



September 15, 2018

Quote of the Week

"I propose CFTC exhibit global leadership by operating with deference to comparable swaps reform in non-U.S. markets by adopting a flexible, outcomes-based approach for substituted compliance; and encouraging adoption of comparable swaps regulation in non-U.S. markets."

- CFTC Chair, Christopher Giancarlo



Articles in This Issue

US Banking: Agencies clarify guidance role; OCC thrift charter flexibility; FDIC retiring guidance letters; FDIC supervisory insight oil, gas; TX banking exam cycle MSBs; OCC deposit-credit handbook	Page 2
US Consumer: CFPB FCRA model disclosures; CFPB amend HMDA reporting; OCC modernizing CRA concept; NYAG sue doe on protections; CFPB payment app risk advice; CFPB sandbox trial disclosures	Page 3
US Investment: SEC rule interpretations; SEC investor committee proxy; SEC Clayton capital formation; CFTC chair cross-border swaps; CFTC fintech conference. FINRA report; White House retirement security	Page 4
Canada: CSA ban embedded commission; IIROC withdraw swap offset; OSC post-trade analysis deal; OSC non-GAAP disclosure rule; CSA issuer disclosure of slavery	Page 5
International: MAS cyber resilience standard; HK SFC systemic risk speech; NZRB reserve bank act review; SARB wholesale market reform; BCB card receivables registration; CHL CMF pension investments	Page 6
EU: EP amended ESRB regulation; EU SRB bank resolution issues; ECB internal models risk guide; ESA automated advice report; EBA report validation rules; ESA group recommends ESTER	Page 7
UK: FCA CEO Brexit equivalence; FCA passporting permission; PRA report EBA taxonomy; FCA annual public meeting; BoE Carney term extension; PSR reduced ATM footprint	Page 8
AML & Enforcement: EC AML power for EBA; OFAC election interference; UK SFO track criminal wealth	Page 9

Regulatory Watch List

- ↑ Wealth transfer** UK use unexplained wealth orders for money laundering, pressures lawyers for more reporting.
EU to give ECB and EBA powers over AML, as systemic impact of bank enforcements. No longer just a US issue.
- ↓ Pruning Branches** US bank branches restricted from China expansion, in response to imposition of trade tariffs.
EU banks pressured to convert UK ops to subsidiaries, to make business domestic regardless of final Brexit deal.

US Banking

Agencies Clarify Guidance Role

On Sep. 11, Agencies issued a policy statement reaffirming role of supervisory guidance.

- Joint statement by Fed, FDIC, OCC, CFPB, NCUA reaffirmed the role of guidance.
- Confirmed that supervisory guidance does not have the force and effect of a law.
- Thus, agencies will not take enforcement actions based on supervisory guidance.
- Guidance can outline expectations, priorities and articulate general view in area.
- Include interagency statements, advisories, bulletins, policy statements and FAQ.
- Intend to limit use of numerical thresholds or bright-lines in guidance expectation.
- Citation only for violations of law, regulation, or non-compliance for enforcement.
- May seek public comment on guidance, but this does not mean that it has the force of law.

OCC Thrift Charter Flexibility

On Sep. 10, OCC proposed rules to enhance business flexibility for savings associations.

- The proposed rule would implement section 206 of EGRRCPA, enacted in spring of 2018.
- The Act requires the OCC to issue regulations that allow federal savings associations with assets of \$20 bn or less as at Dec. 2017, to elect to operate with national bank powers.
- Thrifts that make the election would have same rights and privileges, as a national bank.
- They are subject to the same rights, duties, restrictions, penalties, liabilities, conditions, and limitations that apply to national banks.
- Thrift retains its federal savings association charter for the purpose of governance.
- Incorporation and organization, charter, bylaw, governance, board composition, shareholders.

FDIC Retiring Guidance Letters

On Sep. 10, FDIC proposed the retirement of financial institution letters to an inactive status.

