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# Global Financial Markets Regulatory Review

September 2019

# Editorial note

Dentons is pleased to present the September 2019 edition of the Global Financial Markets Regulatory Review. This regularly published report provides key financial markets regulatory developments as well as other legal developments related to financial markets around the world. Reported items include proposed legislation, rule changes, disciplinary actions, litigation, and other news.

The report combines insights from Dentons lawyers with extensive financial markets experience located in major global financial centers. The reports for each country include links to further information and contact information for Dentons professionals.

Because of our international footprint of more than 10,000 lawyers in 170+ offices, located in 70+ countries, Dentons can service most cross border legal issues faced by global companies. We hope you will find this report useful, and we look forward to the opportunity to share our expertise with our clients around the world.

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# Key regulatory developments in Australia

Source/Date	Brief description
APRA consults on its proposed approach to product responsibility under the Banking Executive Accountability Regime 28/06/2019	<p>The Australian Prudential Regulation Authority (<b>APRA</b>) has outlined its proposed approach to implementing the Royal Commission recommendation on product responsibility for Authorised Deposit-taking Institutions (<b>ADIs</b>) under the Banking Executive Accountability Regime (<b>BEAR</b>).</p> <p>Recommendation 1.17 of the final report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry recommended that APRA determine an end-to-end product responsibility for each ADI subject to the BEAR with the aim of improving customer experience and outcomes.</p> <p>In response, APRA has released a letter to ADIs detailing how it intends to achieve heightened and clarified product accountability among senior executives. Specifically, APRA proposes requiring ADIs to identify and register an accountable person to hold end-to-end product responsibility for each product the ADI offers to its customers, including retail, business and institutional customers.</p> <p>The letter requests feedback on four key considerations relating to implementing the proposed product responsibility requirements: the scope of accountability; product coverage; the structure of the legal mechanism; and the application of joint accountability within ADIs and ADI groups.</p> <p>Although the requirements are directly applied to locally incorporated ADIs, APRA strongly encourages all ADIs to consider elements of strengthened product accountability as they relate to their accountable persons, and accountability statements and map.</p> <p>Given the government announcement that BEAR will be extended to insurers and Registrable Superannuation Entity licensees, all APRA-regulated entities may have an interest in providing feedback on the proposed approach.</p> <p>An eight-week public consultation on the proposed measures is open until 23 August 2019. APRA aims to release a draft schedule with the proposed product responsibility requirements for further consultation in October 2019, and the final legislative instrument in December 2019. APRA expects to implement the new requirements by 1 July 2020.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
<p>AUSTRAC provides guidance that digital driver licences are now acceptable as ID 14/06/2019</p>	<p>The Australian Transaction Reports and Analysis Centre (<b>AUSTRAC</b>) considers digital driver licences issued by an Australian state or territory government as independent and reliable documents that can be relied upon as part of its applicable customer identification procedures.</p> <p>While reporting entities can accept a digital driver licence as part of their applicable customer identification procedures, they must still consider the risks involved and determine how they will establish the validity of the document. Reporting entities should update their anti-money laundering/counter-terrorism financing risk assessments and relevant policies and procedures.</p> <p>The full publication can be accessed <a href="#">here</a>.</p>
<p>The Reserve Bank of Australia (<b>Reserve Bank</b>) releases a report on the New Payments Platform: Conclusions Paper 13/06/2019</p>	<p>The Reserve Bank has released a report on the functionality of, and access to, the New Payments Platform (<b>NPP</b>). The report presents 13 recommendations from the public consultation that the Reserve Bank has undertaken with input and assistance from the Australian Competition and Consumer Commission (<b>ACCC</b>). The recommendations, if fully implemented by NPP Australia (<b>NPPA</b>) and its participants, should address the issues and policy concerns identified during the consultation.</p> <p>The report's overall conclusion is that the NPP is enabling payments functionality that largely addresses the gaps identified in the <i>Reserve Bank's 2010–2012 Strategic Review of Innovation</i>. However, it highlights that the slow and uneven roll-out of NPP services by the major banks has been disappointing and that this has likely slowed the development of new functionality and contributed to stakeholder concerns about access to the NPP. Therefore, the report includes a number of recommendations aimed at promoting the timely roll-out of NPP services and development of new functionality.</p> <p>During the consultation, stakeholders also identified a number of access issues that could present potential barriers to entry for new participants. The report notes that direct access to the NPP should be open to a range of payments services providers. As a result, it makes a number of recommendations for NPPA to take action in relation to its participation requirements, the required capital contribution for participation and the governance arrangements for assessing new participants.</p> <p>The Reserve Bank will, with the assistance of the ACCC, conduct another review commencing no later than July 2021. This review could take place earlier if the Reserve Bank becomes aware of significant issues or concerns regarding NPP access or functionality. If the Bank assesses that there has been insufficient progress in addressing the recommendations made in this report, it will closely consider the case for regulation via standards mandating functionality or an access regime imposed on the NPP and its participants.</p> <p>A full copy of the report can be accessed <a href="#">here</a>.</p>

Source/Date	Brief description
<p>Consumer data right – GitHub API consultation announced by ACCC 11/06/2019</p>	<p>The ACCC opened consultation on the technical design of the proposed Register of Accredited Persons (ie persons to be granted accreditation by the ACCC to become data recipients under the Consumer Data Right) and the associated API to the online developer community using GitHub. The API will allow Consumer Data Right regime participants to retrieve details of data holders and data recipients (which is essential to the functioning of a Consumer Data Right ecosystem aimed at encouraging competition). In June 2019 the consultation focused on the areas of business and technical design principles, security profile and certificate management, and caching and refreshing of metadata.</p> <p>A full copy of the publication can be accessed <a href="#">here</a>.</p>
<p>Consumer Data Standards: Data 61 release 31/05/2019</p>	<p>CSIRO’s Data 61 (technical advisor to the interim standards body) released an updated working draft of the Consumer Data Standards for the proposed Consumer Data Rights regime.</p> <p>The May 2019 working draft included:</p> <ul style="list-style-type: none"> <li>• an updated version of the draft API standards (v0.9.3) which incorporates feedback from the 20 December 2019 working draft;</li> <li>• an updated version of the information security profile which incorporates feedback from the 20 December 2019 working draft, aligns with the updated draft rules published by the ACCC in March 2019 and highlights authorization/consent flow, consent AP inclusion, dynamic/static client registration and re-authorization, and key areas which require further consideration and community input;</li> <li>• an update on CX testing currently underway in phase 2 which is informed by the insights learned from phase 1 research; and</li> <li>• an update on progress and access to conformance artefacts being developed and maintained in the engineering workstream, which continues to be a work in progress.</li> </ul> <p>The consultation period for submission to the May 2019 working draft closed on 21 June 2019.</p> <p>A full copy of the working draft can be accessed <a href="#">here</a>.</p>

Source/Date	Brief description
<p>The Reserve Bank of Australia implements the Operation of the Interchange Standards: Conclusions and Variation of Standards 31/05/2019</p>	<p>After consultation with industry, the Reserve Bank has decided to implement the proposals it put forward in February to vary Standards No 1 and No 2 of 2016 <i>to improve the clarity and operation of the net compensation requirements of the Standards. The Reserve Bank will also implement its proposed transitional arrangement to the varied Standards.</i></p> <p>The Standards limit interchange fees in designated card payment systems. The net compensation requirements were introduced in 2016 and are designed to prevent circumvention of the limits on interchange fees by arrangements involving non-interchange payments or other incentives being provided by schemes to issuers.</p> <p>The variations that will give effect to the proposals have been modified relative to those set out in the Reserve Bank’s Consultation Paper published in February. These modifications are to improve the clarity, minimize the compliance burden or support the operation of the Standards, and incorporate the considerable feedback provided by stakeholders during the consultation. These include modification to the definition of a ‘Core Service’.</p> <p>The variations to the Standards have been approved by the Payments System Board and will take effect from 1 July 2019. The variations are relevant for designated card schemes and issuers participating in those schemes. The Reserve Bank will implement transitional arrangements that provide issuers with the flexibility to transition to compliance with the varied Standards either in this reporting period ending 30 June or the next.</p> <p>A full copy of the standards can be accessed at <a href="#">here</a>.</p>



Source/Date	Brief description
<p>The Australian Securities and Investments Commission (ASIC) updates Information Sheet 225 (INFO 225): Initial coin offerings and crypto-assets 30/05/2019</p>	<p>ASIC Information Sheet 225 is a resource to help businesses involved in initial coin offerings or other crypto-assets such as crypto-currency, tokens, or stable coins, to understand their obligations under the Corporations Act 2001 (Cth) and the Australian Securities and Investments Commission Act 2001 (Cth).</p> <p>The information sheet addresses:</p> <ul style="list-style-type: none"> <li>• key considerations when offering crypto-assets through an initial coin offering;</li> <li>• misleading and deceptive conduct in relation to initial coin offerings or crypto-assets;</li> <li>• initial coin offerings involving financial products;</li> <li>• crypto-asset trading platforms as financial markets;</li> <li>• financial products that reference crypto-assets; and</li> <li>• overseas categorisation of crypto-assets in an Austrian context.</li> </ul> <p>The information sheet identifies the following crypto-asset participants and relevant considerations to each of them:</p> <ul style="list-style-type: none"> <li>• issuers of crypto-assets (e.g. tokens);</li> <li>• crypto-asset intermediaries;</li> <li>• miners and transaction processors;</li> <li>• crypto-asset exchange and trading platforms;</li> <li>• crypto-asset payment and merchant service providers;</li> <li>• wallet providers and custody service providers; and</li> <li>• consumers.</li> </ul> <p>A link to the publication can be accessed <a href="#">here</a>.</p>



Source/Date	Brief description
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APRA releases report on industry self-assessments of governance, culture and accountability  
22/05/2019

APRA has released a report analysing the self-assessments carried out by 36 of the country's largest banks, insurers and superannuation licensees in response to the Final Report of the Prudential Inquiry into Commonwealth Bank of Australia (**CBA**).

APRA wrote to the institutions' boards last June asking them to gauge whether the weaknesses uncovered by the CBA Prudential Inquiry also existed in their own companies. The landmark CBA inquiry had found that continued financial success dulled the bank's senses, especially with regard to the management of non-financial risks.

Consistent findings in the self-assessments included:

- non-financial risk management requires improvement;
  - accountabilities are not always clear, cascaded and effectively enforced;
  - acknowledged weaknesses are well-known and some are long-standing; and
- risk culture is not well understood and therefore may not be reinforcing the desired behaviors.

The full report can be accessed [here](#).

APRA proposes amending guidance on mortgage lending  
21/05/2019

APRA has begun consulting on possible revisions to its guidance on the serviceability assessments that authorized deposit-taking institutions (**ADIs**) perform on residential mortgage loan applications.

In a letter to ADIs, APRA has proposed removing its guidance that ADIs should assess whether borrowers can afford their repayment obligations using a minimum interest rate of at least 7 per cent. Instead, ADIs would be permitted to review and set their own minimum interest rate floor for use in serviceability assessments.

APRA has also proposed that ADIs' serviceability assessments incorporate an interest rate buffer of 2.5 per cent. Currently, APRA expects ADIs to assess loan serviceability using the higher of either (i) an interest rate floor of at least 7 per cent, or (ii) a 2 per cent buffer over the loan's interest rate. APRA's guidance also indicates that a prudent ADI should use rates comfortably above these minima; most ADIs use 7.25 per cent and 2.25 per cent respectively.

For further information, click [here](#).

