

# *Being better informed*

## FS regulatory, accounting and audit bulletin

*PwC FS Regulatory  
Centre of Excellence*

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In this issue:

*Shadow banking update*

*RRP rules for G-SIFIs*

*CRD IV level 2 standards*

*AIFMD UK consultation*

*SIPP rule changes*



## Executive summary

Welcome to this edition of “Being better informed”, our monthly FS regulatory, accounting and audit bulletin, which aims to keep you up to speed with significant developments and their implications across all the financial services sectors.



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The FSB led the surge of Shadow Banking policy recommendations published in November, which we summarise in this month’s Feature.

The FSB also looked at how shadow banking has grown globally in its shadow banking monitoring report. At this time assets in the aggregate shadow banking system are about half the size of assets in the traditional banking system.

In Europe, a number of legislative initiatives are delayed until 2013. On the insurance front, a further delay to Solvency II implementation now seems inevitable. But in *Laying the foundations for the future of insurance reporting* we make a case for adopting both sets of requirements now, to minimise the expense and disruption that would occur later.

In the UK, the FSA published its *first consultation to implement AIFMD* and a paper setting out its findings from a thematic review of *conflicts of interest in asset management*, including a copy of the “Dear CEO letter” sent to many firms.

The FSA also announced *new capital proposals for SIPP providers* and final rules on the *large exposures regime* and *CASS reporting*.

Firms will be relieved to conclude the long 6 ½ year journey to RDR implementation on 1 January 2013. We’ll be watching how the changes to firms’ strategies, business models and operations play out over the coming year. Firms should look out for new market opportunities from RDR, changes to regulation of platform businesses and the FCA’s new approach to competition (is it all about price?).

In 2013, many of areas of regulation will take shape as European regulators finalise key legislative initiatives and the UK launches its new regulatory regime.

- For the banks, it’s about improving their culture and rebuilding profitability, while at the same time coping with new capital requirements under CRD IV. Banks will also need to adopt the new supervisory approaches presented by the EU banking union and the launch of the

PRA, and continue clean-up efforts on prior misdeeds.

- Insurers will be hoping that their work on Solvency II doesn’t go stale during the hiatus, and will look more closely at investor disclosure and conduct issues.
- Asset managers will be grappling with more strict MMF regulation, UCITS changes and the new alternative investment fund regime, while trying to work out what the FCA wants from them on the competition front.

We’ll take a closer look at the 2013 regulatory landscape next month. We wish you all the joys of the holiday season and a Happy New Year, from all of us in the PwC Regulatory Practice.

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## How to read this bulletin?

Review the Table of Contents the relevant Sector sections to identify the news of interest. We recommend you go directly to the topic/article of interest by clicking in the *active links* within the table of contents.

## Contents

<i>Executive summary</i>	<b>1</b>
<i>Shadow bank of the future?</i>	<b>3</b>
<i>Cross Sector Announcements</i>	<b>7</b>
<i>Banking and Capital Markets</i>	<b>31</b>
<i>Asset Management</i>	<b>33</b>
<i>Insurance</i>	<b>35</b>
<i>Monthly calendar</i>	<b>38</b>
<i>PwC insights</i>	<b>47</b>
<i>Glossary</i>	<b>49</b>
<i>Contacts</i>	<b>53</b>

# Shadow bank of the future?

## ***FSB introduces global regulatory structure***

After a mid-year lull, international regulators and policy setters released more than half a dozen shadow banking proposals in November. The FSB led the way by publishing four documents, with IOSCO contributing a report on *Global Developments in Securitisation Regulation* and the FSB releasing its second annual *Global Shadow Banking Monitoring Report*.

The FSB published two consultations which set out the foundations of a new global shadow banking regime. An *Integrated Overview of Policy Recommendations* presents the FSB's overall approach to shadow banking issues, while the *Policy Framework for Strengthening Oversight and Regulation of Shadow Banking Entities* introduces a high-level policy framework for regulators to assess and mitigate bank-like systemic risks posed by most shadow banking entities. The FSB also released a further

consultation, *Policy Recommendations to Address Shadow Banking Risks in Securities Lending and Repos*, putting forward 13 suggestions to enhance transparency, strengthen regulation of securities financing transactions and improve market structure. The three consultations close on **14 January 2013**.

This article outlines the key FSB proposals and findings from the Global Monitoring Report, explains the international work streams' structure and summarises the status of each initiative as at the end of November 2012. We also touch on recent activity in Europe from the EP and from the FSOC in the US.

## ***Getting on top of Shadow Banking***

The financial crisis exposed the deep interdependence of the banking sector with non-bank entities which also undertake forms of credit intermediation and are dubbed 'shadow

banks'. Therefore regulators are seeking to appropriately regulate the non-banking sector, when involved in such activities. "You cannot tackle systemic risks unless you tackle things other than banks." said Vikram Pandit, former Citigroup CEO.

After agreeing Basel III capital and liquidity reforms, G20 leaders tasked the FSB with developing proposals to strengthen the oversight of the shadow banking system. At the Cannes Summit in November 2011 G20 leaders endorsed the FSB's initial recommendations to make the shadow banking system safer.

The FSB then delivered its detailed proposals to the G20 Central Bank Governors and Finance Ministers at the Mexico City Summit on 5 November 2012. The Communiqué from the meeting called for the FSB to produce final policy measures for the St Petersburg G20 summit in 2013.

The FSB has organised its shadow banking work into five work streams:

1. interaction between banks and shadow banking
2. MMFs
3. other shadow banking entities (excluding MMFs)
4. securitisation and
5. securities lending and repos.

The Basel Committee is reviewing the interaction between banks and shadow banking, and IOSCO is managing the work streams on MMFs and securitisation. The FSB is leading the work streams exploring other shadow banking entities' and securities lending and repos.

## ***Improving monitoring and data reporting on agenda***

The FSB's second annual Global Shadow Banking Monitoring Report surveys 25 countries (the 24 FSB countries and Chile), 11 more countries

than last year. The report aims to look at the big picture on shadow banking activity, examining national flows of funds across all types of non-bank intermediation. It found that:

- Shadow banking grew rapidly before the crisis, rising from \$26 trillion in 2002 to \$62 trillion in 2007. The system declined slightly in 2008 but then reached \$67 trillion in 2011.
- Shadow banking's share of total financial intermediation has decreased since the crisis. It remained at 25% in 2009-2011 after peaking at 27% in 2007. The aggregate size of the shadow banking system is around half the size of the banking system's assets.
- The US had the largest shadow banking system with \$23 trillion in 2011, followed by the euro area (\$22 trillion) and the UK (\$9 trillion).

The FSB believes that although regulators have improved the monitoring process - increasing its scope and data granularity - they need to do more to reach a satisfactory level of supervision. The FSB recommends that regulators use additional analytic

methods based on market supervisory practices and gather more data. They should aggregate better international data to provide an accurate assessment of the potential risks posed by shadow banking. The FSB observes that they have insufficient for countries such as Russia, China and Saudi Arabia, and believes that large international financial institutions should be providing more data.

### **Progress on the work streams**

#### *Work Stream 1: Banks' interaction with shadow banks*

Since the crisis, the Basel Committee has been considering possible rules to better manage banks' exposures to shadow banking entities beyond Basel III. Building on its July 2012 interim report, the Basel Committee will put forward detailed policy recommendations by mid-2013 on:

- Scope of consolidation: additional guidance to improve the international consistency of the scope of consolidation for prudential regulatory purposes. The guidance will clarify how banks should consolidate their shadow banking

exposures, with rules drafted to limit regulatory arbitrage opportunities.

- Large exposures: developing a large exposure regime that takes into account risks typically arising from the shadow banking system, such as interconnectedness and opacity.
- Banks' investment in funds: introducing a more consistent and risk sensitive international capital treatment for bank investment in funds to better reflect the funds' underlying investments and leverage.

The Basel Committee also considered capital requirements relating to banks' short-term liquidity facilities to shadow banking entities (e.g. MMFs), but decided to take no further action. The Basel Committee was concerned that there could be unintended adverse effects, such as reducing the sensitivity of capital regimes to risk. Further, Basel III liquidity requirements were considered sufficient in addressing this risk.

#### *Work Stream 2: MMFs*

Following consultation, IOSCO published its *Policy Recommendations for Money Market Funds* in October 2012. The FSB endorsed IOSCO's paper as an effective framework in its entirety. The FSB particularly supports the Recommendation 10 requirement that stable NAV MMFs should be converted into floating NAV where possible. Where that is not possible, the FSB recommends that measures to safeguard MMF's resilience against runs should be functionally equivalent to the bank capital and liquidity requirements which protect against runs on deposits.

The US, which has the largest MMF market, has been wrestling with MMF reforms for some time. The FSOC published *Proposed Recommendations Regarding Money Market Mutual Fund Reform* on 13 November 2012. The FSOC argues that even a small threat to a MMF can start a run, because MMFs cannot absorb losses in their holdings without depressing the market value of their shares. The FSOC's recommendations follow proposals put forward by SEC Chairman Mary Shapiro in February



2012, which the SEC did not adopt. Chairman Shapiro called for a floating NAV or a tailored capital buffer of less than 1% of a fund's assets. The FSOC will send its final recommendations back to the SEC to take action.

The FSOC's proposals build on Chairman Shapiro's proposals:

1. Floating NAV: removing an accounting exemption that allows MMFs to maintain a stable NAV would encourage most MMFs would move to a floating NAV.
2. Stable NAV with NAV buffer and 'minimum balance at risk': MMFs would hold a buffer of up to 1% of assets to absorb daily fluctuations, to enable them to achieve a stable NAV. The buffer would be paired with a requirement for MMFs to hold an amount equal to 3% of a shareholders' highest account value, in excess of \$100,000, available for redemption on a delayed basis. If an MMF suffers losses that exceed the NAV buffer, the losses would be borne first by shareholders who had recently redeemed - creating a disincentive to redeem and protecting remaining shareholders.

3. Stable NAV with NAV buffer and other measures: MMFs would hold an NAV buffer of 3% to provide "explicit" loss absorbency, combined with other measures such more stringent investment diversification requirements, increased minimum liquidity levels and more robust disclosure requirements.

The FSOC stresses that the proposed recommendations are not mutually exclusive. The consultation closes on **11 January 2013**.

*Work stream 3: Other shadow banking entities*

The FSB proposes a package of diagnostic and policy tools to manage the risks presented by 'other shadow banking' entities. Once those are agreed, the FSB will map relevant non-bank financial entities into one five economic functions and assess the viability of the policy tools for each entity. The framework will provide the structure under which an annual monitoring exercise will be conducted, as well as assisting authorities in determining whether to extend the regulatory perimeter. The policy framework should eventually become a

FSB membership commitment, subject to peer reviews.

*Work stream 4: Securitisation*

IOSCO published *Global Developments in Securitisation Regulation* on 16 November 2012. IOSCO notes that securitisation markets can play a role in supporting economic growth by providing an alternative source of funding for the banking sector. However, it believes that a complex range of factors will determine the return of investor confidence to these markets.

The paper provides 10 recommendations, including a roadmap for international convergence and the implementation of risk retention requirements. IOSCO indicates that more work needs to be done to standardise asset level disclosures and recommends other means to support sustainable securitisation markets, including the relative prudential treatment of securitisation products and certain accounting issues, such as consolidation.

IOSCO published *Principles for Ongoing Disclosure for Asset Backed Securities (ABS)* on 27 November 2012 as a guideline for regulators designing or reviewing their ASB disclosure regimes. The 11 disclosure Principles complement the Disclosure Principles for Public Offerings and Listings of Asset-Backed Securities that IOSCO issued in 2010, and are consistent with other IOSCO disclosure principles.

*Work stream 5: Securities lending and repos*

In its *Policy Recommendations to Address Shadow Banking Risks in Securities Lending and Repos*, the FSB notes that this system can provide a valuable alternative to bank funding and supports real economic activity. It says that shadow banking regulation should ensure securities lending and repos are subject to appropriate oversight and regulation but should not hinder sustainable non-bank financing models. FSA sets out thirteen proposals which urge international cooperation to develop minimum haircut requirements, improved disclosure and standards for treatment of margin and collateral.

The FSB strongly believes that regulators should impose minimum standards to limit reductions to haircuts in benign market conditions, and possibly to agree to binding numerical haircut floor to limit procyclicality. Such a framework would need to be carefully designed and calibrated to avoid unintended consequences and further proposals will be the subject of a public consultation.

Disclosure to markets and regulators should be expanded and improved. Financial institutions should work with international standard setting bodies to improve current disclosure practices for securities lending, repo and wider collateral activity. Financial intermediaries should disclose re-hypothecation practices to clients so they can understand their exposure in the event of counterparty failure, while fund managers should improve the level of information that they provide to end-investors.

Regulators should develop more detailed regulatory reporting, with the long term goal of reporting to trade repositories as the most effective approach to data collection. However,

market-wide surveys are suggested as an initial step.

The FSB believes that more needs to be done to manage collateral. Regulators should develop minimum standards to limit the risks associated with cash collateral investment and develop standards for collateral valuation and management, and to endorse the use of central clearing where appropriate.

Finally, policy makers should adopt changes to the treatment of repo and securities lending transactions in insolvency.

### ***EP reports on shadow banking***

The EP published an Own Initiative Report on Shadow Banking on 8 November 2012, responding in part to the EC's March 2012 Green Paper on Shadow Banking. The EP supports the EC's proposals, which are broadly in line with the FSB proposals. It also stresses the value of the shadow banking system, stating that "contrary to what the term might suggest" shadow banking is not necessarily an unregulated or illegal part of the banking sector.

The EP made a few key suggestions:

- The EP believes that the EBA's remit should include the shadow banking sector, arguing that the reports of the ECON Committee on CRD IV represent an important step in tackling shadow banking.
- The EP calls on the EC to submit a review of the UCITS framework, with particular focus on MMFs, in the first half of 2013. Like the FSOC recommendations, the EP believes that regulators should either require a conversion to a floating NAV or introduce appropriate safeguards to protect a stable NAV MMF's resilience.
- The EP also invites the EC to adopt measures by the beginning of 2013 to increase transparency for clients in the securities lending and repo market.

### ***Next steps***

The FSB work stream owners will refine their policy proposals following consultation and plan to publish final policy recommendations by September 2013. They will suggest implementation timetables for each set of recommendations.

The EC is expected to issue legislative proposals on shadow banking in 2013. These proposals may come earlier than previously anticipated, given the timelines set out in the EP's report.

The FSOC will finalise its recommendations on MMFs once the current consultation period closes and then pass these back to the SEC to implement. We expect the SEC to consider these recommendations early in the new year.

With all this activity, 2013 looks set to be a significant year in the regulation on shadow banking. The proposed regulatory changes for securities lending, repos, MMFs, etc have important implications for many firms' business models. Firms will need to play an active role in shaping this new regulation, to help ensure that regulators understand how these changes will affect the industry and the wider economy. Given the significant role that non-bank credit intermediation played in getting us through the financial crisis, we all have a vested interest in ensuring its continued viability.