- Sought comment on proposed retirement of certain financial institution letters.
- EGRPRA S. 2222 requires FFIEC agencies to review their rules every 10 years.
- In Mar. 2017 EGRPRA report, agencies committed to review guidance on policy.
- In a first step, FDIC identified 374 FILs, from 1995-2017, on risk management, list attached.
- Found outdated, or convey rules or information available elsewhere on website.
- These FILs will be archived, and will remain accessible as needed for reference.
- FILs pertaining to other aspects of FDIC supervision are currently under review.

FDIC Supervisory Insight Oil, Gas

On Sep. 5, FDIC issued journal supervisory insights on oil and gas and credit risk grading.

- Articles on bank lending to oil, gas sector and bank credit risk-grading systems.
- Steep drop in oil prices since 2014, has tested bank risk-management practices.
- Weaknesses include limited coverage of O&G lending exposures in loan policies.
- Underwriting concerns include loan policy exceptions; weak financial covenants.
- Insufficient review of engineering reports; too optimistic oil price estimates lead to problems.
- Boards rely on accurate risk grade information to make firm strategic decisions.
- Risk grading systems should reflect the size and complexity of a bank's lending.
- Assessing data availability/accuracy now may help to identify risk early in times of stress.

TX Banking Exam Cycle MSBs

On Sep. 1, TX Banking issued exams for money services business, updated in Sep. 2018.

- 2018 changes: license holder's prior two exam ratings no longer need be a 1 or 2 to evaluate.
- Policy revised to only require an MSB's most current exam rating to be a 1 or 2.
- In general, currency exchangers and money transmitters who receive less than satisfactory exam ratings will be examined every 12 months (rather than every 18-months).
- Those with strong or satisfactory rating in current exam will have an 18-month cycle.
- Those rated unsatisfactory or poor will receive limited scope exam in six months.
- Limited scope exam assesses corrective action and compliance per prior findings.

OCC Deposit-Credit Handbook

On Sep. 12, the OCC issued updated handbook on the deposit-related credit examinations.

- Issued updated deposit-related credit booklet for the Comptroller's Handbook.
- Provides general guidance on risks arising from deposit-related credit products.
- These include check credit, overdraft protection, and deposit advance products.
- Updates from Oct. 2017 rescission of bulletin 2013-40 on products.
- As well as issuance OCC bulletin 2018-14 on installment lending.
- Has reference to OCC Bulletin 2017-21, third-party relationships, see #32581.
- As well as bulletin 2017-43, risk management expanded product and services, incorporates prohibition in DFA on unfair, deceptive acts.

US Consumer

CFPB FCRA Model Disclosures

On Sep. 12, CFPB issued interim final rules updating disclosure of fair credit reporting.

- Issued interim final rule updates two model disclosures reflecting changes made to fair credit reporting act (FCRA) by EGRRCPA.
- Restricts prospective lenders from obtaining credit reports, gives protection from ID theft.
- Requires reporting agencies to provide “national security freezes” free of charge.
- The notice on security freeze rights must be included now with other consumer notices.
- And included in summaries of consumer rights, and of consumer identity theft rights.
- Law extends from 90 days to 1 year minimum time; CRA must include an initial fraud alert in a consumer’s file on potential fraud.
- Alert informs prospective lender if consumer may have been identity theft victim.

CFPB Amend HMDA Reporting

On Sep. 7, CFPB issued final HMDA change rule in federal register, which is immediately effective.

- On Aug. 31, CFPB issued interpretive and procedural rule to implement, clarify HMDA.
- To implement requirements of EGRRCPA section 104(a), which amended the HMDA.
- Also updated filing instructions guide (FIG), on the HMDA data collected in 2018.
- Updated regulatory and reporting overview reference chart, for the HMDA data.
- EGRRCPA decreased burdens for smaller banks, to comply with HMDA, Regulation C.
- Clarified which of the data points in Regulation C are covered by the partial exemptions.
- Clarified exception to the partial exemptions for negative CRA examination history.

OCC Modernizing CRA Concept

On Aug. 28, the OCC issued a consultation on the reform of community reinvestment act rules.

- Modernize regulations which implements community reinvestment act (CRA).
- Follows Treasury Apr. 2018 recommendations to modernize community reinvestment act.
- Performance evaluation (PE) report, at the end of the evaluation, is a public document.
- Include agency conclusions on bank performance for each assessment factor.
- How to modernize; encourage increased lending and investment in most needed areas.
- Clarified and expanded the types of activities that are eligible for CRA consideration.
- Revisit how assessment areas are delineated and used for CRA credit purpose.

