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Being better informed

FS regulatory, accounting and audit bulletin

PwC FS Regulatory Centre of Excellence

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In this issue:

EU publishes Banking Union proposal

UK, IOSCO and EU benchmark (LIBOR) reforms

ESAs submit EMIR draft technical standards to EC

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.

Laura Cox
Lead Partner
FS Regulatory Centre of Excellence

After a relatively quiet August the pace of regulatory developments accelerated in September and is likely to continue for the foreseeable future.

The EC published its *proposal* for a Banking Union on 12 September 2012. The proposal would give the ECB responsibility for the prudential supervision of all Eurozone banks, bank-led financial conglomerates and financial holding companies, replacing the national competent authorities, through a single supervisory mechanism (SSM). The EBA would be responsible for developing the single rule book and a supervisory handbook covering all 27 EU countries. We examine the Banking Union proposals in this month's edition.

LIBOR reform also dominated the debate in September. Martin Wheatley published *The Wheatley Review of LIBOR: Final Report* which proposes significant changes to the LIBOR setting process. In our Feature article we review the proposals and assess the impact on participating banks.

IOSCO established a benchmark review taskforce in September, co-chaired by Martin Wheatley and Gary Gensler, the CFTC Chairman, to review the setting of benchmarks such as LIBOR. Also, the EC launched a *consultation* in early September reviewing the production and use of indices used as benchmark. Clearly, this issue will preoccupy regulators globally for some time to come.

OTC derivative reforms under EMIR progressed last month. The EBA submitted its draft final technical standards on the capital requirements for CCPs on 26 September and on 27 September ESMA published its *draft final technical standards* setting out many implementing details for firms.

In early October the EU-commissioned Liikanen Report, which considers ways for restructuring the EU banking industry, was published - we will cover this in more detail next month. Later this month we expect publication of the long-awaited AIFMD final Level 2 measures. Many firms have only just started planning for AIFMD, but the July 2013 deadline is fast approaching.

There is lots more in this edition to help you stay up-to-date on the regulatory developments coming through this autumn.

Laura

Laura Cox
FS Regulatory Centre of Excellence
020 7212 1579
laura.cox@uk.pwc.com

How to read this bulletin?

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Fixing LIBOR

Martin Wheatley, Chief Executive designate of the FCA, issued his *final report* on the LIBOR review on 28 September 2012. The final report recommends that the UK Government "press the reset button" on LIBOR in an effort to save the benchmark which is "broken", but not beyond repair.

The report envisages a root-and-branch overhaul of LIBOR to close the loopholes that made the rate-setting process vulnerable to manipulation. Wheatley wants the "unfettered latitude" previously enjoyed by contributors to be replaced with a more rigorous, transparent and regulated submission process.

Many of the changes recommended in the report will be included in the Financial Services Bill which will be finalised early next year. But the report also calls for the BBA and banks that participate in the LIBOR setting process to make certain changes in the submission process now. Participating banks should review the report in detail and consider what changes they must make to their internal LIBOR processes and procedures.

The report should be viewed as a wake-up call for all institutions that participate in any type of benchmark setting process. They must review the robustness of their submission processes and the adequacy of their governance standards. Benchmark setting will continue to be an enforcement focus for the EU, US and other regulators over the coming months, as well an area where policy and legislation will change fundamentally.

LIBOR setting process today

LIBOR refers to a set of banking short-term interest rates which affect borrowing costs for households and businesses around the world. Designed to reflect rates available in wholesale banking markets, LIBOR rates are set by a panel of contributing banks which use their "expert judgement" to estimate the interest rates that they will have to pay to borrow from each other. The LIBOR rates serve as the primary benchmark interest rates in many markets.

Each day these contributors (exclusively large international banks) submit rates for 10 currencies and 15 loan durations to the BBA, the current LIBOR administrator. Thomson Reuters calculates LIBOR on behalf of the BBA and uses a trimmed arithmetic mean approach to calculate the final rates. This requires the highest and lowest rates to be thrown out and the rest to be averaged for each rate.

This process is designed to minimise the effect of outliers and to reduce the potential for manipulation. However, the banks' own submissions are subjective and vulnerable to conflicts of interest, which means that the risks of manipulation and collusion still exist.

What went wrong?

An extensive investigation by the FSA and the SEC found that traders at Barclays Bank plc had manipulated LIBOR for financial gain. In June 2012, the bank agreed to pay $450 million to settle this case and admitted to two wrongdoings. Between 2005-2007 the bank took requests from its own traders into account when making submissions to LIBOR. The bank also admitted to low-balling its LIBOR rate submission to give a false impression of its stability during the financial crisis. At the height of the crisis, the bank was posting much higher rates than other banks and this triggered market concerns that Barclays was facing a funding problem. After internal debate, the bank decided to artificially lower its LIBOR submissions to improve the market's perception of its financial health.

The FSA has indicated that more banks are likely to face enforcement action and sanctions as a result of its LIBOR investigations.

Key recommendations

The report recommends that the LIBOR submission process should be reformed immediately to ensure that "expert judgement" is supplemented by underlying transaction data to verify banks' submissions. Wheatley proposes culling all currencies and tenors that do not have sufficient transaction data and introduces new submission guidelines that have immediate effect. He also calls on all LIBOR users to evaluate whether or not their use of the rate is appropriate and to include contingency plans in their contracts should LIBOR become unavailable.

Further, the report calls for:

- making LIBOR manipulation a criminal offence
- delaying the publication of banks' individual rates submissions for three months, to avoid immediate negative market reaction to a bank's submission of high rates
- expanding the Approved Persons regime to include LIBOR setting and administration
- transferring responsibility for LIBOR calculation to a new private sector administrator
- introducing a code of conduct applicable to all rate submitting banks.

It is expected that the Government will incorporate these reform recommendations to the Financial Services Bill which is currently making its way through the UK Parliament and expected to come into force in early 2013.

New regulatory and enforcement regime

The report recommends that the Government creates a purpose built regulatory regime which would give the FSA sufficient powers to oversee the LIBOR rate setting process. Under the new regime, LIBOR would become a regulated activity under FSMA. The FSA would have powers to: write and implement rules in relation to the LIBOR process; supervise the conduct of the firms and individuals involved in the process; and take regulatory action for misconduct. The FSA would have powers to impose financial penalties on the firms for breach of the relevant regulatory requirements. When the FCA launches next year, it would take over the FSA's roles.

The UK enforcement regime would complement ongoing EU proposals introduce new rules governing benchmarks. The EC proposed draft amendments in the Market Abuse Directive II/Regulation in July which would make benchmark manipulation a criminal offence. The EC is not proposing minimum types and levels of criminal sanctions at this stage, but wants Member State to develop criminal sanctions in their national laws which punish benchmark manipulation and attempted manipulation.

Submission process

Rate submitting banks should comply immediately with the new submission guidelines outlined in the report. Banks should determine and base their submissions on a hierarchy of transactions types including:

- transactions in the unsecured inter-bank deposit market and other markets
- observations of third party transactions in the same markets
- quotes by third parties offered to contributing banks
- expert judgement which submitters should use in the absence of transaction data relating to a specific LIBOR benchmark.

The report states that the BBA should stop publishing LIBOR for currencies and tenors where there is insufficient trade data. Wheatley proposes the current 150 benchmark rates are reduced to just 20 — in five currencies and four maturities. Wheatley is proposing to phase out LIBOR rates for the Australian, Canadian and New Zealand dollars, Swedish krona and Danish krone over the next 12 months or sooner. Moreover, the review calls on the BBA to reduce the tenors for the remaining currencies by removing the four, five, seven, eight, ten and 11 month maturities.

Wheatley wants the BBA to encourage banks that not participate in the rate setting process to participate. Expanded participation would buffer the system against manipulation by individual banks and improve the accuracy of rates. He has called for policy makers to give the regulator the power to compel LIBOR submissions from non-participating banks.

