



Quote of the Week

"We must be vigilant. We also must recognize—in both the public and private sectors, including the SEC—that there will be intrusions, and that a key component of cyber risk management is resilience and recovery"

- SEC Chairman, Jay Clayton



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Regulatory Watch List

- ↑ Cryptic** Some regulators clamp-down on digital currency trading, others look to license and take a role as issuer. Weak oversight of digital exchanges puts investors at risk, as even regular bank payments face higher fraud rate.
- ↓ Schooled** Higher education-debt delinquency, as government stops working with CFPB on protecting borrowers. US public service relief in doubt ahead of service anniversary, as UK raises earnings floor before payment is due.

US Banking

Agencies Propose Simplified Capital Rule

On September 27, FDIC, Fed proposed simplified capital rules for banks, with under \$250B assets.

- Proposal addresses treatment of acquisition, development, or construction (ADC) loans.
- Would replace the definition of high volatility commercial real estate (HVCRE) exposure, within standard approach, by high volatility acquisition, development, or construction (HVADC) exposure category, exposures to which are subject to 130% risk weighting.
- FDIC Vice Chairman Hoenig criticized proposal, saying does not make rules simpler, only different.
- Hoenig supports fundamental change in calculation using minimum standards for non-GSIBs.
- He also argued that proposed changes do not reduce risk, are not meaningful, only a quantitative reduction.
- FDIC Chairman Gruenberg supported intent to simplify complex aspects of capital rules, definitions.
- Community banks were asked to comment, tools were made available for them to assess.

FDIC Qualifying Financial Contracts

On September 27, FDIC issued rules for qualifying financial contracts (QFCs), compliance by January 1, 2019.

- QFCs must exclude immediate cancellation or termination of contract in set circumstances.
- To clarify that the contracts were subject to temporary stays, per US resolution regimes.
- No default rights or transfer restriction on an FDIC-bank upon the default of its affiliate.
- Final rule reflects changes to December 2016 proposal in response to comment received.
- Substantively identical to parallel rules on QFCs, as adopted by Fed on September 1, 2017.
- GSIBs may comply with rule, using ISDA 2015 universal resolution stay protocol text.
- Transition period is based on counterparty types; conform with other GSIBs in one year.

Fed Overnight Repo Trades

On September 20, Fed NY issued statement on reverse repo to reduce reinvested principal on Treasuries.

- Limit by value of Treasuries held outright in *system* open market account (SOMA) and by single counterparty limit of \$30B per day.
- Described factors that determine value of Treasuries available for repo operations.
- Some Treasuries needed for other repos with foreign official, international accounts.
- Two trillion dollars of Treasury securities are available for wider repo operations; more can be allocated.

NY Credit Report Bureau Cyber Rule

On September 18, NYDFS and NY Governor Cuomo proposed cyber rules for credit reporting agencies (CRAs).

- Governor Cuomo directed NY DFS to issue regulation to better protect NY consumers from privacy risks.
- CRAs would be required comply in phases, beginning in April 2018.
- For first time, CRAs would be required to register with NY State.
- Every CRA holding reports on NY residents would be required to register with DFS by February 1, 2018.
- Form should include the agency's officers or directors who are responsible for compliance.
- Prohibit use of inaccurate information in consumer reports relating to NY consumers.
- Ban false statements or omission of material facts on information, in report with regulator.

DoJ Real-Time Payment Systems

On September 21, DoJ said it will not challenge the proposed real time payment system for banks.

- By The Clearing House (TCH) Payments, which is a joint venture with 24 US banks.
- System will enable real-time transfer of funds between banks, at time of the day.
- RTP will allow banks, to enable faster fund transfers for their end-user customers.
- No impact for existing payment systems, of ACH, wire, and check clearing houses.
- Follows Fed issued strategy to improve US payment system speed, safety and efficiency.
- Enhance efficiency of domestic, cross-border payment, remove barriers to improvements.

Agency Living-will Delay 2017

On September 28, Fed, and FDIC extended resolution plan deadlines for US BHCs and foreign firms.

