Financial Regulation
Weekly Bulletin

7 July 2016 / Issue 868

Major UK and European regulatory developments of interest to banks, insurers and reinsurers, asset managers and other market participants

Selected Headlines

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PRA - New CEO and senior managers take up appointments
FCA Chief Executive - Andrew Bailey takes up his appointment
FCA Finalised Guidance FG16/5: Guidance for firms outsourcing to the ‘cloud’ and other third party IT services

Banking and Finance
BRRD - Commission Implementing Regulation on procedures, standards forms and templates for resolution plans published in the Official Journal
BRRD - EBA publishes report on governance arrangements and recovery indicators in recovery plans
CRR - EBA publishes Commission further call for advice on prudential requirements for investment firms
Counterparty credit risk and market risk - PRA updates SS12/13 and SS13/13
Bank structural reform - PRA publishes Policy Statements, Consultation Paper and updates various Supervisory Statements
PRA Remuneration Rules - PRA updates templates
Investment bank special administration regime - FMLC publishes response to HM Treasury consultation on reform

Securities and Markets
EMIR - Commission Implementing Decision on equivalence of US contract markets published in the Official Journal
EMIR - ESAs express concern over Commission’s delayed adoption of joint draft RTS on risk mitigation techniques for non-centrally cleared OTC derivatives
PRIIPs - ESAs publish letter to the European Parliament and Council on supervisory convergence

If you have any comments or questions, please contact Elizabeth Prentice.

Slaughter and May also produces a periodical Insurance Newsletter. If you would like to go on the distribution list, please contact Beth Dobson.
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**General**

1. **Council of the European Union**

1.1 **Slovak Presidency - work programme published - 1 July 2016** - The Slovak Presidency of the Council of the European Union has published its work programme for 1 July to 31 December 2016. It acknowledges that the EU agenda will be dominated in the coming months by the practical and political consequences of the UK referendum. However, work of relevance to financial services includes:

- completion of Economic and Monetary Union, including examining the possibility of setting up common macroeconomic stabilisation tools;
- progress towards Capital Markets Union;
• completion of Banking Union, including progress on the European Deposit Insurance Scheme; and

• measures to combat the financing of terrorism.

The Slovak Presidency Work Programme is here.

The holding webpage is here.

2. European Parliament

2.1 European Commission financial services portfolio - European Parliament approves appointment of Vice-President Dombrovskis - 7 July 2016 - The European Parliament’s Committee on Economic and Monetary Affairs has announced that it is satisfied that Commission Vice-President Valdis Dombrovskis is in a position to assume the Financial Stability, Financial Services and Capital Markets Union portfolio, following the resignation of Commissioner Jonathan Hill in the aftermath of the UK Referendum on EU Membership.

The statement is here.

3. HM Treasury

3.1 Treasury Committee scrutiny of appointments - HM Treasury publishes response to report - 7 July 2016 - HM Treasury has published the Government’s response to the House of Commons Treasury Committee’s report on its proposed scrutiny of Government appointments to the FCA, Bank of England, and the Office of Tax Simplification (OTS). The response gives details of the arrangements concerning the appointment of the Chief Executive of the FCA, and why the government believes it is not right to extend them to the Governor of the Bank of England or the OTS.

The response is here.

The holding page is here.

4. Bank of England

4.1 Financial Stability Report - FPC Report and Recommendation to the PRA, and PRA statement - July 2016 - The Bank of England has published its bi-annual Financial Stability Report, setting out the Financial Policy Committee’s (FPC’s) assessment of the stability of the financial system in the UK, the main risks facing it, and an analysis of the system’s resilience. It follows the UK referendum result, and sets out the actions being taken by the FPC, including reducing the UK countercyclical capital buffer rate to 0%, and recommending that the PRA reduces its supervisory buffers likewise. The PRA has published a statement, agreeing to this, and a letter to finance directors.

The FPC’s assessment of UK financial stability

The FPC has evidence that “…some risks [around the EU referendum] have begun to crystallise” and indicates that “The current outlook for UK financial stability is challenging”. It goes on to state that:
“There will be a period of uncertainty and adjustment following the result of the referendum. It will take time for the United Kingdom to establish new relationships with the European Union and the rest of the world. Some market and economic volatility is to be expected as this process unfolds”.

The FPC’s assessment of resilience

The FPC states that the resilience of the UK financial system is grounded on:

- capital and liquidity buffers;
- the UK regulatory framework; and
- extensive contingency planning (outlined on page 6 of the executive summary).

Implications of the referendum for financial regulation

The FPC states:

“Nothing in financial regulation has changed as a result of the referendum. It will not change until the process of the United Kingdom’s withdrawal from the European Union is complete, and until EU law ceases to have effect in the United Kingdom. The Bank is continuing to implement the current regulatory framework until any new arrangements with the European Union take effect. That framework implements internationally agreed standards”.