Despite these changes, the submission process will still provide rate submitting banks some discretion. The guidelines allow rate submitting banks to consider adjustments to ensure that the submission is representative of, and consistent with, the market for inter-bank deposits.

Approved persons regime

Wheatley recommends extending the Approved Persons regime to include LIBOR, which would give the FSA power to exercise control and oversight over rate setting individuals as well as rate setting banks. New controlled functions would be created in relation to both submitting and administering LIBOR.

Therefore, the scope of the regulated activities in relation to LIBOR would include: the production of the submissions, the calculation of the benchmark, its publication, and all of the systems and controls related to these functions. Approved persons would be subjected to "fit and proper" tests and encouraged to supervise and influence the behaviours of others involved in the process. The FSA would have powers to impose public censure or financial penalties on individuals who breach the rules, and prohibit them from being involved in any regulated activity.

New code of conduct

A new private sector administrator would assume responsibility for setting and governing LIBOR, including responsibility for surveillance and the transparency of submissions. The report recommends that the new administrator demonstrate independence and have transparent systems, processes and structures, with clear accountabilities at every level. The new administrator would be required to provide access to the LIBOR benchmark rates on fair and non-discriminatory terms.

According to Wheatley, the new administrator should, as a priority, introduce a code of conduct for rate submitting banks which clearly defines:

- guidelines for the explicit use of transaction data to determine submissions
- systems and controls for submitting firms
- transaction record-keeping responsibilities for rate submitting banks
- a requirement for regular external audits of rate submitting banks.

Timing

The Government is examining the report's recommendations, including the costs and benefits of the proposals, and the design and implementation options and intends to respond to the review after Parliament returns. Any necessary legislation will be introduced under the Financial Services Bill that is currently being considered by the House of Lords.

Assuming that the recommendations are adopted, the legislative requirements would take effect in early 2013. In the meantime, the FSA plans to work closely with the BBA and banks to implement the reforms and transition to the new approach.

Other investigations and reviews

Fallout from the LIBOR scandal is ongoing and a number of investigations and reviews are underway. In all, more than a dozen banks across the world have received subpoenas and information requests from authorities. In the UK, the SFO formally accepted the LIBOR matter for investigation in July. The SFO is reviewing evidence received from the FSA and is considering whether it is both appropriate and possible to bring criminal prosecutions. The TSC is also undertaking its own investigation into the case and will be looking at, amongst other things, the failure of the FSA's supervisory process

The EC's reaction to the scandal has been swift. In addition to the draft amendments to MAD II/MAR proposed in July, the EC released a *consultation* on financial benchmarks and market indices on 15 September 2012. The consultation aims to identify the key issues and shortcomings in the production and use of benchmarks and indices and to assess the need for any changes to the EU legal framework to ensure their integrity. The consultation closes on 15 November 2012.

International standards could also be in the offing. On 14 September 2012 IOSCO *created* a board level Task Force on financial market benchmarks and will propose its own remedial action. Martin Wheatley will be co-chairing this task force, along with Gary Gensler, chairman of the CFTC.

What firms need to do now

Banks that participate in the LIBOR setting process should review the report in detail, determine which of the recommendations they can implement now, and begin the process of operationalising those changes.

This process should involve a comprehensive review of the bank's governance processes in relation to LIBOR setting, the personnel involved and all relevant policies and procedures. The compliance team's role in monitoring LIBOR setting, and the role of internal audit should also be considered. Banks would also be well advised to consider how risks around LIBOR setting are reflected in their overall risk frameworks.

All banks and other institutions should review their business activities to identify any benchmarks that they participate in setting, and consider whether or not their governance, processes and policies are sufficient, in light of the lessons from the LIBOR setting scandal.

Conclusion

The comprehensive programme that Martin Wheatley sets out for reforming the regulation, oversight and setting of LIBOR is an important first step in re-establishing trust and confidence in financial markets. In reality Martin Wheatley had little option but to recommend a highly regulated approach to setting and governing LIBOR – nothing less would have answered the depth of public concern about the integrity of LIBOR. As Wheatley suggests himself "the disturbing events we have uncovered in the manipulation of LIBOR have severely damaged our confidence and our trust – it has torn the very fabric that our financial system is built on."

The proposed reforms seek to prevent abuse and while minimising the disruption to markets. With $300 trillion of global contracts based on LIBOR, Wheatley insisted that any wholesale replacement of LIBOR with a new benchmark would create an "unacceptably high" risk of financial instability.

Bringing LIBOR into the regulatory regime is a sensible first step to ensuring that it functions effectively. But the parameters of Wheatley's proposed regulatory enforcement powers and the sanctions regime will require further scrutiny and debate.

The new independent LIBOR administrator will be critical to the proper functioning of checks and balances in the system, and getting the level of public disclosure right. The proposed new regime seeks to achieve a delicate balance between making submission information more transparent while avoiding the credit signalling problem that banks feared during the financial crisis.

LIBOR aside, the report makes it clear that banks and other financial institutions which sponsor or participate in benchmarks should be closely examining their participation, to identify any other areas where their governance and process improvements may be needed. This area will be a major focus of FSA in the coming months, so firms need to be prepared to explain why they believe that their benchmark participation processes and governance are sound.

More work at the international level on benchmarks is clearly needed and this report takes that discussion forward on several fronts. The UK should play a central role in developing common standards for benchmarks that markets and the public can trust.

Cross Sector Announcements

In this section:

Regulation

Capital and liquidity

Basel Committee publishes Basel III monitoring results

The Basel Committee published results of the *Basel III monitoring exercise* on 20 September 2012, looking at the impact of the Basel III framework on banks.

The Committee asked national supervisors to gather data on capital ratios, the leverage ratio and liquidity metrics on a representative sample of institutions in each Basel Committee country. The report summarises the aggregate results, assuming full implementation of the Basel III framework as of 31 December 2012. A total of 209 banks participated in the study which includes 102 Group 1 banks that have capital in excess of €3 billion and internationally active, and 107 Group 2 banks below that threshold.

Compared to the Basel III's new minimum capital requirement, participating banks would have an overall capital shortfall of €11.9bn for Group 1 banks and €7.6bn for Group 2 banks. This rises to €374.1bn for Group 1 and €21.7bn for Group 2 for CET1 target level of 7.0%. As a reference point, the report provides the aggregate profits after tax prior to distributions for the participating banks: €356 billion for Group 1 banks and €24 billion for Group 2 banks.

Capital ratios for banks decline under the Basel III framework. For Group 1 banks the CET1 ratio goes down from 10.4% to 7.7%; the Tier 1 ratio from 11.7% to 8.0%; and the total capital ratio from 14.2% to 9.2%. Group 2 banks noted a comparatively smaller decline in all the ratios.

The analysis shows that Group 2 banks are generally less leveraged than Group 1 banks and this difference increases under Basel III. The aggregate LCR shortfall was estimated to be €1.8 trillion which represents approximately 3% of the €61.4 trillion total assets of the aggregate sample. The aggregate NSFR shortfall of required stable funding is €2.5 trillion.

The Committee intends to continue monitoring the impact of Basel III implementation on banks in the coming years.

Dodd-Frank Act

Final Title VII rules published in Federal Register

Conforming Amendments to Part 4 Regulations Governing Operations and Activities of Commodity Pool Operators (CPOs) and Commodity Trading Advisers (CTAs) was published in the Federal Register on 5 September 2012. The Dodd-Frank Act broadened the CPO and CTA definitions in the Commodity Exchange Act (CEA) to include swap-related activity. The CFTC amendments revise Part 4 of the CEA by requiring CPOs and CTAs to include information on swap intermediaries and activities under the disclosure, reporting and recordkeeping requirements under Part 4. CPOs and CTAs will now be subject to the same regulatory structure for both their futures and swaps activities.

The effective date is 5 November 2012.