- Eight US G-SIBs given one-year delay to July 1, 2019, to submit next resolution plans.
- Bank agencies continuing to explore ways to improve the process for resolution planning, and believe two-year cycle is "worthwhile."
- The new action is a step toward that end, the review of July 2017 plan filings still ongoing.
- Extension does not affect any action the agencies may take concerning those plans
- Also extended by year, to December 2018, filing for 82 foreign banks with limited US operations.

- Repo operations will be open to all eligible RRP counterparties and settle on same-day.
- Counterparty may submit one proposition for each operation in size up to \$30B in size.

US Consumer

CFPB Ban Forced Arbitration Terms

On September 19, 2017, CFPB issued a Small Entity Compliance Guide on their new arbitration rule.

- Summary of rule, highlighted the information that may be helpful for firms to implement.
- The rule is effective from September 18, 2017 and compliance is required for any “pre-dispute arbitration agreements” entered after March 19, 2018, which is cited as the compliance date.
- The addition of new provisions to an existing agreement, after March 2018, brings into scope.
- Include language stating that provider cannot rely on agreement, to block class action suits.
- Contains specific language which provider must use in agreements dated after March 2018.
- Send CFPB, records filed in an arbitration or court that relied on an agreement, in 60 days.
- CFPB website will be central repository for records that providers submit under the rule.

NYAG Clash vs. DoE re CFPB

On September 26, NYAG issued letter asking Department of Education to reinstate student loan protections.

- Twenty State AG’s September letter to DoE Secretary demanded protection for student borrowers.
- Letter cited faults after the DoE terminated memoranda of understanding with CFPB.
- DoE falsely stated had exclusive jurisdiction over companies which service federal loans.
- In fact, student loan servicers are under the jurisdiction of the CFPB, FTC, DoJ and AG.
- Congress did not exempt the \$1.3T student loan market from CFPB’s when passed DFS.
- AGs said that DoE has misrepresented and undermined the strong work done by CFPB.
- Followed NY and State AG July 2017 lawsuit against DoE, for action on predatory schools

Agency HMDA Conforming to CFPB

On September 13, Fed, FDIC, OCC proposed HMDA rules, which conform to those of the CFPB.

- Follow CFPB September 2017 final HMDA rules, which are effective from September 1, 2018.
- Amended CRA regulations are primarily to conform to CFPB changes made to Reg C.
- Reg C implemented the Home Mortgage Disclosure Act (HMDA) applied to banks.
- For consistency between CRA rules and changes to Reg C, effective September 1, 2018.
- On September 20, Agencies issued rule in *Federal Register*, comment period to October 20, 2017.
- Anticipate amendment to CRA regulations will also take effect from January 1, 2018.

CFPB Survey: 40% Adults Struggling

On September 26, CFPB issued survey finding that 40% of consumers were struggling financially.

- Results from a first-time national survey, to review the financial well-being of consumers.
- Report showed that more than 40% of US adults were struggling to make ends meet.
- Consumers were given a score from 0-100, with the average consumer score being 54.
- Measures on individual, household, family characteristics; include income, employment.
- Reflected savings and safety nets, financial experiences, and behavior with money.
- A representative sample of the consumers surveyed, found 43% struggling to pay bills.
- Additionally, 34% of consumers surveyed, reported material hardships in the past year, such as running out of food, unable to afford accommodation, and no money for medical.
- Well-being higher for seniors, especially aged 65 and older, who had average score of 61.
- Younger adults, under 34, tended to have the lowest well-being score with average of 51.

NY DFS Zombie Property Law

On September 20, NYDFS issued guidance, training to implement abandoned property (Zombie) rules.

- Reminded banks and mortgage servicers of obligation to maintain decrepit properties.
- If breach, subjected to enforcement action, including fine of \$500 a day of the violation.
- Hold series of information sessions for local government officials, to continue across NY.
- Law effective from December 2016, aim to combat blight of vacant and abandoned property.
- Officials can report on vacant and abandoned property in communities using DFS hotline.
- Specific obligations to clear garbage, secure, board up, put others on notice to maintain it.

US Insurance

US-EU Insurance Agreement

On September 22, US and EU announced final signature of agreement on prudential insurance matters.

- US Treasury, Office of US Trade Representative also issued policy statement clarifying how US views implementation of certain provisions of agreement.
- NAIC supported clarified interpretation by Treasury of capital, groups, and reinsurance.