Action taken by the FPC

Following policy meetings on 28 June and 1 July 2016, the FPC:

- reduced the UK countercyclical capital buffer rate from 0.5% to 0% of banks’ UK exposures with immediate effect, with the FPC expecting to maintain a 0% countercyclical capital buffer rate until at least June 2017. The FPC calculates that this will reduce regulatory capital buffers by £5.7 billion, and raise banks’ capacity for lending to UK households and businesses by “up to £150 billion”;
- recommended to the PRA that it bring forward its planned reduction in PRA supervisory capital buffers (see further below);
- welcomed the Bank of England’s announcement of 30 June 2016 that it will continue to offer indexed long-term repo operations on a weekly basis until the end of September 2016; and
- supported the Prudential Regulation Authority’s position of allowing insurance companies to use the flexibility in Solvency II (2009/138/EC) regulations to recalculate transitional measures, reducing the immediate need for insurance companies to sell corporate securities and other risky assets.

The FPC also states that it “…stands ready to take any further actions deemed appropriate to support financial stability”.

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The FPC also comments on market liquidity and the forthcoming Basel Committee on Banking Supervision’s international leverage ratio standards.

**The FPC’s Recommendation to the PRA**

The full Recommendation is as follows:

> “The FPC recommends to the PRA that, where existing PRA supervisory buffers of PRA-regulated firms reflect risks that would be captured by a UK countercyclical capital buffer rate, it reduce those buffers, as far as possible and as soon as practicable, by an amount of capital which is equivalent to the effect of a UK countercyclical capital buffer rate of 0.5%.”

The PRA Board has agreed to implement this Recommendation, and issued a statement on adjustments to firms’ PRA buffers, and letter to Finance Directors.

The FPC supports the PRA’s expectation that regulated firms do not increase dividends and other distributions in light of the revised buffers.

**Systemic Risk Survey**

The Bank of England has published the survey results for the Systemic Risk Survey conducted between 11 April 2016 and 29 April 2016. The results list the seven risks to the financial system most frequently cited by market participants.

**Links**

The Financial Stability Report is [here](#).

An executive summary is [here](#).

A PRA statement on adjustments to firms’ PRA buffers is [here](#).

A PRA letter to Finance Directors on adjustments to the buffers is [here](#).

The Report Webpage is [here](#).

The Systemic Risk Survey results are [here](#).

The Systemic Risk Survey webpage is [here](#).

5. **Prudential Regulation Authority**

5.1 **PRA - New CEO and senior managers take up appointments** - 1 July 2016 - The Prudential Regulation Authority has announced several appointments:

- Sam Woods has taken up his appointment as Deputy Governor for Prudential Regulation and Chief Executive of the PRA for a five year term, replacing Andrew Bailey;

- David Rule has taken up his appointment as Executive Director for Insurance Supervision, replacing Sam Woods;
Sarah Breeden has taken up her appointment as Executive Director for International Banks Supervision, replacing Megan Butler; and

Victoria Saporta has taken up her appointment as Executive Director Prudential Policy, replacing David Rule.

Andrew Bailey remains on the PRA Board by virtue of his position as Chief Executive of the FCA.

The webpage on Sam Woods is here.

The webpage on David Rule is here.

The webpage on Sarah Breeden is here.

The webpage on Victoria Saporta is here.

6. Financial Conduct Authority

6.1 FCA Chief Executive - Andrew Bailey takes up his appointment - 1 July 2016 - Andrew Bailey has taken up his appointment as Chief Executive of the FCA. The FCA has created webpages on Mr Bailey’s key responsibilities and biography.

The webpage on key responsibilities is here.

The biography of Mr Bailey is here.

6.2 Global regulation - speech by FCA Chairman, John Griffith-Jones - 30 June 2016 - The FCA has published a speech given by its Chair, John Griffith-Jones, on the subject of ‘Global regulation in the post-crisis era’.

In the speech, Mr Griffith-Jones spoke of the need to draw up, over the summer, the broad brush strokes of alternative plans for Brexit, and promised that the FCA would work closely with other authorities in this process. He reiterated the FCA’s statement on 24 June 2016 that firms must continue to abide by their obligations under UK law, including those derived from EU legislation.

On the FCA’s strategy moving forward, he said:

“...although the precise form and detail of laws and rules will vary across the globe, it is clear that the direction of travel, as is appropriate for global business - is for increasing international convergence and to seek to act, where possible in concert with the rest of the world - including the EU”.

Mr Griffith-Jones promised to continue to work with European authorities, the Financial Stability Board, the International Organization of Securities Commissions, and regulators across the world.

He went on to say:

“It is possible, under certain scenarios, that we will need to decide what to do with our existing stock of rules, and we may need to review the current EU pipeline. This is a task not to be underestimated, and we have already started to give some careful thought as to how to set about it”.
Mr Griffith-Jones finished by emphasising the importance that would continue to be placed on firms’ conduct.

The speech is here.