# Cross Sector Announcements

## In this section:

<b>Regulation</b>	<b>9</b>	<b>Dodd-Frank Act</b>	<b>14</b>	Wheatley discusses MMR changes (FSA)	21
Capital and liquidity	9	IRS and CDS move to central clearing (CFTC)	14	<b>Operating rules and standards</b>	21
Timeliness and consistency key to Basel III success(Basel Committee)	9	Integrating Dodd-Frank swap measures with CFTC regulations (CFTC)	14	ESMA approves SSR Spanish and Greek interventions	21
CRR Own Fund conditions published (EBA)	9	CFTC provides guidance on central clearing	14	FSA publishes new SSR fact sheet	21
Updated capital rules for Islamic financial services providers (IFSB)	9	Foreign exchange swaps and forwards exempt from clearing (US Treasury Dept)	16	Fast start for SSR regime (FSA, ESMA)	21
Adapting to the new large exposure regime (FSA)	9	<b>Enforcement</b>	<b>16</b>	<b>Other regulatory</b>	<b>22</b>
FSA relaxes BIPRU liquidity regime	10	FSA fines protection product provider	16	Financial Innovation Committee seeks recruits (ESMA)	22
Assessing capital requirements the PRA way (FSA)	10	HMT extends Iranian bank restrictions	16	Regime for complaints against regulators overhauled (BoE/FSA)	22
<b>Client Assets and Client Money</b>	<b>10</b>	<b>Financial crime</b>	<b>17</b>	FSA publishes Handbook Release 131	22
Revised CASS rules begin to take shape (FSA)	10	FSA updates Financial Crime Guide	17	FSA publishes Handbook Notice 124	22
FCA conduct and CASS priorities become clearer (FSA)	11	FSA's 2013 financial crime priorities	17	OFT consults on Annual Plan 2013-14	23
Common CASS breaches (FSA)	11	HMRC updates AML guidance for money service businesses	17	Ombudsman News Issue 106 (FOS)	23
How FSA uses client money data	12	<b>Financial stability</b>	<b>17</b>	<b>Pensions</b>	<b>23</b>
<b>Consumer Credit</b>	<b>12</b>	Capital buffers challenged (BoE)	17	Making pension charges more transparent (ABI)	23
Improving CCD implementation (EP)	12	<b>LIBOR</b>	<b>18</b>	FSA publishes new pension projection and transfer rules	24
<b>Consumer protection</b>	<b>13</b>	ESRB supports LIBOR/EURIBOR reforms	18	SIPP disclosures get beefed up (FSA)	24
Mixed findings in payday lending review (OFT)	13	Bringing LIBOR recommendations into force (HMT)	18	SIPP operators subject to new capital regime (FSA)	25
Harmonising the consumer credit regime (EP)	13	LIBOR slimmed down (BBA)	18	<b>Regulatory reform</b>	<b>25</b>
<b>Corporate governance</b>	<b>13</b>	<b>Market infrastructure</b>	<b>19</b>	BoE's performance during crisis scrutinised (BOE)	25
EBA publishes guidelines on suitability of management and key function holders	13	EC addresses first EMIR questions	19	<b>RRPs</b>	<b>25</b>
Remuneration reporting changes finalised (FSA)	14	Lawton advises on EMIR preparations (FSA)	19	FSB consults on RRP standards for regulators	25
Corporate governance below board level scrutinised (UK Parliament)	14	FSB moves forward LEI system	20	G-SIFIs framework gaining strength (FSB)	26
		Ensuring strong payments system links (ECB)	20	EP ministers consider RRP views	26
		<b>MiFID</b>	<b>21</b>	<b>SSM</b>	<b>27</b>
		MiFID II works its way through the system (Council)	21	Draghi considers how SSM will work	27
		<b>Mortgages</b>	<b>21</b>		



<b>Accounting</b>	<b>27</b>
<b>IFRS</b>	<b>27</b>
Revenue recognition rules still pending	27
Limited modifications proposed for IFRS 9 (2010): financial instruments	28
Amending IAS 28: Investments in associates and joint ventures	28
Minor changes in annual improvements project (IASB)	28
PwC publications	28
<b>UK GAAP</b>	<b>28</b>
FRC standards on financial reporting and disclosure	29
Improving debt and cash flow disclosure (FRC)	29
Auditors' duties under review (FRC)	29
New	29
<b>Other accounting news</b>	<b>29</b>
Supervisory focus on financial statements (ESMA)	29
Maijoor urges more cooperation between audit regulators and firms (ESMA)	30
Accounting Council takes action	30
<b>Taxation</b>	<b>30</b>
Financial tax proposal gaining steam	30

## Regulation

### Capital and liquidity

*Timeliness and consistency key to Basel III success (Basel Committee)*

Wayne Byres, the Basel Committee Secretary General, spoke on [Basel III](#) on 6 November 2012, arguing that Basel III is necessary, but not sufficient to secure a healthy banking system. Regulators must also implement other measures and maintain a consistent regulatory and supervisory approach.

Byres reviewed Basel III's key elements: increased and higher-quality capital, better risk coverage, the capital conservation buffer, leverage ratio and international standards for bank liquidity and funding. Reassuringly, the Basel Committee recently found that most banks already meet the Basel III minimum capital standards, but that it will require those that are systemically important to hold additional capital. Basel III will be phased-in from January 2013 to 2019, with the minor, less onerous changes being implemented first.

Byres believes that Basel III standards should complement strong supervisory practices while regulators work to complete a range of new capital and liquidity reforms (e.g. liquidity, review of trading book, securitisation, large exposures and standardised approaches to capital adequacy). To achieve this, they need to be more vigilant and increase their supervisory capabilities. The key principles for bank supervision are stated in the Basel Committee's recently revised 'Core Principles for Effective Banking Supervision'. The principles incorporate contributions from a wide range of supervisors and lessons learned from the crisis.

Byres concluded that Basel III provides a strong set of minimum standards but regulators must ensure its timely and consistent implementation to restore trust and health to the financial system.

#### *CRR Own Fund conditions published (EBA)*

The EBA published [Draft Regulatory Technical Standards On Own Funds under the draft Capital Requirements Regulation - Part Two](#) on 9 November 2012, specifying the conditions under which an institution qualifies as

mutual, cooperative society, saving institution or similar institution under CRD IV/CRR.

This standard will ensure that all EU institutions subject to the specific own funds requirements for mutuals have common features. In the UK, building societies and co-operative societies fall within this regime, provided they meet certain basic conditions, such as legal status and features linked to capital and reserves.

The consultation closes on **21 December 2012**.

#### *Updated capital rules for Islamic financial services providers (IFSB)*

The Islamic Financial Services Board (IFSB) published [ED 15: Revised Capital Adequacy Standard for Institutions Offering Islamic Financial Services \(Excluding Islamic Insurance \(Takāful\) Institutions and Islamic Collective Investment Schemes\)](#). This ED revises the previous IFSB standard on capital adequacy and provides additional guidance on capital adequacy requirements developed since the financial crisis, including Basel III. The ED aims to provide comprehensive guidance on capital adequacy

regulations and macro-prudential tools to supervisory authorities and institutions offering Islamic financial services.

#### *Adapting to the new large exposure regime (FSA)*

On 2 November 2012, the FSA published final rules under its policy statement, [Large exposure regime – groups of connected clients and connected counterparties \(PS12/21\)](#), which are largely unchanged from its proposals last January in CP 12/1.

The new rules will:

- change the definition of connected counterparty and the basis for aggregating exposures to connected counterparties when applying large exposure limits - a relaxation of existing rules
- provide new guidance on how to treat large exposures to structured finance vehicles - aligning FSA rules more closely with CEBS guidance and
- relax the institutional exemption permitting exposures above the standard 25% of regulatory capital large exposure limit – dropping the

requirement for exceptional circumstances.

The changes to how structured finance vehicles are treated are controversial, particularly for asset backed commercial paper conduits. Firms will need to discuss reasonable timeframes to achieve full compliance with their supervisors, and any arrangements needed to mitigate unintended impacts on lending.

The changes came into force on **2 November 2012**.

#### *FSA relaxes BIPRU liquidity regime*

The FSA issued *Removing the simplified ILAS BIPRU firm automatic scalar increase and other minor changes to BIPRU 12 (CP12/31)* on 8 November 2012. The FSA proposes removing the new requirement for BIPRU firms to automatically increase their capital buffers to a 70% simplified liquid asset buffer (LAB). That requirement due to come into force on 1 July 2013, but the FSA believes it is not appropriate to impose this, due to the higher than anticipated economic costs to firms of its liquidity regime.

The FSA proposes to amend its rules so that the LAB restrictions relating to credit and currency requirements will apply to securities issued by a designated multilateral development bank.

Firms will need to continue to maintain a liquid assets buffer that is not less than 50% of the simplified buffer requirement.

The consultation closes on **8 December 2012**.

#### *Assessing capital requirements the PRA way (FSA)*

Andrew Bailey, Director of the FSA Prudential Business Unit, *spoke* on 6 November 2012 at the Bank of America Merrill Lynch conference on the challenges that supervisors face in assessing capital requirements for banks.

Bailey stated that good supervision is about applying sound judgement through a risk-based approach to assessing capital, complemented by other risk assessment methods and early warning indicators.

Both Basel I and Basel II had flaws which contributed to the financial

crisis. To address those failings, supervisors have raised capital standards, required firms to restructure balance sheets and prohibited the use of ill-judged models that lower capital requirements. Regulators must also counter complexity (e.g. by supporting rules which ring-fence certain activities) and also focus on understanding the banks' business models and risks. Bailey recognised that the PRA will need good people to achieve these objectives.

He noted that some areas pose uncertainties today which require supervisory judgements, including:

- quality and valuation of certain asset classes
- impact of a disorderly break-up of the euro area
- impact of lending margins on the market value of some banks
- future regulatory and operating environments for banks
- further risk weight adjustments and the rate at which regulators should make these adjustments.

Bailey concluded that regulation therefore needs more simplicity, but that this does not mean abandoning risk-based supervision. Instead, regulation needs strong judgement lead supervision, with clear focus and a firm resolve.

### ***Client Assets and Client Money***

*Revised CASS rules begin to take shape (FSA)*

The FSA published *Policy Statement 12/20 Client assets firm classification, oversight, reporting and the mandate rules* on 1 November 2012, without making significant changes from its original consultation (CP12/15).

The final rules on CMAR are slightly less prescriptive in some areas than proposed (e.g. business lines) and provide more detail in other areas such as clarifications to the CMAR guidance. The FSA has delayed implementation for the CMAR changes until the February 2013 reporting period, because some firms may need to update their IT systems to comply.

Many respondents commented on the mandate rule proposals. The FSA has

provided detailed feedback and clarified its guidance, including confirming that:

- the rules do not apply to money held under an exemption from the CASS rules, e.g. deposit-takers holding money subject to the banker's exemption and
- regulated collective investment schemes operators are subject to the rules for any direct debit mandates permitting them to transfer money from client bank account into a scheme.

Changes to the mandate rules take effect from 1 January 2013.

The FSA may consider widening the mandate rules' scope in 2013, as part of its wider review of the CASS.

#### *FCA conduct and CASS priorities become clearer (FSA)*

Martin Wheatley, Managing Director of the FSA's Business Conduct Unit and FCA CEO-designate, spoke on *Improving Client Trust: Client Assets and market regulation in the FCA* on 20 November 2012. He discussed the FCA's proposed approach to market

regulation, wholesale conduct and client money and assets.

On market regulation, the FCA will continue to focus on maintaining the integrity of the UK financial markets, by preventing market manipulation, ensuring the stability of market infrastructure and putting more emphasis on the treatment of counterparties and achieving a level playing field. In particular, it will:

- supervise sponsors more intensively
- impose new corporate governance rules to ensure a high quality listing regime
- widen the definition of "consumer", which can include other regulated firms and market infrastructure providers
- intervene more, taking an interest in all categories of client relationships.

In the wholesale conduct arena, the FCA will focus on "how market counterparties interact with each other and how they conduct business in the wholesale markets." Its early supervisory priorities will be:

- wholesale market conduct which could have consequences for retail markets and consumers
- relationships between wholesale participants of different levels of expertise, knowledge or skills, where some may require more protections than others
- poor conduct that could affect the integrity of markets or the reputation of the UK.

Wheatley then moved on to client assets and the FSA's current review of the client money and assets regime. He highlighted the FSA's three desired outcomes from the review:

- the speedy return of client assets following a firm's failure
- returning a larger proportion of assets
- reducing the market impact when firms that hold client assets fail.

At the heart of this review is the tension between returning assets quickly versus taking a slower but more accurate approach to identifying beneficial owners. Wheatley concluded that a speedy return inevitably comes with

some sacrifices. The FSA aims to achieve the best outcome for all concerned, but the question of who should bear the costs of losses and in what proportion still looms.

Wheatley's closing remarks centred on the importance of securing adequate protection for client money and assets whilst maintaining clients' confidence in the integrity of the securities market.

#### *Common CASS breaches (FSA)*

David Lawton, FSA Head of Markets, discussed six common CASS breaches and issues at its recent conference on 20<sup>th</sup> November 2012:

- Trusts and mandates errors: firms often confuse their obligations to comply with rules for holding money under CASS 7 with the rules for controlling assets under mandates in CASS 8.
- Total capture: firms sometimes overlook CASS requirements when developing new lines of business or taking over existing lines of business from other operators.
- Client money reconciliations: firms must follow the FSA's prescriptive

standard methods, unless the firm obtains a letter from its auditors confirming that the alternative method is acceptable.

- Due diligence for banks and custodians: firms must adequately document and periodically update their due diligence reviews.
- Reliance upon third parties: where a third party administrator's business practices may result in a firm's breach of CASS rules, firms must examine breaches to establish the root cause.
- Unbreakable term deposits: firms must not 'lock' client money into a fixed term. This practice places client money at risk of loss if there is a secondary pooling event (where the deposit taker becomes insolvent) and at risk of delayed return in the event of the firm's own failure.

The FSA published conference [slides](#) discussing these points and providing an overview of upcoming CASS consultation papers and policy statements.

#### *How FSA uses client money data*

Richard Sutcliffe, FSA's Head of Client Assets, delivered a [speech](#) at the FSA's Markets and Client Assets Conference on 20 November 2012.

Sutcliffe drew attention to the significant CASS failings that FSA continues to see at firms:

- basic lack of understanding of the rules
- failure to follow the rules
- firms that are uncertain of whether or not they hold client money or assets
- the continued failure to comply with trust acknowledgement letter requirements
- failures in carrying out due diligence on banks and other third party service providers
- poor recordkeeping.

Sutcliffe also emphasized that firms need to appoint a CF10a Compliance Officer to oversee CASS compliance for each legal entity, to reinforce personal accountability for this critical function. If a firm fails, it should fail as a single

legal entity without compromising client money held by other group entities.

The FSA is changing the way that it supervises compliance with CASS requirements. Sutcliffe explained why the quality and accuracy of data that firms submit to the FSA are important, e.g. through the Client Money and Asset Return (CMAR). Inadequate reporting raises the question of whether firms are adequately protecting client money and assets.

The FSA also receives important information through audit opinions on CASS compliance. Since the Lehman collapse, it has worked closely with audit firms to improve standards, auditor training and their awareness of the rules, and the rigor of testing and challenge they bring to CASS audits.

