharing, and price discovery. The majority of respondents were broadly compliant with the principles, and where authorities were yet to be fully compliant, initiatives had been identified aimed at achieving compliance over time.

ESMA *published* translations of its final guidelines and recommendations on the implementation of the CPSS-IOSCO principles for financial market infrastructures for central counterparties (CCPs). This publication triggers a two month comply-or-explain period and means the guidelines will become applicable on 4 November 2014.

HM Treasury *consulted* on transposing the Mortgage Credit Directive into UK law. While the UK already complies with most of these rules, the proposed legislation brings the regulation of second charge mortgage lending into line with first charge mortgage lending, and introduces new regulations for buy-to-let lending, where the lending is to consumers rather than for business purposes. The deadline for transposition is 21 March 2016, but the UK aims to finalise the measures by March 2015 in order to provide industry with time to adjust to any changes required.

The **FCA** *consulted* on the implementation of the Mortgage Credit Directive and regulatory framework for second charge mortgages. Changes include new knowledge and competency requirements, obligations for firms dealing in foreign currency mortgages, and new levels of professional indemnity insurance. The FCA also proposed that from 21 March 2016 the regulation of second charge mortgages should move from the FCA's consumer credit regime and instead be governed by mortgage rules. Second charge firms would be required to comply with FCA mortgage rules in areas such as affordable lending, advice, and dealing with payment difficulties. The consultation paper also outlined the authorisation process for these firms and set out the proposed data reporting requirements.

The **FCA** published guidelines outlining the reporting obligations in respect of transparency information under the Alternative Investment Fund Managers Directive (AIFMD) for *UK AIFMs* and *Non-EEA AIFMs*. Reporting requirements under AIFMD are already in place, and the FCA's document provides a summary of firms' obligations, and the FCA's supervisory approach.

The **Payments Council** *produced* a special report setting out the progress of the Current Account Switch Service and the impact over its first 12 months. The report found a 19% increase in the number of accounts switched compared with one year before.

The **FCA** *published* a report on its thematic review of mobile banking and payments, and whether firms are mitigating risks for firms and consumers. The FCA was "satisfied" that firms are addressing the following areas of concern: consumers' understanding of their rights and obligations when using mobile banking products; key decision makers' knowledge being in line with innovation; security of consumers' personal data and funds; firms' retention of oversight of third parties and outsourced functions; and new entrants ensuring they have adequate knowledge of the regulatory framework surrounding payments.

Hannah Nixon, Managing Director of the **Payment Services Regulator** (PSR), *spoke* at a British Bankers' Association conference. The PSR is to become operational in April 2015, marking a "sea change" in the regulation of payment systems. Ms Nixon outlined the PSR's key areas of focus around governance, access, infrastructure, innovation, and the appropriate boundaries for collaboration and competition. She made clear that the PSR's approach will be "firmly grounded" in the principles of competition regulation. Further details will be provided in a consultation paper to be published in November.

IOSCO *issued* a report on market-based long-term financing for SMEs and Infrastructure. The report investigated equity markets, debt markets, securitisation, and pooled investment vehicles. IOSCO said the use of market-based financing must be sustainable, and that policy and regulatory design have a role to play, both in terms of the demand for this financing and the willingness to provide it. The **FSB** also *published* a report on long-term finance, looking specifically at regulatory factors affecting supply. It asked its members to provide details of regulatory reforms which may have had "material unintended consequences". However, the FSB found "little tangible evidence or data" to suggest global financial regulation has had negative consequences on long-term financing.

Rethinking the domestic and international architecture for regulation

The **FSB** *met* in Cairns to discuss vulnerabilities in the global financial system and reviewed work plans for completing core financial reforms. They made "substantial progress" in relation to their forthcoming proposals on 'total loss absorbing capacity' (TLAC) – a new Pillar 1 requirement for G-SIBs which will require a buffer of bail-in-able debt for use during resolution. The proposal will be published before the November G20 Summit, and will be subject to an impact study in 2015 before finalisation. The FSB said a final proposal for a Basic Capital Requirement for G-SIIs will be published before the G20 Summit. It also covered derivatives issues such as data aggregation and cross-border consistency, shadow banking, and other issues.

