Financial Regulatory Briefing

The monthly digest of official pronouncements

FEBRUARY 2015

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Subscriptions
Persons and institutions may subscribe for a year by returning the form on the inside back cover. A receipt will be issued if requested.

Note
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ISSN 0968-2651

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The Association for Financial Markets in Europe

AFME Publishes "Post Trade Explained: The Role Of Post-Trade Services In The Financial Sector"

In *Post Trade Explained: The role of post-trade services in the financial sector*, a report published recently, AFME argues that further reform of post trade regulations is necessary to achieve integrated and efficient European capital markets, one of the most important and ambitious projects underway in the EU.

The report provides a comprehensive overview of post trade processes, explains why they are critical for creating developed, integrated and efficient capital markets, and outlines the need for further reform.

Commenting on the publication, Werner Frey, Managing Director Post Trade at AFME, said: "Although less well-known than trading activities, post trade processes are just as important for the proper functioning of modern capital markets, as they allow buyers and sellers to trade securities safely, knowing that the transaction will be cleared and settled.

"While important milestones have been achieved in the reform of post trade, we still don't have an integrated low risk and low cost post trade environment in Europe. In AFME's view, a synthesis of efficiency and safety and the combination of public sector authority and private sector expertise and experience is crucial to conclude the process of European post trade reform successfully.

In the report, AFME argues for the following gaps to be closed:

* create a recovery and resolution regime for Central Counterparties (CCP) and Clearing Houses and Central Securities Depositories (CSD), which would be an important element of risk mitigation;

* enact enforceable solutions to withholding tax procedural issues;

* resolve outstanding legal uncertainties and create a consistent conflict-of-laws regime.

Go to http://afme.eu/Documents/Statistics-and-reports.aspx for the full report.

Bank for International Settlements

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Credit Risk Management Across Sectors - Report Released By The Joint Forum

The Joint Forum has released its report *Developments in credit risk management across sectors: current practices and recommendations*.

The Joint Forum surveyed supervisors and firms in the banking, securities and insurance sectors globally in order to understand the current state of credit risk management given the significant market and regulatory changes since the 2008 financial crisis. Fifteen supervisors and 23 firms from Europe, North America and Asia responded to the survey.

The survey was not meant to be a post-mortem of the events leading up to the financial crisis, but rather a means to provide insight into the current supervisory framework around credit risk, the state of credit risk management at firms and implications for the supervisory and regulatory treatments of credit risk. The survey aimed to update previous Joint Forum work, most recently a 2006 paper, and used that date as the benchmark when asking about changes.

Based on its analysis of the responses and subsequent discussions with firms, the Joint Forum puts forth the following recommendations for consideration by supervisors.

Recommendation 1: Supervisors should be cautious against over-reliance on internal models for credit risk management and regulatory capital. Where appropriate, simple measures could be evaluated in conjunction with sophisticated modelling to provide a more complete picture.

Recommendation 2: With the current low interest rate environment possibly generating a "search for yield" through a variety of mechanisms, supervisors should be cognisant of the growth of such risk-taking behaviours and the resulting need for firms to have appropriate risk management processes.

Recommendation 3: Supervisors should be aware of the growing need for high-quality liquid collateral to meet margin requirements for OTC derivatives sectors, and if any issues arise in this regard they should respond appropriately. The Joint Forum's Parent Committees (BCBS, IAIS and IOSCO) should consider taking appropriate steps to monitor and evaluate the availability of such collateral in their future work while also considering the objective of reducing systemic risk and promoting central clearing through collateralisation of counterparty credit risk exposures that stems from non-centrally cleared OTC derivatives.

Recommendation 4: Supervisors should consider whether firms are accurately capturing central counterparty exposures as part of their credit risk management.

Comments on this consultative document should be uploaded (http://www.bis.org/bcbs/commentupload.htm) by Wednesday 4 March 2015. Comments will be published on the website of the Bank for International Settlements unless a respondent specifically requests confidential treatment.

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Basel Committee on Banking Supervision

Guidance On Accounting For Expected Credit Losses Issued By The Basel Committee

The Basel Committee has issued, for consultation, Guidance on accounting for expected credit losses. Comprising 11 fundamental principles, the guidance sets out supervisory expectations for banks relating to sound credit risk practices associated with implementing and applying an expected credit loss (ECL) accounting framework. It also covers supervisory expectations of how an ECL accounting framework should interact with a bank's overall credit risk practices and the regulatory framework.

The financial condition of a bank is highly sensitive to rapid increases in credit risk. Therefore, appropriately determining how, when and in what amount to recognise the effects of increases in credit risk should be a priority for all bank stakeholders.

An ECL accounting framework reflects the fact that credit quality deteriorates far earlier than when loss events are incurred. A further important feature of an ECL accounting framework is that the assessment and measurement of ECL must take into account forward-looking information and macroeconomic factors and cannot therefore rely exclusively on current conditions and historical data.

All comments should be uploaded by 30 April 2015. Comments will be published on the website of the Bank for International Settlements unless a respondent specifically requests confidential treatment.

Revised Pillar 3 Requirements Issued By The Basel Committee

The Basel Committee on Banking Supervision has issued the final standard for the Revised Pillar 3 disclosure requirements.

The revised disclosure requirements will enable market participants to compare banks' disclosures of risk-weighted assets. The revisions focus on improving the transparency of the internal model-based approaches that banks use to calculate minimum regulatory capital requirements. The revised requirements will take effect from end-2016. They supersede the existing Pillar 3 disclosure requirements first issued as part of the Basel II framework in 2004 and the Basel 2.5 revisions and enhancements introduced in 2009.

Stefan Ingves, Chairman of the Basel Committee on Banking Supervision and Governor of Sveriges Riksbank, said: "The revised disclosure framework represents an important shift in both the format and granularity of required bank disclosures. These changes substantially strengthen the disclosure framework and will help users of the disclosures to better understand and assess the measurement of a bank's risk-weighted assets."

The revised standard retains the structure of the Committee's June 2014 consultative paper. Compared with the consultative version, the key changes involve:

* rebalancing the disclosures required quarterly, semi-annually and annually;

* streamlining the requirements related to disclosure of credit risk exposures and credit risk mitigation techniques; and

* clarifying and streamlining the disclosure requirements for securitisation exposures.

Second Progress Report On Banks' Adoption Of Risk Data Aggregation Principles Issued By The Basel Committee

The Basel Committee on Banking Supervision has issued a second progress report on banks' adoption of the Committee's Principles for effective risk data aggregation and risk reporting. Published in 2013, the Principles aim to strengthen risk data aggregation and risk reporting at banks to improve their risk management practices and decision-making processes. Firms designated as global systemically important banks (G-SIBs) are required to implement the Principles in full by 2016.

The report reviews banks' progress in 2014 and updates a 2013 "stocktaking" self-assessment survey completed by G-SIBs, other large banks and supervisors. It outlines the measures G-SIBs have taken to improve their overall preparedness to comply with the Principles, as well as the challenges they face. G-SIBs are increasingly aware of the importance of this topic and have moved towards implementing the Principles. However, of the 31 participating banks, 14 reported that they will be unable to fully comply with the Principles by the 2016 deadline, compared with 10 G-SIBs in 2013.

The Principles apply initially to all systemically important banks and the Committee will continue to monitor G-SIBs' progress towards meeting the 2016 deadline. In addition, the Committee recommends that national supervisors apply the Principles to institutions identified as domestic systemically important banks three years after their designation as such. The Basel Committee believes that the Principles can be applied to a wider range of banks in a way that reflects their size, nature and complexity.

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Building Societies Association

BSA Responds To Publication Of Mortgage Credit Directive Legislation

HM Treasury has published the final legislation to be laid before Parliament in relation to the European Mortgage Credit Directive (MCD) which from March 2016 will bring in additional mortgage regulations which will apply to both homebuyers and lenders.

In the legislation the Government has reiterated that its "policy intent is to preserve the UK's existing regulatory framework as far as possible, putting in place the minimum requirements to meet the UK's legal obligations."

Key points:

Buy-to- let
The new rules introduce a legislative framework for consumer buy-to-let mortgages. Responding to concerns about the definition of "consumer" buy to let, some clarity has been provided in the legislation:

* If a buy-to-let loan is for business purposes, and a property has been purchased with the sole intention of letting it out, the borrower has never lived in it, and/or the borrower taking out the loan has other buy-to-let properties then the loan will be outside the scope of the regulation.

* Alongside this, the legislation has a provision that allows lenders to evidence the categorisation of a buy-to-let loan through a borrower declaration. In this a borrower can confirm that they are acting wholly or predominantly for business purposes. The lender can act on this declaration, provided that they do not have reasonable cause to suspect that it is incorrect.

* On this basis both government and lenders have concluded that "consumer" buy-to-let mortgages, including some accidental landlords, represent a minority of transactions in the buy-to-let market, which in itself represents a relatively small proportion of the overall mortgage market.

* The current market practice of treating such consumer buy-to-let loans as regulated mortgage lending anyway means that no significant impact is expected as a result of this legislative change.