NYAG Sue DoE on Protections

On Sep. 13, DoE Secretary Betsy DeVos lost a lawsuit brought by 19 attorneys general.

- Coalition of 19 AGs had sued Secretary DeVos for abandoning critical student protections.
- Alleged DoE violated federal law, by abruptly rescinding borrower defense rule (BDR).
- Which held schools accountable for cheating students and taxpayers out of billions in loans.
- NYAG Underwood issued a statement criticizing DoE removal of borrower defense.
- Federal court judge found a postponement of rule was “procedurally improper”; AGs win.
- Court to hold a hearing Friday, Sep. 14 to consider remedies, rule not yet reinstated.
- Most recent delay would have been to Jul. 1, 2019, judge’s 57-page decision, found government lawyers’ arguments unpersuasive, and unhelpful, decision to resolve.

CFPB Payment App Risk Advice

On Sep. 13, CFPB issued tips for using mobile payment services, and avoiding risky mistakes.

- Follows rising popularity of person-to-person payment service and mobile apps.
- Able to send money without having to write check, swipe a card, or hand over cash.
- Many existing forms of payment give protections, above the EFTA requirement.
- New mobile apps and forms of payment may not provide same protections for consumers.
- Use caution when sending money to or receiving money from person you don’t know.
- Double check before sending as typo can give wrong amount, set up app to require passcode.

CFPB Sandbox Trial Disclosures

On Sep. 10, CFPB proposed policy guidance, comment request, for disclosure sandbox trial.

- Create disclosure sandbox via revised policy on trial disclosure programs (TDP).
- Guidance for testing, extension procedures, coordination with other regulators.
- Grant or deny application for trial disclosure waiver in 60 days from submission.
- CFPB expectation that a two-year test period will be appropriate in most cases.
- Applications may be submitted by a trade association on behalf of its members.
- Application for disclosure program waivers should identify the testing company.
- Describe new disclosure or delivery mechanisms, which are planned to be tested.
- Duration of test, size, location and nature of the consumer population involved.

US Investment Management

SEC Staff Rule Interpretations

On Sep. 13, SEC chair issued clarification on the position in respect of staff rule interpretations.

- SEC chair Jay Clayton issued statement regarding the views given by SEC staff.
- SEC staff often respond to questions from regulated firms or other stakeholders.
- Inquiries relate to rules or regulations, and how these rules apply to particular entities.
- The Commission's longstanding position is that staff statements like these are nonbinding.
- Such views do not provide enforceable legal rights or any obligations for Commission.
- Chair instructed directors of enforcement/OCIE to emphasize this distinction to their staff.
- The SEC investment management staff also withdrew relief for two proxy firms.

SEC Investor Committee Proxy

On Sep. 13, SEC held an investor advisory committee on proxy voting infrastructure.

- Discussed how proxy voting infrastructure could be modernized and improved.
- SEC investment management division staff revised guidance on proxy firms.
- Statement withdrawing two advisory letters issued in 2014 providing relief to proxy firms.
- Also discussed the SEC's proposal for a transaction fee pilot in NMS stock.
- Pilot should provide data, to help make informed, effective policy decisions.
- Discussed growth of passive investing and implication on diversification, risk.
- Portion of market commentators also point to the benefit of active management.
- Analysts say risk may be amplified due to concentration in passive strategies.

SEC Clayton Capital Formation

On Aug. 30, the SEC chair spoke on key capital formation initiatives at the Commission.

- SEC engaged with businesses in middle America cities, on required regulation.
- Reduced regulatory burden on pre-IPO, small public firms, and enhanced protection.
- Scaled disclosure framework for small firm, rightsized regime to qualify as such.
- Streamlined rules, updated forms for simplified, modernized financial disclosure.
- Should give relief to small / emerging firms with no revenues, need a development fund.
- Option to use intrastate exemption via internet regulation crowdfunding offers.
- SEC to consider level of complexity for issuer, investor, reduce confusion, whether any gaps.

