Global Survey 2015

Regulatory and Market Developments

Banking - Securities - Insurance
Covering 25 Countries and the EU

October 2015

OVERVIEW

The Institute of International Bankers represents internationally headquartered banking/financial institutions from over 35 countries in connection with U.S. legislative, regulatory, compliance and tax issues that affect their banking, securities, insurance and other financial activities in the United States. In the aggregate, IIB members' U.S. operations have more than $5 trillion in assets, fund 25% of all commercial and industrial bank loans made in the U.S. and contribute to the depth and liquidity of U.S. financial markets. IIB members also contribute more than $50 billion each year to the economies of major cities across the country in the form of employee compensation, tax payments to local, state and federal authorities, and other operating and capital expenditures.

This 28th annual *Global Survey of Regulatory and Market Developments in Banking, Securities and Insurance* is part of the IIB's ongoing efforts to contribute to the understanding of the trends toward globalization of financial markets and convergence of regulatory systems around the world. This year's Global Survey covers developments during the period from July 1, 2014 to June 30, 2015 in 25 countries and the European Union (EU). We are very grateful to the banking associations and financial services supervisory authorities from those countries and the EU that have contributed to this year's Survey and without whose participation this publication would not be possible.

A matter selected for special attention in this year's Global Survey is how government authorities around the world are addressing cybersecurity threats to financial institutions operating in their jurisdictions. In addition, the Survey focuses on the ongoing implementation of regulatory reforms by various countries to address the causes and consequences of the financial crisis. In this regard, contributors were asked to report on relevant developments relating to the following:

- regulatory/supervisory structures, including changes in the organization and/or responsibilities and powers of regulatory, central bank and other governmental authorities in the financial sector;

- imposition of enhanced capital requirements, including stress testing and contingent capital requirements;

- resolution planning/ "living will" requirements;

- other prudential or regulatory limitations on financial institutions' activities, including limitations on incentive compensation arrangements;

- regulation of over-the-counter (OTC) derivatives, including registration of derivatives dealers, the imposition of execution, clearing, margin and reporting requirements on OTC derivatives transactions, and the applicability of "equivalence" or "substituted compliance" determinations to cross-border derivatives transactions;

- risk restraints similar to the proprietary trading restrictions contained in the U.S. "Volcker Rule";

- the establishment of special resolution regimes; and
- as applicable with respect to any of the foregoing, efforts undertaken by home country authorities to consult and coordinate with their counterparts in other countries.

In describing the diversity of initiatives undertaken in these areas by countries around the world, the Global Survey provides a useful point of reference for assessing these developments and their impact on the international financial community.

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AUSTRALIA

Introduction

Australia's position in the global economy remains steady. Over the past year, to March 2015 the economy grew by 2.3per cent[1]. Australia is set to continue its two decades of uninterrupted economic growth with the economy expected to grow at 2.75 per cent in 2015-16 and 3.25 per cent in 2016-17.[2]

Growth has averaged 2.7per cent over the last five years. Despite this growth, inflation remains subdued and is expected to be within the target band of 2-3 per cent over the medium term.[3] Unemployment is expected to rise slightly in 2015-16 to 6.5 per cent, remaining among the lowest in the developed world.[4]

Australia's economic growth, healthy financial system, and strong regulatory framework have underpinned continued sound performance by the Australian banks, which have a largely domestic focus and limited exposure to exotic derivatives. The Australian banking industry is highly regarded in a global context. Australia's major banks are among the highest rated banks in the world, in the small group of only 12 banks globally which have earned the Standard & Poor's rating of AA- or better and have a stable outlook. The quality of bank lending in Australia is high with non-performing loans at 0.9per cent as of December 2014[5], much lower than for the Euro area, UK, and USA.[6]

The regulatory structure of the Australian financial system continues to be relatively stable. In Australia the 'twin peaks' model is followed, where there is a dedicated prudential supervisor, Australian Prudential Regulatory Authority (APRA), and a dedicated supervisor for wider market integrity, Australian Securities and Investments Commission (ASIC). APRA uses the assessment and supervisory response tools known as the Probability and Impact Rating System and the Supervisory Oversight and Response System.[7] These systems ensure that supervisory interventions are targeted and timely.