6.3 **FCA Finalised Guidance FG16/5: Guidance for firms outsourcing to the ‘cloud’ and other third party IT services - July 2016** - The FCA has published Finalised Guidance (FG16/5) setting out guidance for firms outsourcing to the cloud and other third party IT services. The Guidance contains (in an Annex) feedback to responses received to the FCA’s November 2015 Guidance Consultation (GC15/6), and contains minor amendments from the proposed guidance to clarify expectations. The Guidance includes a table setting out areas that firms should consider.

FCA Finalised Guidance FG16/5 is here.

The press release is here.


The proposed changes include:

- aligning claims handling rules with the Insurance Act 2015;
- making what the FCA describes as ‘minor’ changes to rules and guidance for firms conducting mortgages and home finance activity;
- changes to the Disclosure Rules and Transparency Rules (DTR) to include:
  - changing the definition of a ‘prescribed market’ in the Handbook Glossary for the purposes of DTR 5 in light of the repeal of the Prescribed Markets and Qualifying Investments Order 2001 (SI 2001/996) following the coming into force of the Market Abuse Regulation (596/2014/EU) (MAR); and
  - adding a new rule in DTR 7.2 to implement the new Non-Financial Reporting Directive (2014/95/EU);
- changing the Training and Competence sourcebook (TC) list of appropriate qualifications;
- dis-applying the CASS audit requirements from certain debt management firms;
- updating rules on distribution and promotion of credit union deferred shares and subordinated debt;
- introducing a new ‘pooled investment vehicle’ definition to clarify the scope of the non-mainstream pooled investment rules;
- making changes to the regulatory reporting requirements set out in the Supervision manual (SUP); and
making changes to the transparency reporting requirements for certain alternative investment fund managers.

The consultation is subject to a number of deadlines: 1 August 2016 for Chapter 5; 12 August 2016 for Chapter 3; and 1 September 2016 for all other Chapters.

FCA Consultation Paper CP16/17 is here.

The press release is here.

**Banking and Finance**

7. **Official Journal of the European Union**


The Regulation will enter into force on 26 July 2016.

The Commission Implementing Regulation is here.

8. **European Commission**

8.1 **CRD IV/CRR review - minutes of Commission Expert group on Banking, Payments and Insurance - 7 July 2016** - The European Commission has published minutes of a meeting of the Expert Group on Banking, Payments and Insurance held on 26 April 2016. In the meeting, the Expert Group discusses the upcoming review of the Capital Requirements Directive (2013/36/EU) (CRD IV) and the Capital Requirements Regulation (575/2013/EU) (CRR), including a discussion on options and discretions in the CRD IV and CRR.

The minutes are here.

9. **European Banking Authority**


The Report is here.

The press release is here.

9.2 **2016 EU-wide stress test - EBA clarifies use of results in the SREP process - 1 July 2016** - The EBA has published additional information on how the results of the 2016 EU-wide banking stress test will inform the Supervisory Review and Evaluation Process (SREP).

The EBA expects to publish the results of its stress test on 29 July 2016.
9.3 **Transparency - EBA announces 2016 transparency exercise - 6 July 2016** - The EBA has announced that it plans to conduct a transparency exercise with over 100 banks in December 2016, collecting information on banks’ balance sheets based on supervisory reporting data.

The EBA states that the exercise will include data on: capital; risk-weighted assets; profits and losses; market risk; securitisations; credit risk; exposures towards sovereigns; and non-performing exposures and forborne exposures for December 2015 and June 2016. The EBA indicates that participating banks will not be required to report any additional data.

The exercise is expected to launch in September 2016, with the data provided being frozen by the end of October 2016. The results will be published in early December 2016 alongside the EBA’s Risk Assessment Report.

The press release is [here](#).

9.4 **CRR - EBA publishes Commission further call for advice on prudential requirements for investment firms - 13 June 2016** - The EBA has published a further call for advice received from the European Commission on prudential requirements applicable to investment firms under CRR. The EBA is asked to provide further technical advice on the first two recommendations in its report of 15 December 2015.

The Commission indicates that the EBA should liaise with the European Securities and Markets Authority (ESMA) on the advice.

The advice is requested in two stages, by 31 September 2016 and 30 June 2017.

The call for advice is [here](#).

The covering letter is [here](#).

9.5 **Asset encumbrance - EBA publishes report - 5 July 2016** - The EBA has published a report analysing the levels of asset encumbrance among EU banking institutions. The report, part of the EBA’s regular annual monitoring, is intended to help EU supervisors to assess the sustainability of banks’ funding sources and their ability to withstand funding stress.

The EBA report is [here](#).

The press release is [here](#).

10. **House of Commons Treasury Committee**

10.1 **Overdraft charges - Treasury Committee publishes letters to banks requesting information - 7 July 2016** - The Chair of the House of Commons Treasury Committee, Andrew Tyrie MP, has written to the Chief Executives of 13 retail banks, requesting information on overdraft charges. The Committee is seeking information on paid and unpaid overdraft charges, and the steps banks take when customers enter into unarranged overdrafts.