CFTC Chair Cross-border Swaps

On Sep. 4, CFTC chair spoke on the current state of cross-border swaps reform and progress made.

- Apologized for overreach by CFTC in applying its swaps rules outside the US in UK speech.
- Proposed an updated and improved vision for cross-border regulation of swaps, white paper.
- Pursue multilateralism and not unilateralism, for reforms designed to mitigate systemic risks.
- Exempt venues under comparable rules, of swap execution facility (SEF) registration.
- On Sep. 6, 2018, Chair Giancarlo also spoke at the Eurofi Financial Forum in Austria.
- Called on EU policymakers to adopt a similar approach to cross-border swaps markets.
- Remained concerned with EU proposals on third countries that reject deference.
- The ISDA proposed risk-based approach for comparability determinations in 2017.

CFTC Fintech Conference. FINRA Report

On Sep. 10, the CFTC opened its registration process for the first conference on fintech.

- FinTech Forward 2018 conference: innovation, regulation, education, is on Oct. 3-4, 2018.
- To be hosted by LabCFTC and the office of customer education and outreach (OCEO).
- To examine fintech developments, including crypto assets and machine learning, etc.
- What regulators do to stay forward-looking, mitigate risks, and to educate customers etc.
- Future of regtech, compliance, oversight; AI market intelligence, future impact on market.
- FINRA also issued report on regtech changes.
- 5 areas are surveillance, monitoring, customer ID/AML compliance, regulatory intelligence; reporting, risk management; investor risk.
- Potential risks include supervisory systems, outsource structure vendor management.

White House Retirement Security

On Aug. 31, White House issued factsheet on its plans to expand access to workplace retirement.

- Directed DoL and Treasury to issue regulation, and guidance in order to help small business.
- Small business at disadvantage, and have less access to plans compared to larger business.
- Only 53% of firms with fewer than 100 workers currently offer retirement option.
- Administrative, overhead costs discourage small businesses from offering plans.
- Goal is to strengthen workers' financial futures by modifying certain retirement plans.
- ICI and bipartisan congress coalition support ARP legislative, regulatory changes.

Canada

CSA Ban Embedded Commission

On Sep. 13, CSA proposed rules prohibiting on certain embedded commissions and charges.

- Ban on fund managers paying upfront sales commissions and trailing commissions.
- To dealers who do not make suitability determination, order-execution-only dealers.
- Change would lead to discontinuation of all forms of deferred sales charge (DSC option).
- And provide investors with more transparent fees if using the discount brokerage channel.
- Changes will eliminate a compensation conflict inherent in the DSC option causing concern.
- CSA expects the prohibition will end the need for charging redemption fees to investors.
- Dealers are required to negotiate any upfront sales commissions for mutual funds.
- All embedded commissions are considered conflict, so need be addressed or avoided.

IIROC Withdraw Swap Offset

On Sep. 13, IIROC withdrew the proposed amendment to allow partial swap offset strategies.

- Follows IIROC Feb. 13, 2009, proposed amendments for dealer member rules.
- On Feb. 17, 2012, republished the original proposal, added a housekeeping amendment.
- Objective to ensure capital requirement reflected position risk of partial swap offsets.
- Amendments also clarified the minimum margin requirement on unhedged interest rate.
- Some of the commentators expressed concerns regarding proceeding with the amendments.
- Given they appeared contrary to international rule developments in OTC derivatives.
- Withdrew amendment in light of comments received, the passage of time, new OTC rules.
- The IIROC is reviewing issues raised and expects to publish new proposal in future.
- Believed the withdrawal of the amendment will not have a material impact on dealer members.

OSC Post-Trade Analysis Deal

On Sep. 13, OSC announced post-trade analysis agreement with Kx, a division of First Derivatives.

- To build, manage market surveillance platform, to identify, assess, and investigate market abuse.
- New Market Analysis Platform (MAP) is to replace current the CSA market system.
- To capture a wide array of market and trade data so as to improve insight and support.
- Kx was selected after public bidding process, was given a multi-year contract agreement.
- Agreement is effective immediately, and the project will take place over several stages.