* The FCA, will supervise and enforce this legislation and they will consult shortly on implementation.

Mortgage pipeline

* In response to concern from lenders that there was a lack of clarity on the treatment of mortgage pipeline's – loan applications made but not completed – at the implementation of the MCD, the new legislation states that "where credit is granted pursuant to an agreement that exists before the implementation date of 21 March 2016, the affected mortgage does not need to be subject to the MCD"

* This is important as it will hopefully avoid home buyers and lenders having to re-do applications in the pipeline in the run-up to March 21 2016.

Early adoption
All firms subject to the MCD can choose to adopt the revised rules up to six months ahead of the implementation date of 21 March 2016, giving some flexibility to firms who wish to implement early to minimise disruption for their customers.

Commenting, Paul Broadhead, Head of Mortgage Policy at the BSA said: "The BSA is still of the view that the Mortgage Credit Directive will offer little or no benefit to UK consumers, but will add cost, complexity and some confusion to the mortgage process. However, we welcome the Government's approach to implementation, putting in place the minimum requirements to meet European law. The introduction of an appropriate framework for consumer buy-to-let will keep the majority of buy-to-let lending outside the scope of regulation, minimising the disruption to this market."

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Department for Work and Pensions

New Pensions Ombudsman Appointed

Anthony Arter has been appointed Pensions Ombudsman and Pension Protection Fund Ombudsman, DWP announced on 13 February.

He will take up his post from 25 May 2015 for a 4-year term.

Government Reforms To Stop Savers Losing 'Mini' Pension Pots

A new system to stop workers losing their small pension pots as they move from job to job has been outlined by the Minister for Pensions Steve Webb. The update on the implementation of automatic pension transfers, or 'pot follows member', sets out how, under the new system, various small pension pots which a worker may have accumulated from different jobs will be able to be consolidated within their current employer's pension scheme.

Due to come in from autumn 2016, workers will initially be offered the option of consolidating their pension pots, before an automatic system is rolled out.

Over 5 million employees have already been automatically enrolled into a workplace pension scheme, and this will increase further as small and micro employers are brought into automatic enrolment over the next 3 years.

Minister for Pensions Steve Webb said: "If we fail to take action there could be over 50 million dormant pension pots drifting away from savers by the middle of this century – that's billions of pounds floating around that should be funding better retirements for people.

"Auto enrolment is helping people to save for retirement, but we must help them to keep their pots together so they know clearly that their pension is growing for their future. With the average person now having 11 jobs in their career, this further reform is essential. I want to introduce 'pot follows member' as soon as possible so we don't lose the momentum that automatic enrolment has delivered in turning around pension saving in Britain."

The update paper follows nine months' work with a wide section of the pensions industry to analyse different options to create a safe and efficient model that works in the interest of workers saving for their future. Under the plans, automatic transfers will first apply to a limited number of larger schemes – covering the vast majority of pension scheme members in the country.

The first stage will introduce automatic matching of an individual's mini pots. A person will be contacted to confirm if they want these pots to be moved to their new scheme – with an initial opt-in system introduced first ahead of a full opt-out model.

The aim is to have an automatic pot-matching system in place by autumn 2016.

European Banking Authority

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EBA Advises On The Definition Of Eligible Capital

The European Banking Authority (EBA) has published its Opinion on the review of the appropriateness of the definition of 'eligible capital', in response to a call for advice received from the European Commission in December 2013. On the basis of information gathered during the first year of application of the Capital Requirements Regulation (CRR), the EBA provides its preliminary views, which are relevant for the large exposures framework, as well as for investment firms and qualifying holdings.

The EBA informed that since the definition of 'eligible capital' is subject to a transitional regime until the end of 2016, not enough experience is available on the use of this definition or any evidence that the new stricter capital base for the large exposures' regime would have a detrimental impact. The European Commission had sought advice from the EBA in relation to determining whether or not the definition of 'eligible capital' is appropriate for defining 'large exposures', setting 'large exposure' limits, determining the capital requirements applicable to investment firms with limited investment services and finally determining the prudential treatment for qualifying holdings outside the financial sector.

The EBA suggested conducting a comprehensive review of the EU large exposures regime at an appropriate point in time, in order to align it with the Basel Committee on Banking Supervision (BCBS) standards on the supervisory framework for measuring and controlling large exposures. In this context, the EBA also suggested to the Commission postponing any review of the 'eligible capital' base, until a large exposures review is carried out.

The final Opinion has been sent to the European Commission.

EBA Adds BRRD To Its Online Interactive Single Rulebook And Q&A Tools

The EBA has updated its online Interactive Single Rulebook and Q&A tools with the inclusion of the Bank Recovery and Resolution Directive (BRRD).

Users will now be able to review on the EBA website all the EBA's Technical Standards and Guidelines associated with the BRRD by navigating through the Directive on an article by article basis. The inclusion of the BRRD into the Q&A tool will also allow users to submit any questions they may have on the application of this Directive and the EBA's work related to it.

The purpose of the Q&A tool is to support the consistent and effective application of the EU regulatory framework for the banking sector, the Single Rulebook. The Q&A tool also contributes to the completion of the legislative framework by ensuring any remaining regulatory loopholes are addressed. The process is based on close and on-going interaction with the European Commission so that responses in the Q&A tool are fully consistent with EU legislative texts.

Revised Version Of Final Draft Technical Standards On Prudent Valuation Published

The EBA has decided to make a specific and limited amendment to its final draft Regulatory Technical Standards (RTS) on Prudent Valuation published on 31 March 2014. As a consequence of this decision, all occurrences of 'volatility' in Article 9 and Article 10 of the final draft RTS published on 31 March 2014 should be replaced by 'variance' for the purposes of computing market price uncertainty and close-out costs additional valuation adjustments (AVAs).

This amendment, which affects only institutions using the Core approach, will result in a slight relaxation of the calibration of the volatility test performed under these two articles, thus avoiding unwanted side-effects in the already challenging first year implementation of the Core approach. However, while allowing for this flexibility in the context of the first implementation of the Prudent Valuation framework, the EBA also suggested reassessing the calibration of the volatility test within the first two years of implementation of the RTS.

EBA Says Impact Of Liquidity Coverage Requirements For EU Banks Not Likely To Have Adverse Effects

The EBA has published its impact assessment report for liquidity coverage requirements. Overall, this analysis points to improvements of EU banks' compliance with Liquidity Coverage Ratio (LCR) requirements and shows that the implementation of the LCR is not likely to have a negative impact on the stability of financial markets and of the supply of bank lending. The report is based on liquidity data provided by 322 European banks, covering about 2/3 of total banking assets in the EU, and it will inform EU policies aimed at strengthening the resilience of EU banks.

Overall, the analysis carried out by the EBA shows that the general liquidity requirement is not likely to have a material detrimental impact on the stability and orderly functioning of financial markets or on the economy and the stability of the supply of bank lending. To a large extent, this can be explained by the significant improvement, in terms of compliance, of EU banks with Liquidity Coverage Ratio (LCR) requirements; the potential for balance sheet adjustments to meet LCR requirements; the absence of supply constraints overall at country level due to redistribution of credit supply from non-compliant to compliant banks.

The EBA's analysis also concluded that the implementation of the envisaged Delegated Act by the EC will have a marked positive impact on the LCR of specialised credit institutions, such as factoring and leasing, auto and consumer credit banks and other specialised credit institutions which were identified in the EBA's first LCR IA report as being potentially detrimentally affected by the LCR.

This EBA analysis will serve as a basis for EU policy makers in their work on high quality securitisation in the EU banking sector, which, by ensuring banks have sufficient liquid assets, will ultimately strengthen their resilience.

EBA Consults On Procedures, Forms And Templates For Resolution Planning

The EBA has launched a public consultation on draft Implementing Technical Standards (ITS) on procedures, forms and templates for resolution planning. These ITS have been developed within the framework established by the Bank Recovery and Resolution Directive (BRRD) which sets procedures for the recovery and resolution of credit institutions, investment firms and related entities across the EU. This consultation runs until 14 April 2015.

The BRRD requires resolution authorities to draw up resolution plans that outline the actions to be taken in case an institution meets the conditions for resolution. The proposed draft ITS develop in detail the procedure that should be followed when resolution authorities require information about an institution for the purpose of drawing up a resolution plan.

According to this procedure, resolution authorities shall first contact the competent authorities to request the relevant information about an institution. If the information is not available, or if the format is not satisfactory, resolution authorities may then directly contact the concerned institution and ask them to use the forms and templates included in the Annexes of the ITS proposed by the EBA.

The minimum set of forms and templates provided in theses Annexes cover information on institutions' organisational structure, governance and management, critical functions

and core business lines, critical counterparties, structure of liabilities, funding sources, off-balance sheet, payment systems, information systems, interconnectedness, authorities and legal framework. Examples are included in the annexes submitted to this public consultation in order to allow better understanding of the information expected.