The data FSA receives allows it to track trends and spot unusual movements. It has escalated over 800 potential issues in the past year. More than 550 of these resulted in the FSA taking some form of action, including fining firms an aggregate of nearly £50 million, taking action against 11 individuals, issuing 35

private warnings and requiring 35 skilled persons reports.

Sutcliffe confirmed that monitoring CASS compliance will remain a key regulatory priority for the FCA, so investment firms should be prepared for the FSA's continued intensive supervisory focus on CASS.

#### **Consumer Credit**

##### *Improving CCD implementation (EP)*

The EP's Internal Market and Consumer Protection Committee published a [Report on the implementation of the Consumer Credit Directive 2008/48/EC](#) on 8 November 2012.

The Committee is calling for a review of the CCD implementation and urging Member States to apply it correctly. It does not believe that the CCD should be revised, but wants the Commission to ascertain whether or not it has been transposed correctly and enforced. The report identifies some problem areas that have arisen during Member States' transposition of the CCD.

The EP will consider the resolution contained in the report at its plenary



session scheduled 19-22 November 2012.

## **Consumer protection**

### *Mixed findings in payday lending review (OFT)*

The OFT published an *interim report* on its review of payday lenders' regulatory compliance on 20 November 2012. The report contains preliminary findings of the investigation into their compliance with the Consumer Credit Act (CCA) and the standards set out in the Irresponsible Lending Guidance (ILG).

The OFT found high levels of compliance with statutory requirements, but lower levels of compliance with the ILG. It expressed particular concern over:

- adequacy of affordability checks
- proportion of loans which are not repaid on time
- frequency with which loans are rolled over
- attitude of lenders to borrowers in financial difficulty
- debt collection practices.

The OFT intends to complete detailed reviews of 50 payday lending companies and to obtain information from a total of 240 companies before finalising its report. The data will be used to support reviews of other issues in this sector.

The OFT is already taking action against some lenders and has contacted payday lenders and industry associations to advise of specific concerns and recommendations. Payday lenders should implement the recommendations and contact the OFT if it hasn't yet contacted them about this review.

The final report is expected in early Q1 2013.

### *Harmonising the consumer credit regime (EP)*

The EP published its *resolution on the implementation of the Consumer Credit Directive* on 20 November 2012 and the EC published their *update on the investigation into websites offering consumer credit* on 23 November 2012. These publications are issued as part of the EC's CCD review.

The EP highlights the lack of consistency in the transposition of parts of the directive into Member State legislation, and calls on national regulators to improve certain requirements, particularly transparency and disclosure to consumers.

The EP welcomed the 'sweep' operation carried out by the EC in September 2011, which revealed that 70% of websites it reviewed failed to include CCD disclosure requirements in their advertising.

However, the EC recently carried out another review, and found that last year's crackdown influenced website providers to improve their standards. This year 75% of all sites reviewed met the requirements, but in the UK just 44% of sites were compliant, which was worse than any other country.

## **Corporate governance**

### *EBA publishes guidelines on suitability of management and key function holders*

The EBA published its final *Guidelines on the assessment of the suitability of members of the management body and key function holders* on 22 November

2012, instructing banks, large investment firms and competent authorities on assessing the suitability of management personnel, supervisory staff and key function holders. "Key function holders" are staff whose positions give them "significant influence" over the firm's direction.

Individuals should be assessed on their reputation, experience and the firm's governance criteria – e.g. whether or not the appointment presents any potential conflicts of interest. When considering a person's reputation, firms should pay particular attention to whether or not the candidate has been transparent, open and cooperative in his or her dealings with regulators.

To create a robust selection process, firms should assess the suitability of candidates prior to, or immediately after, their appointment, and notify the competent authority of the appointment. Some authorities may require firms to obtain their prior approval.

Once the authorities have received notification of appointments, they should make a regulatory assessment based on the criteria set out in the

guidelines. If an authority determines that a candidate is not suitable, the firm should take appropriate action. The competent authority should only take action if firm fails to do so.

Competent authorities and firms must comply with the Guidelines by 22 May 2013.

#### *Remuneration reporting changes finalised (FSA)*

The FSA published feedback to *CP12/18* and final rules for remuneration data reporting in *Data collection on remuneration practices (PS12/18)* on 1 November 2012, which are largely unchanged from the proposed rules.

These rules amend the Remuneration Code in SYSC and the reporting requirements in SUP. The rules implement two sets of EBA guidelines on remuneration data collection which were published on 27 July 2012.

The FSA provides guidance on the remuneration benchmarking information report and the high earners report, how financial years should be reported, and the data submission process.

The FSA has also published remuneration reporting templates:

- *Remuneration benchmarking information report*
- *High earners report*
- *E-mail template for returns: high earners report*
- *E-mail template for returns: remuneration benchmarking information report.*

Firms' first reports are due by 31 December 2012. The FSA will send the EBA remuneration data for collection and analysis, as mandated by CRD III.

#### *Corporate governance below board level scrutinised (UK Parliament)*

The UK Parliament *announced* that the Parliamentary Commission on Banking Standards had established a panel to consider corporate governance below board level. The panel members, Mark Garnier MP and Baroness Kramer, held its first public evidence session on 1 November 2012.

### ***Dodd-Frank Act***

#### *IRS and CDS move to central clearing (CFTC)*

The CFTC published *Clearing Determination for Certain Credit Default Swaps and Interest Rate Swaps* on 28 November 2012, the CFTC's first Dodd-Frank Act clearing determination. Initially four IRS and two CDS classes will be centrally cleared. Market participants will be required to submit such swap transactions to a derivative clearing organisation (DCO) as soon as technologically practicable and no later than the end of the day of execution.

Swap dealers and private funds that are active in the swaps market must comply from 11 March, 2013 for swaps they enter into on or after that date. Accounts managed by third party investment managers and ERISA pension plans will have until 9 September 2013, to start centrally clearing their transactions. All other financial entities will have to begin central clearing on 10 June 2013.

If no DCO offers iTraxx (the CDS index on European corporate names) for clearing by 11 February 2013, the CFTC

will delay compliance for those swaps until 60 days after an eligible DCO offers iTraxx indices for client clearing.

#### *Integrating Dodd-Frank swap measures with CFTC regulations (CFTC)*

The CFTC published *Adapting CFTC Regulations to Incorporate Swaps* in the Federal Register on 2 November 2012, conforming its regulations to the Dodd-Frank Act regulatory framework.

The CFTC is aligning its requirements and procedures across futures and swaps markets. Most importantly, it is harmonising some of its recordkeeping requirements and amending procedures for post-trade allocation of bunched orders. The bunched orders changes will enable "eligible account managers" to allocate such orders post-execution, as they currently do with futures. The CFTC is also making some technical changes, e.g. to incorporate defined terms relating to swaps, swap markets, and swap entities.

#### *CFTC provides guidance on central clearing*

Continuing the campaign it started October, the CFTC published another tranche of Q&A, FAQs, interpretation

letters and no action letters in November:

*Q & A: Clearing Requirement Determination under Section 2(h) of the CEA.* This Q&A accompanied the CFTC's first set of clearing determinations, published on 28 November 2012 (see CFTC issues Clearing Determination article below).

*FAQ on Cleared Swaps – Revised.* The CFTC withdrew the following FAQs on Cleared Swaps on 29 November 2012:

- “Which party has the authority to select the particular SDR for purposes of cleared swap reporting?”
- “May a DCM, SEF or DCO that is also registered as an SDR or legally affiliated with an SDR require counterparties to use their “captive” SDR for reporting swap transactions?”
- “Where must the resulting swaps created through the clearing process be reported?”

CFTC staff are reviewing advice on these questions in light of a submission from the Chicago Mercantile Exchange

Inc. for approval of CME Rule 1001– “Regulatory Reporting of Swap Data”.

*Staff Interpretation Regarding Part 22.* On 1 November 2012, the CFTC Division of Clearing and Risk staff clarified certain operational issues regarding the requirement for Futures Commission Merchants and DCOs to legally segregate each cleared swaps customer's collateral (they can commingle cleared swaps customers' collateral).

*Time-Limited No-Action for Swap Dealer Compliance with Swap Data Reporting Rules.* The letter published on 20 November 2012 establishes a common monthly date by which all newly registered swap dealers must comply with their reporting obligations, and extends the deadline for reporting historical swap transaction data.

*Time Limited No-Action Letter for Operators of Certain Funds of Funds: Request for Delayed Compliance Date of Amended Part 4: Rescission of Former Appendix A.* The CFTC is allowing fund-of-funds commodity pool operators to defer registration. They will have until the later of 30 June 2013 or six months after the effective date (or

compliance date, if later) of any revised guidance that the CFTC issues on the de minimis thresholds for fund of funds. To rely on the temporary relief, which the CFTC granted on 29 November 2012, a commodity pool operator must meet certain criteria and file a no-action letter request.

*No-action relief for family offices.* The CFTC provided no-action relief to family offices from commodity pool operator registration requirements under the CEA, subject to certain conditions, on 29 November 2012.

*No-Action Letter on the Pay-to-Play rules for Swap Dealers Conducting Business with Certain Governmental Special Entities.* The CFTC's pay-to-play rules restrict swap dealers from engaging in certain activities with certain government entities, if the swap dealer (or its associate) has made or solicited contributions to an official of that government entity during the preceding two years. This no-action letter dated 29 November 2012, will allow swap dealers and their covered associates to make certain contributions to officials of government

entities that would otherwise be prohibited.

The letter also clarifies that the two-year “look-back” period does not include any periods prior to the date that the swap dealer was required to register with the CFTC.

*Time-Limited No-Action Relief from the Clearing Requirement for Swaps Between Affiliated Counterparties.*

Swap dealers don't have to clear swaps with affiliates that they majority own or with which they are both majority owned by a common parent provided their accounts are reported on a consolidated basis, provided both parties agree.

*Time-Limited No-Action Relief for Bespoke or Complex Swaps from Certain Swap Data Reporting Requirements.* The 20 November 2012 letter allows reporting parties and reporting counterparties to omit certain data from their reports on bespoke or complex swaps. It also provides relief from certain confirmation data reporting obligations. The relief is temporary – it will expire on the later of the date when the relevant data elements can be electronically

represented in the financial products mark up language (FPML) schema or June 30, 2013.

*Foreign exchange swaps and forwards exempt from clearing (US Treasury Dept)*

US Treasury Department issued its final determination to exempt foreign exchange swaps and forwards from clearing exemptions under the Dodd-Frank Act and an accompanying *Fact Sheet* on 16 November 2012. “Unlike other derivatives, FX swaps and forwards already trade in a highly-transparent, liquid and efficient market,” the Treasury Department said. “This final determination is narrowly tailored.” Firms will still be required to comply with reporting and conduct of business standards for these contracts.

The US Treasury cited certain unique factors about these contracts that justify the exception:

- they are typically for short, fixed terms,
- they are physically settled in the currency of the trade and

- market operates with strong pricing transparency and is supported by a highly developed settlement system.

It also noted that the majority of counterparties are regulated banks with strong prudential regimes. Other foreign exchange contracts such as options, currency swaps and non-deliverable forwards remain subject to Dodd-Frank Act clearing requirements.

### **Enforcement**

*FSA fines protection product provider*

The FSA announced that it had fined Card Protection Plan Limited (CPP) £10.5 million for mis-selling insurance products between 2005 and 2011, publishing its final notice to CPP on 15 November 2012.

The FSA found that CPP had mis-sold card protection and identity protection products and that it breached FSA’s principles 6, 7 and 3 by placing excessive focus on commercial objectives at the expense of treating customers fairly, failing to provide customers with clear information, and failing to adequately control its affairs and compliance arrangements.

CPP sold products through its own channels and business partners such as retail banks. It used aggressive sales practices which consisted of incentivising sales agents to mislead customers into purchasing and renewing their policies. Customers do not need insurance protection for fraudulent transactions or lost and stolen cards because they are not normally liable for unauthorised payments. CPP also used contracts that contained unfair terms, allowing CPP to take payment directly from customers’ registered cards. Finally, CPP misled clients by overstating the risks and consequences of identity theft to persuade customers to buy its products.

Although CCP’s products were relatively inexpensive, its mis-selling of 4.4 million policies generated £354.5 million in gross profits. Ignoring the FSA’s warnings, CPP failed to take adequate actions to address compliance concerns. As a result, the FSA levied its joint-largest retail fine and consumer redress. Although the fine covers all CCP’s product sales, CCP is focussing on direct sales in its redress efforts. CPP estimates that its total costs

associated with the investigation at £33.4 million.

*HMT extends Iranian bank restrictions*  
HMT announced that it had extended the *Financial Restriction Order 2012* under the Counter-Terrorism Act 2008 on 21 November 2012, on the same terms as its 2011 order.

All UK credit and financial institutions must cease all business with banks incorporated in Iran and their branches and subsidiaries, wherever located, including the Central Bank of Iran. They can’t enter into transactions or business relationships with these entities, unless HMT grants them a license to do so.

HMT believes that the Iranian government facilitates the development and production of nuclear weapons, which poses a significant risk to the UK’s national interests. It also believes that Iranian financial institutions actively provide services that support its nuclear activities, and it doesn’t want the UK financial sector to unwittingly facilitate those services.

The FATF also recently stated that it was ‘exceptionally concerned’ about



Iran's failure to address the risk of terrorist financing and the threat this poses to the international financial system. The FATF called on its members to apply effective counter-measures to protect financial sectors.

The Order came into effect immediately and is valid until 19 November 2013.

### **Financial crime**

#### *FSA updates Financial Crime Guide*

On 1 November 2012, the FSA provided final guidance and feedback on its proposals to amend the Financial Crime Guide. The final guidance hasn't changed significantly from the original proposals.

*FG12/20* relates to the FSA's guidance consultation on anti-bribery and corruption systems and controls (proposed in GC12/05, March 2012).

*FG12/21* covers banks' defences against investment fraud (proposed in GC12/07, June 2012).

The FSA has updated the *Financial Crime guide for firms*, which applied from 1 November 2012.

#### *FSA's 2013 financial crime priorities*

Tracey McDermott, Director of FSA Enforcement and Financial Crime, *spoke* on the FSA's key themes and priorities for 2013 at the APCIMS conference on 15 November 2012.

McDermott focused on the transition to the FCA, its upcoming work to tackle investment fraud, and the FSA's thematic review of asset managers' handling AML and ABC risks and market abuse.

When the FCA launches in April 2013, it will have a clear mandate to enforce requirements combating financial crime. The FSA set out the FCA's regulatory approach in a recent paper, *'Journey to the FCA'*, which discusses the FCA's new forward-looking, judgement-led approach. Consistent with this approach, McDermott encouraged firms and consumers to proactively communicate and share their views with the regulator. She noted that the FCA will continue to use thematic work and systematic in-depth reviews of banks' defences as a key part of its approach to financial crime.

McDermott explained that next year the FCA plans to tackle investment fraud,

such as 'boiler rooms', landbanking and fraudulent collective investment schemes. The FSA has been working with other domestic and international agencies to counter fraudsters and to educate the public.

Lastly McDermott discussed FSA's thematic review of 22 asset management firms on AML/ABC systems and controls issues.

McDermott emphasized that countering financial crime is essential to preserving trust and integrity in the finance industry. She urged firms to consider the potential disastrous effect on their businesses if they are targeted by financial crime.