Source/Date	Brief description
<p>ASIC, APRA and the RBA urge financial institutions to plan for LIBOR transition 09/05/2019</p>	<p>ASIC has written to the CEOs of several major Australian financial institutions regarding their preparations for the end of LIBOR.</p> <p>LIBOR (London Interbank Offered Rate) is deeply embedded in financial markets globally and is used by many Australian financial institutions in their contracts and business processes. The UK Financial Conduct Authority (FCA) has stated that it will no longer use its powers to sustain LIBOR beyond 2021.</p> <p>The purpose of the letter is to better understand how major Australian financial institutions are preparing to transition away from LIBOR to alternative benchmarks. ASIC, APRA and the RBA are seeking assurance that the senior management in these institutions fully appreciates the impact and risks and is taking appropriate action ahead of the end of 2021.</p> <p>This initiative is strongly supported by APRA and the Reserve Bank.</p> <p>A copy of the letter can be accessed <a href="#">here</a>.</p>
<p>APRA begins consultation on <i>Financial Sector (Shareholdings) Rules 2019</i></p>	<p>The Australian Prudential Regulation Authority (<b>APRA</b>) has begun a consultation on draft rules that give clarity to owners of new entrant financial sector companies on whether they are likely to be approved under the Financial Sector (Shareholdings) Act 1998 (<b>FSSA</b>).</p> <p>The FSSA was amended by parliament in 2018 to introduce a new streamlined “fit and proper” test for shareholders of new or recently established authorized deposit-taking institutions and life insurers with assets below AU\$ 200 million, and general insurers with assets below AU\$ 50 million.</p> <p>The <i>Financial Sector (Shareholdings) Rules 2019</i> (the <b>Rules</b>) prescribe matters in regards to the recent changes to the FSSA. In particular, APRA has proposed Rules setting out the matters that must be considered in determining if a person is “fit and proper” for the purposes of the FSSA; the calculation used to determine if an entity’s assets are within the relevant threshold; and the information to be reported to APRA annually if an application under the “fit and proper” test is approved.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
<p>The Office of the Australian Information Commissioner (OAIC) Guidance on anti-money laundering obligations 01/05/2019</p>	<p>Businesses who are reporting entities under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), or an authorized agent of a reporting entity must comply with the Australian Privacy Principles (APPs) for personal information collected to meet their reporting obligations. This also applies to businesses with an annual turnover of less than AU\$ 3 million that might otherwise be exempted from complying with the APPs under the Privacy Act 1988 (Cth).</p> <p>Such businesses must:</p> <ul style="list-style-type: none"><li>• only collect necessary personal information;</li><li>• collect personal information directly from individuals and provide a notice of collection (unless an exception applies);</li><li>• provide individuals with information about how their personal information will be used and disclosed and the purpose of collection, and obtain consent where required;</li><li>• take reasonable steps to ensure the personal information is accurate, up-to-date, complete when using and also relevant when disclosing, having regard to the purpose of the use or disclosure;</li><li>• protect the security of the personal information they hold;</li><li>• destroy the personal information when no longer needed;</li><li>• provide a means to correct personal information; and</li><li>• provide access to the personal information to the data subject at their request (unless an exception applies).</li></ul> <p>For further information, click <a href="#">here</a>.</p>

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Source/Date	Brief description
<p>The Treasury publishes the <i>Australian Business Securitization Fund Investment Mandate Directions 2019</i> 15/04/2019</p>	<p>The Treasury has published the Australian Business Securitization Fund Investment Mandate Directions 2019 (the <b>Directions</b>).</p> <p>The Directions, among other things:</p> <ul style="list-style-type: none"> <li>• give directions regarding the minister’s power to invest the funds of the Australian Business Securitization Fund (ABSF) in authorized debt securities;</li> <li>• establishes the ABSF, which is aimed at boosting competition in the small and medium-sized enterprise (SME) lending market, and improving access to, and the price of, finance available to businesses in that market;</li> <li>• support the operation of the ABSF by providing guidance on investment strategies and policies, and investment risk and return; and</li> <li>• provide certainty to the market and public about the types of investments the ABSF will make and the market it will support.</li> </ul> <p>The legislation can be accessed <a href="#">here</a>.</p>
<p>The ASIC <i>Regulated Foreign Markets Determination (Amendment) Instrument 2019/324</i> has been registered in the Federal Register of Legislation 11/04/2019</p>	<p>ASIC has published the <i>ASIC Regulated Foreign Markets Determination (Amendment) Instrument</i> (the <b>Instrument</b>).</p> <p>The Instrument determines that certain markets regulated in the United Kingdom are “Regulated Foreign Markets” for the purposes of the <i>ASIC Derivative Transaction Rules (Reporting) 2013</i> (the <b>Reporting Rules</b>) and the <i>ASIC Derivative Transaction Rules (Clearing) 2015</i> (the <b>Clearing Rules</b>) by:</p> <ul style="list-style-type: none"> <li>• amending the definition of “regulated market”; and</li> <li>• amending the definition of “UK Regulated Market” to capture UK financial markets that are currently EU Regulated Markets referred to in the Reporting Rules.</li> </ul> <p>The effect of the determination is that derivatives entered into on those financial markets will continue to be carved out of the reporting requirements in the Reporting Rules and clearing requirements in the Clearing Rules following the UK’s withdrawal from the European Union.</p> <p>The legislation can be accessed <a href="#">here</a>.</p>

Source/Date	Brief description
<p>The Reserve Bank and Australian Payment Council issue consultation paper on ISO 20022 Migration for the Australian Payments System 08/04/2019</p>	<p>The Reserve Bank and the Australian Payments Council (<b>APC</b>) have issued a consultation paper seeking stakeholder views on the migration of messaging used in some parts of the Australian payments system to the International Organization for Standardization (<b>ISO</b>) 20022 payments messaging standard.</p> <p>The Australian payments system comprises a number of payment services, clearing systems and settlement systems. Some of these services and systems use the Society for Worldwide Interbank Financial Telecommunication (<b>SWIFT</b>) Message Type (<b>MT</b>) for messages used in trading, clearing, settlement and payments, including for the Reserve Bank’s real-time gross settlement system.</p> <p>Recently, SWIFT announced plans to cease ongoing support of some MT messages used for cross-border payments after November 2025 and migrate them to the ISO 20022 standard. SWIFT’s end goal is to fully migrate all payments and reporting traffic to ISO 20022, allowing the community to use the same standard for all payments flows.</p> <p>A number of key financial market infrastructures world-wide already have projects underway to develop and adopt ISO 20022 messaging over the next five years.</p> <p>The Reserve Bank and APC believe that it is an appropriate time to consider the adoption of the ISO 20022 standard and are undertaking this consultation to assist the industry in coming to an agreement on key strategic decisions for an ISO 20022 migration project. The aim is for this project to be completed by the end of 2024, ahead of the completion of SWIFT’s cross-border payments migration and in line with international migrations.</p> <p>A full copy of the publication can be accessed <a href="#">here</a>.</p>

Source/Date	Brief description
<p>ASIC extends temporary disclosure-related relief for product dashboards 08/04/2019</p>	<p>ASIC has amended <i>ASIC Class Order [CO 14/443]</i> to provide legal certainty about the disclosure obligations relating to choice product dashboards.</p> <p>Superannuation trustees are required to produce and disclose dashboards for MySuper products. However, regulations required to give effect to the choice product dashboard disclosure requirements have not yet been made.</p> <p>As the regulations have not been made, ASIC has continued to defer the start date on which superannuation trustees must disclose a dashboard for choice superannuation products by amending the existing class order.</p> <p>ASIC has also amended a related instrument (<i>ASIC Class Order [CO 13/1534]</i>), which concerns disclosure of dashboard information in a periodic statement. The amendment continues to defer the requirement to include a dashboard in a periodic statement by allowing superannuation trustees to include a website address for the dashboard instead.</p> <p>The amendments defer the commencement of relevant obligations until 1 July 2023. This will allow further consideration by the government of the policy position. ASIC will adjust or revoke the relief once policy positions in relation to dashboards are settled.</p> <p>The new expiry dates specified in the instruments align with the usual 10-year sunset period for legislative instruments under the Legislation Act, having regard to when relief of this kind was first given by ASIC. It should not be assumed that the relief instrument will continue in force for that period of time.</p> <p>The legislation can be accessed <a href="#">here</a>.</p>

Source/Date	Brief description
<p>The Corporations Amendment (Proprietary Company Thresholds) Regulations 2019 has been registered in the Federal Register of Legislation 05/04/2019</p>	<p>The Governor-General of the Commonwealth of Australia has published the <i>Corporations Amendment (Proprietary Company Thresholds) Regulations 2019</i> (the <b>Amendment Regulations</b>).</p> <p>The Amendment Regulations increase the thresholds for determining whether a company is a large or small proprietary company for a financial year by doubling them as follows:</p> <ul style="list-style-type: none"> <li>• increasing the annual consolidated revenue threshold to \$50 million or more;</li> <li>• increasing the value of gross assets to \$25 million or more; and</li> <li>• increasing the employee size to 100 employees or more.</li> </ul> <p>The increased thresholds provided will ensure financial reporting obligations are targeted at economically significant companies, while reducing costs for smaller companies which will no longer be required to lodge audited financial reports with ASIC.</p> <p>The Amendment Regulations come into effect on 1 July 2019.</p> <p>The legislation can be accessed <a href="#">here</a>.</p>
<p>ASIC re-issues practical guidance for foreign financial services providers in Information Sheet 157 03/04/2019</p>	<p>ASIC has re-issued Information Sheet 157 Foreign financial services providers – practical guidance (INFO 157) for foreign financial services providers (FFSPs) seeking to provide financial services only to wholesale clients in Australia.</p> <p>FFSPs regulated by certain overseas regulators who wish to provide financial services to wholesale clients in Australia can rely on ‘class’ relief, provided certain conditions are met. To do so, they need to notify ASIC that they wish to rely on this relief.</p> <p>For further information, click <a href="#">here</a>.</p>



Source/Date	Brief description
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*Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Act 2019*  
April 2019

The Design and Distribution Obligations and Product Intervention Powers legislation have been passed.

Whilst the Design and Distribution Obligations come into effect in April 2021, ASIC's Product Intervention Powers are already in effect.

**Design and Distribution Obligations**

The design and distribution obligations will bring accountability for issuers and distributors to design, market and distribute financial and credit products that meet consumer needs. Phased in over two years, this will require issuers to identify in advance the consumers for whom their products are appropriate, and direct distribution to that target market.

In summary, the new legislation imposes design and distribution obligations on:

- product issuers to make a target market determination in relation to certain retail financial products;
- product distributors to not distribute products unless a target market determination is in place in relation to those financial products; and
- product issuers and distributors to take reasonable steps to ensure that distribution is consistent with the target market determination.

**Product intervention powers**

The product intervention power will strengthen ASIC's consumer protection toolkit by equipping it with the power to intervene where there is a risk of significant consumer detriment. To take effect immediately, this will better enable ASIC to prevent or mitigate significant harms to consumers. Some of key features include:

- The Act permits ASIC to make product intervention orders if they are satisfied that a financial product has resulted in, or is likely to result in, significant detriment to retail clients. Significant detriment includes financial loss.
- The rationale for the power is enabling ASIC to be a more proactive and effective regulator and to better address market failures where first-mover disadvantage precludes market change.
- Orders ASIC may make include ordering that a specified person must not engage in specified conduct relating to a product, or may only engage in the conduct so long as they comply with certain conditions.
- It is important to note that the power given to ASIC by this intervention power is wide and is indicative of a new era of regulator power.
- Combining ASIC's new legislated powers with their mantra of 'why not litigate' means that they will be a more active and forceful regulator, with the power and resources to take action when they feel it is warranted.

Source/Date	Brief description
	<ul style="list-style-type: none"> <li>As these powers are already in force, industry participants will be undertaking an audit of their products and selling practices, taking particular note of products that have been subject to a high number of complaints or external dispute resolution attention.</li> </ul> <p>A link to legislation can be accessed <a href="#">here</a>.</p>

## PUBLIC EVENTS & CONFERENCES

Source/Date	Brief description
4-6 September 2019	<p>Dentons Australia was the main sponsor of the 29<sup>th</sup> Annual Credit Law Conference held in the Gold Coast, Australia.</p> <p>During the three-day conference, Partners Elise Ivory, Amber Warren and David Carter, together with Special Counsel Jon Denovan and Senior Associate Rachel Walker presented on topics including:</p> <ul style="list-style-type: none"> <li>Design and Distribution Obligations and Product Intervention Powers;</li> <li>Responsible Lending;</li> <li>The Banking Royal Commission; and</li> <li>SME lending – A Digital Priority.</li> </ul>
25/07/2019	<p>Dentons Australia held a major credit law training day in the Sydney and Melbourne offices, presenting on a range of topics including:</p> <ul style="list-style-type: none"> <li>Responsible lending in a post-Royal Commission, pre finalization of ASIC v Westpac and re-writing of RG209;</li> <li>BCOP issues – substantial benefit, guarantees and vulnerable consumers;</li> <li>Impact of the Banking Code of Practice 2019 on enforcement;</li> <li>Advertising;</li> <li>Design and distribution obligations and product intervention powers;</li> <li>Add-on insurance &amp; Consumer Credit Insurance (CCI);</li> <li>Non-cash payment facilities;</li> <li>PPSA update; and</li> <li>The Australian Financial Complaints Authority (AFCA).</li> </ul>