Final Rules Establishing Swap Dealer and Major Swap Participant Requirements for Swap Trading Relationship Documentation, Swap Confirmation, Reconciliation and Compression of Swap Portfolios was published in the Federal Register on 11 September 2012. Confirmation, portfolio reconciliation, and portfolio compression have been recognized as essential post-trade processing mechanisms for reducing risk and improving operational efficiency. These rules also will help highlight risk management concerns for swap dealer and major swap participant senior management and regulators at an earlier stage. The rules come into force 60 days after publication in the Federal Register.

The effective date is 13 November 2012.

CFTC Title VII announcements

The CFTC published its *response to questions on timing of swap dealer registration rules* on 10 September 2012. The swap dealer registration regulations are effective on 12 October 2012, and entities that have more than the de minimis level of dealing must register by no later than two months after the end of the month in which they surpass the de minimis level.

The CFTC approved the *application of DTCC Data Repository, LLC (DTCC)* for provisional registration as a swap data repository on 19 September 2012. A swap data repository is a category of CFTC registered entity created by the Dodd-Frank Act to perform a variety of functions related to the collection and maintenance of swap transaction data and information. DTCC is required to demonstrate compliance with existing regulations and to comply with new regulations, amendments, guidance and other requests in accordance to obtain and maintain permanent registration.

CFTC's Division of Clearing and Risk announced that it was *extending the effective date of compliance with certain pre-trade screening requirements* on 26 September 2012. The CFTC is extending the compliance effective date to 1 June 2013, to allow market participants time to coordinate the limits for futures and swap give-ups and bunched orders. The CFTC is also extending the compliance effective date for pre-trade screening for transactions executed on designated commodity markets that do not have systems which permit participants to set pre-execution limits. The extension expires on the earlier of 1 June 2013 or when designated commodity market implements such systems.

Financial stability

ESRB issues first risk dashboard

The ESRB released its first *risk dashboard* on 20 September 2012. The dashboard brings together a series of data on risk categories comprising the interlink ages and composite measures of systemic risk, macroeconomic risk, credit risk, liquidity and funding risk, market risk, and solvency and profitability risk.

The dashboard's composite indicator of systemic stress experienced a steady increase during the first half of 2011. But from July it reversed this trend and is now well below the peak values reached at end-2008 and end-2011. In turn, banks' profitability improved marginally in the first quarter of 2012, compared with the second half of 2011, but is still low by historical standards.

A number of indicators point to challenges ahead for financial institutions:

- the EU economy shows no signs of a recovery with unemployment remaining stubbornly high
- liquidity in the financial system is weak
- credit standards have tightened in the past 6 months
- banking lending is well below its historical averages and in some cases is in negative territory
- dependence on central bank funding is high and
- banks' loan-to-deposit ratio remains flat despite efforts to attract further deposits

Insurance companies' balance sheets have also been affected by the adverse environment. Gross premium growth was slow in 2011 although some improvements have been noted in the first half of 2012 both in life and non-life insurance business.

The dashboard provides a good snapshot on the current state of the European financial system. It should help identify and measure systemic risk in the EU financial system and will provide important input to the ESRB's discussion on risks and vulnerabilities.

Market infrastructure

ESMA consults on short selling exemptions

ESMA published a consultation *Exemption for market making activities and primary market operations under Regulation (EU) 236/2012 of the European Parliament and the Council on short selling and certain aspects of Credit Default Swaps* on 17 September 2012. Market makers and primary dealers are exempt from certain SSR requirements to facilitate their role in providing liquidity to the real economy.

The SSR exempts entities undertaking market making activities from net short position transparency requirements and the restrictions on uncovered short sales. Primary dealers are exempt from:

- requirements to notify net short positions in sovereign debt
- restrictions on uncovered short sales in sovereign debt instruments
- prohibitions from entering into an uncovered sovereign CDS transaction.

However, these exemptions can only be relied on if the market maker has given its supervisor 30 days notice before it intends to rely on the exemption.

The guidelines specify the notice contents and provide a template notification form. The guidelines also introduce a common approach to submission requirements: guidance on assessing the eligibility of the notifying entity's activities and on monitoring ongoing exemption eligibility.

ESMA alerted the market and regulators on 30 August 2012 to the commencement of the exemption notice period from 1 September 2012. ESMA advises market participants and regulators to use the draft guidelines as an interim benchmark for the application and assessment process, until the guidelines are available.

The consultation closes on **5 October 2012.**

ESMA publishes short selling Q & A

ESMA published *Q&A on the Implementation of the Regulation on short selling and certain aspects of credit default swaps* on 13 September 2012. The Q&A is designed to promote common supervisory approaches and practices amongst the EU's supervisors on the application of SSR.

The Q&A also provides clarity on the practical requirements of the new regime to market participants and investors. The Q&A covers issues such as territorial scope, transparency, calculation of net short positions and the enforcement regime. The Q&A should help supervisors and market participants prepare for the new SSR regime which comes into force on 1 November 2012.

ESMA publishes draft EMIR technical standards

ESMA published its recommendations for EMIR technical standards in the *Draft technical standards under the Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC Derivatives, CCPs and Trade Repositories [EMIR]* on 27 September 2012. ESMA delivered the technical standards, which include RTS, ITS and certain delegated acts, to the EC in time to meet the 30 September deadline set by EMIR. The technical standards are accompanied by an impact assessment which presents ESMA's cost benefit analysis.

The 197-page technical standards set out the specific EMIR implementing details and feedback from ESMA's June 2012 consultation. ESMA has taken a pragmatic approach to delivering its technical standards, addressing many stakeholder concerns within the constraints of the Level 1 text and where the suggestions do not affect the management of systemic risk.

ESMA's technical standards include clarify the "hedging definition" for non-financial counterparties. ESMA confirmed in this draft that employees' benefits, such as stock options and acquisitions (patents, products, companies) fall under 'normal activity' of a non-financial counterparty and therefore would be within the hedging definition. Threshold levels and the calculation of non-hedging positions have not changed from the previous version.

The technical standards provide clarity on aspects of the risk mitigation requirements for non-centrally cleared OTC derivatives. ESMA has introduced phased-in approach for these requirements and adjusted the frequency of reconciliation requirements.

Regarding confirmation requirements, several interim dates are set for periods beginning from the entry into force of the technical standards, then August 2013, February 2014 and August 2014. The phased-in approach will allow the market to continue to improve systems before implementing the desired goal of 'trade date plus one' for most confirmations and the second business day following execution for trades made by non-financial firms below the clearing threshold.

Firms should take note of the transaction reporting information, which contains the data reporting detail that firms will need to implement the new transaction reporting obligations. ESMA has confirmed that collateral can be reported on a portfolio basis. The technical standards also clarify that reporting of mark-to-market values is not applicable to non-financials trading under a specified threshold.

The technical standards define CCP organisational, prudential, liquidity risk management, default waterfall and investment policy requirements. The calculation of the look-back period has been substantially changed to ensure that pro-cyclicality is addressed in a more flexible manner.

The EC has a three month period to endorse this set of technical standards, then the Council and Parliament are granted a three month 'no objection' review period for RTS standards. After legislative process concludes, a final version of the technical standards will be published in the Official Journal and come into force 20 days later.

The ESAs will publish consultations on EMIR technical standards relating to third country application and margin and collateral standards for uncleared trades later this year.

EBA publishes draft EMIR RTS on CP capital requirements

The EBA finalised the *Draft Regulatory Technical Standards on Capital Requirements for Central Counterparties under Regulation (EU) No 648/2012* on 26 September 2012.

Under EMIR much of the risk of counterparty default will be concentrated within CCPs which act as intermediaries in bilateral OTC derivative transactions. Therefore, regulators want CCPs to hold sufficient capital to reduce the probability of failure in the advent of a counterparty default.