#### *HMRC updates AML guidance for money service businesses*

HMRC published updated *AML guidance for money service businesses* (MSBs) on 21 November 2012.

On 22 June 2012, HMRC asked MSBs to review their AML policies and procedures. HMRC has revised its guidance to address questions on thresholds for checking the source of funds, financial corridors, due diligence

measures, and firms' registration with the FSA and HMRC.

The new guidance is available on [www.hmrc.gov.uk/mlr](http://www.hmrc.gov.uk/mlr) and will be incorporated into the AML Guide for MSBs early next year.

### **Financial stability**

#### *Capital buffers challenged (BoE)*

The BoE published its *Financial Stability Report* on 29 November 2012. The FPC has recommended that the FSA require UK banks to increase their capital buffers. The FPC believes that capital levels should reflect a proper valuation of assets, a realistic assessment of future conduct costs and prudent calculation of risk weights.

The FPC wants the FSA to engage in discussions with the largest banks about their capital buffers. If the FSA finds that a banks' capital buffers need to be strengthened, it should require firms either to raise capital or to take steps to restructure their business and balance sheets in ways that do not obstruct lending to the real economy.

Opportunities for banks' to raise capital are diminishing and investor confidence remains low. The market



value of major UK banks' shareholder equity has fallen to around two thirds of book value. Market concerns may be due in part to uncertainty about capital adequacy. Three reasons are driving this concern:

- Market information suggests that in some cases losses on loans may be greater than current provisions and the regulatory capital deductions for UK banks' expected losses.
- The FPC believes that UK banks have underestimated costs for conduct redress and it seems likely that they will continue to face additional sizeable costs.
- Banks' capital positions could be overstated because of aggressive application of risk weights.

The combination of these factors means UK banks' capital buffers are not as large as headline regulatory capital ratios suggest.

The interim FPC is concerned that the fallout from the euro area poses considerable risk to the banking sector. While it is impossible to anticipate exactly how the disorderly unwinding of the euro would impact UK banks,

shoring up UK banks' capital is a sensible measure to try to limit damage.

The FPC has asked the FSA to report back on its implementation of this recommendation before the next interim FPC meeting in March 2013. The FSA will provide this report in its quarterly microprudential update to the FPC. Individual banks are expected to make announcements about any increases to their capital buffers following discussions with the FSA.

### **LIBOR**

#### *ESRB supports LIBOR/EURIBOR reforms*

The ESRB published its report on *Macro-prudential aspects of the reform of Benchmark Indices in response to a consultation by the EC on a possible framework for the regulation of the production and use of indices serving as benchmarks* on 18 November 2012.

A credible regulatory framework is needed to ensure the proper functioning and oversight of all reference benchmarks. The ESRB describes LIBOR and EURIBOR as "partly flawed", identifying

shortcomings in the calculation of most benchmarks and indices and suggesting that many are open to gaming and are characterised by weak governance processes. Specifically, rules should govern the production of credit default swaps and repo indices, commodity price indices and proprietary benchmarks - particularly those that define payoffs from structured retail products.

The ESRB wants benchmark setting and administration to be regulated. Benchmark providers and contributors should be subjected to stringent control and independent oversight mechanisms. The ESRB shares the view that the deliberate distortion of benchmarks is market abuse and should be punished, welcoming the EC's benchmark manipulation amendments to MAD. The ESRB also supports the work of the EBA and ESMA which are preparing guidelines for reference rates and other benchmarks-setting processes.

The EC's consultation on benchmarks closed on 29 November 2012. It plans to issue legislative proposals early next year.

#### *Bringing LIBOR recommendations into force (HMT)*

HMT launched a consultation, *Implementing the Wheatley Review: draft secondary legislation* on 28 November 2012, on implementing the recommendations from Wheatley Review of LIBOR. HMT invites comment on two pieces of secondary legislation: regulating LIBOR and making the manipulation of LIBOR a criminal offence. Other benchmarks would also be covered by the new rules.

The Government is committed to implementing the recommendations as soon as possible by amending the FS Bill 2012, which is currently before Parliament. The Bill is expected to receive Royal Assent in early 2013.

The consultation closes on **24 December 2012**.

#### *LIBOR slimmed down (BBA)*

The BBA issued a consultation *Strengthening LIBOR – proposal to implement recommendation number 6 of 'The Wheatley Review of LIBOR'* on 8 November 2012. *The Final Report of the Wheatley Review of LIBOR* called on the BBA to reduce the number of

currencies and maturities for which it produced LIBOR.

The BBA wants to reduce the number of daily LIBOR benchmarks from 150 to 30 (instead of the 20 proposed in the Wheatley Review). It would remove the GBP Repo benchmark, as well as LIBOR for AUD, NZD, CAD, DKK and SEK. The BBA would also discontinue certain less frequently used maturity intervals. These changes would be phased in from 1 January to 30 March 2013.

The consultation closes on **7 December 2012**. The BBA intends to the final changes by 21 December 2012.

## **Market infrastructure**

### *EC addresses first EMIR questions*

The EC published an EMIR Frequently Asked Questions which confirms some EMIR implementation dates, its scope and the position of third country CCPs and TRs.

The EC outlines the EU legislative endorsement process for EMIR technical standards and then confirms first registration dates for CCPs and TR and certain compliance dates for firms.

Several key dates for firms, such the date when risk management for uncleared trades commences and when clearing commences, are dependent upon finalisation of the technical standards.

Regarding scope, the EC confirms that:

- Transactions in scope: energy spot transactions are out of scope but foreign exchange derivatives are out.
- Ability to delegate reporting to entities outside the EU: counterparties may delegate reporting to firms, CCPs or TRs outside the EU, but remain liable for reporting delegated to a third party located anywhere.
- Intra-group clearing exemption issues: counterparties which wish to rely on the exemption may notify regulators when the relevant regulatory standards are complete. For Non-financial Counterparties, exempt intra-group transactions are calculated toward, not reduced from, the clearing threshold.
- Status of special purpose (SPV) and pooled vehicles: SPVs should be classified as either Financial or Non-

financial Counterparties. Pool structures are not directly subject to EMIR, because they lack legal capacity, but counterparties remain subject to EMIR requirements when trading with pooled structures.

Clarifying the position of third country CCPs and TRs, the EC sets out scenarios which trigger EMIR registration for these entities. These entities may apply for EU recognition when the relevant regulatory technical standards are complete.

The FAQ contains an address to which public may submit more questions. The EC maintains copies of EMIR legislation and related developments on its Derivatives webpage. The first sets of EMIR regulatory technical standards are expected to come into force in late Q1 or early Q2 2013.

### *Lawton advises on EMIR preparations (FSA)*

David Lawton, FSA Director of Markets, advised firms on EMIR implementation in his speech *EMIR: the bigger picture and looking forward* on 22 November 2012. He summarises the clearing, reporting and risk management for uncleared trades

requirements that EMIR presents to firms.

Many compliance dates are still uncertain, however Lawton confirmed likely dates for:

- first set of level 2 technical standards come into force: late Q1 2013
- first clearing obligation: Q4 2013
- reporting obligation: 1 July for credit and interest rate derivatives, then 1 January 2014 for all other contracts
- collateralisation of non-cleared trades: ESA consultation likely Q1 2013.

The bulk of EMIR technical standards have been published and many firms are preparing for implementation. The FSA advises firms to organise their preparations by: establishing clearing arrangements, meeting operational requirements for non-margin aspects of bilateral risk mitigation, establishing connectivity to trade repositories and assessing exemption requirements.

OTC reforms will centralise risk in CCPs and that emerging global RRP

standards for CCPs should help strengthen the new system. But many challenges remain for CCPs, including putting in place processes that comply with 27 Member State bankruptcy regimes.

Long-term, the new derivatives regime may lead to a smaller and more expensive market, but this should be an acceptable trade-off for more financial stability. The FSA expects to see post-trade business models expand significant to address post-reform challenges and opportunities.

Regulators will benchmark the regime's success by their ability to assess the impact of firm failures and intervene effectively and to accurately forecast market conditions through stress and back testing. However, Lawton noted that if hedging is not longer available to the real economy at a realistic price, then the system will need to be adjusted.

#### *FSB moves forward LEI system*

The FSB's Implementation Group (IG) and the LEI Private Sector Preparatory Group (PSPG) have made progress in developing the LEI system. The IG published the *Allocation of Pre-LOU*

*Prefixes for Pre-LEI Issuance*, dated 20 November 2012, which outlines the technical specification of the LEI code structure which will be rolled-out from March 2013.

The IG also published a draft *Charter of the Regulatory Oversight Committee (ROC) for the Global Legal Entity Identifier System* and a *Charter for the Regulatory Oversight Committee and Report on Progress* for G20 Finance Ministers and Central Bank Governors to consider at their meeting on 4/5 November 2012. The ROC is the body which will have ultimate responsibility of the governance of the global LEI system.

The PSPG has finalised the selection criteria for the ROC board of directors, identifying standards for fitness and experience as well as seeking regional and sectoral representation. The PSPG has also undertaken detailed work on operational aspects of the new system, such as data quality, localisation, ownership and corporate hierarchies, and has looked at ways to take advantage of existing local infrastructures.

The FSB is still mulling over the location and exact legal form that the LEI foundation should take, which will influence the foundation's overall governance framework. The FSB has analysed a number of potential locations and is preparing a detailed assessments of its proposals. Location and form decisions will dictate drafting of legal documents required to establish the various bodies, such as the LEI foundation which will run the global LEI system.

#### *Ensuring strong payments system links (ECB)*

The ECB published *Oversight Expectations for Links between Retail Payment Systems* on 29 November 2012, setting out high level requirements for managing the links between retail payment systems (RPS). This follows the ECB's March 2012 consultation and May 2012 publication of draft requirements.

The ECB expects an RPS that is linked with other RPSs to identify, monitor and manage link-related risks. All links should have a well-founded, clear and transparent legal basis that is enforceable in all relevant jurisdictions.

RPSs should also take into account operational risk, considering information security and the scalability and reliability of IT and related resources.

The ECB also calls on RPSs to closely monitor and manage the financial risks arising from the link arrangement: assets used for settlement should carry little or no credit risk and payments should be settled promptly, preferably on an intra-day basis.

An RPS should publish its criteria for permitting other RPSs to access links. The links must be stable and efficient enough to meet the requirements of RPS participants and the markets the RPS serves.

The ECB wants to see strong governance arrangements for establishing and operating links. A RPS's senior management team should formulate a clear strategy on how it will establish links and disclose this to its owners, regulators and other RPSs. An RPS that uses an intermediary to operate a link should measure, monitor and manage the resulting additional risks. RPSs are responsible for ensuring

that their RPS link complies with the ECB's oversight expectations.

### **MiFID**

*MiFID II works its way through the system (Council)*

The Council is not expected to adopt its general approach on MiFID II/MiFIR until early Q1 2013. It will spend the remainder of the Cypriot presidency dealing with other pressing subjects, such as the SSM, CRD IV and the EU budget. The Council's recent draft compromises on MiFID II have shown few position changes, so we expect that it will be able to agree the general approach early in 2013, under the Irish Presidency.

### **Mortgages**

*Wheatley discusses MMR changes (FSA)*

Martin Wheatley, managing director of the Conduct Business Unit at the FSA and FCA chief executive-designate, *spoke* at the Council of Mortgage Lenders conference on 7 November 2012, on the MMR and the FSA's recent *Journey to the FCA* paper.

Wheatley wants lenders to improve their mortgage product suitability

determinations, and said that the FCA supervisory process will review the suitability of firm's financial products for consumers. Wheatley also reassured mortgage lenders on certain aspects of the MMR that they raised recently in consultation responses:

- First time buyers will be able to borrow at higher loan to value ratios and older customers will be able to borrow past retirement age.
- Lenders will have some flexibility in accepting income evidence from self-employed borrowers. Lenders will also be able to assess borrowers with poor credit history on the basis of their present circumstances.
- Interest-only mortgages may be offered if borrowers can demonstrate a credible repayment strategy. The lender should not be held responsible if borrowers then default.

Wheatley warned lenders against adopting a one-size-fits-all approach. The regulators believe that firms should prioritise meeting the needs of individual borrowers over the speed and efficiency of generic offerings.

### **Operating rules and standards**

*ESMA approves SSR Spanish and Greek interventions*

ESMA validated the *Spanish* and *Greek* regulators' proposed emergency intervention measures on 1 November 2012, finding that the proposals were appropriate, proportionate and justified.

The Spanish Comision Nacional del Mercado de Valores (CNMV) proposed a temporary ban on short sale transactions conferring a financial advantage to the person trading shares listed on Spanish official secondary markets supervised by CNMV decline in value.

The Hellenic Capital Market Commission (HCMC) proposed a temporary ban on the short sale of shares, ETFs and depository receipts for shares admitted to trading on the Athens Exchange, regardless of where the trade is executed. HCMC is banning sales that are covered with subsequent intraday purchases.

Both measures came into force on 1 November 2012 and expire on 31 January 2013.

*FSA publishes new SSR fact sheet*

The FSA published an *SSR factsheet* on 8 November 2012, providing guidance for firms on:

- the scope of the SSR
- exemptions for market makers and authorised primary dealers
- process for submitting notifications and disclosures to the FSA
- disclosure thresholds.

The SSR came into force on 1 November 2012.

*Fast start for SSR regime (FSA, ESMA)*

The SSR took effect on 1 November 2012, prohibiting the uncovered (naked) trading of CDS traded in EU markets. The SSR restricts the short selling of bonds, shares admitted to trading on EU markets and CDS.

The SSR makes ESMA responsible for coordinating and approving emergency short selling bans in Member States. On 1 November 2012, ESMA approved Greece and Spain's extending their



short selling banks for a further three months in its *Opinion on the emergency measure by the Greek HCMC under the Short Selling Regulation* and its *Opinion on the emergency measure proposed by the Spanish CNMV under the Short Selling Regulation*, respectively.

ESMA believes these extensions are justified given the ongoing threats to financial stability in Spain and Greece. It welcomed the statement from both authorities that they will lift the ban as soon as market conditions normalise.

The FSA has new webpage on *Short Selling – a new regime for notifications and disclosures* which provides information on and forms for the notification and disclosure regime under SSR.

### Other regulatory

*Financial Innovation Committee seeks recruits (ESMA)*

ESMA began recruiting candidates for the *Consultative Working Group* (CWG)'s Financial Innovation Standing Committee (FISC) on 16 November 2012. The FISC coordinates ESMA's work on financial innovation,

addressing both products and processes.

CWG members will brief the FISC about financial innovation, which will help ESMA to identify potential risks within the financial services market. The CWG will also assist ESMA in identifying new threats to investors and financial stability, while providing insight on new or evolving products.

ESMA invites applicants to the CWG to submit an *application form* and *CV* by 31 December 2012.

*Regime for complaints against regulators overhauled (BoE/FSA)*

The BoE and the FSA published a joint consultation paper *Complaints against the regulators* (CP12/30) on 6 November 2012. The consultation proposes new accountability mechanisms and arrangements for investigating complaints against the BoE, the PRA and the FCA from 1 April 2013. The consultation closes on **6 February 2013**.

