Quote of the Week

“When misconduct was revealed, it went unpunished or the consequences did not meet the seriousness of what had been done. ASIC rarely went to court to seek public denunciation of and punishment for misconduct. APRA, never went to court.”

- Australian Financial Royal Commission

Articles in This Issue

**US Banking:** OCC recovery plan threshold; Agencies high volatility CRE rule; FDIC reciprocal deposit relief; Senate FinTech, data hearing; States suit OCC FinTech charter; Treasury national cyber strategy

**US Consumer:** NCUA change appraisal threshold; CFPB credit invisible geography; CFPB sources and uses of data; OCC truth in lending handbook; States fight DoE school loans; Fed repeal originator registry

**US Investment:** SEC market data, access event; SEC credit rating exemptions; NASAA model rule info security; FINRA central register exams; FINRA trading in OTC equity; MSRB interpretive guidance

**Canada:** CAN government open banking; OSFI corporate governance; CAN charity political activity; CSA BC e-filing exempt distribution; CSA Quebec annual activity report; OSFI life/fraternal return changes

**International:** FSB G20 data gaps initiative; Basel stress-testing, G-SIB list; Basel see divergences widen; IOSCO OTC leveraged products; IOSCO equity capital raising risk; FSB climate-related disclosures

**EU:** ECB ESTER benchmark reform; EBA 2018 transparency exercise; ECB model on-site inspections; EP cross-border fund distribution; EP proposals for digital taxation; Italy large exposures treatment

**UK:** EC improved NI Brexit offer; FCA applying SMCR to claims managers; FCA broker due diligence; UKP seeks crypto-assets rules; FCA PSD2 final RTS, guidance; PRA actuarial function letter

**AML & Enforcement:** EC UK customs infringement; FATF South Asia country measures; CAL INS support payment

Regulatory Watch List

**Founding Fathers** California passes law requiring female directors on boards of public companies with principal offices in the State.

**Ops Risk** UK FCA imposes higher fines on banks whose ATMs suffered large scale technology outage in 2016. Parliamentary select committee asks for information within days of more recent IT problems at large retail banks.
**US Banking**

**OCC Recovery Plan Threshold**
On Sep. 19, OCC amended assets threshold for recovery plans to provide relief to smaller firms.
- To raise from $50bn to $250bn threshold for the application of the 2016 guidelines.
- Decrease from 18 months to 12 months time to comply with guide after bank is first subject.
- EGRRCPA regulatory easing raised the resolution planning threshold to $250bn.
- Reduces number of covered banks to which Guidelines apply from 25 to 8 relief to less systemic banks, kept for systemic institutions that need most oversight.
- Regarding reduced timeline, based on OCC experience 12 months is a sufficient period.

**Agencies High Volatility CRE Rule**
On Sep. 18, Fed, OCC, FDIC proposed rule on high volatility commercial real estate.
- Bank agencies proposed rules on high volatility commercial real estate (HVCRE).
- Revise definition of HVCRE exposure, re EGRRCPA deregulation law.
- High capital weight on HVCRE, to exclude acquisition, development construction (ADC) credit facilities used for financing one- to-four family residential property.
- For definition, if qualifies risk weight is same (150), based on EGRRCPA definition.
- Excluded loans per law now assigned 100 as risk weight, others stay unchanged.
- Included full-appraised value of borrower-contributed land to do 15% calculation.
- Excludes from statutory definition of HVCRE ADC loan any loan pre-Jan. 1, 2015.

**FDIC Reciprocal Deposit Relief**
On Sep. 13, FDIC proposed rule that exempts certain deposits from being deemed brokered.
- Proposed rule implementing section 202 of EGRRCPA, of spring 2018.
- Section 202 defined reciprocal deposits, covered deposits, and agent institution.
- Exempt reciprocal deposits being considered brokered deposits for certain banks.
- Per exception, well-capitalized, well rated institutions are not required to treat reciprocal deposits as brokered deposits up to lesser of 20% of liabilities or $5bn.
- This is first of two-part effort FDIC plans to take to revisit brokered deposit rules.
- For second part, will consult on overall brokered deposit and rate cap regulations.