## CLIENTS ALERTS & BRIEFINGS

Source/Date	Brief description
28/08/2019	<p><b>Client Alert – ASIC v Westpac case (responsible lending case)</b></p> <p>The judgment in the ASIC v Westpac case was one that shook up the financial sector when ASIC’s responsible lending case was rejected by Justice Parram.</p> <p>Partner Elise Ivory and Special Counsel Jon Denovan provide a practical analysis of whether the judgment really is the win that many lenders consider it to be.</p> <p>To review the full article, please click <a href="#">here</a>.</p>
30/04/2019	<p><b>Client Alert – Regulatory Guide 209</b></p> <p>Greater uniformity is needed when it comes to home loan lending and more detailed guidance for industry from ASIC will help industry to produce better consumer outcomes. In our latest video alert, Special Counsel Jon Denovan proposes risk categorization as a potential solution to help drive uniformity and keep reasonable enquires scalable.</p> <p>To watch the full video, please click <a href="#">here</a>.</p>
10/04/2019	<p><b>Client Alert – Substantial hardship</b></p> <p>In the quest to determine exact living expenses, has the concept of substantial hardship been overlooked? The law requires that a borrower be able to repay a loan without substantial hardship, not without any impact on their current, pre-loan expenditure. In our latest video, Partner Elise Ivory and Senior Associate Rachel Walker consider whether the pendulum has swung too far on substantial hardship and whether we need to reconsider what reasonable lifestyle adjustments borrowers need to make in order to repay their loan.</p> <p>To watch the full video, please click <a href="#">here</a>.</p>
04/04/2019	<p><b>Client Alert – Sensible approach to responsible lending</b></p> <p>With the release of ASIC’s consultation paper on its responsible lending guidance, industry has an opportunity to be heard.</p> <p>In this short video, partner Elise Ivory asks industry to consider its approach to scalability and a borrower’s personal circumstances when responding to ASIC.</p> <p>Dentons’ regulation team is available to assist you to respond to ASIC’s consultation paper, taking into account your individual business needs.</p> <p>To watch the full video, please click <a href="#">here</a>.</p>

# Key regulatory developments in the EU

## Key regulatory developments in Europe

Source/Date	Brief description
EBA <sup>2</sup> 09/09/2019	<p><b>EBA will clarify the prudential treatment applicable to own funds instruments at the end of the grandfathering period expiring on 31 December 2021</b></p> <p>The EBA announced its intention to provide clarity on the appropriate treatment of the so-called 'legacy instruments' at the end of 2021, when the benefits of the grandfathering period will expire.</p> <p>For further information, click <a href="#">here</a>.</p>
ESMA <sup>1</sup> 05/09/2019	<p><b>ESMA published stress simulation framework for investment funds</b></p> <p>The ESMA has developed a framework to be used for stress simulations for the investment fund sector.</p> <p>For further information, click <a href="#">here</a>.</p>
ESMA <sup>1</sup> 05/09/2019	<p><b>ESMA published responses to survey on short-termism in the financial sector</b></p> <p>The ESMA has published the responses it received to its call for evidence on potential short-term pressures on corporations stemming from the financial sector.</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 02/09/2019	<p><b>EBA added the Securitisation Regulation to its online Interactive Single Rulebook and Q&amp;A tools</b></p> <p>The EBA has updated its online Interactive Single Rulebook and Q&amp;A tool with the inclusion of the "simple, transparent and standardized" (STS) Securitization Regulation, (EU) 2017/2402.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
EBA <sup>2</sup> 28/08/2019	<p><b>Annual update on EU banks' funding plans and asset encumbrance</b></p> <p>The EBA published its annual update on EU banks' funding plans and asset encumbrance, which helps EU supervisors assess the sustainability of banks' main sources of funding.</p> <p>For further information, click <a href="#">here</a>.</p>
ECB <sup>3</sup> 22/08/2019	<p><b>ECB revised supervisory expectations for prudential provisioning for new non-performing loans to account for new EU regulation</b></p> <p>The ECB has decided to revise its supervisory expectations for prudential provisioning of new non-performing exposures (NPEs) specified in the "Addendum to the ECB Guidance to banks on non-performing loans".</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 21/08/2019	<p><b>EBA published phase 2 of its technical package on reporting framework 2.9</b></p> <p>The EBA published a new release of the reporting framework 2.9, which includes the validation rules, the DPM data dictionary and XBRL taxonomies.</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 14/08/2019	<p><b>EBA published clarifications to the fifth set of issues raised by its Working Group on APIs under PSD2</b></p> <p>The EBA published clarifications to a fifth set of issues that had been raised by participants of its Working Group on APIs under PSD2.</p> <p>For further information, click <a href="#">here</a>.</p>
European Commission/ SRB <sup>18</sup> 13/08/2019	<p><b>SRB and European Commission signed Memorandum of Understanding</b></p> <p>The Single Resolution Board and the European Commission have signed a Memorandum of Understanding in order to strengthen their cooperation.</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 09/08/2019	<p><b>EBA updated data used for the identification of global systemically important institutions (G-SIIs)</b></p> <p>The EBA published 12 indicators and updated the underlying data from the 36 largest institutions in the EU, whose leverage ratio exposure measure exceeds €200 bn.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
EBA <sup>2</sup> 08/08/2019	<p><b>EBA published the first of three opinions on the implementation of the Deposit Guarantee Schemes Directive</b></p> <p>The EBA published an opinion on the implementation of the Deposit Guarantee Schemes Directive (DGSD) in the EU.</p> <p>For further information, click <a href="#">here</a>.</p>
ESMA <sup>1</sup> 07/08/2019	<p><b>MiFID II: ESMA issued latest double volume cap data</b></p> <p>The ESMA has updated its public register with the latest set of double volume cap data under MiFID II.</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 06/08/2019	<p><b>EBA published feedback on a review of the use, usefulness and implementation of the Single Rulebook Q&amp;A</b></p> <p>The EBA published an overview of the findings from a review of the use, usefulness and implementation of the Single Rulebook Questions and Answers (Q&amp;A) that provide common answers to stakeholders' questions on the EU regulatory framework.</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 05/08/2019	<p><b>EBA advised the European Commission on the implementation of the final Basel III framework</b></p> <p>The EBA published its advice on the implementation of Basel III in the EU, which includes a quantitative analysis of the estimated impact based on data from 189 banks, and a set of policy recommendations.</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 02/08/2019	<p><b>EBA updated its Single Rulebook Q&amp;A tool to reflect publication in the OJEU of the revised CRD / CRR / BRRD texts</b></p> <p>Following the recent publication of the CRD5 / CRR2 / BRRD2 texts in the Official Journal of the EU, the EBA has now updated its Single Rulebook Q&amp;A tool to reflect this and thus allow for related questions to be submitted. The Interactive Single Rulebook (ISRB) will be updated in due course.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
ESMA <sup>1</sup> 01/08/2019	<p><b>MiFID II: ESMA made new bond liquidity data available</b></p> <p>The ESMA has started to make available new data for bonds subject to the pre- and post-trade requirements of MiFID II and MiFIR through its data register.</p> <p>For further information, click <a href="#">here</a>.</p>
ESMA <sup>1</sup> 01/08/2019	<p><b>MiFID II: ESMA published data for the systematic internalizer calculations for equity, equity-like instruments and bonds</b></p> <p>The ESMA has published data for the systematic internalizer calculations for equity, equity-like instruments and bonds under MiFID II and MiFIR.</p> <p>For further information, click <a href="#">here</a>.</p>
ESMA <sup>1</sup> 01/08/2019	<p><b>ESMA ceased renewal of product intervention measures relating to contracts for differences</b></p> <p>The ESMA will not renew the temporary restriction on the marketing, distribution or sale of contracts for differences to retail clients in the EU.</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 31/07/2019	<p><b>EBA launched consultation on the methodology to determine the weighted average maturity of contractual payments due under the tranche of a securitization transaction</b></p> <p>The EBA launched a public consultation on draft Guidelines (GLs) on the determination of the weighted average maturity (WAM) of the contractual payments due under the tranche, as per the Capital Requirements Regulation (CRR) Article 257(1) (a).</p> <p>For further information, click <a href="#">here</a>.</p>
ESMA <sup>1</sup> 31/07/2019	<p><b>ESMA published responses to its EMIR 2.2 Consultations</b></p> <p>The ESMA has published the responses received to its Consultations on tiering, comparable compliance and fees under EMIR 2.2.</p> <p>For further information, click <a href="#">here</a>.</p>
ESMA <sup>1</sup> 31/07/2019	<p><b>ESMA published responses to its Consultation on reporting guidelines under SFTR</b></p> <p>ESMA published responses to its Consultation on Guidelines for reporting under Articles 4 and 12 SFTR.</p> <p>For further information, click <a href="#">here</a>.</p>



Source/Date	Brief description
ESMA <sup>1</sup> 31/07/2019	<p><b>ESMA issued opinions on product intervention measures by Germany, Hungary, Malta and Poland</b></p> <p>The ESMA has issued four opinions on product intervention measures taken by the following National Competent Authorities (NCAs) of Germany, Hungary, Malta and Poland.</p> <p>For further information, click <a href="#">here</a>.</p>
IOSCO <sup>14</sup> 31/07/2019	<p><b>IOSCO issued Statement on Benchmarks Transition</b></p> <p>The Board of the International Organization of Securities Commissions (IOSCO) published the Statement on Communication and Outreach to Inform Relevant Stakeholders Regarding Benchmarks Transition.</p> <p>For further information, click <a href="#">here</a>.</p>
OJ of the EU 30/07/2019	<p><b>Implementing Decision (EU) 2019/1284 on the recognition of the legal and supervisory framework of Hong Kong as equivalent to the requirements of Regulation (EC) No 1060/2009 on credit rating agencies</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>
OJ of the EU 30/07/2019	<p><b>Implementing Decision (EU) 2019/1283 on the recognition of the legal and supervisory framework of Japan as equivalent to the requirements of Regulation (EC) No 1060/2009 on credit rating agencies</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>
OJ of the EU 30/07/2019	<p><b>Implementing Decision (EU) 2019/1282 repealing Implementing Decision 2014/246/EU on the recognition of the legal and supervisory framework of Argentina as equivalent to the requirements of Regulation (EC) No 1060/2009 on credit rating agencies</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
<p>OJ of the EU 30/07/2019</p>	<p><b>Implementing Decision (EU) 2019/1281 repealing Implementing Decision 2014/245/EU on the recognition of the legal and supervisory framework of Brazil as equivalent to the requirements of Regulation (EC) No 1060/2009 on credit rating agencies</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>
<p>OJ of the EU 30/07/2019</p>	<p><b>Implementing Decision (EU) 2019/1280 on the recognition of the legal and supervisory framework of Mexico as equivalent to the requirements of Regulation (EC) No 1060/2009 on credit rating agencies</b> – published in OJ</p> <p>Entry into force: 19/08/2019. For further information, click <a href="#">here</a>.</p>
<p>OJ of the EU 30/07/2019</p>	<p><b>Implementing Decision (EU) 2019/1279 on the recognition of the legal and supervisory framework of the United States of America as equivalent to the requirements of Regulation (EC) No 1060/2009 on credit rating agencies</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>
<p>OJ of the EU 30/07/2019</p>	<p><b>Implementing Decision (EU) 2019/1278 of 29 July 2019 repealing Implementing Decision 2014/248/EU on the recognition of the legal and supervisory framework of Singapore as equivalent to the requirements of Regulation (EC) No 1060/2009 on credit rating agencies</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>
<p>OJ of the EU 30/07/2019</p>	<p><b>Implementing Decision (EU) 2019/1277 repealing Implementing Decision 2012/630/EU on the recognition of the legal and supervisory framework of Canada as equivalent to the requirements of Regulation (EC) No 1060/2009 on credit rating agencies</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
OJ of the EU 30/07/2019	<p><b>Implementing Decision (EU) 2019/1276 repealing Commission Implementing Decision 2012/627/EU on the recognition of the legal and supervisory framework of Australia as equivalent to the requirements of Regulation (EC) No 1060/2009</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>
OJ of the EU 30/07/2019	<p><b>Implementing Decision (EU) 2019/1274 on the equivalence of the legal and supervisory framework applicable to benchmarks in Australia in accordance with Regulation (EU) 2016/1011</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>
OJ of the EU 30/07/2019	<p><b>Implementing Decision (EU) 2019/1275 on the equivalence of the legal and supervisory framework applicable to benchmarks in Singapore in accordance with Regulation (EU) 2016/1011</b> – published in OJ</p> <p>Entry into force: 19/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>
European Commission <sup>5</sup> 29/07/2019	<p><b>Financial services: Commission sets out its equivalence policy with non-EU countries</b></p> <p>The European Commission has published a communication on equivalence in the area of financial services.</p> <p>For further information, click <a href="#">here</a>.</p>
ESMA <sup>1</sup> 29/07/2019	<p><b>ESMA updated Q&amp;As on MiFIR data reporting</b></p> <p>The ESMA has updated its Q&amp;As on data reporting under MiFIR.</p> <p>For further information, click <a href="#">here</a>.</p>
ECB <sup>3</sup> 29/07/2019	<p><b>ECB published legal acts relating to targeted longer-term refinancing operations (TLTROs)</b></p> <p>The ECB published a legal act adopted on 22 July 2019 relating to the third series of targeted longer-term refinancing operations (TLTRO III).</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
EBA <sup>2</sup> 26/07/2019	<p><b>EBA published clarifications to the fourth set of issues raised by its Working Group on APIs under PSD2</b></p> <p>The EBA published clarifications to a fourth set of issues that had been raised by participants of its Working Group (WG) on APIs under PSD2.</p> <p>For further information, click <a href="#">here</a>.</p>
OJ of the EU 25/07/2019	<p><b>Regulation (EU) on a pan-European Personal Pension Product (PEPP)</b> – published in OJ</p> <p>Entry into force: 14/08/2019.</p> <p>For further information, click <a href="#">here</a>.</p>
European Commission <sup>5</sup> 24/07/2019	<p><b>Fight against money laundering and terrorist financing: Commission assessed risks and called for better implementation of the rules</b></p> <p>The European Commission has adopted a Communication and four reports that will support European and national authorities in better addressing money laundering and terrorist financing risks.</p> <p>For further information, click <a href="#">here</a> and <a href="#">here</a>.</p>
ESMA <sup>1</sup> 24/07/2019	<p><b>ESMA issued opinions on product intervention measures by Bulgaria, Denmark and Croatia</b></p> <p>The ESMA has issued four positive opinions on product intervention measures taken by the National Competent Authorities (NCAs) of Bulgaria, Denmark and Croatia.</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 24/07/2019	<p><b>EBA calls for communication to credit institutions about the relevance of AML/CFT concerns from a prudential perspective</b></p> <p>The EBA published an Opinion on the link between money laundering and terrorist financing concerns and prudential objectives.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
IOSCO/ BCBS <sup>7</sup> 23/07/2019	<p><b>Basel Committee and IOSCO agreed to one-year extension of the final implementation phase of the margin requirements for non-centrally cleared derivatives</b></p> <p>The BCBS and the IOSCO acknowledge the progress that has been made to implement the framework for margin requirements for non-centrally cleared derivatives. In the final phase of implementation, initial margin requirements are scheduled to apply to a large number of entities for the first time.</p> <p>For further information, click <a href="#">here</a>.</p>
EBA <sup>2</sup> 23/07/2019	<p><b>EBA published its roadmap on IFRS 9 deliverables and launched IFRS 9 benchmarking exercise</b></p> <p>The EBA published its IFRS 9 roadmap providing a comprehensive overview of planned monitoring activities on IFRS 9 implementation.</p> <p>For further information, click <a href="#">here</a>.</p>
ESMA <sup>1</sup> 23/07/2019	<p><b>ESMA updated register of derivatives to be traded on-venue under MiFIR</b></p> <p>The ESMA has updated the public register of those derivative contracts that are subject to the trading obligation under MiFIR.</p> <p>For further information, click <a href="#">here</a>.</p>