NAIC Natural Disaster Claims

On September 27, NAIC issued guidance on the making of insurance claims after a natural disaster.

- Need to make accurate account of all damages for the insurance company when filing claims.
- Most insurers have time limit for reporting, so it is advisable to contact the agent promptly.
- After report is filed, insurer will send claims-adjuster to assess the damage, at no charge.
- The adjuster will walk through to inspect the damaged items, and agree temporary repairs.
- After assessment is completed, adjuster will provide documentation for the agreed losses.
- Insurer will determine claim settlement, and this may be paid with more than one check.
- First payment is for emergency advance, next for home contents and then personal property.
- Any mortgage payment related to structural damages, may be payable by the home lender.
- Lenders may put money into escrow account, and pay for repairs when work is completed.
- Contractors often come into disaster-struck regions to try to take advantage of victims.
- Advised to never pay cash or write a check before work completed, pay in installments.
- Fraud related to vehicles damaged by floods, can also be common risk after such disaster.
- Damaged vehicles can be fixed, then sold as used vehicles to unsuspecting consumers.

FL INS Hurricane Protections

On September 15, 2017, Florida State Insurance issued enhanced claims-filing process for Irma flooding.

- Joint FEMA guidance, on claims-process by national flood insurance (NFIP) policyholders.
- Authorized payments without a proof of loss (POL) where losses were applicable to flood.
- Advance payments for enhanced claim handling for claims of prior loss, contents.
- Extended the grace period for paying NFIP premiums from 30-day period, to 120 days.
- Enhanced claim handling for building losses insured, applicable to standard forms.
- On September 19, FL INS issued alert on use of contractors to do repairs from the Hurricane.

CA INS Annuity Surrenders

On September 15, CA INS backed bill with protection for consumers with surrendered index annuities.

- Governor Brown signed the bill protecting seniors, on a delay on surrender of annuity.
- Bill sponsored by California Department of Insurance to protect from the investment losses of a delay.
- Examiners noticed a delay between date of surrender request and the date of processing.
- Delay can lead to value reduction in fixed-indexed annuity where tied to stock indices.
- One consumer lost \$22K, because insurer delayed processing of an annuity surrender.
- Then, following a drop in the stock market index, the value of the annuity was reduced.
- Bill AB 1398 required insurers to value surrender of fixed annuity on date of request.
- Then process the surrender as expeditiously as possible, within 45 days from receipt.
- Value of annuity would thus be based on date that consumer submits the surrender request.

House Flood Insurance Bill

On September 28, House passed bill to reform national flood insurance program (NFIP) after hurricanes.

- Bipartisan Flood Insurance Market Parity and Modernization Act passed by 264-155 vote.
- Reform NFIP to allow wider use of private insurance option for flood district coverage.
- Repealed government blocks on lower flood insurance rates, by clarifying how non-government flood insurance policy can meet federal flood insurance requirements.
- Need reform to protect high-risk areas and give them more options to prepare for.
- Said one problem is because of "government monopoly" called NFIP, need choice.

NYDFS Notifying Insurance Rise

On September 19, NYDFS issued rules requiring the notification increase in life insurance premium.

- Regulations of the State of NY (Insurance Regulation 210) takes effect March 19, 2018.
- By May 1 each year, insurer to file with DFS, a list of adverse changes for calendar year.
- Provides DFS with opportunity, to review increases in non-guaranteed policy elements.
- Prohibits insurer changes in a discriminatory way to members of same policy class.

- Urged assessment of damage to be aware of what they may be signing to on repair work.
- Document to sign before repair work could contain an assignment of benefits (AOB).
- AOB may give vendor rights to exclusively communicate with the insurance company.
- To negotiate, endorse claim payment, sue company without homeowner's knowledge.
- Should contact insurance company, before signing document that may contain an AOB.

US Securities and Investment Management

SEC Chair on Cybersecurity Event

On September 20, SEC chairman Clayton stated agency suffered cybersecurity breach, and need for focus.