**Senate Fintech, Data Hearing**
On Sep. 18, Senate banking held hearing on FinTech: digitization, data and technology.
- Chairman Crapo said that the hearing revealed four unique perspectives on FinTech sector.
- Brian Knight, innovation at George Mason Univ. testified on potential of FinTech.
- To improve quality of financial services, judge risk versus the status quo and legal context.
- Knight and Steven Boms, of consumer data group, Rubenstein Fidelity Wealth.
- Said risk of data breach and cybersecurity concern increased with quantity of data.
- Service providers should collect the least amount of data to provide the service.
- Knight said Congress should intervene only if law and regulation is inadequate.

**States Suit OCC Fintech Charter**
On Sep. 18, NYDFS head Vullo opposed OCC move to accept FinTech charter applications.
- In May matter wasn't ready for consideration, judge did not give decision on merits.
- On Sep. 12, 2018, CSBS announced to follow renewal of litigation effort approved Aug. 28.
- Litigation relevant again after OCC Jul. 2018 created the FinTech charter.
- On Sep. 18, 2018, NYDFS head Vullo opposed the OCC’s move to issue the FinTech charter.
- Said OCC decision was lawless, ill-conceived scheme that will destabilize State protection.
- NY now strictly enforces robust anti-usury law protections and bans payday loans.
- OCC action to preempt existing State regulation is a serious threat to consumers.

**Treasury National Cyber Strategy**
On Sep. 20, US Treasury issued statement on national cyber strategy implementation.
- Mnuchin stated Treasury has key role in implementing national cyber strategy.
- Develop cyberspace as open engine of economic growth, innovation, efficiency.
- Identify and counter behavior in cyberspace that is destabilizing, or is against United States.
- Preserve long-term openness, interoperability, security, and the reliability of the internet.
- Use authority to impose cost on Russia, N. Korea, and Iran for election interference, cyber-related nefarious behavior, and intrusions into critical infrastructure of the United States.
- Work with private sector partners to enhance defense, and hold violators to account.
US Consumer

NCUA Change Appraisal Threshold
On Sep. 20, NCUA proposed rule to amend the appraisal requirement threshold, with exemptions.
- Proposed amendments to change thresholds for real estate appraisals for some transactions
- Part 722, objectives are, first, increase threshold below which appraisal not required for non-residential r/e deals from $250k - $1mn.
- Second, restructure regulation to clearly indicate when written appraisal required.
- Third, include rural exemption from appraisal regulation for property value below $400k consistent with economic growth, regulatory relief, and the Consumer Protection Act.
- Fourth, the inclusion of certain conforming amendments to definitions section of the rule.

CFPB Credit Invisible Geography
On Sep. 19, CFPB issued new research report on the geography of credit invisibility.
- Credit invisible consumers do not have a credit record held by a consumer reporting agency.
- CFPB has published two previous data points on consumers with limited credit histories.
- Becoming Credit Visible report explored how consumers could establish their credit records.
- If Black, Hispanic or living in low-income neighborhood, more likely to have difficulty.
- Done along with the CFPB's Sep. 2018 symposium, building bridge to credit visibility.
- CFPB's third report is on geography of credit invisibility, and how they are related.
- Over 90% of consumers transition out of credit invisibility from their mid-to-late 20s.
- The credit invisibility of adults over 25 is concentrated in rural and urban areas.

CFPB Sources and Uses of Data
On Sep. 26, CFPB issued report and request for information on Bureau's sources and use of data.
- Report and request for information (RFI) on sources of data, and how such data is used.
- To perform statutory functions, obligations, Bureau obtains data to inform its decisions.
- Activities include rule-writing, supervising companies, and enforcing the law on consumer complaints, education, and consumer experience.
- Report addresses questions on the sources of CFPB data, and its subsequent use.
- On what data it collects, where it comes from, and how it is accessed and then reused.
- Published full text from CFPB internal data governance policies and charters.
- Consultation allows feedback on CFPB data governance program and the use of this data.