# Key regulatory developments in Germany

Source/Date	Brief description
BaFin August 2019	<b>Publication of the Monthly Journal from the Federal Financial Supervisory Authority (BaFin)</b>  Topics (selection): Securities account transfer / banking union / bail-in implementation.  For further information in German, click <a href="#">here</a> .
German Federal Gazette 05/09/2019	<b>Second Ordinance amending the Derivatives Regulation (<i>Derivateverordnung – (DerivateV)</i>) published in the German Federal Gazette</b>  Entry into force: 06/09/2019.  For further information in German, click <a href="#">here</a> .
German Ministry of Finance <sup>12</sup> 05/09/2019	<b>The Federal Ministry of Finance published a Draft Law introducing special provisions for the restructuring and settlement of central counterparties (<i>Gesetzes zur Einführung von Sondervorschriften für die Sanierung und Abwicklung von zentralen Gegenparteien</i>)</b>  For further information in German, click <a href="#">here</a> .
BaFin <sup>4</sup> 30/08/2019	<b>BaFin published circular on settlement planning</b>  The BaFin has published its Circular 9/2019 (A) on reporting information for settlement planning ( <b><i>Rundschreiben 9/2019 (A) zur Meldung von Informationen für die Abwicklungsplanung</i></b> ).  For further information in German, click <a href="#">here</a> .
BaFin <sup>4</sup> 29/08/2019	<b>BaFin adapted administrative practice for the recognition of instruments of core capital</b>  The BaFin has adjusted its administrative practice for classifying capital instruments as instruments of core capital in accordance with Article 26 (3) of the Capital Requirements Regulation (CRR). This is due to changes in the CRR.  For further information in German, click <a href="#">here</a> .

Source/Date	Brief description
German Ministry of Finance <sup>12</sup> 28/07/2019	<p><b>Position papers on MiFID II/MiFIR forwarded to the European Commission</b></p> <p>The Federal Ministry of Finance has sent the European Commission two position papers on the EU Financial Markets Directive (MiFID II), the PRIIPS Regulation and the EU Financial Markets Regulation (MiFIR). The Ministry proposes changes in the areas of investor protection and market structure.</p> <p>For further information in German, click <a href="#">here</a>.</p>
BaFin <sup>4</sup> 20/08/2019	<p><b>Circular on the Minimum Requirement for Own Funds and Eligible Liabilities – (MREL) (<i>Rundschreiben 08/2019 (A)</i>) published by Bafin</b></p> <p>The Bafin published its Circular on MREL for institutions for which insolvency proceedings are an option as a liquidation strategy.</p> <p>For further information in German, click <a href="#">here</a>.</p>
BaFin <sup>4</sup> 16/08/2019	<p><b>BaFin published its Circular on minimum requirements for the deposit business (<i>Rundschreiben 07/2019 zu den Mindestanforderungen an die ordnungsgemäße Erbringung des Depotgeschäfts und den Schutz von Kundenfinanzinstrumenten für Wertpapierdienstleistungsunternehmen (MaDepot)</i>)</b></p> <p>The BaFin has published the final version of MaDepot, the Circular on the minimum requirements for the orderly performance of deposit business and the protection of customer financial instruments for investment service providers.</p> <p>For further information in German, click <a href="#">here</a>.</p>
BaFin <sup>4</sup> 12/08/2019	<p><b>BaFin published its new circular on interest rate risks (<i>Rundschreiben 06/2019 (BA) - Zinsänderungsrisiken im Anlagebuch</i>)</b></p> <p>BaFin has published a new circular on interest rate risks in the German banking book.</p> <p>For further information in German, click <a href="#">here</a>.</p>
BaFin <sup>4</sup> 05/08/2019	<p><b>BaFin maintained current exemptions from parts of reporting during the year until further notice</b></p> <p>Beyond 2019, the BaFin exempts insurers from certain parts of their reporting obligations under Section 45 of the German Insurance Supervision Act (VAG).</p> <p>For further information, click <a href="#">here</a>.</p>



Source/Date	Brief description
German Federal Government <sup>12</sup> 31/07/2019	<p><b>Measures to improve the fight against money laundering adopted</b></p> <p>On 31 July, the Federal Cabinet adopted new and effective measures to prevent and combat money laundering and terrorist financing. The government's draft law includes public access to the transparency register, additional powers for the Federal Anti-Money Laundering Unit (<b>FIU</b>) and measures against the misuse of cryptographic values.</p> <p>For further information in German, click <a href="#">here</a> and <a href="#">here</a>.</p>
German Federal Constitutional Court <sup>19</sup> 30/07/2019	<p><b>The framework for the European Banking Union does not exceed the competences of the European Union</b></p> <p>The European Union did not exceed the competences conferred on it by the treaties when adopting the legislative framework regarding the European Banking Union, including the Single Supervisory Mechanism (<b>SSM</b>) and the Single Resolution Mechanism (<b>SRM</b>) if this framework is interpreted strictly. Neither the SSM Regulation nor the SRM Regulation encroach on the constitutional identity of the Basic Law. This is what the Second Senate of the Federal Constitutional Court has decided in a judgment.</p> <p>For further information in German, click <a href="#">here</a>.</p>
German Ministry of Finance <sup>12</sup> 25/07/2019	<p><b>Consultation of the Federal Ministry of Finance on experiences and possible need for changes with regard to the regulation of Section 43 of the Securities Trading Act (e.g. notification obligations for holders of significant participations)</b></p> <p>For further information in German, click <a href="#">here</a>.</p>
BaFin <sup>4</sup> 25/07/2019	<p><b>BaFin wants to raise threshold to €20,000 for directors' dealings</b></p> <p>The supervisory authority intends to issue a general ruling for this purpose, which it will submit for consultation by 31 August 2019.</p> <p>For further information in German, click <a href="#">here</a>.</p>
German Ministry of Finance <sup>12</sup> 24/07/2019	<p><b>Key points on the transfer of supervision of financial investment intermediaries to BaFin</b></p> <p>Intermediaries of financial investments have so far been supervised by trade offices or chambers of industry and commerce. A joint key issues paper by the Federal Ministry of Finance and the Federal Ministry of Justice and Consumer Protection now outlines the step-by-step transfer of supervision to BaFin provided for in the coalition agreement.</p> <p>For further information in German, click <a href="#">here</a>.</p>

Source/Date	Brief description
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BaFin<sup>4</sup>  
23/07/2019

**BaFin continued to set limits on retail trading in financial contracts for differences through general disposition (*Allgemeinverfügung*)**

A general disposition of the Federal Financial Supervisory Authority stipulated that contracts with an obligation to make additional contributions remain prohibited. In addition, the BaFin stipulates maximum permissible leverage, loss limits, marketing restrictions and risk warnings.

For further information in German, click [here](#).

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**UPCOMING PUBLIC EVENTS & CONFERENCES**

Source/Date	Brief description
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15/10/2019  
Frankfurt

**Euro Benchmark Rates Forum**

On 15 October, we will be the exclusive legal sponsor of the Euro Benchmark Rates Forum of Informa, a leading international service provider in the fields of Business Intelligence, Research and Events. Michael Huertas and Luke Whitmore will represent the legal perspective with a presentation and participation in a panel discussion.

The speakers will provide insights on their special areas of expertise:

**Michael Huertas**

Michael leads the Dentons Eurozone Hub and the wider Eurozone Group of multi-disciplinary, multi-jurisdictionally qualified and multi-lingual professionals who help our clients navigate and realize the opportunities in the EU—and specifically the Eurozone’s regulatory, supervisory and monetary policy framework. Michael specifically advises on the Eurozone’s Banking Union, the European Central Bank’s monetary policy activity and the EU’s Capital Markets Union work streams, along with the regulatory and supervisory priorities of the European Supervisory Authorities.

**Luke Whitmore**

Luke is a partner in Dentons’ London office and is a member of the Derivatives practice. He has experience in a broad range of derivatives and structured products, including interest rate and currency swaps and options, credit default swaps, total return swaps, equity derivatives, stock lending, repurchase transactions, synthetic CDOs, regulatory capital-driven structures and synthetic securitisations.

For further information, click [here](#).