- Highlighted the importance of cybersecurity, both to the SEC and to market participants.
- Focus part of assessment of SEC cyber risk profile chairman initiated upon taking office.
- Statement has summary of SEC data use and collections, as well as key cyber risks it faces.
- Cited 2016 intrusion of SEC Edgar test filing system, used for public company reporting.
- In August 2017, SEC learned that the incident, detected in 2016, used for illicit trading gain.
- Arose due to software vulnerability in part of the Edgar system, which was not remediated.
- An internal investigation was commenced immediately, at direction of SEC chairman.
- Review includes cybersecurity considerations in disclosure-based, and supervisory efforts

SEC Enforcement for Cyber-threats

On September 25, SEC issued enforcement initiatives, and set up new units against risk of cyber-threats.

- New SEC cyber unit to target cyber-related misconduct, and a retail strategy task force.
- Cyber unit to focus enforcement division on targeting major cyber-related misconduct.
- Hacking of material nonpublic information; misconduct perpetrated in dark web, DLTs.
- Act on intrusions in retail brokerage accounts, which exposes assets and data of the client.
- Retail strategy task force to utilize proactive, targeted initiatives to prevent misconduct.
- Aimed to identify and prevent large-scale misconduct that affected retail investors.
- SEC enforcement history of bringing cases against frauds, targeting retail investors.
- On September 26, SEC's Clayton also testified to Senate, where was questioned on the breach.

SEC Pay Ratio Disclosure Guidance

On September 21, SEC issue interpretive and staff guidance on application of pay ratio requirement.

- To aid public companies in effort to comply with the pay ratio disclosure requirements.
- A company may use its operational data, and readily available information to report on pay.
- Use reasonable estimates, assumptions, and methodology, based on statistical sampling.
- Companies may use existing internal records where appropriate, such as for tax or payroll, when determining inclusion of US employees, and to identify level of median employees.
- Companies are required to begin making the disclosures of pay ratios, from early 2018.

CFTC Ownership Report identifiers

On September 25, CFTC issued relief from company identification in ownership and control reports.

- Extended current relief, and gave additional relief to reporting in OCR rule as had expired.
- From enhanced identification of futures and swap market participants, in rules and forms.
- Otherwise, require electronic submission of trader identification, and of participant data.
- Relief addressed the compliance difficulties associated with certain type of OCR reports.
- Relief given on reporting trading account controller (TAC) or VTAC identifying info.
- From reporting additional TAC and VTAC identifying information, if meet conditions.
- 2017 stays in effect until earlier of effective date of CFTC rule or September 28, 2020.

CFTC Large Trader Reporting

On September 19, CFTC launched an online portal for the submission of the large trader reporting form.

- Large trader reporting program collects data for market participants with major holdings.
- Requires identifying information on trader in CFTC Form 40 statement of reporting trader.
- Based on trader reporting thresholds, under Parts 15 and 20 of the CFTC's regulations.
- Report by traders which hold or control a reportable futures, options or swaps position.
- Updated online portal for submission of Form 40 is intended to improve functionality.
- Easier navigation, and completion, replaced a version of form that appeared as a long page.
- Auto-save feature allows users to disconnect from portal, without losing their information.
- On September 26, CME also issued guide on filing large trader reports, to reflect CFTC revisions.

MSRB Dealer Compliance Advisory

On September 25, MSRB issued an advisory on key compliance issues faced by municipal dealers.

- Advisory on important factors for dealers to evaluate adequacy of supervisory controls.
- Highlighted aspects of the MSRB rules and examples of factors that dealers may consider, when evaluating effectiveness of controls, and need to mitigate exposure to compliance risk.
- Covers standard of conduct for performance of financial advisory activities (Rule G-23).
- Fair dealing for all persons when conducting municipal securities activity (Rule G-17).
- Pay-to-play restrictions (Rule G-37); time of trade disclosures to customer (Rule G-47).
- Supervisory controls (MSRB Rule G-27), books and records (Rules G-8 and G-9).

Canada

CSA Oversight Review of MFDA

On September 15, CSA issued review of the oversight practices by Canadian mutual fund dealer body.

- Report on operation and regulatory processes of Mutual Fund Dealers Association (MFDA).
- Covers period from 2015 to 2017, and jointly conducted by six CSA provincial regulators.
- In summary, CSA staff acknowledged, that MFDA made sufficient progress in oversight.
- In 2017 review, CSA identified one medium priority within the financial compliance unit.
- In repeat deficiencies, MFDA staff accepted firm's responses and did not require evidence.
- Have written guidance to consistently classify repeat deficiencies, evidence of its resolution.
- Cited one low priority finding in enforcement requiring the need for better documentation.
- MFDA committed to provide members with additional written guidance by September 30, 2017.