OSC Non-GAAP Disclosure Rule

On Sep. 6, OSC proposed rules regarding non-GAAP issuers disclosures and other requirements.

- Established disclosure requirements for those issuers disclosing non-GAAP, other measures.
- Often lack standardized meanings, cause potentially misleading, and confusing disclosure.
- Proposed clear, comprehensive requirements to ensure investors get the right information.
- Provide CSA staff with stronger tools to take appropriate regulatory actions if needed.
- Includes adjusted EBITDA, free cash flow, pro forma earnings, cash earnings, others.
- The areas covered include the ratios, segment measures and capital management measures.
- Rules also covered supplementary financial measures, as defined in proposed instrument.
- Included updated definition of a non-GAAP financial measure that builds upon the disclosure guidance in Staff Notice 52-306.
- Where not GAAP, it refers to disclosure documents, MD&As and prospectuses.
- Other written communication in websites or social media covered in the proposed rules.
- Applies to all issuer disclosures, builds on prior guidance, but extends into new areas.
- Companion policy gives guidance on how CSA plans to interpret and apply new regulations.

CSA Issuer Disclosure of Slavery

On Sep. 4, CSA Que provided issuers with guidance on modern slavery disclosure rules.

- Notice on slavery disclosure requirements.
- Modern slavery is service performed by a person involuntarily per threat of penalty.
- Guidance advises on information needed to disclose, and on how to improve.
- Affects tens of millions in world, Canadian issuers have direct, indirect exposures.
- Profits derived from forced labor, human trafficking, child labor, \$150 bn globally.
- Can affect issuers either directly e.g. a mining firm, or indirectly e.g. via retail supply chain.
- Construction, manufacturing, entertainment and agriculture are the most exposed to it.
- Growing concern for market participants, the CSA emphasizes the value of disclosure.
- No new obligation, disclosure requirement created by notice, explanation instead.
- On disclosure forms, risks in industry need to be added, including social risks as well.
- Need social policy, explain how to deal with it and manage risks, how to respond if violations.
- Provided overview, for new regulatory or government initiatives around the globe.

International

MAS Cyber Resilience Standard

On Sep. 6, MAS proposed measures to strengthen cyber resilience, with essential security measures.

- New measures aim to enhance the security of institution's systems and networks.
- Requirements to address system security flaws in timely way, implement robust security.
- Deploy security devices to secure system connections, install anti-virus software.
- Mitigate risk of malware infection; restrict use of system administrator accounts.
- Strengthen user authentication of system administrator accounts on key systems.
- Proposing to stipulate measures as a baseline hygiene standard for cyber security.
- By elevating them into legally binding requirements, applicable to institutions.

HK SFC Systemic Risk Speech

On Sep. 7, HK SFC deputy CEO Leung spoke on systemic risk, financial integration, collaboration.

- New supervisory approach that is more front-loaded, targeted and real-time.
- As well as manager-in-charge regime which is to clearly define responsibility.
- Using these supervisory approaches, SFC can have supervision that is more effective.
- Mainland-backed brokers made significant contributions to promoting HK development.
- When expand businesses, must not focus too much on economies of scale, ignore risk.
- Need strong corporate governance culture, prudential risk management mechanism.
- Robust compliance system lay foundation for long-term company development.
- Expect Mainland-backed brokers, to raise awareness in areas, build a solid foundation.

NZRB Reserve Bank Act Review

On Sep. 10, NZ Government, NZRB released outline of phase two of Reserve Bank act review.

- Consultation details were announced for phase 2 of the Reserve Bank Act review.
- Overarching objectives and the scope, coverage and coherence of the legislation.
- Will cover institutional governance, decision-making, and trans-Tasman co-ordination.
- Prudential regulation; supervision, enforcement; resolution, crisis management.
- Macro-prudential policy; resourcing and funding; and miscellaneous issues.
- First consultation, to run from Nov. 2018 to late Jan. 2019, seek stakeholder views.
- On overarching objectives, institutional governance and decision-making.

SARB Wholesale Market Reform

On Sep. 3, SARB issued report on integrity of standards and practices in the wholesale market.