# Key regulatory developments in Italy

Source/Date	Brief description
IVASS 26/08/2019	<p><b>Supervisory fee for the year 2019</b></p> <p>IVASS published a Letter to the market regarding the Decree of the Ministry of Economy and Finance dated 5 August 2019 and published in the Official Journal on 17 August 2019 concerning the modalities to be followed for the payment of the supervisory fee for the year 2019.</p> <p>The letter is addressed to the insurance and reinsurance undertakings based in Italy and to representatives of insurance and reinsurance undertakings having their headquarters in a third country and duly authorized to operate in Italy.</p> <p>For further information in Italian click <a href="#">here</a></p>
Bank of Italy - Financial Intelligence Unit 22/08/2019	<p><b>AML – Bank of Italy FAQ</b></p> <p>The Financial Intelligence Unit for Italy published a first collection of FAQs related to objective communications, containing the most important requests for clarification received by the Authority.</p> <p>For further information in Italian click <a href="#">here</a></p>
Italian Ministry of Economy and Finance 21/08/2019	<p><b>Indemnity Fund for savers – claims submission instructions</b></p> <p>The Italian Ministry of Economy and Finance issued a Decree concerning the instructions for submitting claims to the Indemnity Fund for savers.</p> <p>The Indemnity Fund has been structured in order to compensate savers who have suffered from unfair treatment by banks and subsidiaries with registered offices in Italy that have been placed in administrative compulsory liquidation after 16 November 2015 and before 1 January 2018.</p> <p>For further information in Italian click <a href="#">here</a></p>

Source/Date	Brief description
Bank of Italy – Financial Intelligence Unit 16/08/2019	<p><b>AML – Bank of Italy</b></p> <p>Bank of Italy published the Operating Manual on periodic suspicious transaction reports.</p> <p>The Operating Manual regulates:</p> <ul style="list-style-type: none"> <li>• the periodic suspicious transaction reports;</li> <li>• the reporting scheme;</li> <li>• the arrangements for sending the periodic suspicious transaction reports;</li> <li>• the technical details for the transfer of the file ‘xml’.</li> </ul> <p>For further information in Italian click <a href="#">here</a></p>
Bank of Italy 05/08/2019	<p><b>Reporting of issues and offerings of financial instruments – Bank of Italy</b></p> <p>The Bank of Italy updated the Instructions for compiling FEAT and FE129 (INFOSTAT survey) messages in the context of the reporting of issues and offerings of financial instruments provided for by article 129 of the Law Decree no. 385 of 1st September 1993 (the Consolidated Act on Banking).</p> <p>For further information in Italian click <a href="#">here</a></p>
Italian government 5/08/2019	<p><b>Brexit – How to prepare for the withdrawal of the United Kingdom from the European Union in a no-deal scenario</b></p> <p>The Italian government issued an updated version of the document entitled “Preparing for withdrawal of the United Kingdom from the European Union without agreement – information on the consequences and preparations for a Brexit scenario without a withdrawal agreement (July 2019)”.</p> <p>The updates concern, among others, the following matters: citizens’ rights and coordination of social security systems, students, financial services, transport, agri-food sector, internal market and business assistance.</p> <p>For further information in Italian click <a href="#">here</a></p>
CONSOB 01/08/2019	<p><b>Brexit – amendments to Communication no. 7 of March 26th, 2019</b></p> <p>Consob published amendments to Communication no. 7 of March 26th, 2019, which covers the requirements for both British intermediaries operating in Italy and Italian intermediaries operating in the United Kingdom, making reference to Decree Law no. 22/2019, which has been adopted by the Italian government in case of a hard Brexit, i.e. the United Kingdom leaving the European Union (EU) without a withdrawal agreement (“no-deal”).</p> <p>For further information in Italian click <a href="#">here</a></p>

Source/Date	Brief description
CONSOB 01/08/2019	<p><b>Commodity derivatives – Operation Guide</b></p> <p>Consob published the Operating Guide entitled “Commodity Derivatives: Exemptions, Position Limits and Position Reporting”, which is addressed to investment firms trading commodity derivatives, as defined in Article 2(1)(30) of Regulation (EU) no 600/2014 (or emission trading and derivatives on them), as well as to their clients and to persons holding open positions in commodity derivatives.</p> <p>For further information in Italian click <a href="#">here</a></p>
CONSOB 01/08/2019	<p><b>Systematic internalizers – Operation Guide</b></p> <p>Consob published the Operation Guide entitled “Systematic internalizers: definition and listing requirements”, which is addressed to Italian investment firms that fall under the definition of systematic internalizer provided by Article 4(1)(20) of Directive 2014/65/EU, as well as the third country firms that carry out systematic internalization activities in Italy through a branch.</p> <p>For further information in Italian click <a href="#">here</a></p>
Bank of Italy 01/08/2019	<p><b>AnaCredit Platform – update</b></p> <p>The Bank of Italy updated the Manual for AnaCredit reporters, laying down rules on the collection of granular credit data and information on the use of the AnaCredit Platform.</p> <p>For further information in Italian click <a href="#">here</a></p>
Bank of Italy 01/08/2019	<p><b>PSD II – Bank of Italy</b></p> <p>The Bank of Italy published a notice concerning the adoption of strong customer authentication for card-based online payments.</p> <p>For further information click <a href="#">here</a></p>
Bank of Italy – Financial Information Unit 31/07/2019	<p><b>AML – new application forms for the contact person of the S.A.R.A. system, regarding the Aggregate Anti-Money Laundering Reports.</b></p> <p>The Financial Information Unit published new application forms for the contact person, which also provides for the option related to objective communications, concerning the Aggregate Anti-Money Laundering Reports.</p> <p>For further information in Italian click <a href="#">here</a></p>

Source/Date	Brief description
Bank of Italy 30/07/2019	<p><b>PSD II – Bank of Italy Communication</b></p> <p>The Bank of Italy published a communication on the procedure for the exemption of the Account Servicing Payment Service Providers from having to provide a contingency procedure (<i>fall-back solution</i>) in case of problems of availability or inadequate performance of the dedicated interface.</p> <p>For further information in Italian click <a href="#">here</a></p>
CONSOB 30/07/2019	<p><b>Prospectus Regulation – CONSOB Regulation on Issuers</b></p> <p>Consob published Resolution no. 21016 of 24 July 2019 on “Amendments to the Regulation implementing Legislative Decree no. 58 of 24 February 1998 on the regulation of issuers” in order to implement Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market.</p> <p>For further information in Italian click <a href="#">here</a></p>
Bank of Italy - Financial Intelligence Unit 30/07/2019	<p><b>AML – Bank of Italy Operating Manual</b></p> <p>Bank of Italy published the Operating Manual for suspicious transaction reports to the Financial Intelligence Unit.</p> <p>For further information in Italian click <a href="#">here</a></p>
Bank of Italy 30/07/2019	<p><b>AML – Bank of Italy provisions on customers’ due diligence</b></p> <p>The Bank of Italy published the “Provisions regarding customer due diligence in order to combat money laundering and terrorism financing”.</p> <p>For further information in Italian click <a href="#">here</a></p>
Bank of Italy 29/07/2019	<p><b>Definition of default – investment intermediaries (SIM)</b></p> <p>The Bank of Italy published a communication that modifies the provisions concerning the application of Directive (EU) 2013/36 (CRD IV) and Regulation (EU) 575/2013 (CRR) to investment intermediaries (SIM) and groups of investment intermediaries in order to adapt them to the evolution of the European regulatory framework on credit risk. In particular, the amendments concern the application of the definition of default.</p> <p>For further information in Italian click <a href="#">here</a></p>

Source/Date	Brief description
COVIP 25/07/2019	<p data-bbox="378 239 889 268"><b>IORP II – national legislation adaptation</b></p> <p data-bbox="378 302 1325 367">COVIP published a consultation paper regarding the schedule of changes and additions to the COVIP resolution dated 15 July 2010.</p> <p data-bbox="378 401 1325 504">This consultation paper is aimed at adapting national legislation according to the new regulatory framework introduced by European Directive no. 2016/2341 (IORP II).</p> <p data-bbox="378 537 889 567">For further information in Italian click <a href="#">here</a></p>

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# Key regulatory developments in Luxembourg

Source/Date	Brief description
CSSF <sup>1</sup> 04/09/2019	<p><b>BREXIT</b></p> <p><b>Reminder on notification requirement</b></p> <p>Communication of the CSSF in regards to the mandatory notifications to be made by UK firms that are passporting their services under CRDIV, MiFID II, PSD 2, EMD, AIFMD or UCITS into Luxembourg and that wish to continue their activities in case the scenario of the UK leaving the EU without an agreement would materialize (a “hard Brexit”).</p> <p>To access the text of the communication in English, click <a href="#">here</a>.</p>
CSSF 30/08/2019	<p><b>PSD2 - Regulation EU 2018/389</b></p> <p><b>Extension of delay to implement strong authentication for credit card payments</b></p> <p>Following the Opinion of the European Banking Authority (EBA) of 21 June 2019, the CSSF grants an extension of the implementation period beyond 14 September 2019. This extension applies only to the category of ecommerce card payment transactions and concerned entities supervised by the CSSF that wish to make use of this additional period are required to inform the CSSF and must submit a detailed migration plan to it, in accordance with the timetable to be indicated by the EBA.</p> <p>To access the text of the communication in English, click <a href="#">here</a>.</p>
LBR <sup>2</sup> 29/08/2019	<p><b>Register of Beneficial Owners</b></p> <p><b>Extension of delay for registration</b></p> <p>The Luxembourg Business Registers (LBR) announced that the deadline for entities to file the relevant information on their beneficial owners to the Register of Beneficial Owners is postponed from 31 August 2019 to 30 November 2019. Registrations made until that date will remain free of charge.</p> <p>To access the text of the communication in English, German and French click <a href="#">here</a>.</p>

1 *Commission de Surveillance du Secteur Financier*, the Luxembourg financial supervisory authority.

2 Luxembourg Business Registers, the an economic interest grouping RCSL, whose mission is to manage and to develop, beyond the Trade and Companies Register, the different registers it may be trusted with, under the authority of the Ministry having Justice in its attributions.

Source/Date	Brief description
CSSF 29/08/2019	<p><b>AML/CTF</b></p> <p><b>CSSF on importance of AML/CTF measures in prudential supervision</b></p> <p>In its communication, the CSSF stresses that the control of anti-money laundering and counter-terrorism financing (AML/CFT) prevention measures are an important part of its supervision and that information from different sources is collected and analysed in the context of this supervision.</p> <p>To access the text of the communication in English, click <a href="#">here</a>.</p>
CSSF 23/08/2019	<p><b>Cloud computing</b></p> <p><b>CSSF on reseller access to cloud computing infrastructure</b></p> <p>In its communication, the CSSF warns professionals in the financial sector of the practice to grant the reseller ongoing access to infrastructure when outsourcing on a cloud computing infrastructure.</p> <p>To access the text of the communication in English, click <a href="#">here</a>.</p>
CSSF 21/08/2019	<p><b>Supervisory reporting</b></p> <p><b>Circular 19/729 update of Circular CSSF 14/593 in regards to the supervisory reporting requirements applicable to credit institutions</b></p> <p>The circular updates the reporting requirements in regards to the assets related to services provided by credit institutions.</p> <p>To access the text of the circular in French and a redline of the amended circular CSSF 14/593, click <a href="#">here</a>.</p>
Law 20/08/2019	<p><b>Law on shareholder rights in listed companies</b></p> <p>To access the text of the circular in French, click <a href="#">here</a>.</p>
CSSF 14/08/2019	<p><b>EBA report on the application of the guidelines on Product Oversight and Governance (POG) arrangements for retail banking products</b></p> <p>In its communication, the CSSF clarifies that it expects all entities subject to the supervision of the CSSF and which act as manufacturers of retail banking products to consider the good practices identified by the EBA in the Report.</p> <p>To access the text of the communication in English, click <a href="#">here</a>.</p>

Source/Date	Brief description
Law 06/08/2019	<p><b>Law of 1 August 2019 concerning mutuals</b></p> <p>The law amends the law of 19 December 2002 on the commercial and companies register and on the annual accounts of companies.</p> <p>To access the text of the circular in French, click <a href="#">here</a>.</p>
CSSF 01/08/2019	<p><b>Benchmark regulation</b></p> <p><b>Circular CSSF 19/728 ESMA Guidelines</b></p> <p>The circular transposes the ESMA Guidelines on non-significant benchmarks under the Benchmarks Regulation<sup>3</sup> into Luxembourg regulation.</p> <p>To access the text of the circular in English, click <a href="#">here</a>.</p>
CSSF 26/07/2019	<p><b>Reporting requirements</b></p> <p><b>Circular 19/727 on reporting requirements for professionals of the financial sector qualifying as support professionals</b></p> <p>Implementation of new naming arrangements and format clarifications for the transmission of the documents required under Circular CSSF 12/544.</p> <p>To access the text of the circular in English, click <a href="#">here</a>.</p>
CSSF 26/07/2019	<p><b>Pension fund reporting</b></p> <p><b>Circular 19/726 new pension fund reporting</b></p> <p>Implementation of new annual and quarterly reporting for Institutions for Occupational Retirement Provision (the "IORP") to the European Insurance and Occupational Pensions Authority ("EIOPA"), the European Central Bank ("ECB"), the BCL and the CSSF.</p> <p>To access the text of the circular in English, click <a href="#">here</a>.</p>
CSSF 29/07/2019	<p><b>Dematerialization of requests to the CSSF</b></p> <p><b>Circular 19/725 regarding the dematerialization of requests to the CSSF</b></p> <p>The circular provides technical specifications for the implementation of the eDesk portal, which must be used for all the requests addressed to the CSSF by credit institutions and investment firms.</p> <p>To access the text of the circular in English, click <a href="#">here</a>.</p>

**CLIENTS ALERTS & BRIEFINGS**

Source/Date	Brief description
13/08/2019	<b>Luxembourg CSSF publishes its activities report for 2018</b> <a href="#">Link</a>
19/07/2019	<b>ESMA consults on draft guidelines for UCITS performance fees</b> <a href="#">Link</a>