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European Insurance and Occupational Pensions Authority

EIOPA Explains Implications Of Its Budget Cuts For The Year 2015

The Board of Supervisors of the European Insurance and Occupational Pensions Authority (EIOPA) has endorsed the Budget 2015, as adopted by the European Budgetary Authority last December. Its amount was reduced by 7.6% (around 1.7 million euros) compared to last year and currently equals 19.9 million euros. It amounts for a decrease of 2.4 million euros, if compared to the original proposal that EIOPA Members approved.

In order to respond to these cuts and ensure delivery of high quality work, EIOPA has undertaken a severe strategy-driven reprioritisation exercise, including not only extensive reallocation of human resources and rationalisation of funds, but also postponement and cancellation of ongoing projects.

In 2015, Solvency II will remain the highest priority of EIOPA. However, cuts will affect even the Authority's top project, and e.g. the Solvency II training programme for supervisors will be reduced by 20% and production of the IT supervisory toolkit related to XBRL reporting has been cancelled.

Certain work streams, including those in the areas of Financial Stability and Consumer Protection, have been deprioritised. Investments into EIOPA's operational software, infrastructure and efficiency of business processes will also be very limited.

Carlos Montalvo, Executive Director of EIOPA, said: "The current budget is putting at risk the effective delivery of the main tasks assigned to EIOPA by European law. We see our mission in ensuring a strong and consistent insurance supervision in Europe for the sake of financial stability and consumer protection. Realisation of this mission becomes particularly challenging without the adequate level of staff and budget."

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Money Laundering: Company Owner Lists To Fight Tax Crime And Terrorist Financing

The ultimate owners of companies will have to be listed in central registers in EU countries, open both to the authorities and to people with a "legitimate interest", such as journalists, under a Parliament/Council deal endorsed by the Economic and Monetary Affairs and Civil Liberties committees. The new anti-money laundering directive aims to help to fight money laundering, tax crimes and terrorist financing. New rules to make it easier to trace transfers of funds were also approved.

The fourth anti-money laundering directive (AMLD) will for the first time oblige EU member states to keep central registers of information on the ultimate "beneficial" owners of corporate and other legal entities, as well as trusts. (A "beneficial" owner actually owns or controls a company and its activities and ultimately authorises transactions, whether such ownership is exercised directly or by a proxy).

These central registers were not envisaged in the European Commission's initial proposal, but were included by MEPs in negotiations. The text also requires banks, auditors, lawyers, real estate agents and casinos, among others, to be more vigilant about suspicious transactions made by their clients.

"Legitimate interest" access
The central registers will be accessible to the authorities and their financial intelligence units (without any restriction), to "obliged entities" (such as banks conducting their "customer due diligence" duties), and also to the public (although public access may be subject to online registration of the person requesting it and to a fee to cover administrative costs).

To access a register, a person will in any event have to demonstrate a "legitimate interest" in suspected money laundering, terrorist financing and in "predicate" offences that may help to finance them, such as corruption, tax crimes and fraud.

These persons (e.g. investigative journalists) could access information such as the beneficial owner's name, month and year of birth, nationality, country of residence and details of ownership. Any exemption to the access provided by member states will be possible only "on a case-by-case basis, in exceptional circumstances".

Central register information on trusts will be accessible only to the authorities and "obliged entities".

MEPs also inserted several provisions in the amended AMLD text to protect personal data.

Special measures for "politically-exposed" persons
The deal also clarifies the rules on "politically-exposed" persons", i.e. people at a higher than usual risk of corruption due to the political positions they hold, such as heads of state, members of government, supreme court judges, and members of parliaments, as well as their family members.

Where there are high-risk business relationships with such persons, additional measures should be put in place, e.g. to establish the source of wealth and source of funds

involved, says the text.

Tracing transfers of funds

MEPs also approved a deal on a draft "transfers of funds" regulation, which aims to improve the traceability of payers and payees and their assets.

Next steps

The two deals still need to be endorsed by the full Parliament (March or April) and by the EU Council of Ministers. Member states will then have two years to transpose the anti-money laundering directive into their national laws

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European Securities and Markets Authority

ESMA Publishes Annual Report And Supervisory Focus For CRAs And TRs

The European Securities and Markets Authority (ESMA) has published an annual report on its direct supervisory activities in 2014 regarding credit rating agencies (CRAs) and trade repositories (TR). The report summarises the key actions taken during 2014 and outlines ESMA's supervisory work plans for both sectors for 2015.

Credit Rating Agencies
ESMA is now responsible for overseeing the activities of 27 registered and certified CRAs in the EU. As part of its supervisory work in 2014 ESMA concluded its investigation into the issue of structured finance ratings, completed a review of small and medium-sized CRAs and conducted work regarding sovereign ratings. In addition, ESMA issued its first enforcement decision under the CRA Regulation in respect of internal control failings.

ESMA is continuously enhancing its risk-based approach to the supervision of CRAs in order to focus on those risks which could have the highest impact on the quality of credit ratings. The key priorities for 2015-2016 are to tackle the systemic risks posed by CRAs by seeking to minimise conflicts of interest in the rating process.

Trade Repositories
Since February 2014 when derivatives reporting started, a total of almost 10 billion reports have been received and processed by the six registered TRs while the number of entities which have direct reporting agreements with TRs is now nearly 5,000. As of early January 2015, around 300 million derivative trade reports are being submitted on a weekly basis.

Following some problems at the start of trade reporting, as with any major new reporting system, ESMA's supervisory focus has now shifted to the quality of the reported data and to ensuring appropriate data access by regulators, taking into account the scale and complexity of TR systems and of the data now flowing into them.

Steven Maijoor, ESMA Chair, said: "Giving responsibility for the direct supervision of credit rating agencies to ESMA was one of the EU's first regulatory responses to the financial crisis. The aims of this were to ensure financial stability and a high level of investor protection. Such objectives remain valid in the current economic and financial environment where new policy initiatives at European level, like measures to stimulate alternative sources of funding to traditional banking, emphasise the need for high quality credit ratings."

"The first year of the derivatives reporting regime in the EU has been a period full of challenges for all stakeholders and a lot of work has been done to streamline the functioning of the process. The long on-boarding queues are now behind us and the data reported to the TRs have proved to be useful for market surveillance and transparency. The emphasis in 2015 for ESMA and the EU national regulators will be the improvement of the quality of the data reported to the registered TRs and there are several initiatives already in place. ESMA will continue to exercise its direct supervisory powers in 2015 through on-going supervision and investigations as well as through complaints handling and enforcement work."

CRA Supervision – Key Priorities 2015-16
ESMA continues to look at minimising conflicts of interest in the rating process and promoting effective risk management, strong governance and controls and in 2015-16 it will focus on the following issues in this area:

* CRAs' governance, risk management and internal decision making processes;

* CRAs' business development processes.

ESMA will continue a number of major investigations during 2015-16, including investigations into the review and validation of ratings methodologies and into IT internal controls and information security. ESMA will also follow up on recently concluded investigations regarding Structured Finance and SMEs in order to ensure the effective implementation of the remedial action plans.

TR Supervision – Key Priorities 2015
In 2014 ESMA has identified a number of risks and issues regarding data quality; on-boarding and access to data by authorities; systems performance and operation; and confidentiality of data. While measures and action plans were developed and applied in 2014, considering the scale of the work this is expected to continue well into 2015.

In terms of thematic reviews and investigations, these will be carried out on the following issues across all TRs:

* Inter-TR reconciliation process;

* Business continuity planning; and

* Cost relatedness of fees.

Finally, a number of individual reviews and investigations will focus on TR systems software development lifecycle, data availability and regulators' access to TRs and the confidentiality of TR data.

Financial Conduct Authority

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FCA Sets Out Approach To Non-Executive Directors And The Senior Managers Regime

Non-Executive Directors (NEDs) with specific responsibilities, such as Chairman, will come under the new Senior Managers Regime (SMR), the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) have confirmed. Following a detailed consultation across industry and with stakeholders it was also decided the regime would not apply to those NEDs who do not perform delegated responsibilities.

Martin Wheatley, FCA Chief Executive, said: "Our approach is driven by wanting to ensure firms are managed in a way that reflects good governance and promotes the right culture and behaviours. Having a narrow SMR will also allow the FCA to focus regulatory resources on those responsible for key business areas and board committees. We want those senior individuals to be held accountable for the decisions they make and oversee. This is what people inside and outside the banking sector expect.

"NEDs play a vital role in providing challenge to and an independent oversight of the executive directors. Including all NEDs in the new regime would risk the unintended consequence of changing the whole nature of this vital role."

The NED roles that will be in scope of the SMR are:

* Chairman;
* Senior Independent Director;
* and the Chairs of the Risk, Audit, Remuneration and Nominations Committees.

The individuals performing these roles will be subject to all aspects of the Senior Managers Regime, including regulatory pre-approval, the FCA's and PRA's new conduct rules and the presumption of responsibility. Those NEDs who fall outside of the SMR will no longer be subject to regulatory pre-approval, will not be subject to the conduct rules nor the presumption of responsibility.