OCC Truth in Lending Handbook
On Sep. 26, OCC issued truth in lending act (TILA) handbook and associated rescissions.
- Entitled truth in lending act (TILA), and is a booklet of the Comptroller’s Handbook.
- The updated booklet replaced a similarly titled booklet, which was issued in Dec. 2014.
- Guidance to examiners in respect of change to Regulation Z, which implements TILA.
- Requirements for integrated mortgage loan disclosure per TILA and RESPA (Oct. 2015).
- Also, changes relating to appraisals for higher-priced mortgage loan exemptions.
- Update mortgage origination exam, mortgage servicing rule, and small creditor definition.
- Quick reference tools re TILA–RESPA disclosures, high-cost mortgage loans.
- With the issuance of the booklet, several specific documents have been rescinded.

States Fight DoE School Loans
On Sep. 14, 2018, NYAG, 21 State AGs called on DoE to scrap plan to end gainful employment rule.
- Opposed Education Secretary DeVos' plan to eliminate the gainful employment rule.
- Rule passed under Obama administration, against the abuse by private universities.
- Vital federal protection for students who attend for-profit educational institutions.
- Violates DoE legal obligation, and disregards evidence that standards are needed.
- Rule requires schools to provide information about program’s average debt load.
- Loan repayment rate, percentage who graduate, get job in related field, earnings.
- Assess if programs provide education and training to allow students to repay loan.

Fed Repeal Originator Registry
On Sep. 25, Fed proposed rules to repeal register of staff as mortgage originators.
- Repeal of Fed regulations that incorporated SAFE Act, per Title X Dodd-Frank.
- DFA amended secure and fair enforcement for mortgage licensing act (SAFE).
- Transfers rulemaking of consumer law, including SAFE Act, from Fed to the CFPB.
- Followed CFPB Dec. 2011 interim rule, incorporating SAFE Act into Regs G and H.
- In Apr. 2016, CFPB issued final rules that transfer the rule-making authority.
- Repeals Fed Jul. 2010 rule to register staff as mortgage originators.
US Investment Management

SEC Market Data, Access Event
On Sep. 24, SEC scheduled a two-day round table on possible steps to improve market data, access.

- Follows Sep. 19, SEC Commissioner Jackson speech in which he urged exchange reforms.
- Said of 13 public exchanges, 12 are owned by just three corporations, so dangerous power.
- In for-profit hands, SEC oversight designed for non-profit exchanges inadequate, dangerous.
- By letting for-profit exchanges be treated as if they are non-profit, operate as if above law.
- Stock markets are thus taxing investors with hidden fees and there are conflicts of interests.
- SEC panel overview landscape and evolution of for data products and access service.
- Panel reviewed the SIP core data product and exchange top-of-book data product.
- Also discussed the core data infrastructure.

SEC Credit Rating Exemptions
On Sep. 26, SEC proposed amendments to codify the exemptions to the credit rating agency rule.

- For CRAs registered as nationally recognized statistical rating organizations (or NRSRO).
- Prior to compliance date for Rule 17g-5(a) (3), the SEC granted a temporary exemption for products issued by a non-US person, and offered and sold outside the United States.
- SEC subsequently extended the exemption, and the new rule change would now codify it.
- Proposal clarifies the conditions for similar exemptions in SEA Rules 17g-7(a) and 15Ga-2.
- Rule 15Ga-2 requires the issuer or underwriter to disclose finding and conclusions of any third party due diligence report it obtains, regarding an ABS to be rated by NRSRO.

NASAA Model Rule Info Security
On Sep. 23, NASAA proposed investment adviser model rule on information security and privacy.

- NASAA requested public comment on proposed IA model rule to address information security and privacy, and amendment to the NASAA model recordkeeping rule for IAs.
- Also proposed amendment to model unethical business practices of investment advisers, adviser reps, and federal covered advisers.
- 3 parts: first, a proposed model rule to require IAs to adopt policies, procedures on info. Security/physical security, cybersecurity, and to deliver privacy policy annually to clients; second, recordkeeping requirements amends.
- Finally, amendment to the existing investment adviser NASAA model rules on the unethical practices of IAs, adviser reps, federal advisers.