CSA BC Crowdfund Exemption

On September 21, CSA BC revised start-up exemptions for crowdfunding as a means of capital-raising.

- New start-up crowdfunding exemption will increase access to capital for issuers in BC.
- Give BC issuers access to Alberta investors, when conducting crowdfunding campaigns.
- Increased the total amount of investment allowed under current crowdfunding rules.
- Raise investment limit from \$1,500 to \$5,000, where the investor has been provided advice.
- The advice should be from a registered dealer, to confirm the investment is suitable for them.

CSA Ban Short Binary Options

On September 28, CSA announced prohibition of short-term binary options, due to high levels of fraud.

- Made illegal to advertise, offer, sell or trade shorter-term binary options if under 30 days.
- The timeframe on this bet is typically very short, and sometimes hours or even minutes.
- When the time is up, the investor either gets predetermined payout, or loses entire amount.
- Frequently, there is no trade, and transaction takes place only to steal money of client ID.
- Customers who give credit or personal data to web sites, can also be a victim of ID theft
- Those involved in operation of such trading platforms, were often located overseas.
- Investing offshore is a common red flag of fraud, and impossible to get money back.

OSC Corporate Finance Reporting

On September 21, OSC issued review of corporate finance reporting practices, during 2016-17.

- Guidance for persons and firms overseen by OSC, to ensure meet regulatory obligations.
- Findings related to MD&A, non-GAAP measures, future information in other areas.
- CSA continued to see deficiencies with the quality of issuers' disclosures on financials.
- Commit to actively review use of non-GAAP measures, and forward-looking information.
- New policy will provide an update on policy initiatives by OSC corporate finance branch.
- Included syndicated mortgage investments, climate change disclosure review project.
- Consider reduction in regulatory burden for reporting by issuers of non-investment funds.
- Distribution practices in the exempt market, and per offering memorandum exemptions.

OSC Study Retirees Use of Homes

On September 26, OSC issued study on plans by pre-retirees to use their home for retirement funding.

- Retirees could be overestimating, their ability to finance retirement costs on value in homes.
- Study surveyed people aged 45 and older, on financial knowledge, attitude and behavior.
- Forty-five percent said they were relying on the values of their home rising, to finance their retirement.
- Those without savings or plan were the most likely to depend upon property appreciation.
- Gender also a factor, as women 55 and older, reported more stress on retirement planning.
- Research findings will be used to support the development of OSC strategy for seniors.

OSFI Pension Plan Returns

On September 28, OSFI issued annual filing process, required to be used for pension plan returns.

- Pension plan returns are filed annually using the OSFI regulatory reporting system (RRS).
- Returns are not considered received at OSFI, until they are formally accepted into RRS.
- Separate filing processes are used in defined contribution, defined benefit, pooled returns.
- Where a plan is not registered to file return using RRS, it should do so immediately.
- Pension plan administrator must contact the Bank of Canada, as host of the RRS system.
- Register for access with the Bank of Canada secure site, and for their RRS system.

International

Basel Wholesale Payment Security

On September 28, Basel proposed a strategy for secure wholesale payments, and reducing risk of fraud

- Cited seven elements on preventing, detecting, responding to, and communicating of fraud.
- Stressed need to understand the full range of risks, using a holistic, coordinated approach.
- Review of current practices found weakness, knowledge gap, and inconsistent approaches.
- Focus on endpoint as a point in place, where data on payment instructions was exchanged.
- Data exchange between two parties, such as payment system with a messaging network.
- Apply processes that ensure adherence with respective endpoint security requirements.
- Operator of payment system should establish clear security requirements for the endpoint.
- Respond in a timely way to potential fraud; support ongoing education, and awareness
- Provide and use information and tools to improve rate of prevention and detection.
- Require alerts to broader payments network community, on evolving fraud threats.

IOSCO Sustainable Market Finance

On September 21, IOSCO Emerging Market Committee issued statements on sustainability and cyber risk.