The draft RTS states that the capital position of CCPs, including retained earnings and reserves, should be at least equal to the sum of:

- the CCPs gross operational expenses during an appropriate time span for winding down or restructuring its activities
- the capital necessary to cover the overall operational and legal risks
- the capital necessary to cover credit, counterparty credit and market risks not covered by specific financial resources and business risk.

The EBA believes that national supervisors should be able to vary the capital levels of individual CCPs based on their risk profile, such as reputational risk. The draft RTS also recommends that a floor is introduced to ensure a prudent level playing field for the capital requirements of CCPs.

The EBA will send the draft RTS to the EC which will have three months to endorse it. Following endorsement, EP and the Council may object (a further three months, unless they both decide to shorten this period) before it enters into force. The standards will take the legal form of a Regulation and will be published in the Official Journal of the EU.

FSB publishes LEI progress report

The FSB published its *second progress note on the implementation of the global LEI Initiative* on 20 September 2012. Good progress is being made on drawing up a Charter for the Regulatory Oversight Committee (ROC) to meet the tight November 2012 deadline. The Charter is the first step in forming the ROC as the permanent governance arrangement for the LEI system, a prerequisite for creating the global LEI foundation.

The FSB's LEI Implementation Group are reviewing responses to its August consultation, *Seeking views on matters regarding the jurisdiction for establishment of the Global Legal Entity Identifier (LEI) Foundation and Central Operating Unit (COU) of the global LEI system* to help formulate recommendations on the jurisdiction for the LEI foundation and the appropriate legal form for the LEI administrator.

The group commissioned an urgent study from its Private Sector Preparatory Group on an appropriate numbering scheme for the global LEI system. Commentators are urging the group to develop an identifier generation scheme that is flexible, operationally efficient and cost effective in terms of short-term implementation and integration of local systems, but offering long-term flexibility and resilience as well.

MiFID

ESMA publishes official translations of MiFID compliance guidelines

ESMA published *the official translations of its guidelines on certain aspects of MiFID compliance function requirements* on 28 September 2012. This triggers a two month period during which national authorities must confirm their intention to comply with the guidelines or explain their non-compliance. In the absence of a response, a national authority will be considered non-compliant.

Other regulatory

IMF publishes financial surveillance strategy

The IMF published a paper setting out its strategic priorities *for financial surveillance* on 21 September 2012 (dated 28 August 2012).

The IMF's strategy focuses on three key aspects:

- improving risk identification and macro-financial policy analysis - particularly important as interdependencies between countries and financial systems become increasingly complex
- upgrading the instruments and products of financial surveillance to foster an integrated policy response to risks - involving closer collaboration between the IMF's functional areas and reviewing the frequency and scope of IMF's assessments and
- increasing the traction and impact of financial surveillance by engaging more actively with stakeholders – managing public communication carefully as well as broadening collaboration with institutions such as the World Bank and the FSB.

The IMF recognises that it will face challenges in pursuing those strategic goals but overall it expects to improve its capacity and effectiveness in helping to mitigate crises and deliver a sounder financial system.

ESMA reports to EP Committee

Stephen Maijoor, Chairman of ESMA, provided ECON with a *progress update* on the work of the Joint Committee of the ESAs (JCESA), which he currently chairs, and on ESMA's work over the last year on 19 September 2012. The JCESA focused on a number of consumer protection issues over the past year, such as cross-selling and complaints. Additionally, a sub-group has been formed to work on the delegated acts of PRIPs, the proposal for which was issued by the EC on 3 July. Further, the JCESA worked on developing RTS for EMIR and formed a Financial Conglomerates Sub-Committee focused on reviewing FICOD. Interestingly, the JCESA is working on high-level principles for product approval which may require regulatory pre-approval of all products in future, rather than just regulated CIS.

Maijoor reported that ESMA's activities over the past year have focused on the regulatory agenda, financial stability and crises, investor protection, implementation and execution of CRA supervision, and its own organisational development. ESMA has provided advice and support on legislative proposals including MiFID II and MiFIR, AIFMD, MAD, MAR and CSD.

Internationally, Maijoor stated that ESMA has participated in the international coordination of OTC derivatives reform and the conclusion of multi-country Memoranda of Understanding on CRA supervision.

Maijoor reiterated the ESAs' pleas for additional resources to help ESMA achieve its aims going forward. The ESAs are all up against tight deadlines to develop advice and technical standards, stretching their current resources already; going forward their budgets need commensurate increases in resources to match their increased responsibilities to avoid their work quality suffering.

ESMA Chairman looks at financing future European growth

Steven Maijoor, the ESMA Chairman, delivered a speech on *Financing European growth: the challenge for markets, policy-makers and investors* at the Association for Financial Markets in Europe on 18 September 2012.

Maijoor focused on how alternative funding and financial regulation can help finance growth in Europe. Maijoor believes alternative funding methods are needed to aid growth because the traditional banking sector is still struggling at the moment. Maijoor considered three areas of alternative funding:

- capital market financing through equity and bonds – he sees this as the most important source of alternative finance
- shadow banking – Maijoor believes that the regulatory response to shadow banking over the last few years has made it a 'safer place', and that the focus needs to shift now from rule-making to improving the supervisory framework and
- financing for small and medium sized companies - although most rely on bank funding in the EU, he believes the emergence of trading venues targeted at such companies should increase the funding they can access.

However, Maijoor notes that any additional funding from alternative sources will only complement funding from the banking sector for the foreseeable future.

Additionally, Maijoor believes that regulation has a key role in financing future growth. In particular, he believes ESMA has made a contribution in three areas to increased growth:

- investor protection
- stability of the financial system
- promoting a single European market.

Maijoor concluded by noting financial stability is needed for financial growth. This stability can only be achieved through efficient and effective regulation. Therefore, regulatory change is a necessary prerequisite of future financial growth.

Basel Committee finalises principles for financial conglomerates

The Basel Committee finalised its *Principles for the Supervision of Financial Conglomerates* on 24 September 2012, following a consultation in December 2011. The new version updates its supervisory principles (Principles) for financial conglomerates. The Principles, created in 1999, provide national supervisors with a set of internationally agreed standards, targeted at firms with significant cross-border operations, which support consistent and effective supervision of financial conglomerates.

The finalised version expands and supplements the 1999 Principles in areas such as supervisory powers and authority, supervisory responsibility, corporate governance and risk management.

Regulators agree to improve disclosure in Islamic capital markets

IOSCO held a *roundtable meeting* with the Islamic Financial Services Board (IFSB) and the Securities Commission Malaysia on 18 September 2012, to discuss disclosure practices in Islamic capital market activities.

The regulators analysed the risks and challenges arising from inadequate disclosures in sukuk offerings and Islamic collective investment schemes. The group identified potential approaches that standard-setters, regulators and market participants could adopt.

IOSCO and the IFSB believe these measures will represent a significant step towards the development of international regulatory standards and best practices on disclosure requirements for Islamic capital market products.

Accounting[1]

IFRS

IASB Insurance Contracts Project – IFRS 4 Phase II

The IASB is working alongside the FASB to develop a harmonised IFRS for insurance contracts although differences remain between the IASB and FASB's positions. For further background information see our *webpage* on this project and also the IASB's high level summary of the *current status* on the project.

The boards met on 26 September 2012 to continue discussions on proposals for insurance contracts accounting (see *PwC minutes from the September PwC minutes* from September board meeting). The IASB concluded that they should issue a limited exposure draft seeking feedback on only a limited range of questions (See *press release*). The targeted questions in the new Exposure Draft will relate to proposed requirements for:

- treatment of participating contracts
- presentation of premiums in the statement of comprehensive income
- treatment of the unearned profit in an insurance contract
- presenting, in other comprehensive income, the effect of changes in the discount rate used to measure the insurance contract liability and
- the approach to transition.

The boards also tentatively agreed that direct acquisition costs incurred in the pre-coverage period should be recognised as part of the insurance liability for the portfolio of contracts where the contract will be recognised once the coverage period begins.