FINRA Central Register Exams
On Sep. 24, FINRA revised Central Registration Depository presentation and functionality.

- Changes mainly affect examination requests, and SRO registrations sections.
- CRD system to reflect conversion of registrations, in several exam categories.
- The system will automatically grant related registrations, for several new categories.
- Registration categories in CRD system SRO Registrations section organized in three sets: (1) representative level; (2) principal level; and (3) exchange-specific.
- Compliance officer; investment banking; private securities offerings principal.
- Introduced an auto-select feature for SRO registration requests to re-register.

FINRA Trading in OTC Equity
On Sep. 24, FINRA issued a reminder to firms on their obligations on trades in OTC equity.

- FINRA reminds firms that filing a Form 211 is not a substitute for responsibility.
- To fully discharge its obligations under other rules, including Securities Act, section. 5.
- Or determining whether the security, by its terms has limit on trading in the United States.
- Section 5 generally prohibits, offer or sales of securities in interstate commerce without effective registration statement, unless exempt.
- Check if securities are subject of suspension or revocation prior to seeking a quote.
- To resume quoting after suspension, need to obtain information they reasonably believe resolves the information issues that resulted in trading being suspended.
- Analysis must address issues from suspension order including member’s conclusion, that the instruments can be traded in United States.

MSRB Interpretive Guidance
On Sep. 25, MSRB issued notice on statement on requesting interpretive guidance from the MSRB.

- For regulated entities, including brokers, dealers and muni securities dealers.
- Include muni advisor, issuers, attorneys, investors, and other market participants.
- Statement to assist industry understanding and compliance with the MSRB’s rules.
- MSRB staff resolve phone inquiries by referring caller to specific rule language.
- Does not express legal conclusion, nor is definitive legal position of the MSRB.
Canada

**CAN Government Open Banking**
On Sep. 26, CAN Government launched Open Banking Advisory Committee, 4 new members.
- Members are Colleen Johnston, François Lafontune, Kirsten Thompson, Ilse Treurnicht.
- Committee will bring a broad range of perspectives, expertise to open banking review.
- This is the first step in review of the merits of open banking, as announced in the Budget.
- Plan for consultation in 2018, so as to guide Committee engagement with the public.
- Following consultations, the Committee will deliver a report, assessing the potential merits of open banking for Canada, whilst also having the highest regard for consumer privacy.
- Open banking has potential to offer a new, secure way to share financial transaction data.
- Will allow the public to be able to benefit from a broader range of financial products.

**OSFI Corporate Governance**
On Sep. 18, 2018, OSFI published the final version of changes to corporate governance guidelines.
- The revised guide is more principles-based and places greater focus on board effectiveness.
- Provides boards with more discretion as to how meet corporate governance expectations.
- Which are contained in OSFI risk management and capital guidelines and advisories.
- Guide does not apply to the Canadian branch operations of foreign financial institutions.
- The OSFI’s expectations for the oversight of these operations remains unchanged.
- OSFI rescinded their Advisory – Changes to Membership of Board, Senior Management.
- And revised criteria to align with revised CGG.

**CAN Charity Political Activity**
On Sep. 14, CAN Government consulted on legislative proposals regarding charity activity.
- Charities play a key role in Canadian society and provide valuable services to Canadians.
- Released the draft legislative proposals for a thirty-day public consultation period.
- Regarding removing the quantitative limits on political activities from the Income Tax Act.
- However, charities would still be required to be operated for exclusively charitable purposes.
- Meaning they cannot have a political purpose, restrictions against partisan political activities.
- Government intends to present legislation to this effect in the fall, and Canada Revenue Agency will develop supporting guidance, in collaboration with the charitable sector.
- Draft proposals would apply retroactively.