Within the regime, senior executives will be expected to take accountability for the conduct of the business for which they are responsible. They are in a position to exercise a strong influence on the business and its culture through incentives and the messages that they give to staff. This clear line of accountability can have a positive effect on the culture of firms and on outcomes for consumers and markets.

This paper also includes general guidance on the role and responsibilities of NEDs as well as consulting on the FCA's approach to NEDs in Solvency II firms, which the FCA proposes to align to the approach being taken for deposit takers and PRA designated investment firms.

The FCA and PRA also published a consultation on proposed whistleblowing rules for banks, building societies, credit unions and insurers. This includes a requirement for firms to appoint a whistleblowers' champion, who will be responsible for overseeing the effectiveness of internal whistleblowing arrangements, preparing an annual report to the board on their operation, and reporting to the regulator where an employment tribunal finds in favour of the whistleblower. The importance of robust internal whistleblowing procedures within firms was a key conclusion of the Parliamentary Commission on Banking Standards' report.

Firms Challenged To Review Approach To Consumer Vulnerability

Research published by the FCA reveals that some vulnerable consumers seeking help from financial providers are meeting 'a computer says no' approach, putting them at risk of further detriment.

Occasional Paper on Consumer Vulnerability

The FCA's Occasional Paper on Consumer Vulnerability, launched by chief executive, Martin Wheatley at the British Bankers' Association conference on protecting consumers in vulnerable circumstances, is the first step in a conversation with firms to determine how the regulator and industry can work together to address issues around vulnerability. The UK's aging population, as well as changing trends in public health and society, means that developing more inclusive policies will become increasingly important.

Martin Wheatley, chief executive of the FCA, said: "We all know somebody in a vulnerable situation and we can expect the number of people who find themselves in those circumstances to grow over the coming years. We all need to start thinking about what the solutions to these challenges will be. Whether it is accessing funds or securing a repayment holiday, we will work collaboratively with firms to identify what inclusive policies could look like and how best we can create the right outcomes for those consumers. It's a challenge for regulators and firms alike."

Consumer protection policies

The FCA's research shows that many consumer protection policies are designed for a 'typical' consumer and sometimes not flexible enough to capture individual situations. Therefore, if frontline staff can recognise the signs of potential vulnerability, they can more easily refer customers to specialist support where appropriate.

Consumer organisations have also told the FCA that they are seeing people in difficult circumstances inevitably struggling with rigid policies within some firms, exacerbating already stressful situations.

Practitioners' Pack

The Occasional Paper includes a Practitioners' Pack to support firms' understanding of how they can generate better outcomes and develop more inclusive services for vulnerable consumers.

Go to http://www.fca.org.uk/news/fca-challenges-firms-to-review-approach-to-consumer-vulnerability for further information.

FCA To Investigate Competition In Investment And Corporate Banking Services Following Review Of Wholesale Markets

The FCA has announced plans to launch its first wholesale market study into investment and corporate banking to assess whether competition in the sector is working properly. This follows the publication of its review into competition in the wholesale sector, which found that limited clarity over price and quality of services may make it difficult for clients to assess whether they are getting value for money, and that the bundling and cross selling of services could make it difficult for new entrants or smaller established firms to challenge established large players in the market.

The FCA will consider undertaking a market study into asset management and related services later in the year. However, for the other potential competition issues identified, it is expected that forthcoming regulations will affect the way competition works, so there are no immediate plans to conduct further studies into these areas.

Go to http://www.fca.org.uk/news/fca-to-investigate-competition-in-investment-and-corporate-banking-services-following-review-of-wholesale-markets for further information.

Final Rules For Independent Governance Committees Confirmed

The FCA has confirmed the final rules requiring firms to set up and maintain independent governance committees (IGCs).

IGCs are a key part of the improvements in the governance of workplace pensions. The role of IGCs will be to represent the interests of scheme members in assessing the value for money of pension schemes, challenging providers to make changes where necessary. These rules, initially announced by the FCA in August, confirm for providers of workplace personal pensions the necessary detail to ensure IGCs are set up by April 2015.

The establishment of IGCs was recommended after an Office of Fair Trading market study found problems with the workplace pension market including potential conflicts of interest between employers and schemes.

The FCA has been working closely with the Department for Work and Pensions (DWP) to ensure that all members benefit from the same good quality standards regardless of type of workplace scheme. New regulations have been introduced by the DWP to ensure value for money in relevant occupational pension schemes.

From 6 April 2015 firms that operate workplace personal pension schemes will be required to establish an IGC, with at least five members, which will have a clear duty to act independently of the firm.

The rules outline the minimum standard for the terms of reference for IGCs, the scope of the IGC and which type of firms will need to set one up. The FCA has confirmed that a review of the overall effectiveness of the new governance bodies will be conducted in 2017.

The FCA To Gather Evidence On How The PPI Complaints Process Is Working

The FCA is planning to gather evidence on current trends in complaints on Payment Protection Insurance (PPI).

The FCA will use this evidence to assess whether the current approach is continuing to meet its objectives of securing appropriate protection for consumers and enhancing the integrity of the UK's financial system. The FCA will then consider whether further interventions may be appropriate – which could include a consumer communication campaign; a possible time limit on complaints; or other rule changes or guidance – or whether the continuation of the PPI scheme in its current form best meets its objectives.

The FCA expects this work to commence shortly and to give its view on the evidence collected in the summer. While this work continues, the FCA expects firms to continue to deal with PPI complaints in accordance with our requirements.

Compensation Package Agreed For Consumers Sold Card Security Products

The FCA has reached an agreement with Affinion International Limited ("Affinion") and 11 high street banks and credit card issuers, following voluntary negotiations, that will pave the way for customers to claim compensation if they have concerns about the way that card security products with the following product names were sold to them:

Card Protection
Sentinel
Sentinel Gold
Sentinel Protection
Sentinel Excel
Safe and Secure Plus

While an agreement has been reached with the FCA on the nature of the proposed compensation scheme (the "Scheme"), it must be voted on by eligible customers

(who are the Scheme's creditors) and formally approved by the High Court before compensation can be paid. A majority of customers who vote will need to do so in favour of the Scheme for this to happen. This means compensation is expected to be paid later this year.

Go to http://www.fca.org.uk/news/compensation-package-agreed-for-consumers-sold-card-security-products for further information.

Additional Protection For Consumers Ahead Of Pension Freedoms

The FCA has written to the Chief Executive Officers (CEOs) of pension providers to outline plans to introduce additional protection for those accessing their defined contribution (DC) pension pot from April.

Under the new additional protection rules firms will be required to ask consumers about key aspects of the circumstances that relate to the decision they are making about their pension pot. These include issues such as health and lifestyle choices or marital status. This will come into force from April.

Providers will be required to give relevant risk warnings, such as warning of the tax implications of their decisions, in response to answers from consumers. Firms must also further highlight the availability of the Government's new Pension Wise scheme or regulated advice.

Christopher Woolard, director of strategy and competition at the FCA said: "The decisions consumers make about what to do with their pension pot are important and in some instances these choices are irreversible. We want to make sure that people have the help they need to make those choices."

Firms will be required to deliver these messages in a direct and simple language which will be set out when the new rules are published.

New Chairs Of The FCA's Practitioner Panels Announced

The appointments, which come into effect from 1st April 2015, are:

FCA Practitioner Panel – Alison Brittain, Group Director of Retail, Lloyds Banking Group;

FCA Markets Practitioner Panel – Robert Mass, Head of International Compliance and global head of Securities Division Compliance, Goldman Sachs;

FCA Smaller Business Practitioner Panel – Clinton Askew, Director, Citywide Financial Partners.

Each appointment is for a term of two years.

FCA Financial Services Consumer Panel

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New Appointments To The Financial Services Consumer Panel

On 1 February, Mark Chidley and Kitty Ussher began their three-year terms as new members of the independent Financial Services Consumer Panel.

Mark Chidley is a solicitor specialising in banking and finance law, who has worked with Royal Bank of Scotland and law firm DLA Piper. His main focus on the Panel will be on issues facing SMEs as consumers of financial services, having worked since 2009 to improve access to finance for smaller business in the North East of England.

Kitty Ussher is a former Member of Parliament and Government Minister, having served as Economic Secretary to the Treasury in 2007-2008. She is currently the Managing Director of the research consultancy Tooley Street Research, as well as Chief Economic Adviser to consultancy Portland.

The new members have been appointed following the departures of Debbie Harrison and Fiona Fry.

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FRC CEO Comments On Publication Of The European Commission's Green Paper On Building A Capital Markets Union

Commenting on the European Commission's Green Paper on Building a Capital Markets Union, Stephen Haddrill, CEO, Financial Reporting Council said: "The FRC welcomes today's publication of the European Commission's Green Paper on Building a Capital Markets Union, which opens the discussion on how European Capital Markets can be made more competitive.

"In order to remain competitive the EU needs consistent, responsible markets that attract investment internationally. The FRC is pleased to see a focus on long-termism that we currently promote through the UK Stewardship Code and we look forward to working with the Commission on their considerations of the role of investors.

"The Paper also opens the debate around accounting standards for smaller listed entities, an area of keen interest for the FRC."