In its latest *workplan*, the IASB has moved the expected date of publication of the new Exposure Draft from the second half of 2012 to the first half of 2013. It hasn't confirmed dates for the publication of the final standard and its implementation yet.

Other accounting news

IASB issues review draft on hedge accounting

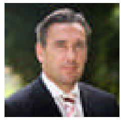
The IASB has issued a *review draft* that details new hedge accounting requirements. See *Straight away 93 - IASB issues review draft on hedge accounting* for more detail.

[1] 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

Banking and Capital Markets

In this section:

Banking & Capital Markets



Mark James

+44 (0) 1534 838304
mark.james@je.pwc.com

Nick Vermeulen

+44 (0) 1481 752089
nick.vermeulen@gg.pwc.com

James de Veulle

+44 (0) 1534 838375
james.de.veulle@je.pwc.com

Regulation

Capital and liquidity

EBA reports to EP Committee

Andrea Enria, EBA Chair, provided a *progress update* for 2011-2012 to ECON on 19 September 2012. The EBA has been advocating a 'three-pronged approach' to address the sovereign debt crisis including measures to strengthen banks' capital, arguments for European interventions to support bank funding and actions to directly remedy the sovereign debt crisis.

Enria stated that the EBA supports the move towards an EU Banking Union but that it needs to be accompanied by an even stronger commitment to the Single Rulebook and a Single Supervisory Handbook. Both are needed so there is no polarisation between Eurozone and non-Eurozone banks which will be subject to national supervisory regimes. The EBA has contributed significantly to the establishment of the Single Rulebook over the last year by preparing various draft technical standards, e.g. for CRD IV.

Enria noted that, with the state of the financial markets over the last year, the EBA has made slow progress on its consumer protection aims. However, it is now working at greater speed to meet consumer protection targets, including issuing guidelines soon on mortgage lending and finalising its review of the risks consumers face from financial innovations such as ETFs, contracts for differences and structured products.

Like ESMA and EIOPA, Enria pleaded for additional resource for EBA over the coming years to enable it to fulfil its intense workload.

EBA publishes second progress report on Basel III

The EBA published its second report of the Basel III monitoring exercise, *Results of the Basel III monitoring exercise based on data as of 31 December 2011*, on 27 September 2012.

The 44 largest EU banks need to raise an additional €8 billion of CET1 to meet the minimum common equity capital ratio of 4.5% by 2015; and €199 billion to meet the 7.0% target (i.e. including the conservation buffer) by 2019. The latter shortfall also includes the additional regulatory surcharge for GSIFIs.

Compared to the previous exercise based on data as of June 2011, the results of the current monitoring show an average increase in Group 1 banks' CET1 ratio of 0.4 percentage points and a decrease in the corresponding capital shortfall, with respect to the 7% target level, by €32.3 billion (i.e. 14%).

These results do not reflect all the additional efforts made by banks to fulfil the requirements of the EBA's recapitalisation exercise, the impact of which on the forthcoming Basel III monitoring results based on data as of 30 June 2012 is expected to be published in early 2013.

Consumer protection

EC reviews access to basic payment accounts

The EC published *National measures and practices as regards access to basic payment accounts: Follow-up to the Recommendation of 18 July 2011 on access to a basic payment account* (the Review) on 4 September 2012. The EC wants all EU citizens, regardless of their financial situation, to have access to a basic payment account which provides a set of essential payment services and is offered free of charge or at a reasonable charge. The EC's recommendations set out features of a basic retail payment account and included principles on the right of access, guidance on reasonable charges and designated providers.

Only a few Member States are close to complying with the Recommendations. Nearly half of all Member States have no measure in force concerning the right to open an account. In the remaining Member States, the Review found that compliance with the Recommendations is inconsistent.

The EC will now consider whether legislation may be required to raise and harmonise the standard across the EU.

Financial stability

ESRB calls on banks to repair their balance sheets

ESRB issued a *press release* outlining areas for discussion at the seventh regular meeting of its general board on 20 September 2012. The board members are concerned about the ongoing uncertainty about the fragility of the EU financial system. They called on banks to progress their balance sheet reparations to help mitigate some of the uncertainties surrounding markets.

The EBA wants banks to repair their balance sheets through:

- arrears management and provisioning
- assessments of loan classification
- disclosure of more public information on their restructuring process
- establishing an asset management company to deal with poor quality assets and
- involving third parties in asset evaluation.

The ESRB is focusing on three medium-term projects:

- Long-term guarantees in insurance - due to concerns about their long-term treatment by the insurance industry, arising from the draft Omnibus II Directive
- Vulnerabilities linked to bank funding - in light of the impairment of credit and interbank markets and
- Interconnectedness and contagion – analysing the way risks could propagate in credit default swap markets and in the interbank market.

It believes the macro-prudential benefits of a Eurozone single supervisor will be optimised if the EU implements adequate bank resolution procedures in parallel. The ESRB plans to examine the possible implications of establishing a single supervisor for macro-prudential oversight in the EU.

Regulatory reform

Basel Committee updates Core Banking Supervisory Principles

The Basel Committee published its updated "*Core principles for effective banking supervision*" (Principles) on 14 September 2012.

The Principles were last updated in 2006. They set out minimum standards for sound prudential regulation and supervision of banks. Their main purpose is to promote effective banking supervision and to enhance financial stability, but national supervisors also use them to benchmark the performance of their supervisory regimes.

The revised Principles take into account key supervisory trends arising from the financial crisis:

- encouraging greater supervisory intensity
- addressing systemic risk by bringing a macro perspective to micro-prudential supervision and
- developing effective crisis management, recovery and resolution measures to reduce probability and impact of banks' failure

The Basel Committee has introduced a new Core Principle to reflect the importance of strong corporate governance and risk management. It also stressed the role of robust market discipline in fostering a safe and sound banking system, adding two new Principles on greater public disclosure and transparency, and enhanced financial reporting and external audit.

The Basel Committee and the IMF acknowledged that it will take time for national regulators to integrate the revised Principles into their supervisory regimes. The IMF will take this into consideration in its ongoing national supervisory assessments (part of its Financial Sector Assessment Program).

Single supervisory mechanism

EC launches first step in banking union

The EC published its proposed *Regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions* COM(2012) 511 final on 12 September 2012.

Under this proposal, the ECB will assume responsibility for the prudential supervision of all banks, bank-led financial conglomerates and financial holding companies in the Eurozone from 1 January 2013. From that date the ECB will have access to all financial institutions in scope, but the ECB's supervisory tasks will be phased in over a year so it can build up the appropriate resources. It will start with systemically important banks and banks that have received public support, and eventually will have full responsibility for micro-prudential supervision of all Eurozone financial institutions (excluding insurers) from 1 January 2014.

The EC clearly intends the ECB to continue working closely with national supervisors, both during the transition period and thereafter. National supervisors may effectively become the ECB's 'agents' in respect to prudential supervision, but they will retain primary responsibility for consumer protection and preventing financial crime at a national level. The EC's proposal provides little insight how this arrangement will work in practice.

The ECB will manage all aspects of micro-prudential supervision including:

- authorising and withdrawing bank licences
- imposing higher capital and liquidity buffers
- assessing corporate governance and risks management processes and systems
- conducting on-site supervision and investigations
- early intervention and recapitalisation.

The ECB's proposed supervisory role clearly raises issues in relation to the role of EBA going forward. The EC wants the EBA to retain its existing powers and tasks, notably in respect of the creation of the EU 'single rule book' and in terms of supervisory convergence. In fact the EC has now gone further by tasking the EBA with developing a single supervisory handbook. The ECB's new role raises particular questions around EBA voting procedures. Currently, the EBA's Board of Supervisors vote either by qualified or simple majority (one person, one vote), depending on the issue. The ECB's new role may distort EBA decision-making because the Eurozone countries will have their vote taken on by the ECB, perhaps giving the ECB power over decisions within the EBA. Consequently, the EC has also proposed an *amendment to the EBA Regulation (Regulation (EU) No 1093/2010)* to give voting powers to an independent panel.