**CSA BC eFiling Exempt Distribution**
On Sep. 20, CSA BC proposed amendments to the efiling of the annual reports of exempt distribution.
- Companion policy 13-502CP also being amended, see annex A and B of notice.
- BCI13-502 applies now only to reports filed on/before 10th day after security distributed.
- Annual reports may be filed in paper format.
- Reports, offering memos, technical reports, consents to be filed using eServices.
- Proposes to amend BCI13-502 to require all reports to be filed in eServices.
- Including annual report filed by investment fund for review of exempt distribution market.
- Continue to permit investment fund to file the annual report payment fee by checks.

**CSA Que Annual Activity Report**
On Sep. 20, CSA Que issued oversight of regulatory activities, key initiatives for 2017-18.
- Summary is a major CSA initiative aligned with its role to close to its markets.
- Cited deficiencies in company continuous disclosure and financing documents.
- New content for 2017-18 includes section on the cryptocurrency and marijuana industries.
- As well as section on socially responsible investing (environmental, social governance).
- AMF is taking a closer look at information provided to investors in these areas.
- And has published notice on disclosure of climate change-related risks, impacts.
- Contains an initial report on application of Act respecting transparency measures in mining, oil and gas, and outlines initiatives.

**OSFI Life/Fraternal Return Changes**
On Sep. 25, OSFI posted return templates and instructions on site for life insurance, fraternal.
- Final return templates and instructions for Canadian, foreign life insurance companies.
- Also for the fraternal benefit societies for the period from 2018 to 2019 (posted on website).
- Made changes to section III (definitions), and section V (jurisdictional requirement).
- And section VI (detailed instructions) of the life instructions, to life quarterly return (10Q).
- Noted that no changes were made to the life quarterly return (10Q), effective in Q4.
- Change to LICAT annual supplement and quarterly return effective in Q4 and Q1.
- Noted changes to LICAT filing instructions are expected sometime in the fall of 2018.
- The new structured ORSA key metrics report will be made available in January 2019.
International

**FSB G20 Data Gaps Initiative**
On Sep. 25, FSB, IMF issued third progress report on data gaps and implementation of second phase.
- Report updated on work undertaken since Sep. 2017 in order to advance implementation of the 20 recommendations aimed at addressing data gaps that were identified after the crisis.
- And also promoting the regular flow of timely and reliable statistics for policy use.
- The report will be submitted to G20 finance ministers and central banks in Oct. 2018.
- It found considerable progress was made by economies participating in DGI-2 in 2nd year.
- Areas of progress include shadow banking monitoring and reporting of data on G-SIBs.
- All of the G20 economies now report international investment position quarterly.
- And report their core coordinated portfolio investment survey data semi-annually.

**Basel Stress-Testing, G-SIB List**
On Sep. 20, Basel said BCBS met to discuss range of policy and supervisory arbitrage over two days.
- Will finalize stress-testing principles, reviewed ways to prevent regulatory arbitrage behavior.
- Agreed the G-SIB list, and discussed the leverage ratio, crypto-assets and market risk.
- Discussed result of the annual assessment exercise for G-SIBs, which were approved.
- This will be submitted to the FSB before it publishes the 2018 list of G-SIBs.
- Also agreed to publish high-level indicator values of banks in the G-SIB assessment.
- Expect to finalize revisions by end of year.

**Basel See Divergences Widen**
On Sep. 23, Basel said September issue of BIS quarterly review found wider markets divergence.
- Emerging market economies (EMEs) under pressure, pushing bond yields higher.
- International debt securities issuance now outweighs bank loans as credit source.
- Share in US dollars has grown further since the financial crisis, in particular for EMEs.
- Report how cryptocurrencies react to actions by regulators, especially regarding legal status.
- Fintech credit offers an alternative funding source for businesses and consumers.
- Most activity in countries of more income and less competitive banks, less regulated.
- More zombie firms-entities that appear to be insolvent but keep on operating, regardless.
- How to estimate term premium embedded in bond yields demanded by investors.