Australian banks' business models are typically lending focused with strong asset performance, as evidenced by the ratio of non-performing loans to total loans on domestic portfolios,[8] driving strong profit growth via declining bad and doubtful debt charges. The other key profit growth driver is a continued focus on cost containment resulting in a cost-to-income ratio for the major domestic banks of *"about 43% ... [which] is currently at the bottom end of the*

[1] http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features2Mar%202015?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202015&num=&view=
[2] http://www.budget.gov.au/2015-16/content/bp1/html/bp1_bs2.htm
[3] http://www.imf.org/external/pubs/cat/longres.aspx?sk=40107.0
[4] http://www.budget.gov.au/2015-16/content/bp1/html/bp1_bs2.htm
[5] Reserve Bank of Australia, (March 2015), *Financial Stability Review* http://www.rba.gov.au/publications/fsr/2015/mar/pdf/0315.pdf
[6] Reserve Bank of Australia, (March 2015), *Financial Stability Review* http://www.rba.gov.au/publications/fsr/2015/mar/pdf/0315.pdf
[7] http://www.apra.gov.au/AboutAPRA/Pages/Supervision.aspx
[8] Reserve Bank of Australia, (March 2015), *Financial Stability Review* http://www.rba.gov.au/publications/fsr/2015/mar/pdf/0315.pdf

range of the major banks' peers internationally." [9] Looking ahead, equity market analysts expect that the major banks' aggregate return on equity in their 2015 financial year will be a bit above 15 per cent, broadly similar to the returns recorded over the past few years. Nonetheless, in the current environment of low interest rates and relatively subdued demand for credit by businesses, business lending conditions have eased somewhat.[10]

The last year has seen a significant growth in domestic real property prices driven by relatively low interest rates, by Australian standards, pent up demand and increasing consumer confidence as the global financial crisis recedes. This has prompted concerns about possible declining lending standards as domestic banks seek opportunities to grow profits. Recent trends in housing and mortgage markets have raised some concerns about the level of risk being taken by authorised deposit-taking institutions (ADIs) and households. In response to these concerns, APRA announced measures in December 2014 aimed at ensuring banks maintain sound housing lending practices. Changes to pricing and underwriting criteria aim to bring investment lending within regulatory guidelines.

At the same time, ASIC announced that it will review whether mortgage lenders' interest-only lending complies with their responsible lending obligations. These actions were taken following discussions with member agencies of the Council of Financial Regulators (CFR), and build on the increased supervision and communication on housing market risks that CFR member agencies have been engaged in over the past year or so.[11]

Financial Sector Regulation and Reforms

The Financial System Inquiry

December 2014, saw the final report of the Financial System Inquiry (FSI) which was tasked with establishing a direction for the future of Australia's financial system. The Inquiry was to lay out a 'blueprint' for the financial system over the next decade. The inquiry made 44 recommendations on five specific themes:

- Strengthen the economy by making the financial system more resilient.
- Lift the value of the superannuation system and retirement incomes.
- Drive economic growth and productivity through settings that promote innovation.
- Enhance confidence and trust by creating an environment in which financial firms treat customers fairly.
- Enhance regulator independence and accountability, and minimise the need for future regulation.

The inquiry found that Australia's financial system is performing well and recommended incremental rather than 'root and branch' changes to domestic regulatory arrangements, a conclusion consistent with the views in the majority of industry submissions to the inquiry.

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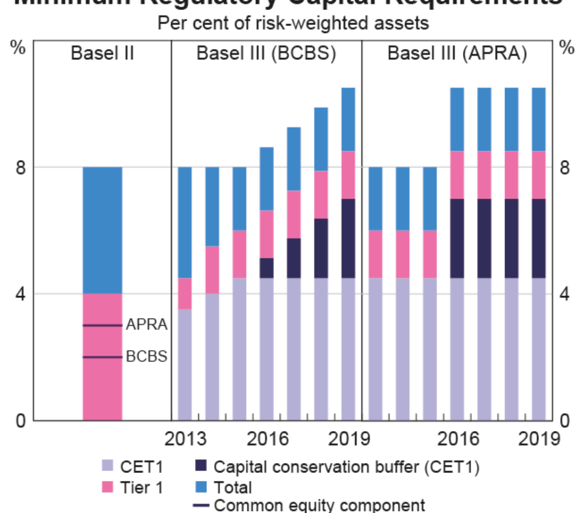
[9] http://www.rba.gov.au/publications/fsr/2014/mar/html/aus-fin-sys.html
[10] Reserve Bank of Australia, (March 2015), *Financial Stability Review* http://www.rba.gov.au/publications/fsr/2015/mar/pdf/0315.pdf
[11] Reserve Bank of Australia, (March 2015), *Financial Stability Review* http://www.rba.gov.au/publications/fsr/2015/mar/pdf/0315.pdf