- Reviews the SA OTC fixed income, currency, commodities and derivatives markets.
- To review governance, accountability, incentives in the wholesale financial markets.
- Develop overarching principles for conduct to provide consistent reform framework.
- Identify gaps in the legislation, regulation and/or supervision of conduct in markets.
- Addressed through conduct policy framework under Twin Peaks regulation model.
- Identify, incorporate role of global standards, good practice in regulatory approach.
- Develop recommendations on pre-emptive, outcomes-focused, risk-based approach.
- Report contains 43 recommendations for consideration by policy makers.
- To assist the financial sector authorities to help integrity, conduct regulatory framework.

BCB Card Receivables Registration

On Sep. 5, BCB consulted on proposal for rules on the registration of payment card receivables.

- Establishes that accrediting companies must register operations of payment cards, in an entity authorized by BCB, so that commercial establishment is able to use them.
- As such, commercial establishment may use the operation as collateral for credit operations. Under the SFN, as well as cede to entities outside the SFN, e.g. FIDCs.
- Registrars are also responsible for setting up liens, encumbrances, on receivables.
- Financial flow of receivables will be directed to institutions using them as collateral.
- Thus, accepting receivable as collateral will have much greater legal certainty.
- BCB also issued consultation proposing standard that updates accounting criteria.
- For designation and registration of protection relationships, comment until Oct. 5.

CHL CMF Pension Investments

On Sep. 12, CHL CMF issued circular approving expanded pension investments, after consultation.

- Aimed to improve expected returns of retirement savings, encourage competition.
- Consulted on rule that modifies Circular No. 2,171, which regulates offers of plans.
- Of voluntary pension saving (APV) and collective voluntary, pension saving (APVC).
- Normative report stated that this regulation could have positive impact, due to alternatives.

EU

EP Amended ESRB Regulation

On Sep. 12, EP issued further amendments to European Systemic Risk Board (ESRB) proposal.

- When identifying and prioritizing systemic risks, ESRB should take due account of environmental, social, governance factors, including the impact of non-mitigation.
- Must contribute to the development of methodologies that assess macroeconomic impact of sudden changes in energy use, and help re-evaluate carbon intensive assets.
- Proposed further consultation with ESRB by Commission, Council, Parliament, EP ECON.
- No reason why the ESRB should exclude third countries from certain discussions on financial stability risks, particularly in light of the interconnectedness of global financial markets.
- Should clarify that consultation of relevant ESA should only be required re requests for information that are of supervisory nature.

EU SRB Bank Resolution Issues

On Sep. 5, EU SRB chair issued article making case for an EU liquidation regime for banks.

- Lack of EU liquidation regime is an obstacle towards fully-fledged banking union.
- The ideal solution is EU-wide rules on insolvency proceedings for banking sector.
- Working on national handbooks re resolution scheme implementation, but is second best.
- Harmonization fraught with political difficulty, so incremental approach may be suitable.
- Second article cited gaps in banking union re resolution funding, considered how to close.
- FSB guidance recommended temporary public backstop of funding mechanism, but such a tool currently does not exist in BU.
- SRF can only play a limited role in providing liquidity; other solutions need to be explored.

ECB Internal Models Risk Guide

On Sep. 7, ECB proposed three new risk-type-specific chapters for guide to internal models.

- The draft chapters on credit risk, market risk and counterparty credit risk are intended to ensure common and consistent approach to the most relevant aspects of the rules.
- Risk-type-specific chapters focus on relevant rules for using the internal models in order to calculate the own fund requirements for credit, market and counterparty credit risk.
- Guide was drafted with NCAs and it draws on experience gained from investigations in the context of the targeted review of internal models (or TRIM) project in 2017 and 2018.

ESA Automated Advice Report

On Sep. 5, EBA, EIOPA, ESMA issued report on exercise re automation in financial advice.

- Phenomenon of automation in financial advice seems to be slowly growing; overall number of firms, customers involved is quite limited.
- As the identified risks have not materialized and considering the limited growth of the phenomenon, EBA, EIOPA, ESMA believe that no immediate action is necessary.
- Risk and benefits of the phenomenon, which had previously been identified by the ESAs, were confirmed by the national competent authorities and they remain valid.
- Noted automated services are being offered through partnerships or by established intermediaries, rather than pure fintech firms.
- Additionally, some new trends are emerging such as the use of big data and chatbots.
- New monitoring exercise will be conducted as and when development of market warrants it.