**IOSCO OTC Leveraged Products**
On Sep. 19, IOSCO reported on retail OTC leveraged products, measures for regulators.
- IOSCO issued a report on measures for regulators to consider when addressing risks.
- Arising from marketing and sale of OTC leveraged products, to retail investors.
- Issued statement on risks of binary options.
- And the response of regulators for mitigating the risks to retail investors transacting in them.
- Includes 3 complementary toolkits, to help increase protection of investors offered them.
- Report also includes policy, educational and enforcement initiatives IOSCO members taken.
- In order to specifically address unauthorized cross-border as well as online offerings.
- Initiatives intended to serve as useful guide to IOSCO members as they consider approaches.

**IOSCO Equity Capital Raising Risk**
On Sep. 18, IOSCO issued guidance on conflicts, conduct risks to help members to manage them.
- Issued guidance to help members address conflicts and associated misconduct risks that may arise and undermine equity capital raising.
- Conflict of interest, conduct risks resulting from role of intermediaries can harm integrity.
- To help regulators identify and address these risks, IOSCO issued a report on the issues.
- Comprises eight measures that address conflicts of interest and pressure on analysts.
- Implementation of guidance expected to materially improve equity raising process.
- Second phase will consider conflict and risk during the debt capital raising process.

**FSB Climate-Related Disclosures**
On Sep. 26, FSB issued a report on climate-financial disclosures by the task force (TCFD).
- Provides overview of extent to which firms in their 2017 reports included information aligned with the core TCFD recommendations.
- Information to support preparers of disclosures in implementing these recommendations.
- TCFD found a majority were already aligned with one or more of the recommendations.
- Going forward, aligned disclosures will supply decision-useful information for users.
- Majority of firms disclose information aligned with at least one of the recommendations.
- The number of firms supporting TCFD recommendations has now grown to over 500.
- The FSB has also asked the task force to publish a further status report in Jun. 2019.
EU

**ECB ESTER Benchmark Reform**
On Sep. 25, ECB's Coërué spoke on ESTER and the road ahead for interest rate benchmark reform.
- Welcomed recommendation of ESTER for short-term segment of the money market.
- For EURIBOR, work is ongoing under the European money markets institute (EMMI).
- The hope is it will result in a new, compliant benchmark, based on hybrid methodology using actual transactions if available, or else other related market prices if this is required.
- Under this approach, European Central Bank wouldn't be well placed to produce term rates.
- Market participants need to reflect on whether solution based on EURIBOR is sustainable.
- Financial market participants should double their efforts to ensure a smooth transition.
- Contracts should be checked for consistency with new regulations, and robust fallback rates specified to ensure continuity if disruption.

**EBA 2018 Transparency Exercise**
On Sep. 24, EBA launched the 2018 EU-wide transparency exercise that is due Dec. 2018.
- Will release risk assessment report (RAR) and over 900000 data points on about 130 banks.
- Provides consistent time series of semi-annual bank-by-bank financial information since 2011.
- Sample of banks aligned with 2018 EBA RAR, and based only on supervisory reporting data.
- Data for Dec. 2017 and Jun. 2018 will cover financial information on capital, leverage ratio, risk exposure amounts, profits and losses, market risk, securitization, and credit risk.
- Includes exposures to sovereign and non-performing exposures and forborne exposures.
- Data will be frozen in mid-Nov. 2018 and the EBA expects to publish them in Dec. 2018.

**ECB Model On-Site Inspections**
On Sep. 21, ECB issued guide and feedback statement on on-site internal model inspections.
- Banks inspected in order to provide in-depth analysis of different risks, internal control systems, business models, governance, with a pre-defined scope, as well as time frame.
- The review takes place on the premises of the inspected bank, or else its related legal entity.
- The inspections must be intrusive whilst also adhering to general proportionality principle.
- Aim to provide detailed snapshot of bank's situation as well as forward-looking analysis.
- Provides overview of the general framework, under which the inspections are conducted.
- And describes the different inspection phases.