To improve banking sector resilience, the final report recommends that APRA raise ADIs' capital requirements (to make them 'unquestionably strong'), increase mortgage risk-weights for the (currently five) banks using the IRB approach for capital, and develop a framework for minimum loss-absorbing capacity. According to the report, the costs of higher capital on lending rates and Gross Domestic Product growth would be small. The Basle Committee on Banking Supervision's revisions to elements of the capital framework, which are due to be finalised by the end of this year, are likely to be relevant for implementation of these recommendations.

The government is expected to respond to the recommendations relating to the Australian financial system in the second half of 2015.

Basel III Implementation

Australia continues to implement the new Basel III rules at, or ahead of, the agreed international timetable. On 1 January 2013, the Basel III capital rules were formally applied to Australian banks. Along with a small number of other jurisdictions, Australia is implementing the capital rules on an accelerated timetable. While the Basel rules allow for a staged implementation, the strength of the Australian banks' balance sheets has allowed APRA to bring forward full implementation of the higher capital requirements by three years, to 1 January 2016.[12]



The main elements of APRA's implementation of the Basel III liquidity reforms were finalised in December 2013 and implemented on 1 January 2014. The 30-day Liquidity Coverage Ratio (LCR) came into effect on 1 January 2015. As of that date, all locally incorporated banks that are subject to the LCR exceeded the 100 per cent minimum requirement. The aggregate LCR was around 115 per cent[13]. The Net Stable Funding Ratio comes into effect on 1 January 2018. As

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[12] Reserve Bank of Australia Financial Stability Report, September 2013
[13] Reserve Bank of Australia, (March 2015), *Financial Stability Review* http://www.rba.gov.au/publications/fsr/2015/mar/pdf/0315.pdf

expected, APRA has implemented stricter rules than the Basel minimum requirements. For example, APRA has elected not to allow the expanded definition of High Quality Liquid Assets.

A revised prudential framework for conglomerate groups (referred to as 'Level 3 groups' in Australia) is currently being developed. This framework will apply to "groups that have material operations in more than one APRA-regulated industry and/or have one or more material entities operating in non-APRA-regulated industries. The proposed Level 3 framework consists of four components: requirements for group governance, risk exposures, risk management and capital adequacy."[14] The finalised framework is expected to be released in the second half of 2015, with implementation at some date thereafter.

As part of the ongoing review of its regulatory standards, APRA is consulting on the review of its securitisation standard. The new standard is expected to be a simpler and more straightforward framework for ADIs to engage in securitisation. Consultation is ongoing, with a discussion paper released in April 2014. A new standard is expected to be released in 2015.

APRA's proposed reforms to the prudential framework for securitisation should help reduce complexity in issuance by regulated lenders, as well as better align their incentives with those of RMBS investors. APRA has also proposed to limit the concessional capital treatment on warehouse facilities to only cover those of up to one year in duration, which should encourage banks to hold sufficient capital to cover rollover risks associated with funding warehouse facilities (including those to mortgage originators).[15]

While no Australian banks have been identified as Globally Systemically Important Banks, four Australian banks have been identified as Domestic Systemically Important Banks (D-SIB). These four banks will be required to hold a one per cent higher loss absorbency requirement, to be met by Common Equity Tier 1 capital. The D-SIB framework will come into effect from 1 January 2016.

Even on the basis of capital alone, Australia is well placed. Empirical work provided to the inquiry by the Australian Bankers' Association[16] showed Australia's four major banks are well capitalised relative to both the global standards and by comparison with banks regulated in many other jurisdictions.