# Key regulatory developments in the Netherlands

Source/Date	Brief description
European Central Bank 05/09/2019	<p><b>European Central Bank provided its opinion on a draft Dutch law on remuneration measures for the financial sector</b></p> <p>The ECB observes that the draft law's obligation to take greater account of how remuneration relates to the position of the undertaking in society and the mandatory retention period do not conflict with the provisions of Directive 2013/36/EU or affect the ECB's position as the competent authority responsible for ensuring compliance with the requirement for credit institutions to have in place robust governance arrangements, including remuneration policies and practices.</p> <p>For further information, click <a href="#">here</a>.</p>

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# Key regulatory developments in the United Kingdom

Source/Date	Brief description
FCA 13/08/2019	<p><b>FCA agrees plan for a phased implementation of Strong Customer Authentication (SCA)</b></p> <p>The SCA rules derive from the revised Payment Services Directive (PSD2) and are intended to enhance the security of payments and limit fraud through an authentication process. The original deadline for firms to implement these rules was September 2019. Following the EBA Opinion in June 2019, the FCA has extended this deadline for a further 18 months. The FCA confirmed that it will not take action against firms that fail to meet the requirements by the original September deadline.</p> <p>For further information, click <a href="#">here</a>.</p>
FCA 26/07/2019	<p><b>FCA sets out its final rules for the Senior Managers &amp; Certification Regime</b></p> <p>The FCA set out a policy statement and its final rules for extending the SMCR to FCA solo-regulated firms. The rules come into force on 9 December 2019. It also made final rules on a new directory of individuals working in financial services.</p> <p>For further information, click <a href="#">here</a>.</p>
Bank of England 25/07/2019	<p><b>The PRA and the Bank of England publish a joint consultation paper on further amendments to financial services legislation</b></p> <p>The PRA and the Bank of England published a joint consultation paper on further amendments to financial services legislation following the extension of the Brexit deadline (under Article 50(3) of the Treaty on European Union) to 31 October 2019.</p> <p>The paper provides an update on how the Bank of England and PRA intend to use their temporary transitional powers and the paper contains proposals to fix gaps in regulation arising from the UK's withdrawal from the EU.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
FCA 02/07/2019	<p><b>Joint FCA, FRC, PRA and Pensions Regulator declaration on climate change</b></p> <p>The FCA, Financial Reporting Council (FRC), PRA and the Pensions Regulator issued a joint declaration on climate change. The statement recognized that climate change presents far-reaching financial risks relevant to the regulators' mandates. The statement urges companies to consider the likely consequence of climate change on their business decisions, in addition to meeting their responsibility to consider their company's impact on the environment. The regulators call for an orderly transition and collective response to minimize the risks arising from climate change.</p> <p>For further information, click <a href="#">here</a>.</p>
Bank of England 13/06/2019	<p><b>FCA, Bank of England and Monetary Authority of Singapore (MAS) announce collaboration on cyber security</b></p> <p>MAS and the UK financial services regulators announced that they will be working together to strengthen cyber security in their financial sectors. MAS and the UK financial authorities will commence work towards a memorandum of understanding to signify this enhanced collaboration. Financial authorities in Singapore and the UK already cooperate on cyber security, both bilaterally and by supporting the Basel Committee's work to develop the best practices for supervising cyber risk in banks and contributing to the FSB's Cyber Lexicon. The Cyber Lexicon comprises a set of approximately 50 core terms related to cyber security and cyber resilience in the financial sector.</p> <p>For further information, click <a href="#">here</a>.</p>
FCA 05/06/2019	<p><b>PRA and FCA joint statement on firms' preparations for transition from LIBOR to risk-free rates</b></p> <p>The PRA and FCA published a joint statement on firms' preparations for transition from LIBOR to overnight risk-free rates (RFRs) which sets out key themes, good practice and next steps. The statement analyzes the responses received from firms to previous regulatory communications on this issue, and identifies the following key requirements: a comprehensive identification of reliance on and use of LIBOR; quantification of LIBOR exposures; granular transition plans and associated governance arrangements; identification and management of both prudential and conduct risks associated with the transition; scenario planning; engagement with industry solutions; and proactively transacting RFRs or incorporating robust fallback language.</p> <p>For further information, click <a href="#">here</a>.</p>

Source/Date	Brief description
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UK  
government  
29/05/2019

**The US and UK establish the Financial Innovation Partnership (FIP)**

The partnership between the U.S. Department of the Treasury and the UK’s HM Treasury will build on and deepen bilateral engagement on emerging trends in financial services innovation. This will include encouraging collaboration in the private sector, sharing information and expertise about regulatory practices, and promoting growth and innovation. The FIP will focus on regulatory engagement – dialogue between authorities and with the private sector – and commercial engagement – providing enhanced and regular opportunities for the private sector in one country to engage with industry associations and market participants in the other country.

For further information, click [here](#).



# Key regulatory developments in the United States

Source/Date	Brief description
SEC 09/09/2019	<p><b>SEC proposes transparency and financial accountability amendments to the NMS Consolidated Audit Trail Plan</b></p> <p>The Securities and Exchange Commission proposed amendments to the national market system plan governing the Consolidated Audit Trail (the “CAT NMS Plan”).</p> <p>The proposed amendments to the CAT NMS Plan would require self-regulatory organizations that are participants in the CAT NMS Plan to file with the Commission and publish a complete implementation plan for the Consolidated Audit Trail and quarterly progress reports, both of which must be approved by the operating committee established by the CAT NMS Plan, and submitted to the CEO, president or equivalent senior officer at each participant. In addition, the proposed amendments include financial accountability provisions that establish target deadlines for four implementation milestones and reduce the amount of fee recovery available to the participants if those target deadlines are missed.</p> <p>“CAT needs to be implemented without further delays,” said SEC Chairman Jay Clayton. “The proposed amendments are designed to bring greater transparency and accountability to the implementation of the CAT.”</p> <p>For further information, click <a href="#">here</a>.</p>
Wall Street Journal 29/07/2019	<p><b>Increasing implementation of “Speed Bumps” planned at Exchanges globally</b></p> <p>The Wall Street Journal reports that more than a dozen markets globally, including the London Metal Exchange and Cboe, are planning to introduce “speed bumps” to slow down trading in certain products. In many cases, the latest plans for these speed bumps have an “asymmetrical” design, meaning they will not apply to all types of trades.</p> <p>Market participants and observers have mixed reactions to the possible implementation of these slow-down measures. Supporters claim that high-frequency trading based on ultrafast order entry can harm investors, and that these measures thus protect investors. Critics argue that introducing speed bumps can make markets “unnecessarily complex”, introduce uncertainty and unfairly favor certain market participants.</p> <p>For further information, click <a href="#">here</a> (subscription required).</p>

Source/Date	Brief description
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CFTC  
22/07/2019

**CFTC extends public comment period for proposal to improve data quality and Streamline Regulations for Swap Data Repositories**

The U.S. Commodity Futures Trading Commission announced that it is extending until October 28, 2019, the comment period for the proposed rulemaking to amend certain CFTC regulations related to swap data reporting.

The proposed amendments to Parts 23, 43, 45, and 49 of the CFTC’s regulations would, among other things, update requirements for swap data repositories (SDRs) to verify swap data with reporting counterparties, update requirements to correct swap data errors and omissions, and update and clarify certain SDR operational and governance requirements. The original comment period for the proposed rulemaking would have expired on July 29, 2019.

For further information, click [here](#).

CFTC  
11/07/2019

**CFTC and Japan Financial Services Agency issue Joint Statement regarding the comparability of certain trading venues in the U.S. and Japan**

The CFTC announced the issuance of an order exempting certain derivatives trading facilities regulated by the Japan Financial Services Agency (JFSA) from the requirement to register with the CFTC as swap execution facilities.

JFSA also announced that it would facilitate the authorization process of authorized electronic over-the-counter derivatives transactions, etc. Business operators for CFTC-authorized derivative platforms seek to be foreign ETP operators on the premise that such entities are subject to the regulation and supervision of the CFTC.

JFSA Commissioner Toshihide Endo stated: “I am pleased to welcome CFTC’s announcement of the Order of Exemption against JFSA-registered ETPs. I thank Chairman Giancarlo and the staff of CFTC for the partnership that led to today’s positive outcome. In response to this, JFSA shows its intention to facilitate the authorization process of foreign ETP operators on the premise that the requesting platform is subject to the comparable regulation and supervision of the CFTC. Last month, G20 leaders declared in Osaka that they welcomed the work on market fragmentation, and would address its unintended, negative effects, including through regulatory and supervisory cooperation. We will continue to strengthen our regulatory and supervisory cooperation with overseas authorities.”

CFTC Chairman J. Christopher Giancarlo stated: “I am grateful to JFSA Commissioner Toshihide Endo and JFSA staff for achieving this positive determination. The order issued today follows an outcomes-based approach, meaning the regulatory framework evaluated was found to achieve comparable regulatory outcomes. Deference arrangements like these not only support the cross-border activities of participants in the financial markets, but also help avoid market fragmentation, protectionism, and regulatory arbitrage. The global nature of today’s markets requires that regulators work cooperatively across borders to promote growth and innovation while supporting financial stability.”

Source/Date	Brief description
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SEC  
12/07/2019

**SEC staff publishes statement on risks related to transition Away from LIBOR**

The Securities and Exchange Commission announced that SEC staff have published a statement encouraging market participants to proactively manage their transition away from LIBOR and outlining several potential areas that may warrant increased attention during that time.

“The transition away from LIBOR is gaining some much needed traction but, as the staff’s statement makes clear, significant work remains,” said Chairman Jay Clayton. “The risks the statement highlights deserve careful attention and I draw particular attention to the staff’s observation ‘for many market participants, waiting until all open questions have been answered to begin this important work likely could prove to be too late to accomplish the challenging task required’.The SEC will continue to monitor disclosure and risk management efforts related to the LIBOR transition, and we welcome engagement from market participants on these important matters.”

The staff statement encourages market participants to identify existing contracts that extend past 2021 to determine their exposure to LIBOR and to consider whether contracts entered into in the future should reference an alternative rate to LIBOR or include effective fallback language. The statement also contains specific guidance for how registrants might respond to risks associated with the discontinuation of LIBOR.

For further information, click [here](#) and [here](#).

FRB  
CFTC  
FDIC  
OCC  
SEC  
09/07/2019

**Five agencies adopt final rule to exclude Community Banks from the Volcker Rule**

Five federal financial regulatory agencies announced adoption of a final rule to exclude community banks from the Volcker Rule, consistent with the Economic Growth, Regulatory Relief, and Consumer Protection Act.

The Volcker Rule generally restricts banking entities from engaging in proprietary trading and from owning, sponsoring, or having certain relationships with hedge funds or private equity funds. Under the final rule, which is unchanged from the proposal, community banks with \$10 billion or less in total consolidated assets and total trading assets and liabilities of 5 percent or less of total consolidated assets are excluded from the Volcker Rule.

The final rule also permits a hedge fund or private equity fund, under certain circumstances, to share the same name or a variation of the same name with an investment adviser as long as the adviser is not an insured depository institution, a company that controls an insured depository institution, or a bank holding company.

The final rule is being issued by the Federal Reserve Board, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Securities and Exchange Commission.