Financial Reporting Lab Case Study On Accounting Policies Published

The FRC's Financial Reporting Lab (Lab) has found that investors support fresh approaches to the disclosure of accounting policies.

Building on the Lab's recent report 'Accounting policies and integration of related financial information', the Lab has published a case study conducted among some of William Hill plc's investors, retail shareholders, and analysts. The study highlights the company's experimentation with accounting policy disclosure. The company's investors and analysts liked the clear identification of significant accounting policies, and effective disclosure of policy information in order to understand the business and its performance.

This is the first of a series of case studies being run by the Lab to support the FRC's Clear & Concise reporting initiative that promotes transparent and accessible reporting.

Sue Harding, Director of the Financial Reporting Lab, said: "Investors support companies improving their accounting policy disclosures and making clear which policies are significant in the context of the company's business. It is encouraging to see that William Hill has had the courage to do things differently. Companies should be encouraged by investor support for appropriate innovation and consider carefully how they might implement similar measures in their own reporting."

Go to https://frc.org.uk/Lab/Reports to download a copy of the report.

FRC Welcomes IAASB's Revised International Standards For Auditor Reporting

The FRC welcomes the International Auditing and Assurance Standards Board's (IAASB) revised standards on the form and content of auditors' reports. They respond to calls from users of audited financial statements for more informative and insightful reports.

The IAASB's revised standards, published on January 16th, include a new requirement for auditors of listed entities' financial statements to communicate 'Key Audit Matters' – those matters that the auditor views as most significant, with an explanation of how they were addressed in the audit. These changes are broadly consistent with the amendments to the FRC's auditing standards to introduce extended auditor reporting, in 2012 and 2013, which responded to the same calls for change and have been widely welcomed.

Melanie McLaren FRC Executive Director, Codes and Standards added: “The IAASB is to be congratulated on leading change to the international standards for auditor reporting. They represent the most significant changes to the auditor reporting model at international level for decades. They have the potential to enhance investor engagement about the audit and to provide a catalyst for audit innovation in the interest of investors and the public.

“We hope they will be embraced enthusiastically by auditors and investors internationally, as our recent changes to auditor reporting have been in the UK and Ireland. If so, they should herald in an era of greater transparency about the audit for investors in many of the world’s largest capital markets.”

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Financial Stability Board

FSB Completes Peer Review Of Russia

The Financial Stability Board (FSB) has published its peer review of Russia. The peer review examined two topics: the macroprudential policy framework and tools; and the bank resolution framework. These topics are relevant for financial stability across the FSB membership and are also being covered in other FSB country peer reviews. This review focused on the steps taken by the Russian authorities to implement reforms in these two areas, including by following up on relevant recommendations in the 2011 Financial Sector Assessment Program (FSAP) report by the International Monetary Fund (IMF).

The peer review concluded that the authorities have made good progress in addressing the FSAP recommendations on these two topics, but that there is additional work to be done. On the macroprudential side, it noted that the authorities need to clarify the mandate of the National Council on Ensuring Financial Stability (FSC) and flesh out the Central Bank of Russia's (CBR) macroprudential policy framework. On the resolution side, it recommended that the authorities further strengthen the framework for prompt remedial action, expand the range of resolution tools at their disposal, and review the process for rehabilitating failing systemic banks to further enhance its efficiency and effectiveness.

In particular, the peer review found that the authorities have strengthened the institutional framework for financial stability since the FSAP. The CBR has been given an explicit financial stability mandate and is actively working to formalise macroprudential policy decision making, enhance its systemic risk monitoring capacity and expand the range of tools that can be used for macroprudential purposes. Those tools have been deployed in recent years, in an innovative manner, to stem the rapid growth in unsecured consumer lending that had given rise to financial stability concerns. In addition, an inter-agency FSC has recently been established as an advisory body and the authorities note that it has served as a useful platform for high-level discussions on financial stability issues.

To further enhance the effectiveness of the macroprudential policy framework, the peer review recommended:

* Clarifying the role of the FSC in the macroprudential policy framework in order to eliminate potential overlaps in mandates and responsibilities with the CBR.

* Strengthening the institutional and operational arrangements of the FSC by, for example, upgrading the role of the CBR in it, developing formal structures to carry out its mandated tasks, and providing it with the power to issue recommendations to public sector authorities on a comply-or-explain basis.

* Enhancing the CBR's systemic risk analysis so that it becomes more policy-oriented and can support decision-making for macroprudential purposes.

* Amending the CBR Law to provide an adequate legal foundation for the development and use of a comprehensive macroprudential toolkit on an ex-ante basis.

A number of steps have also been undertaken to upgrade the bank resolution framework. Several of these steps were under development during the period of the peer review (reflecting developments until September 2014) and were adopted after the discussions with the authorities took place. Banking licences for a large number of small banks were revoked in recent years without major adverse confidence effects, while the temporary resolution regime that was created in 2008 has enabled the CBR and the Deposit Insurance Agency (DIA) to deal effectively with problems affecting systemic banks. The authorities have encouraged the largest Russian banks to develop recovery plans and, following the peer review discussions, have revised the legislative framework to include a statutory provision for recovery and resolution planning for systemic banks and to enable the CBR to share information in recovery plans with foreign resolution authorities.

A new law was adopted at end-2014 that makes notable improvements in some areas, such as: a broader role for the DIA in evaluating failing institutions; a framework for more timely exchange of information between the DIA and the CBR for failing banks; the mandatory imposition of losses on the shareholders of a failing institution prior to the use of public funds in rehabilitation; and greater powers to sanction the managers of that institution.

Notwithstanding these accomplishments, the peer review noted the need for further work to enhance the bank resolution framework in Russia – in particular, by:

* Extending the options available under the current resolution regime to incorporate additional features of the FSB's Key Attributes for Effective Resolution Regimes for Financial Institutions.

* Revising the triggers to enable the timely adoption of resolution measures for non-systemic banks before the firm is balance sheet insolvent.

* Reviewing and potentially revising the rehabilitation process for failing systemic banks by: writing down the bank's assets to fair value at the point of intervention; providing more information upfront to prospective investors on that bank; and expanding the incentives for those investors to work out the impaired assets.

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ICAEW (Institute of Chartered Accountants in England and Wales)

Capital Markets Union Must Preserve Markets' Competitiveness And Agility

ICAEW (the Institute of Chartered Accountants in England and Wales) has responded to the European Commission's Green Paper on a Capital Markets Union.

David Petrie, head of ICAEW's Corporate Finance Faculty, said: "This builds on the work that the EC produced on long-term financing two years ago. It is sensible for the Commission to prioritise 'shorter-term' wins where they are more likely to get agreement across member states and make progress. A review of the Prospectus Directive was overdue, and this will provide an opportunity to correct some anomalies, for example the current difficulties over private placement.

"However, the Green Paper as it stands focuses on capital markets as the main way for companies to raise finance and suggests lowering levels of investor protection will increase the number of flotations and therefore capital flow. We are not convinced this is the case. Many companies raise finance through the thriving Private Equity market, worth around €555bn in the EU, if they do not want to bear the costs or processes necessary for listing on a market – so capital markets are not the only option for increasing access to finance. There should also be concerns over weakening investor protection. If you water down these levels, you are effectively changing the nature of the financial instrument.

"What is critical is that any reforms must not damage the competitiveness or character of individual capital markets. The third stated aim of the Commission is to 'make markets work more effectively' and greater integration must not come at the price of competition or market-driven character."

Iain Coke, head of ICAEW's Financial Services Faculty, said: "In promoting more efficient investment, including infrastructure investment, it is essential to consider the impact of prudential regulation. In doing so, the Commission must balance these investment objectives against the need to promote the safety and soundness of both individual institutions and the financial system. Capital requirements for banks rightly have been strengthened since the banking crisis."

Nigel Sleigh-Johnson, head of ICAEW's Financial Reporting Faculty, said: "Any proposal to move the goalposts to exclude some smaller listed companies from full IFRS reporting will require very careful analysis of the likely costs and benefits. After 10 years of IFRS reporting in Europe, a rigorous debate about this issue is overdue, and during that debate we need above all to hear and understand the views of the investor community. IFRS are mandatory under the IAS Regulation only for a narrow group of companies – those with securities traded on a regulated market in the EU. That excludes all private companies and, for example, AIM companies. Given the Commission's objective of increasing access to funding, it should evaluate carefully the potential impact of major changes to Europe's financial reporting regime."

Basel Right To Demand Stronger Controls Over Pillar III Disclosures

Responding to the new standard for Pillar III disclosures published by the Basel Committee on Banking Supervision, Iain Coke, head of ICAEW's Financial Services Faculty, said: "Understanding a bank's capital position is core to understanding that bank's business. Disclosures in this area have improved significantly but the risk-weighted assets estimates underpinning capital ratios remain black-boxes impenetrable

to outsiders. It is therefore important that management, investors, creditors and regulators have confidence in the controls. The issuance of contingent convertible (bail-in) debt with triggers linked to the capital ratio increases the importance of this.