The individual letters are available, under ‘correspondence’, in the press release [here](#).
11. Prudential Regulation Authority

11.1 Counterparty credit risk and market risk - PRA updates SS12/13 and SS13/13 - July 2016 - The Prudential Regulation Authority (PRA) has published two updates to Supervisory Statements:

- **Supervisory Statement SS12/13: counterparty credit risk** – has been updated to provide clarification to the reporting requirements for model changes. In addition, the process for informing the PRA of non-compliance has been clarified, and the amendments also clarify that more information on central counterparties (CCPs) can be found on the ESMA website; and

- **Supervisory Statement SS13/13: market risk** – has been updated to amend expectations on validation of firms’ risks not in value at risk frameworks and reporting of extensions and changes to firms’ RNIV frameworks. In addition, it provides clarification on internal model approach reporting requirements, and the process for informing the PRA on non-compliance. Further amendments are made to clarify the PRA’s expectations for firms use of own estimates of delta in the standardised approach for options, the use of sensitivity models under Article 331 of the Capital Requirements Regulation (575/2013/EU) (CRR), and the exclusion of positions from the calculation of net open currency positions under Article 352(2) of the CRR.

The updated Supervisory Statement (SS12/13) on counterparty credit risk is [here](#).

The webpage for SS12/13 is [here](#).

The updated Supervisory Statement (SS13/13) on market risk is [here](#).

The webpage for SS13/13 is [here](#).

11.2 Bank structural reform - PRA publishes Policy Statements, Consultation Paper and updates various Supervisory Statements - July 2016 - In connection with banking structural reform, the implementation of ring-fencing and ensuring operational continuity in resolution, the Prudential Regulation Authority (PRA) has published two Policy Statements (PS20/16 and PS21/16), a Consultation Paper (CP25/16), consequential updates to other publications, and a new webpage on applications for indirect access to inter-bank payment systems.

**PRA Policy Statement PS20/16: The implementation of ring-fencing: prudential requirement, intragroup arrangements and use of financial market infrastructures**

Policy Statement (PS20/16) sets out feedback to CP37/15 and final rules on prudential requirements, intragroup arrangements and use of financial market infrastructures. The Policy Statement includes the PRA Rulebook: CRR Firms and Non-Authorised Persons: Ring-Fenced Bodies Instrument 2016 (PRA 2016/26) and a Supervisory Statement (SS8/16) on Ring-Fenced Bodies. In addition, Appendices to the Policy Statement also contain:

- an updated Supervisory Statement (SS15/13) on groups;
- an updated Supervisory Statement (SS16/13) on large exposures;
- a Statement of Policy on the PRA’s methodologies for setting Pillar 2 capital;
- an update to instruction on completing PRA form FSA078 on ‘Pillar 2 Concentration risk minimum data requirements’; and
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- an updated Pillar 2 reporting schedule.

The PRA indicates that the Policies and rules will not take effect until 1 January 2019.

**PRA Consultation Paper CP25/16: The implementation of ring-fencing: reporting and residual matters**

Consultation Paper CP25/16 deals with reporting requirements for ring-fenced banks and other residual matters. Part 1 of CP25/16 sets out the PRA’s proposals for the data it will collect in connection with ring-fencing. Part 2 deals with additional matters related to ring-fencing (including double leverage, reverse stress testing, recovery planning, and operational continuity and financial market infrastructures).

Appendix 3 to the Consultation Paper contains several new reporting templates and instructions.

The consultation period closes on 7 October 2016.

The new rules are intended to come into effect on 1 January 2019, but the PRA will keep under review changes required due to intervening changes in policy, or as a result of the UK referendum.

**PRA Policy Statement PS21/16: Ensuring operational continuity in resolution**

Policy Statement (PS21/16) provides feedback to the responses to the PRA’s October 2015 Consultation Paper (CP38/15) on ensuring operational continuity for firms in resolution. The PRA states that it has made only minor changes to ensure clarity. The Policy Statement includes final rules in the form of the PRA Rulebook: CRR Firms: Operational Continuity Instrument 2016 (PRA 2016/27), and a Supervisory Statement (SS9/16) setting out PRA expectations on ensuring operational continuity in resolution.

**New PRA webpage on ‘structural reform - authorisations’**

The PRA has also created a new webpage on ‘structural reform - authorisations’, providing information about how ring-fenced bodies can apply to the PRA to request permission indirectly to access inter-bank payment systems, as referred to in PS20/16.

The structural reform and operational continuity publications webpage is here.

PRA Policy Statement PS20/16 is here.

The Appendices are available on the Policy Statement webpage here.

PRA Consultation Paper CP25/16 is here.

Appendix 3 containing the new templates and instructions is available on the consultation webpage here.