# Key regulatory developments in Singapore

Source/Date	Brief description
MAS 07/08/2019	<p><b>MAS issues new rules to strengthen cyber resilience of the financial sector</b></p> <p>The Monetary Authority of Singapore (MAS) issued a set of legally binding requirements to raise cyber security standards and strengthen the cyber resilience of the financial sector. The Notice on Cyber Hygiene sets out the measures that financial institutions must take to mitigate the growing risk of cyber threats.</p> <p>The media release can be found <a href="#">here</a>.</p>
MAS 16/07/2019	<p><b>International Monetary Fund reaffirms Singapore's financial sector oversight as "among the best globally"</b></p> <p>The MAS said that the International Monetary Fund has completed its Financial Sector Assessment Programme (FSAP) for Singapore and reaffirmed that Singapore's financial sector oversight is "among the best globally".</p> <p>The media release can be found <a href="#">here</a>.</p>
MAS 28/06/2019	<p><b>MAS to issue up to five digital bank licences</b></p> <p>The MAS announced that it will issue up to five new digital bank licences. This is in addition to any digital banks that the Singapore banking groups may establish under the existing internet banking framework introduced in 2000. The announced move extends digital bank licences to non-bank players.</p> <p>The media release can be found <a href="#">here</a>.</p>
MAS 13/06/2019	<p><b>MAS and UK financial authorities announce collaboration on cyber security</b></p> <p>The MAS, Bank of England and the UK's Financial Conduct Authority announced that they would work together to strengthen cyber security in their financial sectors. MAS and the UK authorities will commence work towards a memorandum of understanding to signify this enhanced collaboration.</p> <p>The media release can be found <a href="#">here</a>.</p>

## PUBLIC EVENTS & CONFERENCES

Source/Date	Brief description
Singapore Academy of Law, Members of Parliament Singapore and Ministry of Law 05/09/2019 to 06/09/2019	<b>TechLaw Fest</b> <p>TechLaw Fest brings together the international community to debate, deliberate, act and innovate in both the law of technology and the technology of law. The main conference, entitled “The Net Effect of Data: Commerce, Connectivity &amp; Control”, invites diverse representatives from the private and public sectors to debate and provide appreciation of the legal and regulatory issues around responsible data use, access and control of data, data security and 5G, and the role of data in commerce.</p> <p>For more information, click <a href="#">here</a>.</p>
Blockchain Summit Singapore 28/08/2019	<b>Blockchain Summit Singapore 2019</b> <p>Blockchain Summit Singapore is a conference and exhibition connecting over 700 industry leaders, business decision makers, tech innovators and investors to showcase cutting-edge case studies offering a “how-to” approach to deploying blockchain across various industries.</p> <p>For more information, click <a href="#">here</a>.</p>

## CLIENTS ALERTS & BRIEFINGS

Source/Date	Brief description
Dentons Rodyk (Singapore) 10/07/2019	<b>Shifting sands, changing tides – anchoring your business and investments in Singapore</b> <p>The article discusses the increased risks and uncertainties for individuals and businesses worldwide in respect of their assets and investments held onshore and offshore. It also seeks to provide a brief overview on how individuals and businesses with offshore structures are generally affected by such legislation, as well as how Singapore could function as a safe haven in these uncertain times.</p> <p>To access the full article, click <a href="#">here</a>.</p>
Dentons Rodyk (Singapore) 03/06/2019	<b>Foreign equity allowed in Myanmar domestic private banks</b> <p>The article discusses how local private banks are now able to have 35% equity ownership by foreign banks and financial institutions. The Central Bank of Myanmar has announced that foreign bank subsidiaries will be permitted to provide retail banking services and products.</p> <p>To access the full article, click <a href="#">here</a>.</p>

# Key regulatory developments in China and Hong Kong

## Key regulatory developments in China

Source/Date	Brief description
China Securities Regulatory Commission ("CSRC") 23/08/2019	<p><b>CSRC issued Special Provisions on Material Assets Reorganization of Companies listed by the Sci-tech Innovation Board</b> (科创板上市公司重大资产重组特别规定)</p> <p>The Special Provisions focused on the key issues for identifying a material assets reorganization, the pricing mechanism, and mergers, acquisitions and restructuring of red-chip enterprises. The Special Provisions specified that companies listed by the Sci-tech Innovation Board that intend to purchase assets by issuing shares shall issue the shares through the registration system and such issuance shall be examined by the Shanghai Stock Exchange. It is believed that the enforcement of the registration system would greatly enhance the efficiency of mergers, acquisitions and restructuring of companies listed by the Sci-tech Innovation Board.</p> <p>For further information in Chinese, please click <a href="#">here</a>.</p>
CSRC 26/07/2019	<p><b>CSRC issued Administrative Measures on Information Disclosure by Publicly Offered Securities Investment Funds</b> (公开募集证券投资基金信息披露管理办法)</p> <p>The Measures optimized the system of designating media for information disclosure and simplified the content of disclosure information. The simplicity and availability of the information were emphasized as well. The Measures are intended to improve the protection of investors by strengthening the disclosure of key information. The CSRC's improvement of interim and follow-up monitoring and the legal liability of relevant organisations and individuals were also established.</p> <p>For further information in Chinese, please click <a href="#">here</a>.</p>
China Banking Insurance Supervision and Administration Commission ("CBIRC") 08/07/2019	<p><b>CBIRC issued Interim Measures for the Supervision of Insurance Asset-Liability Management</b> (保险资产负债管理监管暂行办法)</p> <p>The purpose of the Interim Measures is to minimize risks in the asset and liability management of the insurance industry. The definition of asset-liability management and the coordinated supervision mechanism were stipulated in the general principles of the Interim Measures. The Interim Measures stipulated requirements for building an asset-liability management system for insurance companies and the methods of supervision and assessment of asset-liability management.</p> <p>For further information in Chinese, please click <a href="#">here</a>.</p>

Source/Date	Brief description
CSRC 05/07/2019	<p data-bbox="375 239 1344 306"><b>CSRC issued Administration Provisions for Equity of Securities Companies (证券公司股权管理规定)</b></p> <p data-bbox="375 338 1333 630">The Provisions promoted the classification management and differential development of securities companies. According to the Provisions, securities companies shall strengthen the management of the transparency of equities, improve their corporate governance structures and improve their risk management and internal control systems. The CSRC and its branches shall adhere to the prudential supervision principle, implement supervision and regulation of the ultimate shareholders of securities company, and manage the securities companies pursuant to their business scopes.</p> <p data-bbox="375 659 1013 688">For further information in Chinese, please click <a href="#">here</a>.</p>
CSRC 04/06/2019	<p data-bbox="375 741 1214 808"><b>CSRC issued Administrative Measures on Supervision of Futures Companies (期货公司监督管理办法)</b></p> <p data-bbox="375 840 1360 1056">In order to standardize the business activities of futures companies, the Measures stipulated that they shall operate prudently, prevent conflict of interests and act with a fiduciary duty towards their customers. It is noted that the criteria and liability of a qualified key shareholder of futures companies are stricter. The Measures also addressed rules in respect of the management of domestic branches, subsidiaries and overseas operating institutions of futures companies.</p> <p data-bbox="375 1085 1013 1115">For further information in Chinese, please click <a href="#">here</a>.</p>

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## PUBLIC EVENTS & CONFERENCES

Source/Date	Brief description
The People's Bank of China ("PBOC") 26/08/2019	<p><b>PBOC held a Working Conference on the Loan Prime Rate ("LPR") of financial institutions</b></p> <p>The meeting aimed to study and implement the formation mechanism of the LPR. The meeting pointed out that a reform would improve the formation mechanism of the LPR, and would be an important step to deepen marketization of interest rates. The improvement of the LPR formation mechanism would promote self-pricing ability and the comprehensive competitiveness of financial institutions. The president of PBOC emphasized that more financial resources should be used for small and micro enterprises and private enterprises.</p> <p>For further information in Chinese, please click <a href="#">here</a>.</p>

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# Key regulatory developments in Hong Kong

Source/Date	Brief description
Hong Kong Monetary Authority (“HKMA”) 26/08/2019	<p><b>HKMA completed a review of liquidity facilities framework for banks</b></p> <p>HKMA announced that it had completed a review of its framework for the provision of Hong Kong dollar liquidity to banks. In short, the HKMA introduced a new resolution facility and a number of refinements to various established arrangements to ensure that the framework stays current and able to support liquidity of the current banking system in Hong Kong.</p> <p>For more information, click <a href="#">here</a>.</p>
Securities and Futures Commission (“SFC”) 23/08/2019	<p><b>SFC issued circular to licensed corporations (“LCs”) on managing the liquidity risk of funds</b></p> <p>Liquidity risk arises in funds as a result of the mismatch between the liquidity profiles of the assets and liabilities of open-ended funds. Thus, SFC issued the circular to highlight deficiencies or inadequacies it noted in fund managers’ liquidity risk management practices. SFC suggested that fund managers should implement robust risk management systems and establish well-documented liquidity risk management policies and procedures for the funds they manage.</p> <p>For more details, click <a href="#">here</a>.</p>
HKMA 16/08/2019	<p><b>HKMA to postpone the current final phase of initial margin requirements by one year</b></p> <p>The Basel Committee on Banking Supervision (“BCBS”) and the International Organization of Securities Commissions recently issued a joint statement on extending the final implementation of the initial margin requirements for non-centrally cleared derivatives by one year in order to implement the margin requirements in a smooth and orderly manner. HKMA intended to adopt the revised implementation schedule of BCBS and thus the current final phase of initial margin requirements will be postponed by one year.</p> <p>For more information, click <a href="#">here</a>.</p>

Source/Date	Brief description
SFC 26/07/2019	<p><b>SFC issued statement on approach to backdoor listings and shell activities</b></p> <p>The statement explains the general approach of SFC to cases involving backdoor listings and shell activities. For instance, in deciding whether to exercise its statutory powers of investigation, SFC will have regard to the facts and circumstances of each case, including whether there are any red flags indicating a possible scheme designed to mislead regulators and/or the investing public or to circumvent applicable rules, or suggesting that other forms of serious misconduct have been or will be committed.</p> <p>For further information, click <a href="#">here</a>.</p>
HKMA 12/07/2019	<p><b>HKMA intends to implement leverage ratio treatment of client-cleared derivatives and revisions to leverage ratio disclosure requirements</b></p> <p>Further to BCBS' issue of the two documents in June 2019, namely the Leverage ratio treatment of client-cleared derivatives and the Revisions to leverage ratio disclosure requirements, HKMA informed the authorized institutions that it intends to implement requirements set out under the two documents, having regard to the BCBS timetable, and would consult the industry on its implementation proposals in due course.</p> <p>For more details, click <a href="#">here</a>.</p>
SFC 04/07/2019	<p><b>SFC issued statement on the conduct and duties of directors when considering corporate acquisitions or disposals</b></p> <p>The statement outlined recurring types of misconduct in relation to corporate acquisitions and disposals that have given rise to concerns and, in some cases, led to intervention by the SFC. Such misconduct included the lack of independent professional valuation and the lack of independent judgment and accountability. Directors and their advisers are reminded to comply with their statutory and other legal duties when evaluating or approving the acquisition or disposal of a company or a business.</p> <p>For more information, click <a href="#">here</a>.</p>

Source/Date	Brief description
HKMA and SFC 28/06/2019	<p><b>HKMA and SFC concluded consultation on annual update to the list of Financial Services Providers (“FSP”) under the clearing obligation for OTC derivative transactions</b></p> <p>In the consultation paper jointly issued by HKMA and SFC in April 2019, the regulators proposed that the FSP list be based on a snapshot of entities falling under the criteria for FSPs as at the end of 2018, and be updated on an annual basis to keep it relevant and appropriate. In response to market feedback, HKMA and SFC shall proceed with their proposals on the FSP List and have included additional entities in the updated FSP List.</p> <p>For further information, click <a href="#">here</a>.</p>
SFC 17/06/2019	<p><b>SFC issued circular on foreign exchange margin trading on the Mainland and other activities not regulated by the SFC</b></p> <p>SFC issued the circular to remind LCs that under Mainland regulations, it is not legal for any unapproved institution to conduct foreign exchange margin trading on the Mainland or for any client on the Mainland to entrust an unapproved institution to do so. Further, SFC highlighted the risks arising from LCs or their controlling entities and related corporations engaging in or being associated with illegal or fraudulent activities, such as unauthorized stock broking or fraudulent crowdfunding.</p> <p>For more information, click <a href="#">here</a>.</p>
SFC 13/06/2019	<p><b>SFC issued circular on implementation of regulatory requirements for online and offline sale of complex products</b></p> <p>SFC issued the circular to inform intermediaries that it has provided further guidance by way of the Frequently Asked Questions (<b>FAQs</b>) on the regulatory requirements for online and offline sale of complex products. The newly added FAQs seek to, inter alia, clarify that the provision of a loan to facilitate a client to purchase a non-complex product would not convert the product into a complex product, provided that the loan does not alter the terms, features and risks of the product itself.</p> <p>For more details, click <a href="#">here</a>.</p>
SFC 10/06/2019	<p><b>SFC issued circular and report to prime brokers (“PBs”) on standards of conduct and internal controls</b></p> <p>SFC issued the Report on the Thematic Review of Prime Services and Related Equity Derivatives Activities in Hong Kong, which provided an overview of the prime services industry landscape in Hong Kong and sets out the standards of conduct and internal controls the SFC expects of PBs. The Report shared observations, good industry practices and key areas for improvement that were noted across the internal controls and risk management processes of selected PBs.</p> <p>For further information, click <a href="#">here</a>.</p>

# Our recent Thought Leadership

The following represents a carefully curated selection of our recent Thought Leadership contributions:

## **Meet the (new) Commissioners – What the VDL Commission means for financial services**

The wait is over! Speculation on who is in and who is out of the 2019-2024 College of Commissioners has been mounting since Ursula von der Leyen (VDL) was confirmed as European Commission President-elect.