The G20 Finance Ministers and Central Bank Governors *issued* a communique following their meeting in Cairns, in which they welcomed the FSB's commitment to prepare a consolidated annual report on the implementation of financial reforms and their effects from 2015 onwards.

The **BCBS** *published* a statement following its meeting in China, saying that an updated G-SIB list will be published "in the coming weeks", which will fix the capital buffers to be phased-in from 2016. The BCBS also flagged its work on securitisation, saying it had agreed the "remaining significant policy details", and will publish them by the end of 2014.

The **European Central Bank (ECB)** published a number of documents related to the operationalisation of the Single Supervisory Mechanism (SSM). It *finalised* the list of 120 significant banks to be directly supervised by the SSM, differing by only one bank from the summer draft. It also *published* a Guide to Banking Supervision, which provided an overview of the supervisory principles, functional set up and supervisory procedures of the SSM. It also *issued* a decision on how it will ensure a separation of its monetary policy and supervision functions, and what the associated confidentiality and accountability mechanisms will be. Finally, five members of the SSM Administrative Board of Review were *appointed*.

Danièle Nouy and **Sabine Lautenschläger**, the Chair and Vice Chair of the SSM Supervisory Board, spoke on the SSM. Ms Nouy *promised* that the SSM will be "tough and fair" and the ECB "will not shy away from being intrusive if we feel this is necessary". Ms Lautenschläger *spoke* of the new supervisory culture the SSM will establish, a "culture [which] will most certainly be able to assert itself" as the ECB works in direct contact with the banks. "It will not simply collect and evaluate information, but will also go on to do something," she said.

Jean-Claude Juncker, President-elect of the **European Commission,** *published* details of the proposed allocation of portfolios among Commissioners. These included a new Financial Stability, Financial Services and Capital Markets Union portfolio under Lord Hill and the proposed appointments of Frans Timmermans as the First Vice-President (dedicated to a "Better Regulation" agenda) and Pierre Moscovici as Commissioner for Economic and Financial Affairs, Taxation and Customs Union. Juncker then *wrote* to Lord Hill, saying he should focus on ensuring the "timely and effective implementation" of the financial regulatory reform agenda, and review the operation of the European System of Financial Supervision, including its interaction with the SSM and the Single Resolution Mechanism. He also tasked Lord Hill with building a Capital Markets Union by 2019, to include all EU Member States, to improve the provision of finance to the real economy through capital markets and non-bank financial institutions.

Michel Barnier *delivered* a speech with the key message that the European Commission must ensure that rules are applied in a "consistent and coherent way." In relation to consistency of derivatives rules, the EU is in "near daily" discussions with US counterparts, and wanted to find "practical solutions", but "the American side must also deliver." Further work was required on cross-border bank resolution beyond loss absorbency in order to prevent foreign banks from being subject to "double requirements". He reiterated a desire that financial services regulation be included in the Transatlantic Trade and Investment Partnership, as existing dialogues "have their limits." He later *spoke* about his time as EU Commissioner for the Internal Market over "a turbulent few years." He claimed the greatest continuing risks to EU financial stability came from shadow banking, "too big to fail" institutions (not only banks but also central counterparties) and a lack of international consistency in rules implementation.

The **Joint Forum** *released* its report on how far cross-sectoral issues, and specific questions related to financial conglomerates, were effectively addressed in supervisory colleges. It found that most colleges had a set of principles in place for conglomerate supervision, but noted the lack of co-ordination between some jurisdictions and other supervisors on a cross-sectoral level. The report highlighted the insufficiency of specific mechanisms for supervisory cooperation and coordination in periods of crisis or stress as well as the scope for regulatory arbitrage owing to differences in the regulatory and supervisory framework for conglomerates.

The **FCA** *published* feedback on its July and August Project Innovate roundtables. The discussions concluded that cost and complexity were key regulatory challenges and that awareness of the FCA work was generally low among non-financial start-ups. The community expressed a wish to have access to more informal discussion with the regulator, along with concerns that receiving regulatory feedback before the launch of a product can be difficult, creating uncertainty which may encourage risk-aversion and stifle innovation.

ESMA *consulted* on Omnibus II draft RTS on the prospectus regime. These addressed four topics: approval procedures; information which can be "incorporated by reference"; publication of prospectuses; and dissemination of information on offers to the public and admissions to trading on a regulated market outside the prospectus.