In its Communication *Roadmap towards a Banking Union*, the EC stated that the proposals are part of a wider plan to create a deep and integrated "banking union" in the Eurozone. This approach will rely on a single rule book for the whole of the EU. Notably, the EC stressed that EP and Council need to give priority to concluding negotiations on CRD IV, bank resolution and recovery and deposit guarantee schemes proposals, because these all provide essential foundations for the banking union. Once bank resolution and deposit guarantee schemes exist at the national level, the stage will be set for the banking union's final elements: single Eurozone deposit protection and bank resolution mechanisms.

The EC's proposals now pass to the EP and the Council for negotiation. The EP has clearly indicated that it is prepared to adhere to the timeline imposed by the EC. It also wants the two proposals to be adopted as a package so it can act as co-legislator on both. But at the moment the proposed ECB regulation requires unanimous agreement in the Council (following consultation of the EP and the ECB).

Sweden, Poland and Germany have all expressed concerns about the speed with which the EC wants the proposal adopted. The German Finance Minister believes that the ECB's role should be limited to the supervision of cross-border banks, while the Swedish Finance Minister expressed specific concerns about the limited powers of non-Eurozone countries which decide to opt in (there are legal impediments to this which the EC is now reviewing). The EC's timetable is ambitious and, although political support for its quick adoption is strong in some quarters, it may prove challenging to meet.

ECON respond to banking union supervisory proposals

ECON gave a lukewarm response to EC's single Eurozone supervisory proposals following a meeting on 24 September 2012. In its follow-up paper, *Banking union: Economic Affairs Committee*, the Committee called for a clear division of supervisory tasks between EU and national levels, including non-Eurozone countries, differing supervision arrangements for different banks and strong accountability mechanisms for the new Eurozone supervisor.

Various MEPs stated that although the institutional structure must be built quickly, it must not fall apart at the first crisis.

Asset Management

In this section:

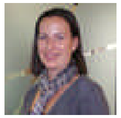
Asset Management

Chris Stuart

+44 (0) 1534 838232
chris.stuart@je.pwc.com

Mary Bruen

+44 (0) 1534 838251
mary.bruen@je.pwc.com



Nicola Mills

+44 (0) 1481 752023
nicola.j.mills@gg.pwc.com

Regulation

Product rules

ESMA publishes Q&A for KIIDs

ESMA published *Questions and Answers: Key Investor Information Document (KIID) for UCITS* (Q&A) on 25 September 2012. ESMA produces Q&As to promote supervisory convergence. This Q&A focuses on the KIID.

ESMA confirms that all UCITS (other than those being liquidated) need to produce an up-to-date KIID, even funds that are no longer marketed to the public. The KIID needs to be delivered to all investors, even professional investors. Investors that top-up an existing investment or switch their investment into a new fund should be presented with the latest KIID.

ESMA confirms that a KIID is not needed for every share class: fund managers can present more than one share class in a KIID as long as it still meets the requirements (e.g. around layout and length), or can use a representative share class for a fund. If a representative share class is used it should be the one that charges the highest fees.

ESMA also addresses past performance issues. If a fund has no valid past performance and cannot produce synthetic past performance then it should note this in the KIID. UCITS that use a benchmark should present past performance against this benchmark (even if they do not track the benchmark), UCITS that use a benchmark as an indicator of the sort of investments the fund will hold should not present past performance against that benchmark. Further, past performance for periods before a material change was made to a fund's investment objective and policy should still be presented in the KIID.

ESMA further confirms fund managers can shorten references to the UCITS to 'fund' and refer to the 'share class of the fund' rather than a share class' full name. Also, fund managers can use a glossary for the KIID as long as the KIID is still readable. Lastly, ESMA stated that only the UCITS management company's name should be given in the KIID; the name of any investment manager should not be included.

Whilst the Q&A largely reinforces existing requirements for KIIDs, it is a useful reminder for fund managers of the requirements.

Insurance

In this section:

Insurance

Evelyn Brady

+44 (0) 1481 752013
evelyn.brady@gg.pwc.com

Adrian Peacegood

+44 (0) 1481 752084
Adrian.peacegood@gg.pwc.com

Regulation

Solvency II

Solvency II is a fundamental review of the prudential regulatory requirements for the European insurance industry.

The Omnibus II Directive will amend Solvency II to specify areas of, and timing for, further Solvency II legislation; incorporate new powers given to EIOPA; and make a number of other technical amendments. Trilogue discussions are taking place between the EC, ECON and the Council which aim to reach an agreed position on the Omnibus II proposals. However, they have yet to reach an agreement.

After EU legislators reach a 'political agreement', the EP will hold a plenary vote to adopt the proposal. Once the EP vote has been held, the dossier is then passed to the Council which then ensures all final technical changes are made, that it is assessed by the EU legal services and that translations are made into all EU languages. With this done, the Council also adopts the text and passes it to the EU publication service for publication in the Official Journal (and comes into force twenty days later).

Although the whole process will not be finalised, it is possible, given the timetable that formal consultations on the Level 2 measures may commence as soon as political agreement is reached, even though the text will not be able to be finalised until the Directive comes into force.

Latest developments

Implementation date

The timetable set out in a short amending Directive adopted on 3 July 2012 requires the transposition of the Solvency II Directive by Member States by 30 June 2013, for 1 January 2014 implementation. But Michel Barnier (European Commissioner) recently mooted a possible further delay of one year in Solvency II's implementation (to 1 January 2015) at a trilogue meeting of 18 September 2012, although no official confirmation of this has yet been made.

Impact assessment for long-term guarantees and impact on Omnibus II timetable

The trilogue negotiations have focused is the treatment of contracts with long-term guarantees and, in particular, the appropriate discount rate to be used when calculating technical provisions for such contracts.

The EC sent a *letter to EIOPA* on 26 September 2012 requesting that they examine the Solvency II calibration and design of capital requirements for investments in long-term finance (e.g. infrastructure financing). The letter asks EIOPA (in conjunction with EBA and ESMA) to review the capital requirements for investments in such assets to see if they can be reduced under the current economic conditions without jeopardising the prudential nature of the regime.

The European Commission has requested that EIOPA provide feedback by 1 February 2013.

Insurance Europe's press release also indicates that the finalisation of Omnibus II (presently *scheduled* for 20 November 2012) will be delayed until the results of the impact assessment are available. This would mean a further delay in the timetable for Omnibus II.

Other regulatory developments

IAIS comments on G-SIIs Proposed Assessment Methodology

IAIS released a summary of *comments* on its proposed methodology for identifying Global Systemically Important Insurers (See *G-SIIs* for further information).

EIOPA reports to the EP

Gabriel Bernardino, EIOPA Chair, provided a *progress update* for 2011-2012 to ECON on 19 September 2012.

EIOPA has been working on 55 standards and guidelines for insurers in preparation for the launch of Solvency II. It is currently preparing the final set of regulatory measures for Solvency II, including the development of a harmonised set of reporting requirements, establishing supervisors' expectations of the Own Risk and Solvency Assessment (ORSA) and the process of pre-application of internal models. On occupational pensions, EIOPA recommended a comprehensive framework for risk-based supervision of

IORP's which accounts for pensions funds' specificities and proposed reinforcing transparency towards pension funds members through providing them with a Key Information Document.

EIOPA has also started work on a Supervisory Handbook to provide guidance on supervision under Solvency II, to facilitate implementing a more consistent framework for the conduct of supervision.

Bernardino argued EIOPA urgently needs to be given powers to ban products and restrict financial activities that lead to consumer detriment. He believes that, without such provisions, EIOPA cannot fulfil its mandate on consumer protection. These powers would be similar to those that may be given to the other ESAs, e.g. ESMA's proposed product banning powers under MiFID II.