Other Regulatory Developments

In February 2014, the Government announced a review of competition in the clearing of Australian cash equities, to be conducted by the CFR, working with the Australian Competition and Consumer Commission. The CFR subsequently issued a consultation paper[17] seeking stakeholder views on the potential implications of competition or alternative policy approaches for

[14] http://www.apra.gov.au/Speeches/Documents/Finsia%20Leadership%20Luncheon%20Series%2022%20March%202013.pdf

[15] Reserve Bank of Australia, (March 2015), *Financial Stability Review* http://www.rba.gov.au/publications/fsr/2015/mar/pdf/0315.pdf

[16] PwC, (August 2014), *Australian Bankers' Association: International comparability of capital ratios of Australia's major banks*, Appendix 4, Financial System Inquiry – Response to FSI Interim Report

[17] http://www.cfr.gov.au/publications/cfr-publications/2015/review-of-competition-in-clearing-australian-cash-equities.pdf

the Australian cash equity market. The review comes after a two-year moratorium on competition in this area, which followed a 2012 review into the matter by the same agencies. While the moratorium was in place, the Australian Stock Exchange was encouraged to work with industry to develop a code of practice to govern its clearing and settlement services for cash equities; the code of practice was introduced in August 2013. It is anticipated that the findings of the CFR's review will be presented to the government in mid-2015.

How Australian Government Authorities are Addressing Cyber Security

Australia's financial institutions work in partnership with the Australian Government to prevent, deter and respond to cyber threats. The banking and finance sector is one of the most targeted Australian sectors by malicious cyber actors. Over the past 12 months, public-private partnership arrangements have matured through formal and informal information exchanges. This has focused on system resilience and responses to specific threats such as ransomware, which is estimated to have cost the Australian economy AU$8 million since August 2014. Australia's financial institutions also work together to fight cybercrime and improve awareness of cyber threats. Looking ahead, financial institutions will have increasing engagement with the Australian Cyber Security Centre. Outcomes of the Australian Government's Cyber Security Review, to be announced before the end of 2015, will further support cyber security efforts of Australia's financial institutions.

In addition to the above, the Banking and Finance Sector Group (BFSG) is a subset of the Trusted Information Sharing network for Critical Infrastructure Resilience lead by the Commonwealth Attorney-General's Department. The BFSG comprises representatives from Australia's major banks, financial and insurance institutions, as well as financial regulatory agencies. The BFSG assesses and, where appropriate, identifies, implements and maintains measures that strengthen the ability of the banking and finance sector to continue its vital role in the national economy.

The BFSG has developed a four year framework (2013-2016) to test the Australian banking and finance sector's resilience in the face of significant disruptions. This framework includes simulating crisis events of increasing scope and complexity year-to-year. The end view is to run an industry-wide exercise by 2016, echoing exercises in other financial regulatory regimes such as the UK and Singapore.

In 2015, Exercise Villefort was the second large-scale exercise within the BFSG's framework. Villefort sought to tease out and stress test how well the Australian banking and finance industry, in conjunction with retailers, government regulators, industry associations and other parties, would collaborate and coordinate their activities in response to a large-scale cyber-attack.

It did this by simulating a cyber-attack on the point of sale systems of a major retailer and the larger banking payments system, which escalated over four rounds of the exercise by spreading to other retailers, causing disruption across the financial system and the general population. Villefort tested the response of a wide variety of participant organisations within the banking and finance industry to a large-scale operational disruption.

In March 2015, ASIC released[18] a report on Cyber resilience: Health check to highlight the importance of cyber resilience to ASIC's regulated population. The report is intended to help ASIC's regulated population improve their cyber resilience by increasing their awareness of cyber risks, encouraging collaboration between industry and government, and identifying opportunities for industry to improve their cyber resilience. It also aims to identify how cyber risks should be addressed as part of current legal and compliance obligations that are relevant to ASIC's jurisdiction.

Review of Card Payments Regulation

In March 2015 the Reserve Bank of Australia released an Issues Paper[19] to commence a review of the regulatory framework for card payments. The review follows a recommendation in the Final Report of the FSI that the Board consider a range of measures related to card payments regulation, particularly in relation to interchange fees and surcharging. Some of the FSI recommendations relate to issues where the bank and the Board have previously noted some concerns about recent developments.