- Discussed measures to scale up sustainable market based finance, and policy to support.
- Including via promotion of green financing solutions within emerging market countries.
- Accelerate the development of sustainable finance, create IOSCO task force on subject.
- Issues relating to emerging market liquidity, and measures that can help to promote it.
- How fintech shaping market and balancing innovation and investor protection issues.
- Including areas such as crypto currency, initial coin offerings (ICOs), and cyber resilience.

IAIS Mutual Insurance Firms

On September 19, IAIS issued application paper on the types of risks faced by mutual insurance firms.

- Covers mutual model for insurance, including cooperative and community organizations.
- Discussed if IAIS insurance core principles can be applied in proportionate manner.
- How to apply principles to mutual, cooperative, and community-based organization (MCCOs).
- MCCOs typically collect insurance premiums from their members and pay claims directly.
- IAIS recommended supervisors consider a proportionate application of the principles.
- Identify and remove unnecessary barriers in disproportionate regulation and supervision.

Basel Central Bank Bitcoin Issuance

On September 17, Basel published a report, on issuance by central banks, of their own cryptocurrencies.

- Discussed how central bank cryptocurrencies (CBCCs) might look and work in practice.
- It is unlikely Bitcoin will replace sovereign currencies, but technology has been proven.
- Venture capitalists and financial firms were both investing heavily in blockchain projects.
- Central banks have indicated their interest in exploring distributed ledger technology (DLT).
- CBCCs can be distinguished from other e-money, because they need no intermediaries.
- Peer-to-peer element of cryptocurrencies, offered same anonymity as cash transactions.
- Case for wholesale CBCC based on ability to improve efficiency, and settlement costs.
- Retail CBCC on the lines of Fedcoin (Federal Reserve), would be less volatile than Bitcoin.

HKMA Fund Exam Non-Compliance

On September 19, HKMA issued circular on exams of non-compliance by the investment fund sector.

- Cited examples of non-compliance found in SFC's supervision of the fund sector.
- They included inappropriate receipt of cash rebates, giving rise to conflicts of interest.
- Failure to ensure suitability of funds, when making solicitations or recommendations.
- Lack of proper liquidity risk management process, to ensure liquidity was maintained.
- Deficiencies setting up proper governance structure and lacking policies, procedures.
- Failure to ensure best execution, and fair allocation of assets amongst various funds.

HK SFC on Listing Regulation

On September 15, HK SFC issued conclusions relating to oversight role of exchange listing regulations.

- Clarified that HK SFC is statutory regulator which administered both SFO and SMLR.
- SFC will supervise, monitor, and regulate activities carried on by the HK exchanges.
- Has evolved to have more direct presence in the serious areas of listing regulation.
- New Listing Policy Panel will be established as an advisory, consultative, steering body.
- Panel outside SFC and Exchange, to initiate and centralize discussion of listing policies.
- Exchange is front-line regulator, and Listing Committee makes decision on listing rules.
- Role of listing committee, under the listing rules, will now remain unchanged.
- SFC will discharge statutory oversight of Exchange's listing function, through audit.

EU

ESMA Preparing MiFID Deliverables

On September 20, ESMA executive director Verena Ross spoke on preparations to implement MiFID.

- MiFID MiFIR will come into effect from September 3, 2018, and there will be no further delays.
- ESMA has delivered on over forty technical standards and issues (trade transparency, etc.).
- Work to connect around 300 trading venues to collect data, is due to go live under MiFID.
- Project should allow ESMA to collect data on about 15 million financial instruments.
- ESMA is aiming to hold six workshops with trading venues in implementation process.
- Key remaining tasks are class of derivatives to which the central trading obligation applies.
- ESMA is now at the final stages of sending draft technical standards to the Commission.
- Believed supervision at the EU level is more important, due to potential impact of Brexit.

ESA Risk-Free Overnight Rate

On September 21, ESMA, ECB, FSMA announced the creation of working group to develop benchmark.