"It takes a step forward by introducing a requirement that internal processes and reviews on Pillar III disclosures must be as robust as those on the Management Disclosure and Analysis in financial reports. However, while external auditors read this information and report inconsistencies, unlike the financial statements it is not audited.

"Perhaps most significant is the new requirement for a senior manager to attest in writing that the Pillar III disclosures have complied with board approved internal controls. Coupled with the new UK Senior Managers' Regime, with its 'guilty until proven innocent' presumption, attestation might force senior managers to seek additional assurance from their external auditors.

"ICAEW is considering whether and how external assurance could increase confidence in bank capital ratios. We are working closely with the Prudential Regulation Authority on this project. We are currently taking wider stakeholder input and aim to publish proposals for consultation in Q2 2015."

Go to http://www.icaew.com/en/about-icaew/newsroom/press-releases/2015-press-releases/icaew-basel-right-to-demand-stronger-controls-over-pillar-iii-disclosures#sthash.Lnu4pVrs.dpuf for further information.

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Public Comment Requested on Continuing Implementation of PRA Principles

Request for Public Comment
The International Organization of Securities Commissions (IOSCO) is requesting comment on the continuing implementation of the IOSCO Principles for Oil Price Reporting Agencies (PRA Principles).

Go to http://www.iosco.org/news/pdf/IOSCONEWS365.pdf for further information.

IOSCO Seeks Better Understanding Of Other CRA Products And Services

The Board of IOSCO has approved a project specification for its Committee 6 on Credit Rating Agencies (C6) to gain a better understanding of the credit rating industry and in particular of certain other products or services (Other CRA Products).

To begin work on this project, C6 is undertaking a series of successive information gathering exercises. In the first stage, C6 is asking issuers of Other CRA Products and services to answer the following questionnaire (http://www.iosco.org/library/pubdocs/pdf/IOSCOPD471.pdf). The information collected through this exercise will serve as a base for discussions between C6 members, issuers of Other CRA Products and other interested parties.

The second stage will focus on gathering information on how issuers and investors and, more generally, users of the Other CRA Products and services utilize and understand them.

Other CRA Products are distinguishable from the traditional credit ratings that CRAs publicly disclose or disseminate to subscribers. They may include, for example, private ratings, confidential ratings, expected ratings, indicative ratings, prospective ratings, provisional ratings, preliminary ratings, one-time ratings, regional ratings, national ratings, point-in-time rating, scoring, credit assessments, rating assessments, assessments, or research.

Market participants may use Other CRA Products to help assess the creditworthiness of an entity or obligation. Or they may be used for different purposes. For example, they may be used to understand impact that a hypothetical or proposed transaction would have on a traditional credit rating or to understand how a CRA would ultimately rate a new issuance.

Qualified parties should complete the questionnaire in the English language and return it to IOSCO at survey-other-cra-products@iosco.org by no later than 23 March 2015.

Final Report On Risk Mitigation Standards For Non-Centrally Cleared OTC Derivatives Published

The International Organization of Securities Commissions has published the final report Risk Mitigation Standards for Non-centrally Cleared OTC Derivatives, which sets out nine standards aimed at mitigating the risks in the non-centrally cleared OTC derivatives markets.

The global financial crisis highlighted how the inter-connectedness across financial institutions engaged in trading OTC derivatives led to contagion and heightened systemic risk. One of the key components of the G20 reform programme has been to encourage the central clearing of standardised OTC derivatives. However, a substantial proportion of OTC derivatives are not standardised and hence not suitable

for central clearing. To reduce counterparty credit risk and limit contagion, IOSCO and the Basel Committee on Banking Supervision (BCBS) had in 2013 published a framework which establishes minimum standards on margin requirements for non-centrally cleared OTC derivatives.

This set of risk mitigation standards, which are developed in consultation with the BCBS and the Committee on Payments and Market Infrastructures, will further strengthen the non-centrally cleared OTC derivatives market. The standards encourage the adoption of sound risk mitigation techniques to promote legal certainty over the terms of the non-centrally cleared OTC derivatives transactions, to foster effective management of counterparty credit risk and to facilitate timely resolution of disputes.

The risk mitigation standards cover the following key areas:

* trading relationship documentation and trade confirmation;
* process and/or methodology for determining valuation;
* portfolio reconciliation;
* portfolio compression;
* dispute resolution.

IOSCO would like to thank all respondents who provided valuable comments on the consultation report issued in September 2014. These comments have been taken into account in the preparation of the final report.

Lee Boon Ngiap, Chair of the IOSCO Working Group on Risk Mitigation Standards for Non-centrally Cleared Derivatives, and Assistant Managing Director of the Monetary Authority of Singapore, said: “The risk mitigation standards, along with the margin requirements, will help market participants better manage risks in transacting in non-centrally cleared OTC derivatives and improve the resilience of the non-centrally cleared OTC derivatives market.”

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International Underwriting Association

IUA And LMA Prepare For New Insurance Legal Framework

Plans are being made by the International Underwriting Association and Lloyd's Market Association to prepare their members for fundamental changes being made to insurance contract law in the UK.

The Insurance Bill has been passed unanimously in the House of Commons and is expected to become law shortly after receiving Royal Assent. It replaces significant parts of the Marine Insurance Act 1906, which has formed the market's legal framework for over a hundred years. The reforms will impact firms' day to day operations in business insurance, consumer policy wordings and the consequences of fraud.

The IUA and LMA are working with a number of leading law firms and counsel to prepare guidance which will highlight changes in the law and where these will have a bearing on the placing of insurance and reinsurance contracts, on contract wordings and in relation to claims. The planned guidance will also include a detailed review of the new legislation and it is envisaged that a series of seminars will be run for LMA and IUA members following its publication.

Chris Jones, Director of Market Services at the IUA welcomed the passing of the Insurance Bill. "The IUA has been working closely with the Law Commission over a number of years to help establish a new set of laws that are fit for purpose and relevant to the modern insurance industry.

"Companies have been supportive of the need for reform and are now looking forward to operating under a more modern legal framework that provides greater clarity for clients."

Kees van der Klugt, Director of Legal and Compliance at the LMA, commented: "In our evidence to the House of Lords committee, which carried out the substantive scrutiny of the proposed legislation, the LMA made clear its support for the core reforms: proportionate remedies for pre-contractual non disclosure; the banning of "basis clauses"; breach of warranty having the effect of suspending rather than discharging cover; and forfeiture being the remedy for fraudulent claims.

"We were less supportive of some other changes which did not appear central to the reform programme or to be problem areas in existing law. All changes in the law will to some extent produce uncertainty, as the House of Lords committee acknowledged, and the purpose of our guidance will be to identify these areas so that appropriate action can be taken in underwriting and drafting contracts."

Once the Insurance Act has received Royal Assent there will be an 18 month transitional period before it comes fully into force.

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The Investment Association

The Investment Association Responds To The European Commission's Plans For Capital Markets Union

In response to the European Commission's green paper setting out its plans for an EU Capital Markets Union (CMU), Richard Metcalfe, Director of Regulatory Affairs at The Investment Association, said: "There is a big opportunity with CMU to bring the Single Market to retail investors and the Investment Association supports the Commission's proposals insofar as they do that. Wholesale markets already have many measures for efficiency and risk reduction but the potential benefits of a 'deep', retail CMU are enormous, in terms of a virtuous cycle of investment driving growth, leading to better financial security for citizens over their lifetimes and a vibrant economy.

"Ideally, the EU will follow the logic of the UCITS legislation and 'complete' the Single Market in pan-European collective investment. That may require imagination, exploring how digital options could improve product availability and support investor decision-making. It certainly needs a consistent approach to investor protection, which does not currently operate to the same high standard for all investment products. It should also not ignore legal risks, including those inherent in cross-border chains of ownership.

"Of course, there are still issues in wholesale markets and the Investment Association intends to put forward proposals regarding the efficiency of the prospectus process as well as the role, and form, of private placements and securitisation. These will be important in ensuring that systemically benign finance can complement existing funding channels."

Paper On Comprehensive Disclosure Of Costs And Charges Published
The Investment Association has published a paper on the 'Meaningful Disclosure of Costs and Charges' which outlines the trade body's contributions to this area over the last three years and provides new proposals for discussion with regulators, government, the industry, and investors and their representatives:

Portfolio Turnover Rate (PTR)
The Investment Association proposes a new methodology for a consistent basis of calculation for PTR. It also proposes that investors would be told whether the PTR is high, medium or low for a fund relative to other similar funds and how this relates to the transaction costs.

Disclosure framework
To allow for consistent disclosure across all investment products, including pension schemes, The Investment Association has created a framework and template for the disclosure of charges and transaction costs. This is intended as a foundation for good disclosure and will need to be developed in compliance with forthcoming UK and EU regulation in this area.

Explicit and implicit costs
The paper undertakes an extensive examination of all the explicit and implicit costs incurred when investing in a fund and sets out how they should be disclosed to the end investor in a meaningful way, including differentiating known historic costs from estimated future costs.