Financial Advice

The *Future of Financial Advice* (FOFA) reforms were the former Federal Government's response to the Parliamentary Joint Committee on Corporations and Financial Services inquiry into financial products and services in Australia (PJC Inquiry). This inquiry considered a number of issues, including the collapse of Storm Financial.

The *Corporations Amendment (Future of Financial Advice) Bill 2011* and the *Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011* implemented the FOFA reforms. The FOFA reforms commenced on 1 July 2013, with an additional transitional period until 1 July 2014 for certain provisions due to late changes made to clarify aspects of the new laws and to allow time to make the necessary corrections and clarifications.

The underlying objective of the FOFA reforms is to "improve the quality of financial advice while building trust and confidence in the financial advice industry through enhanced standards which align the interests of the adviser with the client and reduce conflicts of interest. The reforms also focus on facilitating access to financial advice, through the provision of simple or limited advice"[20].

AML/CTF

The Financial Action Task Force (FATF) and Asia/Pacific Group on Money Laundering completed their assessment[21] of Australia's Anti-Money Laundering and

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[18] http://download.asic.gov.au/media/3062900/rep429-published-19-march-2015-1.pdf

[19] http://www.rba.gov.au/payments-system/reforms/review-of-card-payments-regulation/review-of-card-payments-regulation-issues-paper.html

[20] Explanatory Memorandum to the FOFA Bills, page 3 - http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4739_ems_6e48ef62-f308-44a1-b58d-744f3992c8a1/upload_pdf/366354.pdf;fileType=application%2F.pdf

[21] http://www.fatf-gafi.org/topics/mutualevaluations/documents/mer-australia-2015.html

Counter-Terrorism Financing (AML/CTF) system. The assessment of Australia is a comprehensive review of the effectiveness of its measures to combat money laundering and terrorist financing.

The 2015 evaluation report of Australia sets out how well Australia has implemented the technical requirements of the FATF Recommendations and how effective its AML/CTF system is. The report presents the key findings and the priority actions for Australia to improve its AML/CTF system.

The report found Australia has strong legal, law enforcement and operational measures for combating money laundering and terrorism financing, but that important improvements are needed in a number of key areas. The report also found that Australia has a good understanding of its money laundering risks, coordinates domestically to address these risks, and has highly effective mechanisms for international cooperation. However, the authorities focus more on the disruption of predicate crimes, rather than on the laundering of the proceeds of these crimes and their confiscation. Therefore, while the report recognised that Australia develops good quality financial intelligence which it shares with law enforcement bodies and other authorities, the report concluded that this information should lead to more ML/TF investigations.

While Australia regulates its major money laundering and terrorism financing channels, such as banking, remittance and gaming, it should improve supervision of its regulated sectors. Most designated non-financial businesses and professions (DNFBPs) are still not subject to AML/CTF requirements and have insufficient understanding of the risks. These include real estate agents and lawyers, which the authorities assessed as high risk for money laundering and terrorist financing. The report concludes that Australia should do more to demonstrate that they are improving AML/CTF compliance by reporting entities and that they are successfully discouraging criminal abuse of the financial and DNFBP sectors.

OTC Derivatives, Central Clearing and Single-Sided Trade Reporting

At the 2009 G20 Summit in Pittsburgh, the Australian Government joined other jurisdictions in committing to substantial reforms to practices in the over-the-counter (OTC) derivatives market. The three key G20 commitments in this area were:

- To improve transparency by requiring all OTC derivatives be reported to central registries known as trade repositories;
- To improve market efficiency and risk management by requiring standardised OTC derivatives to be cleared through specialised entities known as central counterparties; and
- To improve market efficiency and integrity by requiring the execution of all standardised OTC derivatives on exchanges or electronic trading platforms, where appropriate.

Legislation was passed in 2012 which allows the Minister to make a determination with respect to a G20 commitment providing authority for the ASIC to develop detailed rules implementing the determination.

A first determination was subsequently made mandating trade reporting of OTC derivatives, which is currently being implemented through a phased approach[22]. Extensive consultation occurred in 2014 on a proposed central clearing mandate for OTC interest rate derivatives denominated in Australian dollars and four global currencies (US dollars, euro, Japanese yen and British pounds), limited to trades between internationally active dealers.