EBA Report Validation Rules

On Sep. 10, 2018, EU EBA issued revised validation rules in supervisory reporting ITS.

- It highlighted those deactivated either for incorrectness, or for triggering IT problem.
- Data submitted under the ITS should not be formally validated against deactivated rules.

ESA Group Recommends ESTER

On Sep. 13, ECB announced working group recommended ESTER for euro risk-free rates.

- Followed Jun. 2018 consultation on successor to EONIA setting out three options.
- Recommended ESTER as alternative euro risk-free rate and replacement for EONIA.
- Key step, as usage of non-compliant benchmarks restricted from Jan. 1, 2020.
- Euro short-term rate (ESTER) reflects the wholesale euro unsecured overnight borrowing costs of euro area banks and will be produced by the ECB from Oct. 2019.
- EONIA as it stands will no longer meet the criteria of the EU Benchmarks Regulation.
- ESTER will also provide basis for developing fallbacks for those contracts referencing Euribor, as compliance with EU Benchmarks Regulation to be assessed in 2019.
- Noted that working group's recommendation is not legally binding on market participants.
- Provides orientation, represents the prevailing market consensus, regarding preferred euro risk-free rate, to which all market participants can now start their transitioning process.

UK

FCA CEO Brexit Equivalence

On Sep. 6, FCA CEO Bailey spoke at Eurofi on multilateralism, global coordination, Brexit.

- Made case for balancing autonomy and co-operation in the interest of financial markets.
- A commitment to cross-border cooperation allows standards to be set domestically where international standards do not exist.
- There will be areas where the UK will need to closely coordinate with EU, US, and others, whilst each managing own autonomy, and respecting autonomy of others, e.g. MIFID II.
- The argument that financial activity involving EU parties should be carried out as far as possible in the EU goes against principle of open market and free trade and is unnecessary.
- Consistent outcomes matter, with strong regulatory co-operation, co-ordination.
- Said that there will be a strong case for UK and EU to find each other equivalent on day 1.
- Key elements: comparability of rules, but not exact mirroring; supervisory co-ordination; exchange of information; and certain mechanisms to deal with any differences.

FCA Passporting Permission

On Sep. 6, the FCA issued update on proposals regarding temporary permissions regime (TPR).

- Set out in more detail how the FCA expects regime to work for firms, investment funds.
- Set out who can use the regime and plans for the firm and fund notification processes.
- If firms can demonstrate they continue to comply with equivalent home-state rules in respect of UK business they will be deemed to comply with certain of the FCA's rules.
- In autumn, will consult on rules that the FCA proposes should apply to firms and funds while they are in the regime, including the fees.

PRA Report EBA Taxonomy

On Sep. 12, the PRA consulted on updating supervisory reporting to reflect EBA proposals.

- Cover existing PRA reporting templates for ring-fenced banks (RFBs) (RFB004), statement of profit and loss (P&L), forecast capital data (which is known as Capital+).
- Proposal to extend the scope of new financial reporting (FINREP) templates to firms that are not required to report using FINREP templates under CRR, Art 99, e.g. NPL, FBE templates.
- Where the EBA proposed changes to COREP and FINREP not relevant to the aims of the related PRA templates, the PRA are not proposing to make corresponding changes.

FCA Annual Public Meeting

On Sep. 11, FCA chair Randell, CEO Bailey spoke at public meeting to launch Annual Report.

- FCA has tough choices about where to focus attention and resources. Brexit budget £30mn.
- Whatever shape Brexit eventually takes, maintaining / deepening our partnerships with international regulators, and law enforcement agencies will remain important.
- Cannot manage the risks of financial crime successfully, without such data sharing.
- Important to strike correct balance between robust and effective regulation and enabling changes which will benefit consumers.
- The balance of risks has shifted towards operational risks, including resilience, technological change and financial crime.
- Continue to work on longstanding issues including RBS GRG, HBOS and Connaught.