The BoE and FSA believe that the current FSA scheme has a proven track record and meets the requirements of the FS Bill 2012, so the proposed

regime closely mirrors the existing one. The new regime would include additional regulators and cover situations where more than one regulator is the subject of a complaint. The FCA will act as the initial recipient of all complaints and allocate them to the relevant regulator. The responsible regulator will have to complete its investigations within four weeks of receiving the complaint.

Sir Anthony Holland, the current Complaints Commissioner, will serve until April 2014 when a new commissioner will be appointed to a three year term.

*FSA publishes Handbook Release 131*

The FSA published *Handbook Release 131* on 19 November 2012. Firms should review Handbook Releases to identify changes required to their procedures and policies.

*FSA publishes Handbook Notice 124*

The FSA published *Handbook Notice 124* on 1 November 2012 (effective dates in brackets) including:

- Mortgage Market Review (Conduct of Business) Instrument 2012 (FSA 2012/46) - amending mortgage

market practices to implement recommendations from the MMR (26/04/14)

- Prudential Sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (Non-Bank Lenders) Instrument 2012 (FSA 2012/47) - applying prudential requirements to non-bank mortgage lenders, as recommended under the MMR (26/04/14)
- Short Selling Regulation Instrument 2012 (FSA 2012/58) - conforming changes to UK rules implementing the SSR. (01/11/12)
- Prudential Sourcebook for Banks, Building Societies and Investment Firms (Large Exposures) (Amendment) Instrument 2012 (FSA 2012/59) - removing FSA Glossary definition of 'connected counterparties' and introduces guidance on assessing connected clients, consistent with the EBA's guidance for structured finance vehicles (02/11/12)
- Prudential Requirements for Insurers (Amendment No 6) Instrument 2012 (FSA 2012/61) -



increasing insurer's base capital resources requirement, reflecting recent changes to the European Index of Consumer Prices (31/12/12)

- Conduct of Business Sourcebook (Pension Transfer Value Analysis) (Amendment) Instrument 2012 (FSA 2012/62) - changing pension transfer value analysis assumptions by introducing an explicit assumption for pension scheme benefits based on the Consumer Price Index (01/01/13)
- Conduct of Business Sourcebook (Projections) (Amendment) Instrument 2012 (FSA 2012/63) - changing the projection rates and related rules to incorporate recommendations from a PwC review (06/04/13 and 06/04/14)
- Conduct of Business Sourcebook (Pension Scheme Disclosure) Instrument 2012 (FSA 2012/64) - increasing cost/benefit disclosure requirements for self-invested pensions (SIPPs) and non-SIPP pension schemes (06/04/13)

- Client Assets Sourcebook (Firm Classification, Operational Oversight, and Mandate Rules) Instrument 2012 (FSA 2012/65) - amending CMAR data and mandate rules (01/01/13)
- Supervision Manual (Remuneration Reporting) Instrument 2012 (FSA 2012/66) - implementing EBA remuneration data submission guidelines (01/11/12)
- Recognised Auction Platforms (Penalty and Censure Policy) Instrument 2012 (FSA 2012/67) - implementing amendments to the Recognised Auction Platforms regulations (01/11/12)
- Financial Crime Guide (Amendment) Instrument 2012 (FSA 2012/68) - amending the Financial Crime Guide following recent FSA thematic reviews on anti-bribery and corruption systems and controls and defences against investment fraud (01/11/12).

#### *OFT consults on Annual Plan 2013-14*

The OFT published its final *Annual Plan Consultation* on 28 November 2012, outlining its key 2013 objectives

of fostering competition and empowering consumers.

The OFT plans to tackle complex, market-wide consumer issues by enforcing consumer law. It wants to see informed consumers driving competition by exercising "real choice across all markets". The OFT says it will continue to use its credit enforcement tools, focusing enforcement on high-risk activities and conduct that affects vulnerable customers.

In March 2012 the Government announced the creation of the Competition and Markets Authority (CMA), merging parts of the OFT and the Competition Commission. From April 2014 onwards, the CMA will be responsible for the competition, mergers and markets regime in the UK and for much of the OFT's current consumer work. Some consumer protection issues will become the responsibility of Citizens Advice Bureau and Trading Standards. The FCA will be responsible for consumer credit licensing and supervision.

To manage the transition, the FSA is working with the OFT on the design an FCA regulatory model that enhances

consumer protection. The OFT is also working with the Department of Business, Innovation & Skills and the FCA leadership team to facilitate the new arrangements.

The consultation closes on **6 February 2013**. Following this consultation, the OFT will lay its final draft Annual Plan before Parliament in March 2013.

#### *Ombudsman News Issue 106 (FOS)*

The FOS published the latest issue of their *Ombudsman News* on 27 November 2012. Topics addressed in this edition include: payments, specifically standing orders and direct debits, and further examples relating to pet insurance. The case studies highlight the FOS' approach to issues such as non-disclosure in insurance contracts, and the respective roles and responsibilities of consumers and banks in relation to payments.

#### *Pensions*

##### *Making pension charges more transparent (ABI)*

An ABI sponsored working group of consumer, trade and pension representatives published a Joint Code on Pension Charges on 26 November

2012. The Code seeks to standardise the disclosure of workplace pension fees and investment charges, a move designed to increase transparency in workplace pensions and support auto-enrolment.

The Code applies to all parties providing services to employers in setting up and administering pension schemes for auto-enrolment, including insurance companies, trust-based pension schemes, financial advisers, and any other professionals who provide paid advice.

Jonathan Lipkin, Associate Director of Pensions and Research at the IMA, said:

[T]his is the beginning of the road. Much more has to be done to ensure that scheme members themselves feel greater confidence in DC schemes, whether trust-based or contract-based. This means an emphasis on overall governance as much as disclosure.

Firms are encouraged to adopt the Code from 1 January 2013 as best

practice. The Code will fully apply one month after the launch of an ABI web tool, expected from 1 April 2013.

#### *FSA publishes new pension projection and transfer rules*

The FSA published final rules on *Pension projections and transfer value analysis* (PS12/17) on 1 November 2012.

The FSA developed its proposals (published April 2012) because it found that occupational pension schemes were increasingly using the Consumer Price Index (CPI) instead of the Retail Price Index (RPI) to determine the rate of inflation. COBS lays out certain economic and demographic assumptions which schemes have to use for transfer value analysis, including explicit assumptions for revaluation in case of deferment. The new rules include CPI as the inflation factor. This change was supported by consultation respondents, and comes into effect on **1 January 2013**.

The rules relating to investment assumptions in projections are being amended require schemes to use 'accurate' rates instead of 'appropriate' rates. Respondents were less supportive

of this change, because they saw 'accurate' as more subjective in the context of projections. However, the FSA have maintained its proposed wording so firms will need to consider the accuracy of their projection rates.

The FSA also amended the rates used in projections, reducing:

- the intermediate projection rate from 7% to 5%, with a flanking of  $\pm 3\%$ , and
- the adjustment for tax disadvantaged PRODUCTS from 1% to  $\frac{1}{2}\%$ .

These rules may also be extended to SIPPs. *In Personal pensions, – feedback to CP12/5 and final rules on disclosures by SIPP operators, and consultation on inflation-adjusted illustrations (CP12/29)*, the FSA proposed removing some exemptions currently enjoyed by SIPPs, a move which would bring SIPPSS under these rules.

The new rules come into force on **6 April 2014**, although firms can choose to comply from 6 April 2013

#### *SIPP disclosures get beefed up (FSA)*

The FSA published its final rules for SIPP operators and a consultation on pension illustrations in *Personal pensions, – feedback to CP12/5 and final rules on disclosures by SIPP operators, and consultation on inflation-adjusted illustrations (CP12/29)* on 1 November 2012.

Currently, SIPP operators benefit from an exemption from the requirement to providing a Key Features Illustration (KFI), which is prepared for most SIPPs, and from providing 'effect of charges' (EoC) and 'reduction in yield' (RIY) information for all SIPPs.

The FSA consulted on proposals to change the exemptions. Given the breadth and widespread sales of SIPPs, the FSA has decided to remove the SIPP exemptions, so SIPP operators will have to provide KFIs, EoC and RIY disclosures. The FSA is also introducing guidance which invokes a 'best available reasonable assumptions' rule for illustrating volatile or difficult to value assets. The FSA will also require firms to disclose information about bank interest they receive and retain in the KFI. The FSA is requiring firms to

implement these changes by **6 April 2013**.

All pensions disclosure will include inflation adjustments in KFIs going forward. Firms provide information on the impact of inflation - typically an inflation-adjusted protection with three standard deterministic projections. However, FSA wants firms to make all standard deterministic projections based on real terms (rather than nominal terms). Going forward, projections will have to show negative real growth for the lowest growth rate. These changes take effect from **6 April 2014**, but firms can opt to comply from April 2013.

The FSA is also consulting on amending its guidance on product information illustration issues, such as colour, shading and the use of bulleted lists, annotations and graphics.

The pensions illustration consultation closes on **1 February 2013**.

*SIPP operators subject to new capital regime (FSA)*

The FSA published its proposals under *A new capital regime for SIPP operators* (CP12/33) on 22 November

2012, which could radically alter the capital requirements for SIPP operators. Under these proposals, minimum capital requirements will rise from £5,000 to £20,000 and the calculation basis for additional capital will change significantly. Capital requirements would be based on volume of assets under administration rather than fixed operating costs. Operators that hold non-standard asset types will incur a capital surcharge.

The consultation closes on **22 February 2013**.

### **Regulatory reform**

*BoE's performance during crisis scrutinised (BOE)*

The BoE published three independent reviews of its performance during the crisis on 2 November 2012.

Ian Plenderleith's *Review of the Bank of England's Provision of Emergency Liquidity Assistance (ELA) in 2008-09* concludes that the emergency liquidity injected into banks at the height of the crisis was successful in stabilising markets. Plenderleith calls on the BoE to maximise its readiness for any future liquidity exercise, particularly in terms

of identifying problems as soon as possible. He believes that the BoE should also have the capacity to extend liquidity to non-bank entities.

Bill Winters' *Review of the Bank of England's Framework for Providing Liquidity to the Banking System* focuses on the BoE's framework for providing liquidity to the banking system as a whole. Winters concludes that the sterling monetary framework in place before the crisis was insufficient to meet the BoE's financial stability objectives. However, the framework is now robust and broadly fit for purpose after extensive changes made during the financial crisis. Winters made several recommendations are aimed at reducing banks' reluctance to access BoE liquidity facilities, particularly the discount window facility.

David Stockton's report, *Review of the Monetary Policy Committee's Forecasting Capability*, concludes that the BoE is using sound forecast process/tools to support its monetary policy decisions. Many commentators may challenge this view given that BoE and its peers failed to identify the risks

that developed from a low interest-rates policy during the global credit bubble.

The BoE Governors are starting work programmes to evaluate and implement recommendations from these reports, and will report regularly to the Court of the BoE. The BoE intends to publish a progress report in its 2013 Annual Report.

### **RRPs**

*FSB consults on RRP standards for regulators*

The FSB issued a consultation *Recovery and Resolution Planning: Making the Key Attributes Requirements Operational* on 2 November 2012. The consultation provides guidance on:

- triggers and stress scenarios in recovery planning
- resolution strategies and associated operational plans tailored to different group structures and
- critical functions and supporting services at firms.

The consultation outlines the key elements that regulators should examine in G-SIFIs' resolution

strategies and RRP. The FSB proposes two approaches to resolution:

- a “single point of entry” approach where the home regulatory authority drives group resolution, which takes place mainly at the parent or holding company level and
- a “multiple point of entry” approach where multiple regulatory authorities manage resolution plans along national, regional or functional lines.

Resolution authorities will need to apply the approach which best matches the business of the G-SIFI, but sometimes they may need to use a combined approach.

Regulators will now have a common framework to identify the critical functions and shared services that banks need to maintain in a crisis to protect financial stability. The FSB are keen to ensure that a globally agreed framework is used for all G-SIFIs.

Regulatory authorities should find the FSB’s *Key Attributes of Effective Resolution Regimes for Financial Institutions*, published in November 2011, helpful. G-SIFIs and other firms

with RRP should consider the report’s findings to inform discussions with their supervisors.

#### *G-SIFIs framework gaining strength (FSB)*

In November 2012 the FSB published three reports outlining progress in implementing the G-SIFI framework.

In *Resolution of Systemically Important Financial Institutions: Progress Report*, the FSB found that overall countries are making “encouraging” progress in reforming their national resolution regimes and instituting RRP for G-SIFIs. But some countries are still working on reforms to align their resolution regimes with the FSB’s *Key Attributes of Effective Resolution Regimes for Financial Institutions* (November 2011).

The progress report focuses on:

- Crisis Management Groups (CMGs): CMGs have been established for nearly all of the 29 G-SIFIs designated in November 2011. CMG membership includes the prudential supervisor, central bank and, where it is a separate authority, the

resolution authority of the home and key host countries.

- Recovery plans: regulators have conducted initial reviews of most G-SIFI’s recovery plans, but are still conducting in-depth reviews. The regulators have recommended that the hypothetical stress scenarios use greater severity. Regulators should undertake more analysis of impediments to recovery measures, taking into account interconnections between group entities and constraints arising from legal frameworks.
- Resolution strategies: Recently CMGs have focused on developing clearly articulated resolution strategies for their G-SIFIs.

The FSB suggests that each G-SIFI’s home country resolution authority should propose a basic resolution strategy to the G-SIFI’s other host countries by the end of 2012. The FSB is investigating how client assets can be better protected if G-SIFI’s fail, and is also looking at how regulators in different countries exchange information, especially during times of

crisis. We expect further FSB resolution recommendations during 2013.

*Increasing the Intensity and Effectiveness of SIFI Supervision Progress Report to the G20 Ministers and Governors*, looks at the intensity and effectiveness of G-SIFI supervision. The FSB is still seeing evidence of weak risk controls at G-SIFIs in certain countries and this creates the potential for regulatory arbitrage. The FSB recommends measures to make SIFI supervision more proactive and effective, in particular the supervision of G-SIFIs. Its recommendations include updating the Basel Committee capital requirements for operational risk by the end of 2014.

The FSB provided an *Update of group of global systemically important banks (G-SIBs)* based on end-2011 data. The FSB has reduced the number of G-SIFIs from 29 to 28, removing Dexia, Lloyds and Commerzbank but adding Standard Chartered and BBVA.

*EP ministers consider RRP views* EP ministers (MEPs) gave their views on *Bank crisis rules need a dose of realism and more detail* on 6 November 2012. The MEPs think the



EC's draft RRP legislation focuses too much on individual troubled banks and that it should also address crises situations that could impact the whole banking sector. The MEPs called for amendments to specify that all share and bond holders' stakes are used before a bank gets taxpayer assistance. Gunnar Hokmark, MEP, has advocated using public budgets if state intervention is needed to avoid crisis engulfing the banking sector as a whole.

The pan-European RRP regime is one of the three pillars of the EU banking union proposition, along with the single supervisory mechanism and a stronger deposit guarantee scheme.

MEPs plan to debate the RRP legislation during the winter with a view to holding a vote in March 2013 and a plenary session in June 2013.

### **SSM**

*Draghi considers how SSM will work*

Mario Draghi, ECB president, spoke on the *Rationale and principles for Financial Union* on 23 November 2012, reflecting on how the ECB will respond to the SSM proposals.