Bernardino recognised that, in relation to pensions, EIOPA's mandate only covers occupational pensions. However, the implementation of the EU agenda for 'adequate, safe and sustainable' pensions would also require a sufficient level of regulation and supervision of personal pensions. Therefore, Bernardino proposed that EIOPA's mandate be extended to cover these types of pensions.

Like the other ESAs' chairmen, Bernardino asked for increased resources for EIOPA.

EIOPA and FINMA agree MoU

The Swiss Financial Market Supervisory Authority (FINMA) and EIOPA have signed a *Memorandum of Understanding* to ensure optimal supervision for insurance groups with international activities in the EEA and Switzerland.

Gabriel Bernardino, Chairman of EIOPA, said: "This is the first Memorandum of Understanding ever signed by EIOPA. We are committed to pursue a constructive dialogue, effective cooperation and information exchange with FINMA. This MoU is an important step to reinforce the efficiency of supervision and to enhance consumer protection in an increasingly global insurance market."

EU/US insurance regulatory Dialogue Project Report

The Project's objective is to deepen insight into the overall design, function and objectives of the key aspects of the insurance supervisory regimes in the EU and the US, and to identify important characteristics of both regimes. The *Draft Report* published this month identifies key commonalities and differences of the two regimes in seven key areas.

There are to be two public hearings to consider these findings in Washington (on 12 October) and Brussels (on 16 October). Submissions to the public hearings should be sent by **10 October 2012** while other written submissions are requested by **28 October 2012.**

EIOPS publish conference notes on global insurance supervision

EIOPA published *notes* from a Conference on Global Insurance Supervision, held in cooperation with the International Centre for Insurance Regulation (ICIR).

The objective of the conference was to encourage the exchange between supervisors and the insurance industry on such issues as supervisory convergence worldwide, similarities and differences between several jurisdictions as well as benefits from supervisory convergence for both supervisors and insurance undertakings. EIOPA has published the speech of Gabriel Bernardino, Chairman of EIOPA, '*Creating a global insurance supervisory language*'.

PwC video 'Insurance regulation goes beyond Solvency II'

In addition to Solvency II there are a range of other policy makers, such as the IAIS, FSB, G20 and EC that are working on a host of other Directives, initiatives that may well have an impact on the global insurance market. In this *video*, Jim Bichard (UK Insurance Regulatory leader) and Paul Clarke (Global Solvency II leader) of PwC discuss the drivers of convergence of insurance regulation internationally.

Accounting[2]

IFRS

Practical Guide 29 - IFRS 10 'Consolidated financial statements' for the insurance industry

IFRS 10, 'Consolidated financial statements', introduces new guidance on control and consolidation. This standard, which combines the concepts of power and exposure to variable returns, is presently due to be effective for financial years beginning on or after 1 January 2013 (unless it is postponed by the EU to 1 January 2014 which is under consideration). Early adoption is permitted.

Our publication, *Practical guide 29 – IFRS 10 for the insurance industry,* considers the implications of these new requirements for insurance entities.

Revenue recognition

FASB and IASB (the boards) met on 24 and 27 September to discuss their joint project on revenue recognition. The boards reached decisions on certain topics relating to the constraint on recognising variable consideration, collectability, time value of money, and distributor and reseller arrangements. The boards' decisions are tentative and subject to change.

The boards directed their staff to conduct further analysis on certain items, including aspects of the variable consideration constraint and presentation issues relating to collectability. Other key issues still to be redeliberated include licenses, contract modifications, allocation of transaction price, disclosures, and transition. See *Straight Away 94 – FASB and IASB make progress on revenue redeliberations* for more information.

IFRS news

IFRS news is our monthly newsletter highlighting developments at the IASB. The *September 2012 edition* includes:

- *The IASB's 'review draft' on hedge accounting*
- *How to classify a joint arrangement*
- *Quiz on operating segments*

[2] *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*

Monthly calendar

Open consultations

Closing date for responses	Paper	Institution
12/10/12	*Consultative document Supervisory guidance for managing risks associated with the settlement of foreign exchange transactions*	*BCBS*
15/10/12	*Consultation on the early implementation of a ban on above cost payment surcharges*	*Dept. BIS*
18/10/12	*IP/12/853 – European Commission launches consultation on future framework for investment funds (UCITS VI)*	*EC*
05/11/12	*Tax problems linked to cross-border venture capital investment*	*EC*
13/11/12	*Consultation on the recommendations of the High-level Expert Group on Reforming the structure of the EU banking sector*	*EC*
23/11/12	*Implementing the UK-US FATCA Agreement*	*HMRC*
29/11/12	*Consultation on a Possible Framework for the Regulation of the Production and Use of Indices serving as Benchmarks in Financial and other Contracts*	*EC*
11/12/12	*The Financial Services Bill: the Financial Policy Committee's macro-prudential tools*	*HMT*
21/12/12	*Further amendments to ESMA's Recommendations for the consistent implementation of the Prospectus Regulation regarding mineral companies*	*ESMA*

Closing date for responses	Paper	Institution
28/12/12	*Consultation on a possible Recovery and Resolution Framework for Financial Institutions other than banks*	*EC*
31/12/12	*Discussion paper: toward a disclosure framework for the notes*	*FRC*

Forthcoming publications in 2012

Date	Topic	Type	Institution
Banking Structure			
Q4 2012	Large exposures regime	Policy statement	FSA
Capital and Liquidity			
Q1-Q4 2012	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
TBC 2013	Revision of Financial Conglomerates Directive (FICOD II)	Legislative proposals	EC
Consumer protection			
Q4 2012	Directive on misleading and comparative advertising (2006/114/EC)	Communication	EC
Q4 2012	An EU framework for collective redress	Legislative proposals	EC
Q4 2012	Investor Guarantee schemes- revision	Legislative proposals	EC
Q4 2012	Bank accounts	Legislative proposals	EC
Financial crime, security and market abuse			
Q3 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

Date	Topic	Type	Institution
Insurance			
Q3 2013	Institutions for Occupational Retirement Provision	Legislative proposals	EC
Securities and markets			
Q4 2012	OTC Derivatives, CCP Requirements, Trade Repositories and CCP Interoperability (EMIR)	Guidelines	ESMA
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
TBD 2013	Credit Rating Agencies III Regulation	Technical advice	ESMA
Products and investments			
Q3 2012	Alternative Investment Fund Managers Directive – Level 2 measures	Regulation	EC
Q4 2012	Alternative Investment Fund Managers Directive – cooperation agreements	Technical standards	ESMA
TBD 2013	Packaged Retail Investment Products	Technical standards	ESMA
Q4 2012	Social Investment Funds	Technical advice	ESMA
Q4 2012	Venture Capital	Technical advice	ESMA
TBD 2013	Undertakings For The Collective Investment Of Transferable Securities V	Technical advice	ESMA

Date	Topic	Type	Institution
TBD 2013	Markets in Financial Instruments Directive II	Technical advice	ESMA
TBD 2013	Markets in Financial Instruments Directive II	Guidelines	ESMA
Recovery and resolution			
Q4 2012	Rescue and restructuring of financial institutions in Europe	Guidelines	EC
TBD 2013	EU framework for recovery and resolution plans	Technical advice	EBA
Solvency II			
Q1 2013	Draft Level 2 delegated acts	Level 2 text	EC
TBD 2013	Solvency Level 3 measures	Level 3 text	EIOPA
Supervision, governance and reporting			
Q3 2012	Corporate reporting	Guidelines/recommendations	ESMA
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

Main sources: ESMA 2012 work programme; EIOPA 2012 work programme; EBA 2012 work programme; EC 2012 work programme.