In December 2014 the Government announced that it would proceed with implementing the proposed central clearing mandate. Drafts of a Ministerial determination and a set of amendments to the *Corporations Regulations 2001* (the Corporations Regulations) implementing the proposed mandate have been developed and are being provided for public consultation. The Government also announced that it would provide relief from the trade reporting requirements by allowing 'single-sided reporting' for entities with low levels of OTC derivatives transactions, provided they conclude the transactions with counterparties that are already required or have agreed to report the trade.

The announcement specified that this relief would be implemented by introducing single-sided reporting for Phase 3B entities as defined in the trade reporting derivative transaction rules made by ASIC. Phase 3B entities as defined in those rules have less than $5 billion gross notional OTC derivatives positions outstanding. Draft amendments to the Corporations Regulations containing this measure have been developed and were made available for public consultation in June 2015.[23]

AUSTRIA

Banking Law and Financial Market Stability

CRR and the Austrian Banking Act

2014 was the first year to place the banking community within the framework created by CRR, CRD IV and their transposition into the revised Austrian Banking Act (BWG). However, this framework was (and is) by no means complete and implementation was fraught with uncertainties in many instances.

A number of areas were not included in the CRR text by design but were to be delegated to the European Commission or to be dealt with in the ordinary legislative procedure at a later stage. They included the Leverage Ratio and the Liquidity Coverage Ratio, for which the Commission submitted the final text in October 2014, as well as the Net Stable Funding Ratio, which is to be regulated using the ordinary legislative procedure by 2018. The final version lifted some of the burden for both the Leverage Ratio and the Liquidity Coverage Ratio compared with the original proposal.

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[22] http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2014/G20-over-the-counter-derivatives-commitments

[23] http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2015/OTC-derivatives

Moreover, roughly one hundred regulatory technical standards are set forth primarily in the CRR and to a lesser extent in the CRD, i.e. details and rules that are to be prepared by the EBA, approved by the European Commission and published in the Official Journal of the European Union.

The regulatory technical standard on 'other systemically important institutions' has been finalised, according extraordinarily wide discretionary power to national supervisors, which makes it difficult to predict which Austrian banks will come under this definition.
A special case was the technical standard on supervisory reporting aimed at ensuring uniform COREP and FINREP reports. It was repeatedly subject to new releases owing to supplementary details (asset encumbrance, non-performing loans) and changes (liquidity) on the one hand, and mistakes and their corrections on the other.

Another important decision taken by the European Commission within the framework of CRR implementation was the recognition of third countries that implement equivalent regulatory and supervisory arrangements. The first equivalence list published by the European Commission includes some countries that are of special importance to Austrian banks, while it is hoped that a number of other countries currently ignored will be included in the future.

In summer 2014, the Austrian Banking Act was subject to yet another revision, the prime reason being the transition of responsibility for single oversight over euro area banks to the European Central Bank. In addition, this amendment was used for improving some of the technicalities of CRR and CRD implementation including revisions of the exemptions in §3 of the Banking Act, which are mainly due to the wider definition of the term credit institution in Austria, as well as rules on the maximum number of executive and non-executive directorships. The prudential report was put on an entirely new basis. Whereas former audits focused on compliance with numerous individual requirements of the Banking Act and other relevant special legislation, it now focuses on the function of the internal control system.

Federal Act on Bank Recovery and Resolution (BaSAG)

In mid-September 2014, a proposal for a bill adopting the Federal Act on Bank Recovery and Resolution (BaSAG) was submitted for consultation. It translates Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms (BRRD) into Austrian law. The BaSAG entered into force on 1 January 2015, replacing the Banking Intervention and Recovery Act (BIRG), which ceased to be in force on the same date.

The Banking Intervention and Recovery Act had provided a toolkit for early intervention on the one hand, and had obliged institutions to draw up recovery and resolution plans on the other. However, it had not established a complete framework for the recovery and resolution of banks making it necessary to introduce further legal measures, in particular comprehensive and effective resolution instruments.

The powers of Austria's Financial Market Authority FMA, as already defined in the Banking Act, have been adjusted to BRRD requirements and integrated into the BaSAG. With the BaSAG's entry into force on 1 January 2015, the FMA assumed its function as national resolution authority.

The core task of this resolution authority is to wind down banks that are failing or likely to fail. For this purpose it has specific and far-reaching resolution powers and instruments.