PRA Policy Statement PS21/16 is here.

The Policy Statement webpage is here.

The PRA’s ‘structural reform - authorisations’ webpage is here.
11.3 PRA Remuneration Rules - PRA updates templates - 30 June 2016 - The PRA has updated its webpage on ‘Supervisory activities - Remuneration Rules’ to announce that firms within the scope of the Remuneration Part of the PRA Rulebook are expected to ensure that their remuneration policies, practices and procedures are clear, and that they are documented through a Remuneration Policy Statement using the updated templates provided on the page.

The webpage is here.

12. Financial Conduct Authority

12.1 Payment systems - FCA announces review of Memorandum of Understanding with the Bank of England, PRA and PSR - 7 July 2016 - The FCA has announced that it has reviewed its Memorandum of Understanding (MoU) with the Bank of England, PRA, and the Payment Systems Regulator (PSR) on the high-level framework for cooperation on payment systems in the UK.

The authorities indicate that they are working in a handful of areas to improve efficiency, and have made some ‘minor’ textual amendments to the MoU to reflect the expansion of the PSR’s remit.


The press release is here.

13. Financial Markets Law Committee

13.1 Investment bank special administration regime - FMLC publishes response to HM Treasury consultation on reform - 22 June 2016 - The Financial Markets Law Committee (FMLC) has published its response to HM Treasury’s 9 March 2016 consultation paper on proposals to reform the investment bank special administration regime (SAR), following the Bloxham review in January 2014.

The FMLC considers that the proposed changes will speed up and simplify the process of SAR administrations, but has identified two issues in relation to Regulation 10C of the draft Investment Bank (Amendment of Definition) and Special Administration (Amendment) Regulations 2016: releasing the SAR entity from its duties as trustee; and the assignment of debts (and its validity under the Law of Property Act 1925).

The FMLC’s response is here.

14. Broadcast Committee of Advertising Practice

14.1 Advertising of payday loans - BCAP publishes outcome of consultation on scheduling - 29 June 2016 - After consultation, the Broadcast Committee of Advertising Practice (BCAP) has decided not to introduce scheduling restrictions on the advertising of high-cost short-term credit. BCAP indicates, however, that it will conduct a further review of the content of such advertisements.

The statement on the consultation outcome is here.

The consultation responses are here.
An evaluation of the consultation responses is [here](#).

The initial consultation document and terms of reference are [here](#).

The press release is [here](#).

See also the General section above for an item on the FPC Financial Stability Report and Recommendation to the PRA, and a PRA statement.

### Securities and Markets

#### 15. Official Journal of the European Union


The Decision enters into force on 22 July 2016.

The Commission Implementing Decision is [here](#).

#### 16. Joint Committee of the European Supervisory Authorities

16.1 **EMIR** - ESAs express concern over Commission’s delayed adoption of joint draft RTS on risk mitigation techniques for non-centrally cleared OTC derivatives - 30 June 2016 - The Joint Committee of the European Supervisory Authorities (ESAs) has published a letter sent to Lord Jonathan Hill, outgoing European Commissioner for Financial Stability, Financial Services and Capital Markets Union, expressing concern over the European Commission’s delayed adoption of joint regulatory technical standards (RTS) on risk mitigation techniques for non-centrally cleared over-the-counter (OTC) derivatives under EMIR.

The ESAs note that the delayed adoption means the European Union is not complying with the internationally agreed implementation timetable, and that delayed adoption may raise a number of cross border issues. In addition, the firms that would be covered by the RTS constitute a substantial source of systemic risk. The ESAs therefore ask the Commission to reconsider the delayed calendar for RTS adoption, and keep any delay as short as possible.

The letter is [here](#).


The ESAs indicate that they are currently working on producing level three material to aid implementation of the Regulation, including Q&As on the draft PRIIPs Regulation RTS. The ESAs intend to publish the questions and answers in the summer of 2016, potentially before the end of the Parliament and Council’s scrutiny period of the draft PRIIPs RTS.
The letter is here.

17. European Securities and Markets Authority

17.1 MiFID II - ESMA proposes amendments to draft RTS on reporting obligations - 1 July 2016 - ESMA has published two proposed amendments to the draft RTS submitted to the European Commission on reporting obligations under the Markets in Financial Instruments Directive (2014/65/EU) (MiFID II). The amendments relate to identifiers for natural persons to be used in transaction reports in respect of German and Icelandic nationals.

The amendments are here.

The press release is here.

17.2 Central Securities Depository Regulation - ESMA publishes responses to consultation on participant default rules - 1 June 2016 - ESMA has published the responses received to its 31 May 2016 Consultation Paper on Guidelines on participant default rules and procedures under the Central Securities Depository Regulation (909/2014/EU) (CSDR).

The responses are available here.

The press release is here.