Daniel Godfrey, Chief Executive of The Investment Association, said: "The Investment Association is setting out the building blocks for good disclosure in the context of a complex and evolving domestic and European regulatory landscape. The industry is working with government and regulators to build a framework for comprehensive, meaningful and consistent information that that can be made available across the whole investment and pensions market for the end investor."

The Investment Association invites comments from all interested parties. Go to http://www.theinvestmentassociation.org/media-centre/press-releases/2015/press-release-2015-02-10.html for further information.

The Investment Association Consults On Sector Classification Of Outcome-Focused Funds

The Investment Association has launched a consultation on how to accommodate the increasing number of outcome-focused funds. While still comparatively small in asset terms (£30bn; 3.3% of total industry funds under management), there are now nearly 200 funds with an outcome focus in the Unclassified sector.

The Association has put forward two options for change:

1. To set up a new sector for outcome-focused funds which would sit alongside the existing Investment Association Mixed Investment sectors on the basis that both types of funds vary their asset allocation. However, the distinction would be that the Mixed Investment sectors have specified asset parameters whereas the outcome-focused funds do not.

2. To undergo a major reorganisation of the sector classification scheme and create two distinct areas: one for asset-based funds and one for outcome-focused funds. This option would also include the creation of a filtering tool for outcome-focused funds which would allow users to select certain criteria in order to view funds that are more alike – a similar tool is already available for targeted absolute return funds.

Jonathan Lipkin, Director of Public Policy at The Investment Association, said: "The investment fund universe is changing rapidly with a significant rise in the number of outcome-focused funds. In looking at how to accommodate this trend, we have a number of options and an opportunity to take a fresh look at the overall shape of the sectors framework. We welcome input from all interested parties as we consider how to move forward."

All interested parties are invited to take part in the consultation and respond by 2 April 2015. Separately, The Investment Association has been running independent research with financial advisers, as the main users of the sectors, to capture their views.

The Investment Association Announces New Approach To Identify Primary Share Classes

The Investment Association, in conjunction with leading data providers (Financial Express, Lipper, Morningstar), has announced plans to facilitate a move to a new primary share class in the post-RDR environment. This will be the highest charging unbundled share class – free of any rebates or intermediary commission – which is freely available through third party distributors in the retail market. After a collection and test period, a date will be announced to make the transition.

The introduction of RDR introduced a number of challenges for the presentation of performance data, due to the increase in different share classes available for each fund. The conclusions now published intend to ensure that there is a consistent approach by the industry to choosing the primary share class that the data providers can use to prepare and present performance information to financial advisers and their clients via ranking tables and sector averages.

The paper also addresses the issue of historic track records as most RDR share classes have only been in existence since late 2012. The guidance on this remains the same as that set out in 2012 in that post RDR share classes should take the track record of pre RDR bundled retail share classes, without lowering the fees as this would not accurately represent the consumer experience.

Jonathan Lipkin, Director of Public Policy, at The Investment Association, said: "It is important for there to be a consistent basis available to retail consumers and their advisers to compare funds. There are no easy answers but the route being announced today is intended to reflect the most common consumer experience."

The Investment Association also sets out:

* How the three leading data providers will change the share classes that they use to calculate the Investment Association sector averages once they have collected and tested the data based on the nominated primary share class, which fund managers will need to identify to the data providers using the specified template by 27 March 2015.

* How there will be full transparency in the process – the list of primary share classes used by the data providers for the calculation of the Investment Association sector averages will be made publicly available on The Investment Association website. Data providers are encouraged to make available their methodology for calculating the sector averages, if not already doing so.

* The details of how the process will work in practice.

Go to http://www.theinvestmentassociation.org/media-centre/press-releases/2015/press-release-2015-02-04.html for further details.

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NAPF Welcomes Financial Conduct Authority's Wholesale Sector Competition Review

The National Association of Pension Funds (NAPF) has welcomed the conclusions of the Financial Conduct Authority's (FCA) wholesale sector competition review 2014-2015. Of particular note is the FCA's announcement that it will consider initiating a market review of the asset management (and related services) sector later this year alongside its market review of the investment and corporate banking sectors which is due to start this Spring.

Will Pomroy, Policy Lead Corporate Governance, NAPF, said: "The NAPF previously raised questions about the potential competition issues in the investment banking sector, particularly those that arise from cross-selling and the potential cross-subsidy of services. There is a sense that the opacity associated with the current system hinders effective competition and accountability to clients, resulting in reduced oversight and potentially higher costs for end investors."

In its original submission to the FCA the NAPF raised concerns about aspects of the asset management market which included citing the prevalence of non-disclosure clauses in fund management agreements as unhelpful to the proper functioning of a competitive market. The NAPF's submission also drew attention to the issue of custodial services, an area with significant barriers to entry and an increasingly narrow range of providers.

Will Pomroy, added: "It is crucial that pension funds, as clients of the asset management industry, are able to have trust in the industry and be able to assess whether they are extracting value for money from their agents in the interests of their members – future pensioners.

"Presently pension funds receive many ancillary services from a narrow pool of providers commonly bundled in with core custody services. This means it is often difficult for funds to assess whether value for money is being achieved. What is clear is that there is limited innovation and often insufficient focus on client needs in this sector, and to that end we welcome the FCA's signal that it may take a closer interest in the competitive dynamics in this market."

NAPF Comments On Capital Markets Union Green Paper

The NAPF has commented on the publication of the European Commission's Green Paper consultation document on Building a Capital Markets Union (CMU).

Joanne Segars, Chief Executive, NAPF, said: "The NAPF welcomes the Green Paper's emphasis on strengthening European capital markets and the Commission's commitment to creating an environment conducive to long-term investment. But it is important to remember that any reforms to the functioning of European capital markets should be seen through the lens of the providers of capital, in particular pension funds. This will help policy-makers to avoid unintended consequences where intermediaries benefit at the expense of funds and ultimately future pensioners."

The overall objectives of the consultation paper are to:

* enhance the flow of capital from investors to start-ups, small to medium employers (SMEs) and long-term projects;

* remove barriers to cross-border flows of finance;

* improve risk transfer and allocation of capital across Europe to those best placed to bear it;

* diversify sources of funding, making Europe less reliant on bank lending.

Joanne Segars continued: “The NAPF’s members have over €1tn of investments in the EU and global economy. They are looking to policy-makers to help deliver the supply of investment opportunities needed which are suitable for institutions that are investing to meet long-term liabilities.

“Very often the reasons for pension schemes choosing not to invest in other EU Member States relate more to the rigidities in some national economies as opposed to restrictions on cross-border investments. We hope the Green Paper debate will home in on the problems that need discussing.”

For more information read the Green Paper on Building a Capital Markets Union on the European Commission’s website.

NAPF Comments On Charge Cap Regulations

The NAPF has commented on the recently published regulations for implementing the charge cap in April 2015.

Richard Wilson, Policy Lead for Defined Contribution, NAPF, commented: “Today’s publication of the final regulations setting out how the charge cap for default funds in DC will be implemented is very welcome. But with many pension schemes already charging well below the 0.75% charge cap − NAPF members have an average annual management charge of 0.43% − it’s important that Government understands that charges are only one aspect of good value in DC schemes, along with appropriate default funds, good governance and clear communications. In future, providing a clear and good value pathway to a retirement income will also become important. None of these standards can be delivered without costs being incurred.

“With only eight weeks to go until both the charge cap and the pension freedoms reforms come into force, the NAPF remains concerned about the last-minute publication of these final regulations on both the charge cap and the expected regulations on signposting to guidance for trust based schemes. This is very unhelpful for pension schemes that want to keep costs down, develop and test systems in a timely manner and manage a smooth transition. We are concerned good quality pension schemes risk being punished as a result.

“This is why the NAPF is reiterating the call for government to introduce an Independent Retirement Savings Commission (IRSC) that will oversee future pension legislation – putting the long-term interests of savers at the heart of pensions policy and ensuring that policy changes are well-evidenced and introduced with adequate lead time.”

Statement Regarding Potential NAPF And PMI Merger

The National Association of Pension Funds (NAPF) and the Pensions Management Institute (PMI) have announced that they have closed discussions on merging the two organisations.

The announcement marks the close of a collaborative process between the NAPF and the PMI, announced in October last year, to assess in detail the possibility a merger.

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Statement Concerning Guidance On Transfers From DB To DC schemes

The Pensions Regulator has published consultation guidance for trustees of defined benefit (DB) schemes on member requests for transfers from DB to defined contribution (DC) schemes (a link can be found at http://www.thepensionsregulator.gov.uk/press/pn15-10.aspx).

The regulator's interim chief executive Stephen Soper said: "In the context of the new flexibilities, the first step for many members will be seeking a transfer of their safeguarded DB benefits to a DC scheme, enabling them to access their benefits flexibly.

"DB trustees may experience an increase in the number of requests for transfers and transfer quotes as members consider their options. We have therefore produced this guidance to assist DB trustees to manage transfer requests and their impact."

The guidance aims to:

* help trustees ensure they have appropriate processes in place to manage transfer requests;

* prompt trustees to consider the impact of transfer values as part of an integrated approach to risk management of their scheme;

* require trustees to provide clear information for members so that they can get independent advice on the best option for them.