The recovery plans detail, with due regard to varying scenarios, the arrangements which institutions have in place to restore their long-term viability in the event of a material deterioration of the financial situation. In addition, they have to include steps that can be taken when and where early action is required. Recovery plans must be drawn up by banks on an individual basis. If however institutions are part of a group within the meaning of the BaSAG, they will have to prepare group recovery plans for the whole group instead of several solo plans. Recovery plans need to be updated at least once a year and checked by the FMA for compliance with legal requirements.

Resolution plans are to create the organisational conditions for an orderly wind-down of a bank that fails or is likely to fail and are to provide proper planning of this process. This includes measures to overcome obstacles to resolvability and an overview of options available for the application of resolution instruments and powers. Resolution planning is carried out by the resolution authority, which may request the institutions in question to cooperate in the drafting and updating of resolution plans. It remains to be seen whether this new distribution of tasks will ease the burden on banks.

Last but not least the BaSAG implements one of the key provisions of the BRRD, i.e. the so-called bail-in instrument, which enables the resolution authority to convert debt claims into equity under certain conditions. The BaSAG does not include the BRRD's option of postponing the application of the statutory bail-in tool to 1 January 2016.

In respect of the obligation set out in the BaSAG to draw up recovery and resolution plans as of 1 January 2015, the FMA published a bank recovery planning ordinance (BaSaPV) specifying the requirements to be met by recovery plans. The BaSaPV serves to define proportionality concerning the content and level of detail of recovery plans as well as set the date by which they need to be completed and the frequency with which they should be updated. The ordinance does not cover resolution plans. Its scope of application is limited to CRR credit institutions, CRR investment firms and parent financial holding companies classified as less significant institutions under the SSM Regulation. These firms are subdivided into three different categories of significance primarily based on the amount of their total assets.

Single Resolution Mechanism (BRRD/SRM)

Single Resolution arrangements are based on an EU Regulation comprising two components: the Single Resolution Mechanism SRM and the Single Resolution Fund SRF. The target size of the SRF equals 1% of the covered deposits of all credit institutions in Member States participating in the Banking Union (Austria is a Member State). This size is to be achieved within eight years as of 1 January 2016. As of 1 January 2015 all Member States have to apply a single rulebook for the resolution of banks and large investment firms, as prescribed by the Bank Recovery and Resolution Directive.

Deposit Guarantee and Investor Compensation Schemes Bill (ESAEG)

Implementation of the revised EU Deposit Guarantee Schemes Directive is an important contribution to regulating deposit guarantee systems set up to ensure that the deposits covered by the scheme are paid out to depositors in case of insolvency of their credit institution. All CRR credit institutions accepting deposits must join such a deposit guarantee facility under the proposed bill. In Austria and all other Member States of the European Union, the national deposit guarantee schemes ensure that up to EUR 100,000 per customer and bank are covered by these schemes.

The most essential regime change for Austria is the switch from an ex post liability regime to an ex ante contribution system. Every guarantee facility must build up a deposit guarantee fund of at least 0.8% of insured deposits by 2024. If a bank is in trouble, the covered deposits will be paid out by the deposit guarantee scheme of which the CRR credit institution concerned is a member.

Another major difference to the current system is how the amount of the contribution to be paid into the guarantee facility is determined. It will not only be proportional to the deposits covered by each bank, but also based on their risk profile: banks with more risky business models will have to contribute higher amounts, an approach intended to avoid competitive distortions.

Updated Fit & Proper Circular

In the wake of revisions of the Austrian Banking Act in 2013 and 2014, the FMA updated its Circular of May 2013 on the assessment of the suitability of chief executives, members of supervisory boards and key function holders and published this updated ‘Fit & Proper Circular’ in November 2014.

The Circular is to provide guidance on how to assess the suitability of chief executives, members of supervisory boards and key function holders in credit institutions and reflects the legal opinion of the FMA on the relevant provisions. It defines requirements pertaining to personal reliability and to suitability in terms of expertise and practical experience; moreover, it lists the necessary supporting evidence and explains the FMA’s approach to verification.