- Group tasked with identification and adoption of risk-free overnight rate, for use by market.
- The rate will serve as basis for alternative, to current Euribor benchmark used in contracts.
- Work group will be chaired by private sector representative, and secretariat of the ECB.
- Group will explore possible approaches, for ensuring a smooth transition to the new rate.
- Interest rate based entirely on transactions in euros, which are reported from actual trades.
- EBC announced it will start providing an overnight unsecured index, prior to 2020.
- Will widen range of options, for the choice of an alternative benchmark rate for euro area.

EBA Securitization Transfers

On September 19, EBA issued discussion paper on how to assess, if securitized risk transfer has occurred.

- Assessment of significant risk transfer (SRT) for securitizations, as laid out in CRR rules.
- EBA found SRT assessments differed among EU member States, with inconsistent capital.
- Assessment difference may cause unjustified variation of risk-weights, for same exposures.
- EBA is seeking market participants' views on standardization of SRT assessment process.
- Regarding originator's notification of SRT and NCA's feedback after has been achieved.
- Identify selected structural features that may affect sustainability of SRT in securitization.
- Presence of structural feature is to facilitate assessment, and result in granting of SRT.

EC Mis-selling Insurance Products

On September 21, EC adopted rules to protect persons from purchasing unsuitable insurance products.

- Two EC-delegated regulations stemmed from the Insurance Distribution Directive (IDD).
- One is on product oversight and governance requirements used by insurance companies.
- Other is business conduct, for the distribution of insurance-based investment products.
- Oversight prioritized interest of consumers in design, develop and distribution of products.
- New business conduct rules give consumers higher level of protection when investing.
- Seller of insurance must comply with new standards to prevent and manage conflicts.
- Restricted the acceptance of commission and payments from third parties (inducements).
- Described information a seller must gather from their customers when providing advice.

ECB Fintech, Bank Licensing

On September 21, ECB proposed guides and FAQs on separate licensing of bank and fintech companies.

- Differentiated guidance on licenses required for normal banks, and specialized fintechs.
- Assessment of licensing for general credit institution, and guide for assessing fintechs.
- Explain the application process, and license requirements for banks, fintech business.
- Based on policies to be agreed on between the ECB, and national competent authorities.
- National competent authorities act as first contact point for receiving the application.
- Assessment conducted jointly with ECB, which makes the final decision.

ECB Aid Bank Consolidation

On September 27, ECB supervisory chair Nouy backed further consolidation in the banking sector.

- Cited harm caused from over-sized banking sector, and how this could be downsized.
- Overbanking if are too many banks, sector is too big vs. other sectors, or funding sources.
- Sector can be too large in terms of assets, and implies that the economy is over-indebted.
- Total assets of euro banking sector are 280% of GDP, vs. only 88% of GDP in the US.
- Banks must be allowed to fail through more market pressure, and help sector to shrink.
- Single resolution mechanism helped ensure banks can fail, without breaking the system.
- In 2017 SRM passed first test, when failure of Italian banks was dealt with effectively.
- The failure of unprofitable banks put further pressure on sector to adapt to challenges.

UK

Prime Minister Florence Brexit Reset

On September 22, UK PM May spoke in Florence on improving cooperation in Brexit negotiations.

- Aimed to re-set UK negotiating position, in light of slow progress made to date with EU.
- Sought two-year transition with single market access for UK continuing on current terms.
- Transition period from 2019-2021, in which UK to be guaranteed access to single market.
- UK willing to pay lump sum, comply with EU rules, and courts reflect ECJ opinions.
- Use a sectoral approach, so complex sectors may need transition period of over two years.
- Confirmed UK would honor commitments made, while it remained full member of EU.
- On September 26, EU President Tusk gave welcome to the more realistic tone of the PM's speech.
- Said that prior UK philosophy of having cake and eating it, was finally coming to an end.

FCA Market Watch MIFID Reporting

On September 18, FCA issued market watch guidance, on conduct and trade reporting under MiFID.

- FCA Market Watch 53 newsletter covered market conduct, and trade reporting issues.
- On MiFID II legal entity identifiers, data obligations, MDP entity portal, outsourcing.
- Firms subjected to MiFID II reporting, must obtain unique Legal Entity Identifier (LEI).
- Keep LEI updated; ensure that eligible clients have LEI, before acting on their behalf.
- Launched market data processor (MDP) to assist firms to meet MiFID data obligations.
- Available as a web application for external users, providing access to the MDP system.
- From January 3, 2018, firms will need to use the MDP entity portal, to request report extracts.