17.3 Benchmarks Regulation - ESMA publishes responses to Consultation Paper on technical advice - 7 July 2016 - ESMA has published the responses received to its 27 May 2016 Consultation Paper on technical advice on the Benchmarks Regulation (EU) 2016/1011.

The responses are available on the consultation webpage here.

The press release is here.

17.4 Securities and Markets Stakeholder Group - new SMSG and end of term report - 30 June 2016 - The European Securities and Markets Authority has published details of the new Securities and Markets Stakeholder Group (SMSG), and the end of term report of the outgoing SMSG.

The SMSG end of term report is here.

The press release on the new SMSG is here.

18. Financial Conduct Authority

18.1 MAR - FCA publishes forms on delayed disclosure of insider information and PDMR notifications and guides on their completion - July 2016 - Following the entering into force of the Market Abuse Regulation (596/2014/EU) (MAR), the FCA has published forms, and guides on their completion, concerning:

- delayed disclosure of insider information; and

- transactions by persons discharging managerial responsibilities (PDMRs) and persons closely associated with them.

The delayed disclosure of inside information form is here.
19. FICC Market Standards Board

19.1 Fair and Effective Markets Review - FMSB consults on first standard for wholesale FICC markets and issues progress update - 30 June 2016 - The Fixed Income, Currency and Commodities (FICC) Markets Standards Board (FMSB) has published for consultation a draft standard for reference price transactions in the fixed income rates markets. The FMSB was set up following the Fair and Effective Markets Review (FEMR) to improve conduct in the wholesale FICC markets.

When published in their final form, all FMSB member firms will be expected to comply, on a global basis, with the Core Principles on a ‘comply or explain’ basis. The Core Principles concern: formation of the reference price; hedging; client activity; restrictions on dissemination of information; and monitoring, controls and training.

The consultation period closes on 8 September 2016.

The FMSB intends to publish for consultation a second draft standard on binary options in commodities markets “in the coming weeks”.

The FMSB has also issued a progress update to the Bank of England, HM Treasury, the FCA and the PRA, containing information on the FMSB’s structure, work agenda, and future work.

The standard is here.

The webpage for the standard is here.

The FMSB progress update is here.

The press release is here.

20. Investment Association

20.1 MAR - Investment Association publishes amended Principles of Remuneration in light of MAR and closed periods - 4 July 2016 - The Investment Association has updated its Principles of Remuneration on the timing of share awards in light of the new definition for closed periods introduced by the Market Abuse Regulation (596/2014/EU) (MAR), which entered into force on 3 July 2016.

The Investment Association indicates that it will further review the Principles of Remuneration following the publication of the independent Executive Remuneration Working Group Final Report at the end of July 2016. The Investment Association intends to publish fully revised Principles in early autumn 2016.

The Principles of Remuneration are here.
The press release is here.

21. City of London Law Society

21.1 MAR - CLLS and Law Society publish Q&As - 5 July 2016 - The City of London Law Society (CLLS), and the Law Society Company Law Committees’ Joint Working Parties on Market Abuse, Share Plans and Takeover Code have published Q&As as a suggested approach to implementing certain aspects of MAR to certain practical situations. The Q&As cover:

- persons discharging managerial responsibilities (PDMR) dealings (Article 19 Market Abuse Regulation (596/2014/EU) (MAR);
- share buy-backs (Article 5 MAR);
- disclosure (Article 17 MAR);
- insider lists (Article 18 MAR); and
- investment recommendations (Article 20 MAR).

The CLLS indicates that the Q&As are subject to review and amendment in light of practice on the implementation of MAR and any relevant future UK or EU guidance published.

The Q&As are here.

See also the Insurance section below for an item on EIOPA publishing advice on the development of a Single Market for personal pension products.

See also the Financial Crime section below for an item on three individuals being convicted of conspiracy to defraud in connection with the setting of LIBOR.

Asset Management

See the Insurance section below for an item on EIOPA announcing launch of EU-wide thematic review on market conduct, including looking at remuneration paid by asset managers to insurers.

Insurance

22. International Association of Insurance Supervisors

22.1 Supervising the conduct of intermediaries - IAIS consults on Application Paper - 1 July 2016 - The International Association of Insurance Supervisors (IAIS) has opened a consultation on an Application Paper concerning potential approaches by member organisations to supervising the conduct of insurance intermediaries and implementing Insurance Core Principle (ICP) 18 on intermediaries and ICP 19 on conduct of business.

The consultation period closes on 1 August 2016.

The Application Paper is here.

The consultation webpage is here.
23. European Insurance and Occupational Pensions Authority


The Technical Advice concerns proposed implementing measures on:

- product oversight and governance;
- conflicts of interests;
- inducements and third party payments;
- suitability and appropriateness; and
- reporting.

The consultation period closes on 3 October 2016.

EIOPA intends to submit the final Technical Advice to the European Commission in February 2017.

The Consultation Paper is [here](#).

The press release is [here](#).