Please click [here](#) for full coverage.

## **EIOPA's Draft Opinion on the Supervision of Remuneration Principles – further restrictions on the horizon?**

With EIOPA following in the footsteps of its sister European Supervisory Authorities and proposing to implement EU-wide rules on remuneration principles in the (re-)insurance sector, affected firms in the EU-27 as well as those looking to commence operations in those markets will want to look to this latest installment of our Insurance Insight series of Client Alerts on what the proposed changes means and some possible preparatory steps given that EIOPA is expected to push these proposals along.

Please click [here](#) for full coverage.

## **Out with a bang and back to QE in 2019 – what now?**

On September 12, 2019 the ECB announced a range of new monetary policy decisions to support the euro area. Some of these reinvent old tools and restart old programs while others are new in their design, deployment and perhaps even determination.

Please click [here](#) for full coverage.

## **ECB-SSM reminds Banking Union Supervised Institutions (BUSIs) to prepare for no-deal Brexit**

The European Central Bank, acting in its role at the head of the Banking Union's Single Supervisory Mechanism, has used its regular supervisory newsletter, a very welcome communication channel, to remind BUSIs that a 'trick or treat' no-deal Brexit is currently on track for October 31. The ECB-SSM fears that much work remains to be done, and it therefore has reminded BUSIs to focus on preparations to comply with not only the ECB-SSM's own Supervisory Principles on Relocations but those other EU supervisory authorities.

Please click [here](#) for full coverage.

## **The EU's Benchmarks Regulation – What you need to know now – a focus on the Eurozone**

50 years after the birth of LIBOR the road to reform benchmark's design, their use and the move from interbank offered rates (IBORs) to alternative reference rates (ARR), also referred to as risk free rates (RFRs), marks the biggest transition in financial markets across a breadth of transactions, asset classes and client types across jurisdictions. Failure to address IBOR transition carries with it compliance risks that come in addition to risks of economic performance of a variety of financial products. In this compact Client Alert we discuss some of the recent developments in the EU-27, many of which have extraterritorial effect, and key headline issues that financial services firms as well as their clients may want to consider as part of their preparatory measures.

Please click [here](#) for full coverage.

### **EU Parliament adopts supplementary rules on marketing of funds across EU – what now?**

Several days ago, the legal texts of the Directive and Regulation on cross-border distribution of collective investment undertakings were published in the Official Journal of the EU. The aim of these reforms are to make it easier, quicker and cheaper for EU asset managers to sell funds to a wider range of investors and thus for investment to flow better across the EU. Additionally, the impact of these on UK managers and distribution of funds between the UK and EU-27 is now especially relevant in the context of Brexit. This Client Alert highlights the most important updates the new legislation has introduced.

Please click [here](#) for full coverage.

### **European supervisory authorities publish report on cross-border supervision of retail financial services**

The European Supervisory Authorities (ESAs) published a report on 9 July 2017 on the cross-border supervision of retail financial services. The Report offers insights into the ESAs' views on the supervision of branches and cross-border financial services (including online services) and contains proposals for future regulatory developments. The findings of the report may require adjustments to the business model of firms providing cross-border financial services.

Please click [here](#) for full coverage.

### **Digitization – opportunities and data protection challenges arising from automated decisions in the insurance sector**

Data processing lies at the heart of the insurance business. Insurers collect and process personal data for several reasons. This can range from analyzing risks that customers wish to cover, paying claims and benefits, through to detecting and preventing fraud. For insurance companies, regardless of their stage of digitization, automated decision making has been, and largely remains, a hotly debated area. This is not just because new entrants keep disrupting some of the established views amongst domestic firms, but mainly because automation has the capability of cutting costs and increasing shareholder value. This Client Alert, part of our Eurozone Hub's Insurance Insight series looks at some of these trends and opportunities for existing and new firms active in the (re-)insurance sector.

Please click [here](#) for full coverage.

### **The New Hague Judgments Convention: a timely tool for financial services firms?**

On July 2, 2019, 83 member states of the Hague Conference on Private International Law signed the Hague Convention on the Recognition and Enforcement of Judgments in Civil and Commercial Matters (the Hague Judgments Convention).

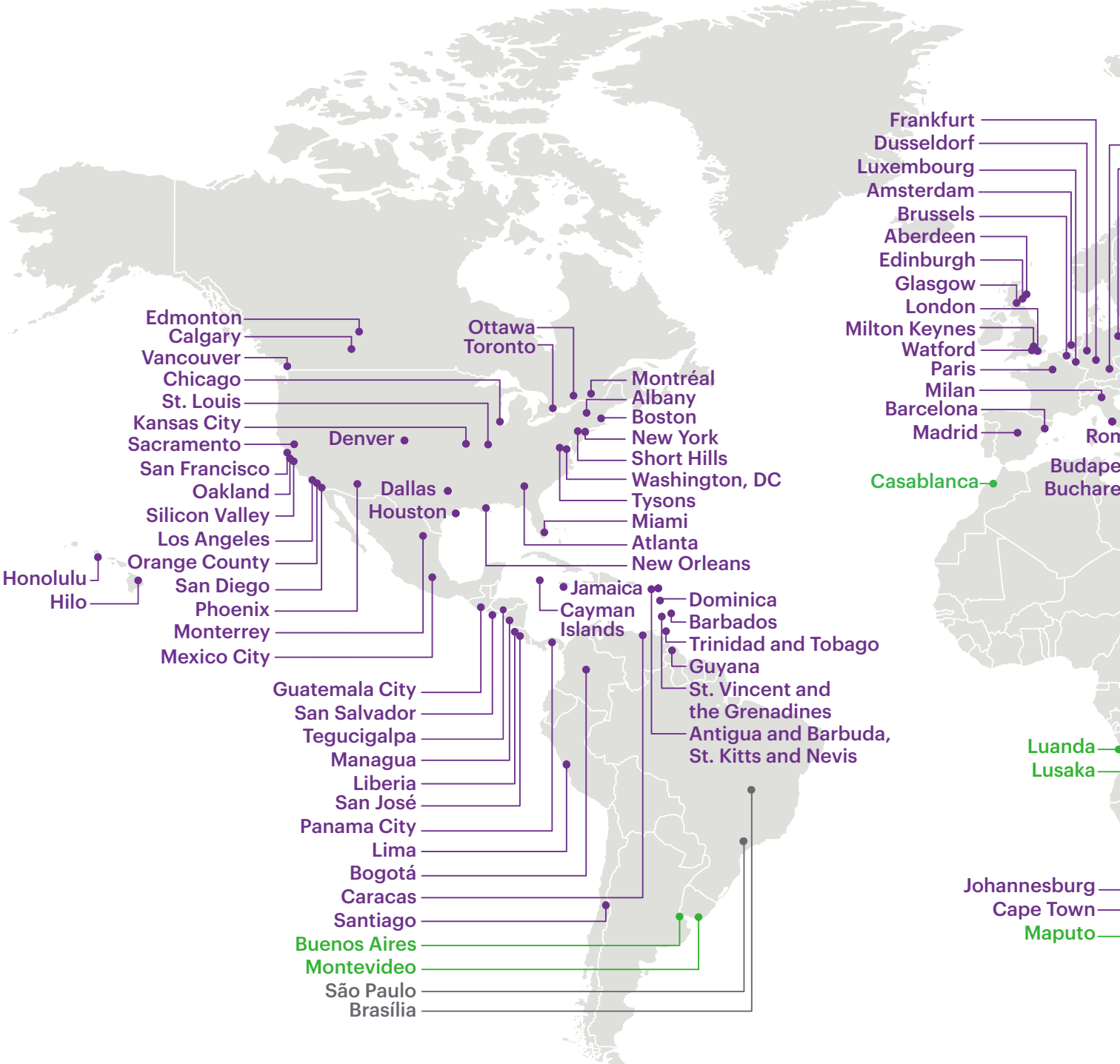
Please click [here](#) for full coverage.

### **ECB-SSM issues: Dear CEO letter on state of preparation of interest rate benchmark reforms and use of risk-free rates**

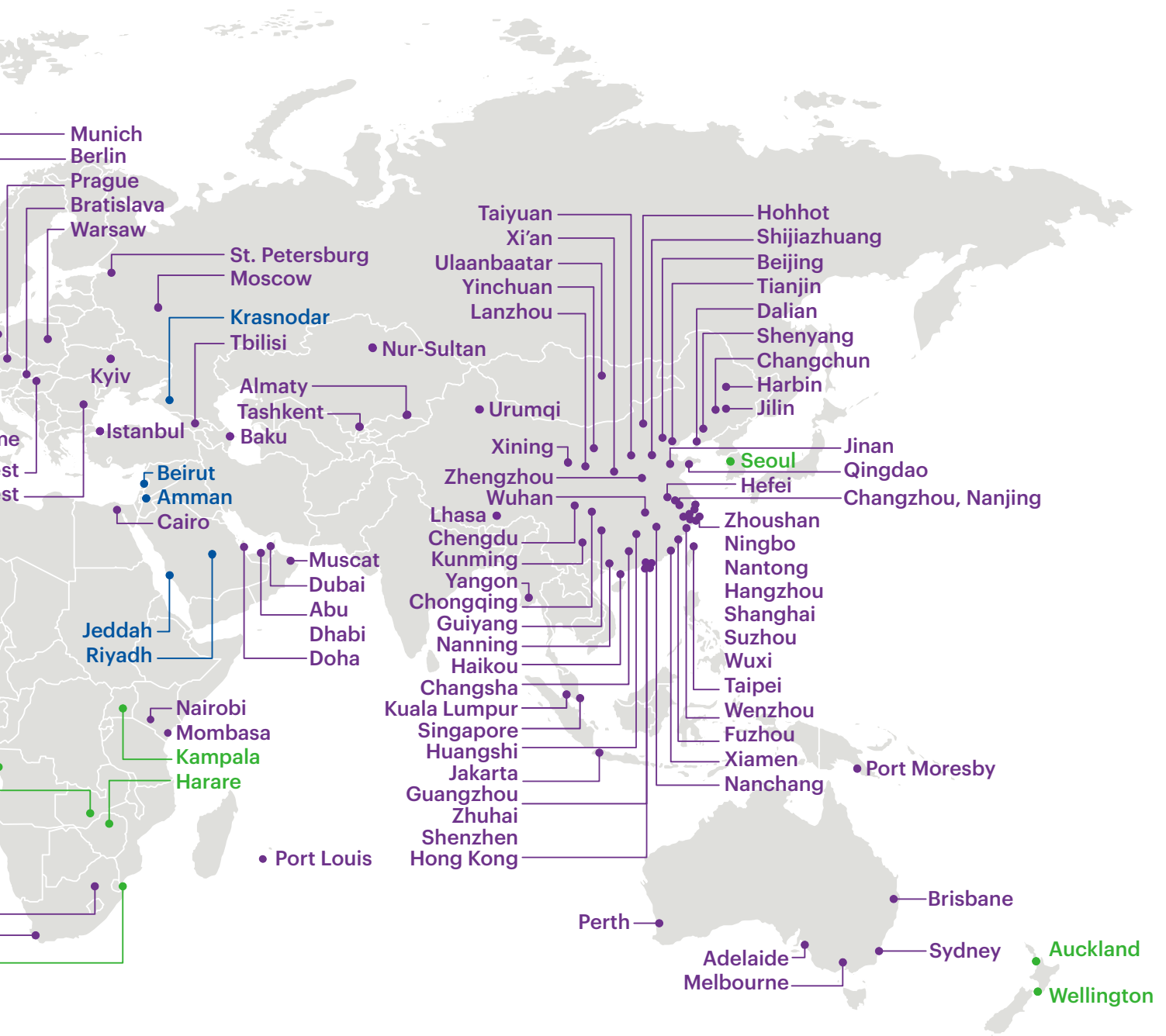
On July 3, 2019, the European Central Bank sent a letter to CEOs of all SSM-direct supervised Banking Union Supervised Institutions regarding the ongoing benchmark reforms and the transition from, say, the euro overnight index average (**EONIA**) to the new euro short-term rate (formerly known as ESTER and now known officially as **€STR**). This Client Alert assesses the requirements set in the letter and the next steps not just for direct-supervised firms but also for those firms that are (or wishing to), as lesser significant institutions (**LSIs**), subject to indirect ECB-SSM and direct national competent authority supervision. Recipients of the ECB's letter are required to respond by close of business (which one would read, conservatively, to be 17h 00 Frankfurt time) on July 31.

Please click [here](#) for full coverage.

# Global presence



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