Stephen Soper added: "The regulator believes that for most members, it is still highly likely in current conditions to be in their best financial interests to remain in their DB scheme. However members' personal circumstances may mean they wish to consider the other options open to them. The provision of clear, timely information from trustees and the use of independent regulated financial advice will enable members to make informed decisions that suit their personal aims and circumstances.

"We will be working closely with the FCA as the advice regime develops, and producing guidance for trustees considering member requests at all points in their journey, for example decumulation options, to ensure those decisions are also well informed. We would like to hear the views of the industry on our guidance so we have launched a consultation which ends on 17 March."

New Guidance To Help Trustees Get Ready For Landmark Pension Reforms

The first part of a communications package designed to help trustees prepare for significant changes in the pensions landscape that come into force on 6 April has been published by The Pensions Regulator. The package will include:

* An 'essential guide' for trustees of schemes providing money purchase benefits on new rules about governance and charge controls now published.

* Guidance for trustees of defined benefit (DB) schemes on member requests for transfers from DB to defined contribution (DC) schemes in order to access the new pension flexibilities (see article above).

* Guidance for trustees in March, following publication of further DWP regulations, to address the new pension flexibilities – including how trustees should direct their members to the new Pensions Wise service.

* Updated 'scorpion' communications materials in March to help members understand the risks of pensions and investment scams, which are expected to evolve as a result of the new pension freedoms.

The first communication, an 'essential guide' specifically for DC trustees and managers, will help them prepare for the new rules on minimum governance standards and charge controls by providing an overview of changes that will affect them from 6 April. It covers key topics such as meeting new governance standards, the appointment of a Chair and the annual completion of a Chair's statement, new charge controls – including a charge cap in relation to schemes used for automatic enrolment – and further governance standards for 'master trusts'.

The regulator's executive director for DC Andrew Warwick-Thompson said: "The new minimum governance standards complement our existing DC code of practice and provide a stronger foundation in law for the standards we've said we expect of trustees in order to provide good outcomes for members.

"In the meantime, we expect trustees to still refer to the existing DC code, which we will update later this year to reflect the April 2015 legislative changes, and we will continue to highlight to trustees any changes in the law."

Statement Concerning New DC Regulations

The Pensions Regulator has issued a statement on regulations laid before Parliament on 4 February 2015 regarding new governance standards and charges for defined contribution (DC) pension schemes.

Andrew Warwick-Thompson, executive director for DC and public service pension schemes, said: "The regulations laid before Parliament today are designed to drive up standards of governance in DC workplace schemes, including master trusts, and this is a welcome step.

"Our current DC code of practice sets out the standards of governance and administration we expect trustees to meet so that those saving for retirement are more likely to receive better retirement outcomes. We have worked closely with the the Department for Work and Pensions (DWP) to ensure the new regulations complement the work of the code in seeking to raise standards.

"We acknowledge that trustees are preparing for a period of intense change from April this year, when these regulations come into effect and the new pension freedoms are introduced.

"To help alert trustees and scheme managers to the new requirements, we will be publishing an essential guide later in February which will provide an overview of the new requirements that will affect many DC schemes. We plan to follow this up with more detailed guidance once the regulations have been made law in April."

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SEC Proposes Rules for Hedging Disclosure

The Securities and Exchange Commission (SEC) has announced that it has approved the issuance of proposed rules that would enhance corporate disclosure of company hedging policies for directors and employees, as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The proposal would require disclosure about whether directors, officers and other employees are permitted to hedge or offset any decrease in the market value of equity securities granted by the company as compensation or held, directly or indirectly, by employees or directors.

"The proposed rules would provide investors with additional information about the governance practices of the companies in which they invest," said SEC Chair Mary Jo White. "Increasing transparency into hedging policies will help investors better understand the alignment of the interests of employees and directors with their own."

The proposed rules would require disclosure in proxy and information statements for the election of directors and apply to companies subject to the federal proxy rules, including smaller reporting companies, emerging growth companies, business development companies, and registered closed-end investment companies with shares listed and registered on a national securities exchange.

The proposal specifies that disclosure would apply to equity securities of the company, its parent, subsidiary, or any subsidiary of any parent of the company that is registered under Section 12 of the Exchange Act.

Section 955 of the Dodd-Frank Act amended Exchange Act Section 14 to add paragraph (j), which requires annual meeting proxy statement disclosure of whether employees or members of the board of directors are permitted to purchase financial instruments, including prepaid variable forward contracts, equity swaps, collars, and exchange funds that are designed to hedge or offset any decrease in the market value of company equity securities.

The SEC will seek public comment on the proposed rule amendments for 60 days following their publication in the Federal Register.

SEC Approves 2015 PCAOB Budget and Accounting Support Fee

The SEC has voted to approve the 2015 budget of the Public Company Accounting Oversight Board (PCAOB) and the related annual accounting support fee.

The PCAOB budget totals $250.9 million and will be funded primarily by the collection of an accounting support fee totalling $226.6 million and from the under-spending in 2014 that will be available to fund the 2015 budget.

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SIFMA Statement on FSOC Changes to its Non-Bank SIFI Designation Process

SIFMA has issued the following statement from Kenneth E. Bentsen, Jr., president and CEO, in response to the Financial Stability Oversight Council's (FSOC) announcement that it is making changes to enhance transparency in its process for evaluating if a non-bank financial institution should be designated as systemically important:

"SIFMA and in particular SIFMA's Asset Management Group recognize FSOC for making changes to enhance transparency in its process for considering if a non-bank financial firm should be designated as a systemically important financial institution (SIFI). Given the significant impact a SIFI designation is intended to have on a company, financial markets and the U.S. economy, we appreciate FSOC's passage of an improved set of engagement metrics for designating nonbank financial institutions.

"These due process enhancements will help ensure that potential designees have a right to address and provide context for specific activities that the regulators believe give rise to contagion risk and may use as a basis for SIFI designation. It is important to ensure that a firm's primary regulator weighs in early and serves as part of the various analytical teams central to the process. We look forward to further engagement with FSOC on these and other FSOC-related issues and appreciate the additional time to comment on the Notice Seeking Comment on Asset Management Products and Activities."

Industry Supports Total Loss Absorbency Requirement to Help Ensure G-SIBs Can Be Resolved in an Orderly Manner without Taxpayer Assistance

The Clearing House (TCH), the Securities Industry and Financial Markets Association (SIFMA), the American Bankers Association (ABA) and the Financial Services Roundtable (FSR) have filed a comment letter with the Financial Stability Board (FSB) in response to its proposal to impose a total loss absorbing capacity (TLAC) requirement on global systemically important banking groups (G-SIBs).

The letter expresses the industry's strong support for a TLAC requirement for G-SIBs to help ensure that these institutions can be resolved in an orderly way at creditor rather than taxpayer expense, bringing us one final step closer to ending "Too Big to Fail."

The letter also highlights the importance of ensuring that any such requirement be empirically calibrated to achieve its express policy objective – which is to ensure that a G-SIB can absorb sufficient losses to permit its orderly resolution and recapitalization without taxpayer assistance.

Empirical analysis performed by The Clearing House (and included in the comment letter) demonstrates that FSB's proposed TLAC requirement of 16-20% of risk-weighted assets, plus the 2.5% capital conservation buffer and the G-SIB surcharge, is in excess of the loss absorbency necessary to prevent against even the most extreme historical or stress loss estimates.

Go to http://www.sifma.org/newsroom/2015/industry_supports_total_loss_absorbency_requirement_to_help_ensure_g-sibs_can_be_resolved_in_an_orderly_manner_without_taxpayer_assistance/ for further information.

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"Retail Investors Must Lie At The Heart Of The CMU" – WMA's Initial Response To The CMU

The Wealth Management Association (WMA) welcomes the European Commission's Green Paper on establishing a Capital Markets Union (CMU), especially its focus on translating savings into investment.

WMA will be working to ensure that the retail investor is seen as key for contributing to future growth and development within the EU and is encouraged in this by the European Commission's analysis of the need to boost retail investment. In its initial response to the Green Paper WMA highlights five key principles that should inform the debate:

* Retail investors must lie at the heart of the CMU.

* Transforming retail savings into productive investments for both individuals and the economy is a vital part of the CMU.

* CMU must recognise legitimate differences between financial sectors, markets and member state practices.

* CMU should ensure that legislation is based on need, is well focussed and is not one size fits all.

* Retail supervision in the CMU should happen as close as possible to the markets and private investors.

Liz Field, CEO of the Wealth Management Association, commented: "The creation of the Capital Markets Union is a real opportunity to boost economic growth in Europe. The WMA applauds ambitions to lift jobs and growth in the EU by helping businesses to 'tap into diverse sources of capital from anywhere within the EU and offer investors and savers additional opportunities to put their money to work."

"WMA's five key principles highlight important areas for consideration from the retail market perspective as the CMU debate evolves and we will continue to feed into the process and represent the interests of the retail investor to ensure they lie at the heart of future plans."