23.2 Market conduct - EIOPA announces planned launch of EU-wide thematic review - 5 July 2016 - EIOPA has announced that it intends to launch an EU-wide thematic review of market conduct, focusing on insurance companies operating in the unit-linked life insurance market. The review will examine incentives and remuneration (particularly remuneration paid by asset managers), conflicts of interest, and the structure of unit-linked insurance products to identify potential sources of consumer detriment.

EIOPA indicates that national competent authorities will have responsibility for identifying participating insurance companies, gathering data, and acting as a primary contact point. EIOPA intends to produce the final analysis and results of the review.

EIOPA expects participating firms to report back by September 2016, and is hoping to publish the results in early 2017.

The press release is [here](#).

23.3 Personal pension products - EIOPA publishes advice on development of a Single Market - 4 July 2016 - EIOPA has published advice to the European Commission on creating a European Union Single Market for personal pension products (PPPs). The advice follows EIOPA’s 1 February 2016 Consultation Paper on PPPs, and maintains the view that a standardised Pan-European Personal Pension Product (PEPP) regulated by a second regime (sometimes referred to as a ‘29th regime’) is the best option.
The advice is here.

A letter to the European Commission (dated 6 July 2016) is here.

The press release is here.

24. Prudential Regulation Authority

24.1 PRA Consultation paper CP23/16: Solvency II: external audit of the public disclosure requirement - July 2016 - The PRA has published a Consultation Paper (CP23/16) proposing 'minor' changes to the draft rules on external audit of the Solvency II (2009/138/EC) public disclosure, first proposed by the PRA’s November 2015 Consultation Paper CP43/15.

The consultation period closes on 4 August 2016.

The updated CP23/16 is here.

The Consultation Paper webpage is here.

24.2 Solvency II - updates to Supervisory Statements SS11/15 and SS40/15 on reporting - 6 July 2016 - The PRA has updated two Supervisory Statements on supervisory reporting under Solvency II (138/2009/EC):

- Supervisory Statement SS11/15 of March 2015 on regulatory reporting and exemptions has been updated to bring the template reference numbers in Table A in line with Commission Implementing Regulation (EU) 2015/2450 of 2 December 2015; and

- Supervisory Statement SS40/15 of October 2015 on reporting and public disclosure and the options provided to supervisory authorities has been updated to address the options for supervisory authorities in accident or underwriting year reporting or disclosure, and to include new references to a reporting template.

The updated SS11/15 is here.

The webpage for SS11/15 is here.

The updated SS40/15 is here.

The webpage for SS40/15 is here.

See also the Securities and Markets section above for an item on PRIIPs and an intention of the European Supervisory Authorities to publish Q&As for supervisory convergence.

Financial Crime

25. Financial Action Task Force

25.1 Spanish presidency of the FATF - FATF publishes objectives - July 2016 - The Financial Action Task Force (FATF) has published the objectives of the new Spanish Presidency of Juan Manuel Vega-Serrano for the year beginning 1 July 2016. The Spanish Presidency lists its objectives as:

- countering terrorist financing;
enhancing transparency;

- outreach to the Fintech community;

- effective implementation of FATF standards;

- increased operational focus; and

- enhancing the FATF’s international standing.

The objectives of the Spanish Presidency are [here](#).

The webpage for the objectives is [here](#).

The webpage for the FATF president is [here](#).

### 26. European Parliament


The European Parliament has approved at second reading the Council’s position at first reading of the proposed Network and Security Directive, which is intended to establish common cybersecurity standards for “operators of essential services” (such as banks) and increase cooperation among EU Member States.

The European Parliament states that the Directive “will soon” be published in the Official Journal of the European Union, and will enter into force on the twentieth day after publication. Member States will have 21 months for transposition.

The press release is [here](#).

The Resolution adopted is [here](#).

The procedure file is [here](#).

### 27. European Commission

#### 27.1 4MLD - Commission publishes proposed Amending Directive - 5 July 2016

The European Commission has published a proposal (COM(2016) 450) for a Directive amending the Fourth Money Laundering Directive (EU) 2015/849 (4MLD), and making consequential amendments to the First Company Law Directive (2009/101/EC). It contains additional measures to counter the financing of terrorism and increase transparency of financial transactions and legal entities. In a separate Communication, the Commission has set out proposals to increase tax transparency, including by an amendment to the Directive on Administrative Cooperation for Taxation (2011/14/EU) giving tax authorities access to national anti-money laundering information, particularly beneficial ownership and due diligence information. The 4MLD proposals were promised in the Commission’s February 2016 Action Plan. The Commission has also given more details of its work to produce an EU list of high-risk third countries with strategic deficiencies in their Anti-Money Laundering/Counter Financing of Terrorism regimes, as mandated by 4MLD.