**EP Cross-Border CIF Distribution**
- Rapporteur essentially supports EC's proposals and key provision prohibiting MSs from requiring a physical presence of funds.
- Proposed more targeted approach to make pre-marketing possible but no reverse solicitation.
- Further simplifications proposed re ceasing to market a fund previously active in a MS.
- Must be offered repurchase offer free of any charges and if they choose to remain invested, the undertaking should continue to fulfill their disclosure and reporting requirements.
- Suggested a tighter test for fees that can be charged by competent authorities in host MS.

**EP Proposals for Digital Taxation**
- Proposal to reform corporate tax rules, so profit registered, taxed, where business has significant user interaction via digital channel, this proposal is preferred long-term solution.
- OECD work on taxing digital economy has not delivered sufficient progress, need EU action.
- Changes to law should respect tax neutrality, not discriminate between EU and non-EU.
- EC should evaluate implementation 3 years (not 5 years) after entry into force, and report.
- Ensure small/medium-sized enterprises (SMEs) do not fall unintentionally fall in scope.
- Member states should retain right to fix a tax rate that will be applied to digital services.
- DigiTax committee will verify and control correct implementation of directive, facilitating cooperation between national tax authorities.

**Italy Large Exposures Treatment**
On Sep. 24, Italy proposed draft rules on treatment of large exposures and to amend the circular 288.
- Align prudential treatment of large exposures to EU’s technical standards on exposure to clients on those trades with underlying assets.
- Takes into account the greater involvement of financial intermediaries as an investor in securitization securities, or units of mutual funds with underlying impaired loans.
- Recent evolution of regulatory framework on securitization transactions that, among other things, defines the transactions characterized by the simplicity requirement (known as STS).
- In order to allow greater awareness of the risks underlying securitization transactions.
UK

EC Improved NI Brexit Offer
On Sep. 18, EU CMSN negotiator Barnier gave statement on talks following an Art 50 meeting.

- Progress on some separation issues and EU is ready to improve the NI backstop proposal.
- On Sep. 19, 2018, the Die Welt newspaper published an article written by UK PM May.
- EU proposal doesn’t respect the constitutional and economic integrity of United Kingdom.
- On Sep. 20, 2018, EC President Tusk stated Chequers proposal won't work. Oct. will be moment of truth, may need Nov. to formalize.
- On Sep. 20, 2018, UK PM May gave a press conference, on Sep. 21, 2018 issued statement.
- Anything that fails to respect referendum or effectively divides UK in two would constitute bad deal and no deal is better than a bad deal.
- Donald Tusk said that UK proposals would undermine single market, but didn’t explain how or make counter-proposal, so at impasse.

FCA Apply SMCR to Claims Managers
On Sep. 20, FCA proposed rules on using SMR for claims management firms so as to raise conduct.

- Propose to make small number of roles within CMC Senior Management Functions, needing approval by FCA, maintaining statement of responsibilities, having duty of responsibility.
- For individuals who aren't senior managers, but may have significant impact on customers or firm, propose to apply the certification regime.
- At least once per year CMC will need to make sure that individuals performing the senior management functions, and certification functions, are fit and proper to do those jobs.
- Propose to introduce basic standards for the conduct of nearly all people working in CMC.

FCA Broker Due Diligence
On Sep. 20, FCA issued guide on broker due diligence replacing business with insurers.

- Alpha, Enterprise and Gable failures demonstrate potential harm if insurer fails.
- Insurance brokers are viewed as trusted professionals, with insurance expertise.
- Expect to demonstrate that they have carefully considered insurer they place business with.
- Listed examples of what brokers should consider as part of the insurer due diligence.
- FCA message is clear on the importance of providing clear insurer details to allow customers to make informed decisions on where their insurance is being placed.
- Plan further work to verify that brokers are conducting appropriate due diligence.

UKP Seeks Crypto-Assets Rules

- Rules needed for wild west crypto-asset market, problems include volatile prices, hacking vulnerabilities, consumer protection, and anonymity assisting money laundering.
- Blockchain currently slow, costly, energy-intensive, but real potential for data storage.
- Ambiguity of UK Government and regulator position is clearly not sustainable.
- Rules could improve customer outcomes and enable sustainable growth and reduce risks.
- In deciding the approach, Government should decide whether growth should be encouraged.
- Proportionate rules could see the UK well placed to become a center for crypto-assets.