Draghi indicated that the ECB will separate its monetary and supervisory policies when it takes charge of Eurozone bank prudential supervision. It will establish a Supervisory Board of senior representatives from national supervisory authorities to ensure robust separation. The Supervisory Board will be at the heart of the new system of financial supervision and will seek to engender decision-making under a collective, collegial approach. National supervisors will be "prime actors" in the new framework, contributing knowledge from their national markets.

SIBs will experience the most direct intervention from a centralised bank supervisor but will also deal on some level with national supervisors. National supervisors will be largely responsible for supervising smaller banks under the ECB's overall responsibility. Draghi rejected calls to limit the ECB's supervisory remit to SIBs, because the financial crisis demonstrated that even small banks can destabilise the financial system.

The ECB sees benefits in the new system and plans to ensure "homogeneous supervision,

convergence of practices, a level playing field and therefore a reduction in banks' compliance costs" under the new regime.

Draghi says that the SSM will not only break the feedback loop between banks and sovereigns, it will also result in a more effective EU monetary policy, by reversing monetary and fiscal policy fragmentation within the Eurozone. The SSM lays the foundation for better cross-border bank supervision and, when needed, resolution, alleviating the risk of taxpayer bailouts and to payments systems in the future. It will need to be supplemented, however, by common resolution schemes adopted at the national level (in line with the EC's proposal) and, ideally, by a European Resolution Authority.

## **Accounting<sup>1</sup>**

### **IFRS**

*Revenue recognition rules still pending*

This IASB and the FASB joint project *IFRS - Revenue Recognition* aims to clarify when revenue from customer contracts can be recognised. The rules apply to all contracts with customers except leases, financial instruments and insurance contracts. The boards intend to issue a final standard in the first half of 2013, with an effective date no earlier than 2015. They will continue to re-deliberate over the next several months and intend to publish guidance on some of the more significant changes.

At the November meeting, the boards reached tentative decisions on when revenue from variable consideration should be recognised, presentation of amounts not expected to be collected

<sup>1</sup> This section includes accounting developments with a direct or potential impact on the financial services industry only. For a complete update on accounting developments in the UK visit [http://www.pwc.co.uk/eng/services/ifrs\\_services.html](http://www.pwc.co.uk/eng/services/ifrs_services.html)



and licences. Other key issues still to be re-deliberated include allocation of transaction price, contract costs, disclosures and transition. See [Straight away 98](#).

#### *Limited modifications proposed for IFRS 9 (2010): financial instruments*

The IASB issued an ED *proposing limited modifications to IFRS 9 (2010), 'Financial instruments'*. The proposals address issues on the use of amortised cost, the interaction with the insurance contracts project and how to reduce differences between IFRS 9, and the FASB's classification and measurement proposals (now largely aligned for debt instruments). The FASB is expected to issue an ED on instrument classification and a measurement model in Q1 2013. The consultation closes on 28 March 2013. See [Straight away 101](#).

#### *Amending IAS 28: Investments in associates and joint ventures*

The IASB has proposed additional guidance on the *application of the equity method in IAS 28*. This guidance will cover how investors should recognise their share of the changes in the net assets of an investee that are not

recognised in profit or loss or other comprehensive income of the investee, and that are not distributions received ('other net asset changes'). The consultation closes on **22 March 2013**. See [Straight away 100](#) and our [press release](#).

#### *Minor changes in annual improvements project (IASB)*

The IASB published an ED of its *proposed annual improvements to IFRS*. These amendments include minor changes to:

- IFRS 1, 'First-time adoption of IFRS'
- IFRS 3, 'Business combinations'
- IFRS 13, 'Fair value measurement'
- IAS 40, 'Investment property'

These proposals would apply to annual periods beginning on or after 1 January 2014. Comments are due by **18 February 2013**. For further details see [Straight away 99](#).

#### *PwC publications*

- [IFRS news](#). Our monthly newsletter highlighting developments at the IASB. The November 2012 edition addresses the following issues:

- Exemption from consolidating investment entities
- Viewpoint – are you truly happy with your accounting framework?
- Cannon Street Press:
  - revenue update
  - insurance contracts – proposal re-exposed
  - IFRS Foundation response to SEC work plan

- Questions and answers – Associates.

- [Accounting briefing](#). Our quarterly newsletter considering practical issues for the UK accountant. In this issue:

- New UK GAAP to be delayed
- Updated IFRS and UK GAAP guidance now out
- FRRP recommends reporting improvements
- Audit exemptions for certain subsidiaries
- Dormant companies exempt from preparing accounts

- Auditor remuneration disclosures
- Our year-end reminders:
  - covenant waivers – what's their impact on your balance sheet?
  - risk-free rates
  - new UK standards effective for 31 December 2012 year ends.

### **UK GAAP**

The FRC is replacing almost all extant financial reporting standards from **1 January 2015** (with early adoption permitted). Firms will have the option of reporting under either IFRS (which will remain mandatory only for the consolidated accounts of listed groups), or a new Financial Reporting Standard (FRS 102) that will replace the existing suite of FRSs and SSAPs.

Subsidiary companies (reporting under either IFRS or FRS 102) will be able to apply a reduced disclosure regime. In addition, firms currently applying the Financial Reporting Standard for Small Entities (FRSSE) will be able to continue to do so. See our [Straight](#)

Away publication and the FRC website for further information.

A discussion paper on the options for the future of insurance accounting in the UK and Republic of Ireland was published in January 2012 by the ASB, see our Hot Topic publication.

#### *FRC standards on financial reporting and disclosure*

The FRC issued *Financial Reporting Standard (FRS) 100 - Application of Financial Reporting Requirements and FRS 101 - Reduced Disclosure*

*Framework* on 22 November 2012.

These standards, together with FRS 102, are intended to simplify accounting and reporting for unlisted entities, improve reporting of financial instruments and provide cost savings for subsidiaries of listed groups.

FRS 100 sets out the overall financial reporting requirements, giving many entities a choice of detailed accounting requirements depending on factors such as their size, and whether or not they are part of a listed group. It does not require entities to apply international accounting standards unless they are already required to.

FRS 101 applies to the individual financial statements of subsidiaries and ultimate parents, allowing them to apply the same accounting standards as their listed group accounts, but with fewer disclosures.

FRS 100 and 101 take effect for accounting periods beginning on or after 1 January 2015 but firms may adopt them earlier. FRS 102, the new standard is expected to be published in early 2013, completing the suite of new standards.

#### *Improving debt and cash flow disclosure (FRC)*

The FRC published Financial Reporting Lab (the Lab) project reports on *Debt terms and maturity tables November 2012*, and *Operating and investing cash flows November 2012* on 6 November 2012. They relate to the Lab report Net Debt Reconciliations published in September 2012, and complete the Lab's initial project on debt and cash flow disclosure.

The Lab reports show how some companies disclose information on debt, and what effect that disclosure has on liquidity risk, interest costs and on cash flows. The Lab identified

reporting practices that should help companies draft reports providing basic information on topics like instrument terms and accounting. Companies that improve their reporting should satisfy investors' fundamental information needs, so they can spend more time with their investors on other important issues.

The FRC is seeking comments on the reports, to further develop the Lab's project approaches and reporting.

#### *Auditors' duties under review (FRC)*

The FRC and the Institute of Chartered Accountants of Scotland (ICAS) announced *a review of the competencies and professional skills of auditors* on 20 November 2012.

The FRC and ICAS are considering auditors' duties and how these might change. They will also recommend the mix of attributes, competencies, professional skills and qualities that an audit team needs to perform a high-quality, public interest audit in a modern and complex global business environment, particularly the skills needed to audit banks, insurers and large listed companies.

The FRC hopes that the review will help to restore public confidence in markets by improving audit quality and rebuilding trust in the audit profession. It plans to publish the review findings in Q4 2013.

#### *New*

### ***Other accounting news***

#### *Supervisory focus on financial statements (ESMA)*

ESMA published *European common enforcement priorities for 2012 financial statements* on 12 November 2012, to guide listed companies and their auditors in the preparation and audit of financial statements.

The common enforcement priorities relate to the application of IFRS to:

- financial assets
- impairment of non-financial assets
- defined benefit obligations
- provisions, contingent liabilities, and contingent assets.

By establishing these priorities, ESMA hopes to promote the consistent application of European securities and markets legislation and IFRS. With

national supervisors, it will monitor the application of IFRS, collect data on how European listed entities have applied IFRS requirements in these areas and publish the results.

*Maijoor urges more cooperation between audit regulators and firms (ESMA)*

Steven Maijoor, ESMA Chairman, spoke on *Developments in European Financial Reporting Regulation and Enforcement* on 12 November 2012. Maijoor highlighted the common IFRS enforcement priorities that all EU regulators will focus on in this year's financial statements:

- financial instruments
- impairment of non-financial assets
- defined benefit obligations and provisions that fall within the scope of IAS 37 Provisions
- Contingent Liabilities and Contingent Assets.

Regarding forbearance, Maijoor said that high bank leverage and questions about borrowers' ability to meet their debt obligations are stressing the EU banking sector. Accordingly, lenders

should be clear with investors about the credit risk arising from forbearance.

Maijoor discussed the recent SEC staff report considering whether IFRS should be applied in the US. Despite regulators' best efforts to adopt IFRS in the US, there seems to be a lack of political will to keep it high on the agenda.

On audits, Maijoor said that the financial crisis exposed significant audit failures which were basic audit failures, rather than purely failures relating to the handling of complex instruments and issues.

In closing Maijoor urged increased cooperation between audit regulators and international networks of auditing firms, and for a more consistent European approach to audit regulation.

*Accounting Council takes action*

At its meeting on 15 November 2012, the AC:

- tentatively agreed to recommend to the FRC that early application of IFRS 102 should generally be available for accounting periods ending on or after 31 December 2012

- made tentative decisions regarding inventories held for distribution at no or nominal cost
- deferred discussion about accounting for insurance contracts/business to the next meeting.

See developments by month for a detailed summary of the monthly meetings.

## Taxation

*Financial tax proposal gaining steam*

The EP has tabled amendments to its 26 October 2012 draft recommendation on the proposal for a Council decision authorising the use of Enhanced Cooperation Procedures to introduce a Financial Transaction Tax. It is scheduled to vote on the final recommendation in plenary session on 12 December. ECP allows Member States that want to introduce an FTT to use the EC to coordinate their efforts and produce a single tax proposal applicable to all participating Member States. Fiscal issues are generally the Council's responsibility, but the EP has to consent to the use of this procedure.

# Banking and Capital Markets

In this section:

<b>Regulation</b>	<b>32</b>
Financial reporting	32
ECB revises loan reporting timetable	32



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## Regulation

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### **Financial reporting**

#### *ECB revises loan reporting timetable*

The ECB announced on 27 November 2012 that it is delaying implementation of the *loan-level data reporting requirements*, to ensure smooth implementation. Banks will now have to comply with mandatory reporting requirements for residential mortgage-backed securities and asset-backed securities from 3 January 2013, and for commercial mortgage-backed securities from 1 March 2013. It has adjusted the nine-month transition phase for each set of requirements accordingly. FRC issues FRS 100 and FRS 101.



# Asset Management

In this section:

<b>Regulation</b>	<b>34</b>
<b>AIFMD</b>	<b>34</b>
FSA consults on AIFMD implementation	34
<b>Other regulatory</b>	<b>34</b>
FSA turns up the heat on conflicts of interest	34



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## Regulation

### AIFMD

#### *FSA consults on AIFMD implementation*

The FSA published *CP12/32: implementation of the Alternative Investment Fund Managers Directive – Part 1* on 14 November 2012, the first of two FSA consultation documents expected. In CP 12/32, the FSA focussed on areas where the FSA has some discretion in implementation. It will consider other issues such as AIFMD's scope and what structures are classified as AIFs in a second consultation.

The FSA proposes replacing the Collective Investment Sourcebook (COLL) with a new Investment funds (FUND) sourcebook which will include all rules for fund managers and funds. The FSA expects authorised funds such as the non-UCITS retail schemes and qualified investor schemes to be AIFs, but does not intend to make other changes to the regimes governing them.

The FSA provided information on:

- its authorisation regime for AIFMs, including the permissions they will need and the capital requirements they will have to meet
- draft rules on the new AIFMD transparency requirements which require AIFMs to report additional information to investors and the regulator
- provisional conduct of business requirements for AIFM, including draft rules for the fair treatment of investors, identification of conflicts of interest and organisational requirements.

The FSA noted that the Level 2 AIFMD technical standards will set out qualitative tests that AIFMs will need to meet, rather than a quantitative requirement. Delegation is a controversial AIFMD topic, and identifying the circumstances in which AIFMs become 'letterbox entities' by delegating too many activities is a challenge. Although CP12/32 the FSA provides some insight on this topic, asset managers must wait until ESMA completes the technical standards to be certain of the criteria.

The FSA plans to allow the full transitional timetable for firms to comply with AIFMD requirements, giving UK fund managers until 22 July 2014 to submit AIFM authorisation applications. But AIFM that market in other Member States that don't allow this flexibility may need to apply earlier.

The consultation closes on **1 February 2013**. The FSA plans to issue the second consultation paper in February 2013, to clarify AIFMD's scope, the marketing regime for retail and professional investors, Level 2 regulations, the application of the FSCS and FOS to AIFs and further draft rules for the FUND sourcebook.

### *Other regulatory*

#### *FSA turns up the heat on conflicts of interest*

On 9 November 2012, the FSA published a Dear CEO letter, *Conflicts of interest between asset managers and their customers: identifying and mitigating the risks*, setting out the conclusions of its recent thematic review. The FSA highlighted concerns that asset managers' cultures and governance arrangements are resulting in full compliance with the FSA's

conflicts of interest rules. The FSA noted that firms with overseas parent companies had particularly poor UK governance and conflicts of interest arrangements.

The FSA listed examples of poor practice, such as buying research and trade execution from brokers and receiving gifts and entertainment. It also provided examples of good practice including giving customers equal access to suitable investment opportunities, managing employees' personal account dealing, and allocating the costs of errors fairly.

The FSA expects all asset managers to analyse and apply the findings of this thematic review. To ensure that happens, the FSA is requiring each CEO to sign and return an attestation by **28 February 2013**, stating that the firm's board has discussed the Dear CEO letter and confirming that the asset manager's arrangements for managing conflicts of interest comply with FSA rules. The FSA may use signed attestations to hold a firm's CEOs and directors personally accountable if the regulator subsequently finds that the firm has not managed its conflicts of interest appropriately.

# Insurance

## In this section:

<b>Regulation</b>	<b>36</b>
<b>Capital and liquidity</b>	<b>36</b>
Indexation of base capital and capital resource requirements (FSA)	36
<b>Other regulatory</b>	<b>36</b>
IFSB consults on Takaful (Islamic Insurance) Undertakings	36
Complaints-handling guidelines arrive (EIOPA)	36
EIOPA's priorities for 2013	36
<b>Regulatory reform</b>	<b>36</b>
With-profits supervisory roles clarified (FSA)	36
<b>Solvency II</b>	<b>36</b>
Omnibus II vote pushed further into 2013 (EP)	36
EIOPA considers interim measures	37
Internal model briefing scheduled for January (FSA)	37
Where to go for more Solvency II information	37
<b>Accounting</b>	<b>37</b>
<b>IFRS</b>	<b>37</b>
IASB Insurance Contracts Project – IFRS 4, phase II	37
Bringing together IFRS and Solvency II	37
Insurance illustrative UK GAAP accounts ready for year-end	37



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## Regulation

### Capital and liquidity

#### *Indexation of base capital and capital resource requirements (FSA)*

In *Handbook Notice 124* the FSA updates prudential requirements for insurers to reflect amendments made to EU insurance and reinsurance directives, taking into account changes in the European consumer price index.