FCA Commodity Position Limits

On September 26, FCA issued guide on commodity position limit reporting and exemptions.

- Exempted non-financial entities (NFEs) from the commodity derivatives position limit.
- Form will enable understanding of how NFE is using commodity derivative to reduce risks.
- NFE should only apply for exemption when it was trading derivatives as part of its business.
- Cannot apply for the exemption on behalf of another legal entity or hold on their behalf.
- Only required to apply for exemption where their net position would be over MiFID limit.
- NFE to inform FCA if a significant change occurs, to nature or value of business activity.
- The applicant completing the form, should provide a legal entity identifier (LEI) on form.

FCA Implementation of IDD

On September 25, FCA proposed rules to implement the EU Insurance Distribution Directive (IDD).

- Proposed updates to handbook to reflect life insurance and other insurance provisions.
- Added rules on inducement, suitability and appropriateness for investment products.
- Investment disclosure requirements and mandatory occupational pension schemes.
- All insurance handbook changes include conflicts of interest and product oversight.
- Revision to perimeter guidance, regulatory processes, and consequential changes.
- Included FCA proposals as appropriate for alignment of IDD with MiFID II standards.
- Proposed applying IDD standards to wider range of firms, than required under IDD.
- Maintained standards above IDD minimum requirements, to preserve UK's standards.

FCA Ageing Population Impact

On September 21, FCA issued paper on impact ageing population on finance, and methods of coping.

- People living longer on unprecedented scale, with fastest growing segment now over 85.
- Regulators and firms should adapt financial services, so they remained fit for purpose.
- Research discussed the reason why older people need to access retail bank services.
- Challenges experienced doing so and when they need support to do from a third party.
- Found day-to-day banking needs are simple, obtaining cash in hand is very important.
- Paying bills on time is a priority and paper statement/receipts are reassuring to most.

FCA Davidson on Managers, Culture

On September 20, FCA director Davidson spoke on culture, conduct and senior managers' regime.

- Senior managers and certification regime is directly targeted at the culture of the firm.
- Assessment of what management is doing to manage culture using four types of lever.
- By clear sense of purpose and approach, tone from the top, governance and practices.
- Comprises general conduct rules, rules for senior managers, and certification rules.
- FCA will assess whether firm took reasonable steps to prevent conduct rule breach.
- Personal accountability of individual affects outcomes positively in a number of areas.
- Emphasized need for ethical cultures, rather than only compliance cultures in firms.
- Ethical culture can be more powerful than culture based only on financial incentives.

AML & Enforcement

US North Korea Foreign Bank Use

On September 21, Treasury issued an executive order to reduce the level of bank funding to North Korea.

- Said despite UN resolution, North Korea continued to threaten world with nuclear acts.
- Said no bank in any country should be used to assist North Korea's destructive behavior.
- Banks face sanction, including the suspension of their US correspondent account access.
- Gave authority to block bank funds transiting accounts linked to Korea that come into US.
- Stated that foreign banks can choose to do business for US or North Korea, but not both.

FinCEN Venezuela Transfers

On September 20, FinCEN issued advisory of the risks from dealing with corrupt Venezuelan fund flows.

- Alerted institutions to the risks of widespread public corruption in Venezuela by officials.
- Cited red flag to identify, reporting suspicious activities, and likely indicators of corruption.
- FinCEN Director El-Hindi said not all trading with Venezuela would involve corruption.
- However, in a period of turmoil, firms need to be more vigilant to block corruption proceeds.
- Red flags help firms to differentiate, between illicit and legitimate transactions for country.

EU ESAs AML Fund Transfers

On September 22, EBA, EIOPA and ESMA issued AML guidelines on risk when providing fund transfers.

- Covers joint guidelines for payment service providers, for payer and payee information.
- Included procedures needed to manage the transfer of funds, if had limited information.
- WTR2 rules in force since June 26, 2015 to implement FATF AML Recommendation 16.
- Specified information, that payer and payee, were required to attach to transfer of funds.
- Requires PSPs adopt effective procedures to detect transfers of funds without information.
- Procedures include decision on if to execute, reject or suspend the funds being transferred.



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