FCA PSD2 Final RTS, Guidance
On Sep. 17, FCA proposed draft rules on PSD2 implementation, EBA fraud report requirements.

- Set out approach to rules to report, combat payment fraud, intended to improve security.
- Updated guidance on how third-party provider can access customers’ account (with customer consent) in secure manner and clarify how this could work with multiple businesses.
- Also consulting on new fraud reporting requirements that will affect data collected and reported by payment service providers (PSPs).
- On changes to Payment Services / E-money Approach Document, and Perimeter.
- Also aligned the FCA guidance with final passporting RTS published in Nov. 2017.

PRA Actuarial Function Letter
On Sep. 17, PRA issued letter to general insurance firm chief actuaries on actuarial function.

- Writing to share insights from meetings and discussions with the actuarial community.
- Continuing focus on realism in firms’ business planning and underwriting policies, shared findings from targeted reviews of reserving.
- Sometimes identified insufficient challenge, or lack of appropriate independence, objectivity.
- Consequences of ineffective actuarial function are risks from inadequate reserving.
- Leads to insufficient premiums, increased anti-selection and/or poor underwriting.
- Ongoing supervisory work to consider the adequacy of firms’ responses to weaknesses.
AML & Enforcement

**EC UK Customs Infringement**
On Sep. 24, EC took action, sent reasoned opinion to UK due to its failure to collect customs duty.

- Second step in formal infringement procedure regarding undervaluation fraud, following the 2017 report by anti-fraud body OLAF.
- UK informed of risk of fraud re import of textiles, footwear from China since 2007.
- UK did not take effective action, resulting in losses to the EU budget of €2.7 billion.
- Also infringed EU value added tax legislation, leading to additional potential losses.
- UK has two months to act, otherwise Commission may refer to EU court of justice.

**FATF South Asia Country Measures**
On Sep. 20, FATF issued reports on seven South Asia countries' AML measures.

- **Bangladesh** made some progress in addressing technical compliance deficiencies identified and has been upgraded on recommendation 19.
- Some progress has been made and **Bhutan** was upgraded on 14 recommendations.
- Good progress has been made by **Fiji, Samoa, Sri Lanka**, all re-rated on recommendations.
- Progress has been made and **Thailand** was re-rated to LC on two recommendations.
- **Vanuatu**, significant progress, re-rated 27 recommendations compliant/largely compliant.

**CAL INS Support Payment Law**
On Sep. 17, **CAL INS** sponsored bill to collect billions owed in child support payments.

- Increase payment for child support by mandatory insurance payment intercept.
- Require insurance companies to participate in program matching individuals behind on child support payment with insurance claims so payments first used to pay past-due support.
- Likely lead to tens of millions in payments to parents with children who are owed support.
- The California bill, signed by governor will come into effect on Jan. 1, 2020.

Contact and Subscription Information
info@reg-track.com
Reg-Track system
https://reg-track.com
Check out our new Regulatory Reg-Track system: Calendar
About the Deloitte Center for Regulatory Strategy

The Deloitte Center for Regulatory Strategy provides valuable insight to help organizations in the financial services, health care, life sciences, and energy industries keep abreast of emerging regulatory and compliance requirements, regulatory implementation leading practices, and other regulatory trends.

Home to a team of experienced executives, former regulators, and Deloitte professionals with extensive experience solving complex regulatory issues, the Center exists to bring relevant information and specialized perspectives to our clients through a range of media including thought leadership, research, forums, webcasts, and events.

www.deloitte.com/us/centerregulatorystrategies

This publication contains general information only and Deloitte is not, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor.

Deloitte shall not be responsible for any loss sustained by any person who relies on this publication.

Material contained in this document is based on publically available information or otherwise attainable from public sources.

About Deloitte