The FSA are increasing the base capital resources requirement (BCRR) for insurers, along with the capital resources requirement (CRR) for general insurers, to comply with the revised Directives. These changes take effect from 31 December 2012. They will be effective for financial years ending on or after 31 December 2012. Reporting changes will also apply to returns for financial years ending on or after 31 December 2012.

### Other regulatory

#### *IFSB consults on Takāful (Islamic Insurance) Undertakings*

The Islamic Financial Services Board (IFSB) issued a new ED on 1 November

2012: *ED 14: Standard on Risk Management for Takāful (Islamic Insurance) Undertakings*, which advises on the development of a risk management framework for Takāful Undertakings. The consultation closes on 31 March 2013.

#### *Complaints-handling guidelines arrive (EIOPA)*

Following the release of the original report in June 2012, EIOPA published translations of its *Guidelines on Complaints Handling by Insurance Undertakings* for Member State supervisors in November. The Guidelines set out high-level principles EU insurers complaints handling, including:

- principles for complaints-handling systems and controls (e.g. a complaints management policy and a dedicated complaints management function)
- the standard of information provided to complainants and
- procedures for firms' responses.

EIOPA also published a *One Minute Guide* for firms.

Member State supervisors have until 15 January 2013 to declare whether they intend to comply with the Guidelines or explain their reasons for non-compliance.

#### *EIOPA's priorities for 2013*

Gabriel Bernardino, EIOPA Chairman, spoke at EIOPA's annual conference on 21 November 2012. He discussed key issues facing EIOPA, including Solvency II implementation, reform of the European pensions system, development of a systemic risk approach in insurance and occupational pensions. Carlos Montalvo, EIOPA Executive Director, followed with an update on EIOPA's strategic objectives and organisational issues.

### Regulatory reform

#### *With-profits supervisory roles clarified (FSA)*

The FSA published a *PRA/FCA MoU* for with-profits insurance policies in November 2012, a follow-up to its January publication *PRA/FCA memorandum of understanding (MoU)*, which set out the roles and responsibilities of the PRA and FCA in supervising dual regulated firms. This MoU is needed because the returns on

with-profits policies are not well defined and are at the discretion of the insurance companies.

The discretionary nature of these policies gives rise to issues of both fairness to policyholders (which the FCA will cover), and the safety and soundness of insurers (which the PRA looks after).

The MoUs will be executed after the FS Bill 2012 is passed and the new regulators commence their duties.

### Solvency II

#### *Omnibus II vote pushed further into 2013 (EP)*

The EP has rescheduled its Omnibus II plenary vote from 11 March 2013 to 10 June 2013. Omnibus II amends the Solvency II and must be adopted before legislators can complete Solvency II.

This most recent delay reinforces the industry's concerns about the Solvency II implementation date. Although the EC has not formally announced a delay to the 1 January 2014 implementation date, perhaps to 1 January 2016, a delay now seems inevitable. The FSA has acknowledged that the 1 January 2014

date has become ‘completely unrealistic’.

### *EIOPA considers interim measures*

At the 21 November 2012 annual conference (see below) Gabriel Bernardino, EIOPA Chairman, said that to progress Solvency II EU political institutions need a strong commitment and a clear and realistic timetable. Politicians must also agree a sound and prudent regime for valuing long-term guarantees. As an interim measure, EIOPA is considering incorporating some of the key features of Solvency II (Pillars 2 and 3) into the current EU insurance supervisory processes.

### *Internal model briefing scheduled for January (FSA)*

The FSA has *announced* that it will hold an industry briefing on Thursday 10 January 2013 for insurers that are undergoing the internal model approval process (IMAP).

The FSA will announce their communication plans for firms that intend to use the standard model formula in Q1 2013.

### *Where to go for more Solvency II information*

See our web pages at [www.pwc.co.uk/solvencyII](http://www.pwc.co.uk/solvencyII).

## *Accounting<sup>2</sup>*

### *IFRS*

#### *IASB Insurance Contracts Project – IFRS 4, phase II*

The IASB is working with the FASB to develop a harmonised IFRS for insurance contracts. However, differences between the IASB and FASB’s decisions mean that full convergence between their standards is unlikely. For more information see our [webpage](#) and also the IASB’s high level summary of the project [status](#).

The IASB and FASB boards met on 20 November 2012 to continue their discussions on the proposed Insurance Contracts Standard. They discussed the

<sup>2</sup> This section includes accounting developments with a direct or potential on the financial services industry only. For a complete update on accounting developments in the UK visit [http://www.pwc.co.uk/eng/services/ifrs\\_services.html](http://www.pwc.co.uk/eng/services/ifrs_services.html)

discount rate for cash flows that are not subject to mirroring but are affected by asset returns. Representatives of the IASB met on 21 November 2012 ([IASB meeting audio playback](#)) to discuss presentation and disclosure requirements and a proposed approach to fieldwork. See [PwC summary of meetings and education sessions](#).

### *Bringing together IFRS and Solvency II*

With a delay to Solvency II likely and a three year grace period for IFRS Phase II, many finance officers are breathing a sigh of relief.

In our latest report [Laying the foundations for the future of insurance reporting](#) we make a case for taking a different response. We believe that insurers should move towards adopting both Pillar 3 and IFRS Phase II, to minimise the expense and disruption that a later and separate implementation will bring, particularly to data management, modelling and investor relations.

Careful planning is still required to deliver the benefits of early adoption and despite the similarities between Solvency II and IFRS Phase II,

differences remain. Identifying those differences and anticipating the challenging questions that they may raise from analysts and investors will be key to their success. For those brave enough to act now, the rewards are there for the taking.

### *Insurance illustrative UK GAAP accounts ready for year-end*

PwC has updated its UK GAAP illustrative insurance accounts for the 2012 year-end:

- [Proforma-Gen Limited](#) - PwC's illustrative accounts for a general insurance company
- [Proforma-Life Limited](#) - PwC's illustrative accounts for a life insurance company.



# Monthly calendar

## Open consultations

<b>Closing date for responses</b>	<b>Paper</b>	<b>Institution</b>
16/12/12	<i><u>Policy prescriptions for Systemically Important Insurers</u></i>	IAIS
21/12/12	<i><u>Draft regulatory technical standards on own funds under the draft Capital Requirements Regulation – part two</u></i>	EBA
21/12/12	<i><u>Further amendments to ESMA’s Recommendations for the consistent implementation of the Prospectus Regulation regarding mineral companies</u></i>	ESMA
24/12/12	<i><u>Implementing the Wheatley Review: draft secondary legislation</u></i>	HMT
28/12/12	<i><u>Consultation on a possible Recovery and Resolution Framework for Financial Institutions other than banks</u></i>	EC
31/12/12	<i><u>Discussion paper: toward a disclosure framework for the notes</u></i>	FRC
02/01/12	<i><u>CP12/25 Enhancing the effectiveness of the Listing Regime and feedback on CP12/2</u></i>	FSA
07/01/13	<i><u>CP12/28: regulatory fees and levies – policy proposals for 2013/14</u></i>	FSA
14/01/13	<i><u>Consultative document strengthening oversight and regulation of shadow banking: a policy framework for strengthening oversight and regulation of shadow banking entities</u></i>	FSB

<b>Closing date for responses</b>	<b>Paper</b>	<b>Institution</b>
14/01/13	<i>Consultative document strengthening oversight and regulation of shadow banking: an integrated overview of policy recommendations</i>	FSA
14/01/13	<i>Consultative document strengthening oversight and regulation of shadow banking: a policy framework for addressing shadow banking risks in securities lending and repos</i>	FSA
16/01/13	<i>CP12/36: the regulation and supervision of benchmarks (consultation paper part)</i>	FSA
29/01/13	<i>CP12/34: regulatory reform – FCA Handbook</i>	FSA
31/01/13	<i>Thinking about disclosures in a broader context: a road map for a disclosure framework</i>	FRC
01/02/13	<i>CP12/32: implementation of the Alternative Investment Fund Managers Directive</i>	FSA
01/02/13	<i>CP12/29: personal pensions – feedback to CP12/5 and final rules on disclosures by SIPP operators and consultation on inflation-adjusted illustrations</i>	FSA
04/02/13	<i>CP12/35: the FCA's use of temporary product intervention powers</i>	FSA
06/02/13	<i>CP12/30: complaints against the regulator (Bank of England, Prudential Regulation Authority and Financial Conduct Authority)</i>	FSA
06/02/13	<i>Annual Plan: consultation document 2013-14</i>	OFT
13/02/13	<i>CP12/36: the regulation and supervision of benchmarks (discussion paper part)</i>	FSA
22/02/13	<i>CP12/33: a new capital regime for Self-Invested Personal Pension (SIPP) operators</i>	FSA
31/03/13	<i>Standard on risk management for Takaful (Islamic insurance) undertakings</i>	IFSB

## *Forthcoming publications in 2012*

<b>Date</b>	<b>Topic</b>	<b>Type</b>	<b>Institution</b>
<b><i>Banking Structure</i></b>			
Q4 2012	Large exposures regime	Policy statement	FSA
<b><i>Capital and Liquidity</i></b>			
Q4 2012 – Q2 2013	CRR/CRD IV	76 regulatory technical standards, 32 implementing technical standards and 20 guidelines	EBA
Q4 2012	Review of Financial Conglomerates Directive	Legislative proposals	EC
Q1 2013	Removing the simplified ILAS BIPRU firm automatic scalar increase and other minor changes	Policy statement	FSA
TBC 2013	Revision of Financial Conglomerates Directive (FICOD II)	Legislative proposals	EC
TBC	Strengthening Capital Standards 4 – consultation on CRD IV	Consultation paper	FSA
<b><i>Client Money</i></b>			
Q4 2012	Client Assets Firm Classification, Oversight, Reporting and the Mandate Rules	Policy statement	FSA
Q4 2012	Client assets regime: EMIR, multiple pools and the wider review	Policy statement	FSA
Q1 2013	Review of the client money rules for insurance intermediaries	Policy statement	FSA
TBC	Regulated client money regime for consumer credit companies	Consultation paper	FSA
<b><i>Consumer protection</i></b>			
Q4 2012	Directive on misleading and comparative advertising (2006/114/EC)	Communication	EC

<b>Date</b>	<b>Topic</b>	<b>Type</b>	<b>Institution</b>
Q4 2012	An EU framework for collective redress	Legislative proposals	EC
Q4 2012	Packaged bank accounts: New ICOBS rules for the sale of non-investment insurance contracts	Policy statement	FSA
Q4 2012	Investor Guarantee schemes- revision	Legislative proposals	EC
Q4 2012	Mutuality and with-profits funds: the way forward	Consultation paper	FSA
Q4 2012	Bank accounts	Legislative proposals	EC
Q4 2012	National Depositor Preference and UK depositors	Policy Statement	FSA
Q1 2013	FSCS management expenses levy limit (MELL)	Consultation paper	FSA
Q1 2013	FSCS funding model review	Policy statement	FSA
TBD	Mortgage Market Review: Arrears and Approved Persons- final rules	Policy statement	FSA
<b><i>Financial crime, security and market abuse</i></b>			
Q4 2012	Financial message data transfer from the EU to the USA for the purposes of the Terrorist Finance Tracking Program	Report	EC
Q4 2013	Market Abuse Review	Technical advice	ESMA
TBC 2012	Third Anti-Money Laundering Directive	Legislative proposals	EC
<b><i>Insurance</i></b>			
Q4 2012	Tracing employers liability insurers – historical policies	Policy statement	FSA
Q2 2013	Client money rules for general insurance intermediaries	Policy statement	FSA
Q3 2013	Institutions for Occupational Retirement Provision	Legislative proposals	EC

<b>Date</b>	<b>Topic</b>	<b>Type</b>	<b>Institution</b>
Q4 2013	Technical standards for Omnibus II	Technical standards	ESMA
<b><i>Securities and markets</i></b>			
Q4 2012	Securities Law Directive	Legislative proposals	EC
Q4 2012	Limitation period and further procedures for fining credit rating agencies	Regulation	EC
Q4 2012	Revision of the Transparency Directive	Discussion papers	ESMA
Q4 2012	Close-out netting	Legislative proposals	EC
Q4 2012	Central counterparties loss allocation rules	Consultation paper	FSA
Q4 2012	Short Selling Regulation – Handbook changes – Policy Statement to CP12/21	Policy statement	FSA
Q1 2013	OTC Derivatives, CCP Requirements, Trade Repositories and CCP Interoperability (EMIR)	Guidelines	ESMA
Q1 2013	Guidelines on the enforcement of EMIR provisions on OTC derivatives	Guidelines	ESMA
Q1 2013	Joint technical standards on Article 11 of EMIR (exchange of collateral)	Technical standards	ESAs
Q2 2013	Guidelines on MiFID remuneration	Guidelines	ESMA
Q4 2013	Technical standards following the revision of MiFID (MiFID II and MiFIR)	Technical standards	ESMA
TBD 2013	Credit Rating Agencies III Regulation	Technical advice	ESMA



<b>Date</b>	<b>Topic</b>	<b>Type</b>	<b>Institution</b>
<b><i>Products and investments</i></b>			
Q4 2012	Alternative Investment Fund Managers Directive – Level 2 measures	Regulation	EC
Q4 2012	Consumer redress scheme for Arch cru funds	Policy statement	FSA
Q4 2012	Alternative Investment Fund Managers Directive – cooperation agreements	Technical standards	ESMA
Q4 2012	Voluntary jurisdiction relating to interest rate hedging products	Consultation paper	FSA
Q1 2013	Social Investment Funds	Technical advice	ESMA
Q1 2013	Venture Capital	Technical advice	ESMA
Q1 2013	Implementation of the Alternative Investment Fund Managers Directive (Part 2)		
Q1 2013	Payments to platform service providers and cash rebates by providers to consumers	Policy statement	FSA
Q1 2013	Non-mainstream investments	Consultation paper	FSA
Q2 2013	Restrictions on the retails distribution of unregulated collective investment schemes and close substitutes	Policy statement	FSA
Q2 2012	Personal pensions – disclosures by SIPP operators and consultation on inflation-adjusted illustrations (disclosures only)	Policy statement	FSA
Q2 2013	Technical advice on the revised Prospectus Directive	Technical advice	ESMA
Q3 2013	Technical standards on the revised Transparency Directive: notification requirements and update and maintenance of Q&A	Technical standards	ESMA
Q4 2013	Personal pensions – disclosures by SIPP operators and consultation on inflation-adjusted illustrations (inflation-adjusted	Policy statement	FSA