Education – Conferences and event (October)

Date	Topic	Institution
11/10/2012	FSA Non-Executive Directors' Conference - The PRA's approach to supervision: What it means for the UK Board of international banks	FSA
15/10/2012	Anti-money Laundering Case Studies	BBA
17/10/2012	Annual International Banking Conference	BBA
17/10/2012	Introduction to Credit Risk	BBA
19/10/2012	Funds Transfer Pricing and Bank Asset-Liability Management	BBA
19/10/2012	Training, Competence and Culture	BBA
22/10/2012	The Prudential Regulation Authority – our approach to prudential regulation for insurance firms	FSA
22/10/2012	The Prudential Regulation Authority – our approach to prudential regulation for deposit-takers and designated investment firms	FSA
24/10/2012	CRD4 and Basel 3 Seminar	BBA
25/10/2012	European Markets Infrastructure Regulation (EMIR) Seminar	BBA

PwC insights

Asset Management

Building AIFMD risk structures in a Euro storm

In the run up to the introduction of AIFMD over the next year, Europe's hedge, private equity and real estate managers will have to start revolutionising their risk management. We explore the key challenges facing the industry and argue that having a reliable risk management framework has never been more important. Read more *here*.

The impact of AIFMD

In three short reports we highlight the key challenges facing the Hedge Fund, Real Estate and Private Equity markets. Read more *here.*

To access our library of insights into issues affecting asset management, visit our online library at: *http://www.pwc.com/gx/en/asset-management/publications/index.jhtml*

Insurance

Insurance regulation goes beyond Solvency II

Solvency II dominates regulation for insurers, but there are a range of other policy makers, such as the International Association of Insurance Supervisors, the Financial Stability Board, G-20 and European Commission that are working on other standards and initiatives that may impact on the global insurance market.

Harmonisation is an attractive proposition, but what is going on behind the scenes to encourage this? In this short video insight *Jim Bichard*, UK Insurance Regulatory leader, and *Paul Clarke*, Global Solvency II leader, discuss the drivers of convergence of insurance regulation internationally. Read more *here*.

To access our library of insights into issues affecting the insurance industry, visit our online library at:

http://www.pwc.com/insurance

Cross Financial Services

Are you taking control of the MiFID II agenda?

MiFID II is much more broad than MiFID I and it is expected to be implemented by mid 2015. The implications of the regulation for firms are complex and far-reaching.

Based on our experience and data from our recent European-wide survey, we outline the strategic, commercial, operational and technological impacts for asset managers, retail banks and broker dealers. See how you measure up to your peers. Read more *here*.

Finding your way through the regulatory storm: Reward regulations in financial services

Financial services pay models for firms with European operations have changed profoundly since the financial crisis, as a result of European Union and domestic regulation. But the story is far from over. It's likely that all financial services firms in the UK and across the EU will face increased challenges. Working through this sea of regulation can be complex – so we've provided a guide on what European regulation is out there and the issues that firms should be thinking about and looking to address now. Read more *here*.

Glossary

ABI	Association of British Insurers
AIFMD	Alternative Investment Fund Managers Directive (Directive 2011/61/EU)
AIMA	Alternative Investment Management Association
AMICE	Association of Mutual Insurers and Insurance Cooperatives
AML	anti-money laundering
AML3	3rd Anti-Money Laundering Directive (Directive 2005/60/EC)
ASB	UK Accounting Standards Board
Basel Committee	Basel Committee of Banking Supervisors (of the BIS)
Basel II	Basel II: International Convergence of Capital Measurement and Capital Standards: a Revised Framework
Basel III	Basel III: International Regulatory Framework for Banks
BBA	British Bankers' Association
BIBA	British Insurance Brokers Association
BIS	Bank for International Settlements
BoE	Bank of England
CCD	Consumer Credit Directive 2008/48/EC
CCPs	central counterparties
CDS	credit default swaps
CEBS	Committee of European Banking Supervisors (predecessor of EBA)
CEIOPS	Committee of European Insurance and Occupational Pensions Supervisors (predecessor of EIOPA)
CESR	Committee of European Securities Regulators (predecessor of ESMA)
Co-legislators	Ordinary procedure for adopting EU law requires agreement between the Council and the European Parliament (who are the 'co-legislators')
CFPB	Consumer Financial Protection Bureau (US)
CFTC	Commodities Futures Trading Commission (US)
CGFS	Committee on the Global Financial System (of the BIS)
CIS	collective investment schemes
ComFrame	Common Framework for the Supervision of Internationally Active Insurance Groups
Council	Generic term representing all ten configurations of the Council of the European Union
CPI	Consumer Price Index
CPSS	Committee on Payment and Settlement Systems (of the BIS)
CRA1	Regulation on Credit Rating Agencies (EC) No 1060/2009
CRA2	Regulation amending the Credit Rating Agencies Regulation (EU) No 513/2011
CRA3	proposal to amend the Credit Rating Agencies Regulation and directives related to credit rating agencies COM(2011) 746 final
CRAs	credit rating agencies

CRD	'Capital Requirements Directive': collectively refers to Directive 2006/48/EC and Directive 2006/49/EC
CRD II	Amending Directive 2009/111/EC
CRD III	Amending Directive 2010/76/EU
CRD IV	Proposal for a Directive COM(2011) 453 final amending CRD
CRR	Regulation COM(2011) 452 final amending and recasting CRD
CRR	Capital Requirements Regulations 2006 (S.I. 2006/3221)
DFBIS	Department for Business, Innovation and Skills
DG MARKT	Internal Market and Services Directorate General of the European Commission
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act (US)
D-SIBs	domestically systemically important banks
EBA	European Banking Authority
EC	European Commission
ECB	European Central Bank
ECJ	European Court of Justice
ECOFIN	Economic and Financial Affairs Council (configuration of the Council of the European Union dealing with financial and fiscal and competition issues)
ECON	Economic and Monetary Affairs Committee of the European Parliament
EEA	European Economic Area
EFAMA	European Fund and Investment Management Association
EIOPA	European Insurance and Occupations Pension Authority
EMIR	Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (EC) No 648/2012
EP	European Parliament
ESA	European Supervisory Authority (ie generic term for EBA, EIOPA and ESMA)
ESCB	European System of Central Banks
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
EURIBOR	Euro Interbank Offered Rate
Eurosystem	System of central banks in the euro area, including the ECB
FASB	Financial Accounting Standards Board (US)
FATCA	Foreign Account Tax Compliance Act (US)
FATF	Financial Action Task Force
FCA	Financial Conduct Authority
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
FSCS	Financial Services Compensation Scheme
FSI	Financial Stability Institute (of the BIS)
FSMA	Financial Services and Markets Act 2000
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
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
SOCA	Serious Organised Crime Agency
Solvency II	Directive 2009/138/EC
SSR	Short Selling Regulation EU 236/2012
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

Contacts

Laura Cox

020 7212 1579
laura.cox@uk.pwc.com

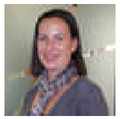
Asset Management

Chris Stuart

+44 (0) 1534 838232
chris.stuart@je.pwc.com

Mary Bruen

+44 (0) 1534 838251
mary.bruen@je.pwc.com



Nicola Mills

+44 (0) 1481 752023
nicola.j.mills@gg.pwc.com

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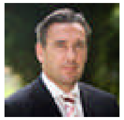

Mark James

+44 (0) 1534 838304
mark.james@je.pwc.com

Nick Vermeulen

+44 (0) 1481 752089
nick.vermeulen@gg.pwc.com

James de Veulle

+44 (0) 1534 838375
james.de.veulle@je.pwc.com

Insurance

Evelyn Brady

+44 (0) 1481 752013
evelyn.brady@gg.pwc.com

Adrian Peacegood

+44 (0) 1481 752084
adrian.peacegood@gg.pwc.com

Local regulations & AML

Nick Vermeulen

+44 (0) 1481 752089
nick.vermeulen@gg.pwc.com

Chris Stuart

+44 (0) 1534 838232
chris.stuart@je.pwc.com

Chris van den Berg

+44 (0) 1534 838308
chris.van.den.berg@je.pwc.com

120909-213445-BD-OS