BoE Carney Term Extension

On Sep. 11, BoE issued letters on extension of Governor Carney's term of office until Jan. 2020.

- Request of Chancellor, to support smooth exit of UK from EU, transition to next Governor.
- Governor Carney said he recognized that during this critical period, important that everyone does everything they can to support smooth and successful Brexit for the UK.
- HM Treasury has also announced that Jon Cunliffe has been reappointed as Deputy Governor for Financial Stability for a second five-year term, which will last until Oct. 2023.
- Treasury panel issued a letter from Chancellor Hammond to Nicky Morgan on term extension.
- Announcement gives much-needed stability and clarity during important period, extra 7 months for succession planning, scrutiny.

PSR Reduced ATM Footprint

On Sep. 12, PSR responded to LINK's first ATM footprint report on ATM coverage in the UK.

- Report showed a 2% reduction in the size of network (1,300 closed ATMs), and estimated up to 11% reduction over four-year period.
- PSR concerned re closure of protected free-to-use (FTU) ATMs and is working with LINK.
- Developing a direction to require LINK to fully develop policies, processes implementing its commitments, and report to PSR regularly.
- Seeking renewed commitments from each bank that consumers continue to be offered services allowing them to access their cash.
- On Sep. 12, 2018, UKP Treasury panel said that PSR intervention was too little too late.

AML & Enforcement

EC Propose AML Power for EBA

On Sep. 12, EU CMSN issued proposal for AML supervision by EBA in EU state of union address.

- The EBA to be able to request national AML supervisors to investigate potential breaches and consider targeted actions, e.g. sanctions.
- Require NCAs to comply with EU rules, and cooperate properly with prudential supervisor.
- As last resort, EBA able to address decision direct to individual financial sector operator.
- Common standard and periodic review of national authorities and risk-assessments.
- Proposals also relate to information exchange and cooperation by the AML authorities.

OFAC US Election Interference

On Sep. 12, OFAC issued Trump executive order on foreign interference in elections and sanctions.

- To address past and future foreign interference that undermines confidence in US elections.
- Within 30 days, Treasury, DoJ and others are to develop framework for process they will use to carry out their pre-election responsibilities.
- Within 45 days after election, the director of national intelligence to assess any information indicating foreign government interference, send to the AG, DHS, and the Sec. of State.
- In 45 days from receiving assessment, the AG and DHS will issue a report on interference.
- On Sep. 13, 2018, AG Sessions issued a statement in support of the executive order.

UK SFO Track Criminal Wealth

On Sep. 5, UK SFO general counsel spoke at Cambridge symposium on economic crime.

- How best to identify, render accountable the criminals' wealth, especially organized crime.
- Require bespoke power of investigation, and need to be able to protect against dissipation.
- Also need effective power of enforcement, and people with the skills to deal with the cases.
- Domestic legal systems must not operate in isolation; they must work together on crime.

SWE SFI Nasdaq Clearing Default

On Sep. 12, SFI responded to Nasdaq Clearing's decision to put clearing member into default.

- Nasdaq Clearing member Einar Aas, active on Nasdaq Nordic Commodities market, was deemed in breach of clearing rules on margins.
- Defaulting portfolio closed out and fully contained but the loss exceeded member's collateral and its default fund contribution.
- SFI will ensure ongoing oversight of Nasdaq Clearing, meets EMIR CCP requirements.
- On Sep. 13, 2018, NASDAQ stated plan to replenish default fund, impacted by €107mn in addition to €7mn of NASDAQ junior capital.



© Reg-Room LLC. Reg-Room and the accompanying design are registered trademarks of Reg-Room LLC. All rights reserved. The information contained in this document should not be copied or further distributed without permission, and does not constitute legal advice.

Contact and Subscription Information

info@reg-track.com

Reg-Track system

<https://reg-track.com>

Check out our new Regulatory Reg-Track system:
Calendar

CENTER *for* **REGULATORY** **STRATEGY** **AMERICAS**

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

As used in this document, "Deloitte" means Deloitte LLP and its subsidiaries. Please see www.deloitte.com/us/about for a detailed description of the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.