The proposed amendments to 4MLD include:
• bringing virtual currency exchange platforms and custodian wallet providers under the scope of 4MLD;

• lowering the threshold for identification on anonymous payments through pre-paid cards from €250 to €150;

• giving EU Financial Intelligence Units new powers to request information, and identify holders of bank and payment accounts;

• harmonising the additional due diligence applicable to high-risk third countries;

• allowing full public access to beneficial ownership registers;

• increasing the interconnectedness of national registers; and

• additional technical measures (including extending the information available to authorities to existing as well as new accounts).

The intention is that the new Directive will enter into force on the third day following its publication in the Official Journal of the EU, and must be transposed by 1 January 2017.

The Commission reiterates its call for Member States to transpose 4MLD into national law by 1 January 2017.

The proposed amending Directive is here.

Q&As are here.

A factsheet is here.

The impact assessment is here.

The press release on the amendments to 4MLD is here.

The press release on the tax transparency proposals, including links to the Communication and Q&As, is here.

28. HM Treasury

28.1 Money laundering and terrorist financing controls on overseas jurisdictions - HM Treasury publishes updated advisory notice - 6 July 2016 - Following the recent Financial Action Task Force Plenary meeting (reported in this Bulletin last week), HM Treasury has revised its advice on the risks posed by unsatisfactory money laundering and terrorist financing controls in overseas jurisdictions.

The advisory notice is here.

The HM Treasury holding page is here.
29. Serious Fraud Office

29.1 LIBOR manipulation - three individuals found guilty of conspiracy to defraud - 4, 6 and 7 July 2016 - The Serious Fraud Office (SFO) announced on 4 July 2016 that three individuals (LIBOR submitter Jonathan Mathew, and LIBOR traders Jay Merchant and Alex Pabon) have been convicted at Southwark Crown Court of conspiracy to defraud in connection with the setting of US Dollar LIBOR between June 2005 and September 2007. A further defendant, Peter Johnson, had pleaded guilty in October 2014.

Mr Mathew was sentenced to four years in prison, Mr Merchant to six and a half years, Mr Pabon to two years and nine months, and Mr Johnson to four years.

Mr Johnson was ordered to pay a £114,501.19 confiscation order within 14 days or risk a default sentence of two and a half years. He was also ordered to pay £30,000 in costs. Confiscation proceedings against the other individuals have been adjourned to a later date.

The SFO thanks the FCA, US Department of Justice, US Commodity Futures Trading Commission and other law enforcement partners for their assistance in the investigation.

The jury could not reach a verdict on two further defendants, Stylianos Contogoulas and Ryan Reich, and on 6 July 2016, the SFO announced that it was seeking a retrial.

The trial of six individuals concerning the alleged manipulation of EURIBOR is expected to commence on 4 September 2017.

The press release regarding the convictions is here.

The press release regarding the retrial is here.

The press release on sentencing is here.

Enforcement

See the Financial Crime section above for an item on three individuals being convicted of conspiracy to defraud in connection with the setting of LIBOR.
This Bulletin is prepared by the Financial Regulation Group of Slaughter and May in London. The Group comprises a team of lawyers with expertise and experience across all sectors in which financial institutions operate.

We advise on regulatory issues affecting firms across the financial services sector, including banks, investment firms, insurers and reinsurers, brokers, asset managers and funds, non-bank lenders, payment service providers, e-money issuers, exchanges and clearing systems. We also advise non-regulated businesses involved in financial regulatory matters. In addition, our leading financial regulatory investigations practice is regularly instructed by financial institutions requiring specialist knowledge of financial services regulation together with experience in high profile and complex investigations and contentious regulatory matters.

Most of the projects that we advise on have an extensive international or cross-border element. We work in seamless integrated teams with leading independent law firms which offer many of the most highly regarded financial institutions lawyers in Europe, the US and Asia, as well as strong and constructive relationships with local regulators.

Our Financial Regulation Group also produces occasional briefing papers and other client publications. The five most recent issues of this Bulletin and our most recent briefing papers and client publications appear on the Slaughter and May website here.

The Group’s recent work includes advising:

- A number of banking groups in relation to banking structural reforms, including the ring-fencing regime;
- UK Asset Resolution on the sale of a £13bn asset portfolio to Cerberus Capital Management;
- Palamon Capital Partners and Corsair Capital on their joint acquisition of Currencies Direct;
- International and specialist insurer and reinsurer, Catlin Group Limited, on the acquisition of it by global insurer and reinsurer, XL Group plc;
- Deutsche Bank in relation to several simultaneous investigations in multiple jurisdictions relating to LIBOR and a global financial services institution on the investigation by a number of regulators into foreign exchange trading, including in relation to a settlement involving the FCA which was announced in November 2014;
- Banco Santander on a pan-European and global asset management joint venture with leading global private equity firms Warburg Pincus and General Atlantic;
- A number of multi-national clients in relation to the UK, EU, and US economic and trade sanctions regimes.

If you would like to find out more about our Financial Regulation Group or require advice on a financial regulation matter, please contact one of the following or your usual Slaughter and May contact:

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