<b>Date</b>	<b>Topic</b>	<b>Type</b>	<b>Institution</b>
	illustrations only)		
TBD 2013	Packaged Retail Investment Products	Technical standards	ESMA
TBD 2013	Undertakings For The Collective Investment Of Transferable Securities V	Technical advice	ESMA
TBD 2013	Markets in Financial Instruments Directive II	Technical advice	ESMA
TBD 2013	Markets in Financial Instruments Directive II	Guidelines	ESMA
<b><i>Recovery and resolution</i></b>			
Q4 2012	Rescue and restructuring of financial institutions in Europe	Guidelines	EC
Q1 2013	Recovery and resolution plans	Policy statement	FSA
TBD 2013	EU framework for recovery and resolution plans	Technical advice	EBA
<b><i>Solvency II</i></b>			
Q4 2012	Transposition of Solvency II- Part 1	Feedback statement	FSA
Q4 2012	Removing the simplified ILAS BIPRU firm automatic scalar increase and other minor changes to BIPRU 12	Consultation paper	FSA
Q1 2013	Draft Level 2 delegated acts	Level 2 text	EC
Q3/Q4 2013	Solvency II and linked long-term insurance business	Policy statement	FSA
Q3/Q4 2013	Transposition of Solvency II – part 2	Policy statement	FSA
TBD 2013	Solvency Level 3 measures	Level 3 text	EIOPA
<b><i>Supervision, governance and reporting</i></b>			
Q4 2012	Corporate reporting	Guidelines/recommendations	ESMA

<b>Date</b>	<b>Topic</b>	<b>Type</b>	<b>Institution</b>
Q4 2012	Regulatory fees and levies: rates for 2013/14	Consultation paper	FSA
Q4 2012	Financial resources requirements for Recognised Bodies	Policy statement	FSA
Q4 2012	EU corporate governance and company law	Action plan	EC
Q4 2012	Storage of regulated information at ESMA	Discussion paper	ESMA
Q4 2012	Supervisory convergence	Discussion paper	ESMA
Q4 2012	Revision of Enforcement Standards	Consultation paper	ESMA
Q4 2012	Remuneration and supervisory co-operation arrangements	Guidelines/recommendations	ESMA
Q1 2013	Regulatory fees and levies: policy proposals for 2013/14 (chapter 2)	Feedback statement	FSA
Q1 2013	Regulatory reform: Enforcement and Markets	Consultation paper	FSA
Q1 2013	Regulatory reform: PRA and FCA regimes relating to aspects of authorisation and supervision	Policy Statement	FSA
Q1 2013	Regulatory reform: the PRA and FCA regimes for Approved Persons	Policy statement	FSA
Q1 2013	Proposed transfer of consumer credit to the FCA	Consultation paper	FSA
Q2 2013	Complaints against the regulators (Bank of England, Prudential Regulation Authority and Financial Conduct Authority)	Policy statement	FSA
Q4 2013	Financial conglomerates: technical review amendments	Consultation paper	FSA

Main sources: ESMA 2012 work programme; EIOPA 2012 work programme; EBA 2012 work programme; EC 2012 work programme; FSA policy development update (Issue 152); ESMA 2013 work programme; EIOPA 2013 work programme; EBA 2013 work programme

## *Education – Conferences and event (December and January)*

<b>Date</b>	<b>Topic</b>	<b>Institution</b>
October 2012 – January 2013	Journey to the FCA – sector-specific roundtables	FSA
October 2012 – January 2013	Assessing suitability: centralised investment propositions and replacement business	FSA
November 2012 – December 2012	EMIR – update on new EU rules on derivatives trading	FSA
14 January 2013	Prudential regulatory training	BBA

# PwC insights

## Banking

*Smart implementation: Reining in risk and cost of regulatory change in banking*

The unprecedented volume of global regulation is placing considerable demands on banks change management capacity. The average project overrun is 24% of budget and schedule, although this number increases by a factor of ten in many of the larger, more complex projects facing 'black swan' risk events.

Better planning and execution will allow banks to improve on poor delivery quality and reduce financial costs associated with programme overrun. Read our report to find out how to control the risks and costs of banking regulation.

Read more [here](#)

*Project Blue: Forging the central bank of the future*

The world was already changing before the global financial crisis as China, India and Brazil emerged as economic superpowers. But the crisis has

accelerated the speed and broadened the scope of the shake-up.

The immediate priority for central banks, especially those in developed markets, is to re-establishing a baseline of stability. But the markets that central banks oversee, the currency and monetary positions they manage, and the wider economic drivers that they are there to control, are all going to face significant upheaval as a result of the longer term trends explored in Project Blue, such as global and local instability, the rise of state-directed capitalism and the rise and interconnectivity of the emerging markets.

Read our report for our views on reshaping the policies, responsibilities and operational armoury of central banks for economies and financial sectors in transformation.

Read more [here](#)

For a full library of insights into all issues affecting banking, please visit our new, easy to navigate online library: [www.pwc.com/bankingpublications](http://www.pwc.com/bankingpublications)

## Asset Management

*FSA turns up the heat on conflicts of interest*

On Friday 9 November, the FSA released a "Dear CEO" letter requiring the CEO of each asset management firm (including those within wider groups) to confirm that the firm's arrangements manage conflicts of interest effectively, and in compliance with FSA rules.

In this short paper we share insights on the regulators expectations and industry best practice.

Read more [here](#)

*EMIR's strategic implications for European boutiques*

As Europe's asset managers prepare for the new over-the-counter (OTC) derivatives regulations, phased in from 2013, they realise that the new regime goes far beyond compliance. The European Market Infrastructure Regulation (EMIR) is driving up costs and might force some boutique managers to look again at their investment propositions.

Find out more in the latest of our Asset Management Insight series.

Read more [here](#)

*Nine new rules of IT strategy*

Many asset managers are refining their business models. They are placing greater emphasis on investor-facing functions such as marketing and distribution, while developing products for new investor needs. Yet, all too often, IT struggles to support these initiatives – holding back changes that are critical for future business success.

Investor preferences are shifting and pricing pressure rising. But IT is often an impediment to progress – slow, inflexible, expensive and not offering what the business wants. So what can technology leaders do to improve performance?

Read more [here](#)

For a full library of insights into all issues affecting asset management, please visit our new, easy to navigate online library: <http://www.pwc.com/bankingpublications>



## *Insurance*

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### *A delay to Solvency II*

Solvency II is likely to be delayed by two years from January 2014 to January 2016. Although there is only one material area of disagreement (affecting long term guarantees for life firms), a decision has been made to delay the whole implementation rather than take a partial or piecemeal approach.

In this short update we consider the two polarised approaches that insurers appear to be taking: 'Getting Solvency II over the line as soon as possible' or 'Taking the time to get it right'.

Read more [here](#)

### *Bringing together IFRS and Solvency II : Make changes early to avoid unnecessary costs and disruptions*

We all know that Solvency II has been delayed. And with a three year grace period for implementing the International Financial Reporting Standards for Insurance contracts (IFRS Phase II) once introduced in 2014, it's not surprising that most finance functions are breathing a sigh of relief.

In our latest report 'Laying the foundations for the future of insurance reporting' we make a case for taking a very different type response.

Read more [here](#)

Find out more about all issues affecting the insurance industry:

<http://www.pwc.com/insurance>

## *Cross Financial Services*

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### *Autumn Statement 2012: Setting the course for growth*

The Chancellor, George Osborne, has delivered his Autumn Statement to an expectant business world that's still coping with the aftermath of a double-dip recession. We share our reaction to the Chancellors proposals and consider their impact on the UK economy.

Read more [here](#)

# Glossary

ABC	anti-bribery and corruption	CCPs	central counterparties
ABI	Association of British Insurers	CDS	credit default swaps
ABS	asset backed security	CEBS	Committee of European Banking Supervisors (predecessor of EBA)
AIFMD	Alternative Investment Fund Managers Directive (Directive 2011/61/EU)	CEIOPS	Committee of European Insurance and Occupational Pensions Supervisors (predecessor of EIOPA)
AIMA	Alternative Investment Management Association	CESR	Committee of European Securities Regulators (predecessor of ESMA)
AMICE	Association of Mutual Insurers and Insurance Cooperatives	Co-legislators	Ordinary procedure for adopting EU law requires agreement between the Council and the European Parliament (who are the 'co-legislators')
AML	anti-money laundering	CFPB	Consumer Financial Protection Bureau (US)
AML3	3rd Anti-Money Laundering Directive (Directive 2005/60/EC)	CFTC	Commodities Futures Trading Commission (US)
ASB	UK Accounting Standards Board	CGFS	Committee on the Global Financial System (of the BIS)
Basel Committee	Basel Committee of Banking Supervisors (of the BIS)	CIS	collective investment schemes
Basel II	Basel II: International Convergence of Capital Measurement and Capital Standards: a Revised Framework	ComFrame	Common Framework for the Supervision of Internationally Active Insurance Groups
Basel III	Basel III: International Regulatory Framework for Banks	Council	Generic term representing all ten configurations of the Council of the European Union
BBA	British Bankers' Association	CPI	Consumer Price Index
BIBA	British Insurance Brokers Association	CPSS	Committee on Payment and Settlement Systems (of the BIS)
BIS	Bank for International Settlements	CRA1	Regulation on Credit Rating Agencies (EC) No 1060/2009
BoE	Bank of England		
CASS	FSA Client Assets sourcebook		
CCD	Consumer Credit Directive 2008/48/EC		

CRA2	Regulation amending the Credit Rating Agencies Regulation (EU) No 513/2011	ECOFIN	Economic and Financial Affairs Council (configuration of the Council of the European Union dealing with financial and fiscal and competition issues)
CRA3	proposal to amend the Credit Rating Agencies Regulation and directives related to credit rating agencies COM(2011) 746 final	ECON	Economic and Monetary Affairs Committee of the European Parliament
CRAs	credit rating agencies	EEA	European Economic Area
CRD	'Capital Requirements Directive': collectively refers to Directive 2006/48/EC and Directive 2006/49/EC	EFAMA	European Fund and Investment Management Association
CRD II	Amending Directive 2009/111/EC	EIOPA	European Insurance and Occupations Pension Authority
CRD III	Amending Directive 2010/76/EU	EMIR	Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (EC) No 648/2012
CRD IV	Proposal for a Directive COM(2011) 453 final amending CRD	EP	European Parliament
CRR	Capital Requirements Regulations 2006 (S.I. 2006/3221)	ESA	European Supervisory Authority (ie generic term for EBA, EIOPA and ESMA)
DFBIS	Department for Business, Innovation and Skills	ESCB	European System of Central Banks
DG MARKT	Internal Market and Services Directorate General of the European Commission	ESMA	European Securities and Markets Authority
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act (US)	ESRB	European Systemic Risk Board
D-SIBs	domestically systemically important banks	EURIBOR	Euro Interbank Offered Rate
EBA	European Banking Authority	Eurosystem	System of central banks in the euro area, including the ECB
EC	European Commission	FASB	Financial Accounting Standards Board (US)
ECB	European Central Bank	FATCA	Foreign Account Tax Compliance Act (US)
ECP	European cooperation mechanism	FATF	Financial Action Task Force
ED	exposure draft	FCA	Financial Conduct Authority
ECJ	European Court of Justice	FDIC	Federal Deposit Insurance Corporation (US)
		FiCOD	Financial Conglomerates Directive 2002/87/EC

FiCOD1	Amending Directive 2011/89/EU of 16 November 2011
FiCOD2	Proposal to overhaul the financial conglomerates regime (expected 2013)
FMI	financial market infrastructure
FOS	Financial Ombudsman Service
FPC	Financial Policy Committee
FRC	Financial Reporting Council
FSA	Financial Services Authority
FSB	Financial Stability Board
FS Bill 2012	Financial Services Bill 2012
FSCS	Financial Services Compensation Scheme
FSI	Financial Stability Institute (of the BIS)
FSMA	Financial Services and Markets Act 2000
FSOC	Financial Stability Oversight Council
FTT	financial transaction tax
G30	Group of 30
GAAP	Generally Accepted Accounting Principles
G-SIBs	globally systemically important banks
G-SIFIs	globally systemically important financial institutions
G-SIIs	globally systemically important insurers
HMRC	Her Majesty's Revenue & Customs
HMT	Her Majesty's Treasury
IAIS	International Association of Insurance Supervisors
IASB	International Accounting Standards Board

ICB	Independent Commission on Banking
IFRS	International Financial Reporting Standards
IIF	Institute for International Finance
IMA	Investment Management Association
IMD	Insurance Mediation Directive 2002/92/EC
IMD2	Proposal for a Directive on insurance mediation (recast) COM(2012) 360/2
IMF	International Monetary Fund
IORP	Institutions for Occupational Retirement Provision Directive 2003/43/EC
IOSCO	International Organisations of Securities Commissions
ISDA	International Swaps and Derivatives Association
ITS	implementing technical standards
JMLSG	Joint Money Laundering Steering Committee
JURI	Legal Affairs Committee of the European Parliament
LEI	legal entity identifier
LIBOR	London Interbank Offered Rate
MAD	Market Abuse Directive 2003/6/EC
MAD II	Proposed Directive on Criminal Sanctions for Insider Dealing and Market Manipulation (COM(2011)654 final)
MAR	Proposed Regulation on Market Abuse (EC) (recast) (COM(2011) 651 final)
MCR	minimum capital requirement
Member States	countries which are members of the European Union
MiFID	Markets in Financial Instruments Directive 2004/39/EC

MiFID II	Proposed Markets in Financial Instruments Directive (recast) (COM(2011) 656 final)
MiFIR	Proposed Markets in Financial Instruments Regulation (EC) (COM(2011) 652 final)
MMR	Mortgage Market Review
MoJ	Ministry of Justice
NAV	net asset value
OCC	Office of the Comptroller of the Currency (US)
OECD	Organisation for Economic Cooperation and Development
Official Journal	Official Journal of the European Union
Omnibus I	Directive 2010/78/EU amending 11 existing Directives to reflect Lisbon Treaty and new supervisory architecture
Omnibus II	Second Directive amending existing legislation to reflect Lisbon Treaty and new supervisory infrastructure (COM(2011) 0008 final) – amends the Prospectus Directive (Directive 2003/71/EC) and Solvency II (Directive 2009/138/EC)
OTC	over-the-counter
PRA	Prudential Regulation Authority
Presidency	Member State which takes the leadership for negotiations in the Council: rotates on 6 monthly basis
PRIPs	Packed Retail Investment Products
PRIPs Regulation	Proposal for a Regulation on key information documents for investment products COM(2012) 352/3
RAO	Financial Services and Markets Act 2000 (Regulated Activities Order) 2001
RDR	Retail Distribution Review

RRPs	recovery and resolution plans
RTS	regulatory technical standards
SCR	solvency capital requirement (under Solvency II)
SEC	Securities and Exchange Commission (US)
SFD	Settlement Finality Directive 98/26/EC
SFO	Serious Fraud Office
SIPP	Self-invested personal pension scheme
SOCA	Serious Organised Crime Agency
Solvency II	Directive 2009/138/EC
SSAP	statements of standard accounting practice
SSR	Short Selling Regulation EU 236/2012
SUP	FSA Supervision source
T2S	TARGET2-Securities
TR	trade repository
TSC	Treasury Select Committee
UCITS	Undertakings for Collective Investments in Transferable Securities
UCITS IV	UCITS Directive 2009/65/EC



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