Disclosure, valuation and accounting

The **PRA** *consulted* on a draft supervisory statement on compliance with EBA guidelines on disclosure of encumbered and unencumbered assets. The PRA statement set out the criteria under which waivers can be granted, and factors for firms to consider when determining the appropriate level of disclosure.

It also noted that the initial disclosure may be challenging, as it may require the construction of historical data on asset encumbrance. The PRA said it does not expect firms to make disclosures more frequently than annually.

The **FSB** *welcomed* the second implementation progress report from the Enhanced Disclosure Task Force (EDTF) which looked at banks' 2013 annual reports. Banks' self-assessments suggested they had disclosed almost three quarters of the information set out in EDTF recommendations, a "substantial increase" on 2012. Further, investors and analysts conducted their own review of bank disclosures, with their findings confirming an improvement, though this 'User Group' assessed that 50% of recommendations were fully implemented, with a further 29% partly implemented.

Information security and data privacy

The **Joint Cybercrime Action Taskforce (J-CAT)**, an initiative of the European Cybercrime Centre, the Federal Bureau of Investigation (FBI) and the UK's National Crime Agency (NCA), was *launched*. Hosted at Europol, the J-CAT – which is being piloted for six months – will coordinate international investigations with partners working to take action against key cybercrime threats such as underground forums and malware, including banking Trojans. The J-CAT will be led by Andy Archibald, Deputy Director of the National Cyber Crime Unit at the NCA.

The **Bank of England** *made* details of a 2013 desktop cyber exercise ('Waking Shark II') available to non-participating firms to aid them in running their own internal exercises without the support of the authorities, although it did not make these details available through its website.

A committee of EU data protection authorities *suggested* that businesses may have to find new ways of gathering individuals' consent to use their personal data to account for the rise of the "internet of things" (IoT). The *opinion*, recently issued by the Article 29 Working Party, stated that businesses wishing to rely on individuals' consent as the legal basis for processing personal data in the IoT environment must ensure that the consent they obtain is "fully informed, freely given and specific", warning that "classical mechanisms used to obtain individuals' consent may be difficult to apply in the IoT".

Financial crime

The **NCA** *issued* a notice on suspicious activity reports, saying that from October disclosures that omit either the reasons for suspicion or a statement regarding criminal property will be closed and no further action taken. Reporters will be sent a notification of closure, and if suspicion remains, the reporter will be legally obliged to make a new submission. The NCA said the change was being introduced because of the "poor quality" of disclosures.

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The **FCA** *obtained* Confiscation Orders of £3.25mn against seven individuals following their sentencing for offences relating to insider dealing. In addition, two individuals were ordered to pay costs of £300,000.

The **FCA** *charged* the former Treasurer and Head of Tax at WM Morrison with two offences of insider dealing.

Other

ESMA, **EIOPA** and the **Joint Committee of the European Supervisory Authorities** (ESAs) published their latest reports on risk and vulnerabilities in the EU. *EIOPA* identified improvements in liquidity and funding risk (which is still high) and credit risk (medium), while other risk levels remained unchanged. *ESMA* concluded that valuation risks in key market segments were rising. There were four potential sources of market vulnerabilities: complexity in trading venue development; innovation and complexity in Exchange Traded Funds; the implications of securities financing transactions for financial market interconnectedness; and the rise of crowdfunding. Finally, the *ESAs'* Report highlighted the fragility of the economic recovery in the EU, which reflected weak balance sheets, both private and public. While asset quality reviews and stress tests in the banking and insurance sector should help improve the reliability of balance sheets, balance sheet repair and debt restructuring should remain a key priority going forward.

The chairs of the three **ESAs** *appeared before* the European Parliament's Economic and Monetary Affairs (ECON) Committee. They said they had increasingly focused their attention on consumer protection and the assessment of risks to the stability of European financial markets and institutions. The Committee discussed progress on the single rulebook for banking in the context of securing supervisory convergence across the EU (it was also noted that EBA should develop a more structured role as the "guardian of the Single Rulebook"), the implementation of MiFID II/MiFIR, and the implementation of new guidelines for insurers in line with Solvency II.

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