Market Infrastructure

European Market Infrastructure Regulation – EMIR

EMIR was published in the Official Journal of the European Union and entered into effect in mid-March 2012. The legislative act in itself provides, in many aspects, only a framework for the specific requirements to be met. To make the Regulation applicable in practice, it was necessary to have the technical details specified in technical standards, the majority of which were published late in 2012 and early in 2013.

The core provisions of the legislative act are the obligation for central clearing via CCPs (Central Counterparties) and the obligation for reporting to TRs (Trade Repositories).

The registration of the first EMIR trade repository in November 2013 triggered the entry into force of reporting obligations under EMIR in February 2014. In August 2014, a complex new element was added – the reporting of risks (valuation of derivative contracts and corresponding collateral).

The actual entry into force of the CCP clearing obligation is contingent on CCP registration and the concomitant activities carried out by ESMA. Attention needs to be drawn to the fact that the FMA granted CCP Austria (CCP.A) approval as central counterparty under EMIR in August 2014. However, CCP.A is currently acting solely as an Austrian clearing centre for exchange transactions and does not provide any central clearing of OTC derivatives.

Central Securities Depositories Regulation (CSDR)

The Regulation of the European Parliament and the Council on improving securities settlement in the European Union and on central securities depositories (Central Securities Depositories Regulation, CSDR) entered into force on 17 September 2014. Application is subject to different timelines for different aspects of this piece of legislation.
The CSDR aims to improve both the timing and conduct of securities settlement as well as the security of CSDs in Europe.

CANADA

Executive Summary

The banking system in Canada is exclusively under federal jurisdiction and was one of the most successful in dealing with the global financial crisis. In "*The Global Competitiveness Report 2014*", the World Economic Forum again ranked Canada's banking system as the soundest in the world for the seventh consecutive year. Canada's banks are capitalized above the standards set by the Bank of International Settlements and regulated by a number of federal agencies. Prudential regulation is conducted by the Office of the Superintendent of Financial Institutions (OSFI), while market conduct is regulated by the Financial Consumer Agency of Canada (FCAC). Deposit insurance is provided by the Canada Deposit Insurance Corporation (CDIC).

The Bank of Canada and OSFI are active members of the Basel Committee on Banking Supervision. Canadian regulators have been active in adopting new and revised global regulatory standards.

Federal financial services legislation, including the *Bank Act* that governs the activities of banks in Canada, is required under the statute, to be reviewed every five years, and the most recent review was in 2012. The next comprehensive review is due in 2017. The 2012 revisions to the *Bank Act* were mainly technical, with no substantive amendments (partly since the federal government had enacted a number of new measures in the last few years, especially with respect to consumer-related products and services). In the recent federal Budget, some amendments were announced to the federal financial services, mainly to more clearly protect the confidentiality of information that is submitted by financial institutions to OSFI.

In May 2010, the Federal Government initiated a reference to the Supreme Court of Canada (SCC). A single question was asked: does the Federal Government of Canada have legislative authority to enact the proposed *Canadian Securities Act* (the "Act"). The Act would have created a single national securities regulator ultimately overseeing a unified national securities regulation system for Canada (currently, securities activities are regulated by the provinces). In its December 2011 decision, the SCC stated that the proposed Act, "as presently drafted", was unconstitutional. In particular, the SCC, while accepting that the aspects of the Act concerning the management of systemic risk and national data collection are beyond provincial competence and appear to be related to the general trade and commerce power, found that the proposed Act, for the most part, dealt with matters that are under provincial jurisdiction. The SCC concluded, therefore, that the constitutionally valid aspects of the Act with respect to systemic risks were insufficient to allow the Act as a whole to pass constitutional muster. Following the decision of the SCC, the federal government has continued to work with some of the provinces, notably Ontario and British Columbia, to develop a cooperative capital markets regulator to address some aspects of the regulation of securities, especially "systemic risk" issues.

Federal Financial Legislation and Regulations

2012 Bank Act Amendments

The latest changes to federal financial legislation, including the *Bank Act*, were passed in 2012. The next revision of federal financial institutions legislation is scheduled for 2017. The 2012 changes to the *Bank Act* were mainly technical and included measures to:

- Update financial institutions legislation to promote financial stability and ensure Canada's financial institutions continue to operate in a competitive, efficient and stable environment;
- Fine-tune the consumer protection framework, including enhancing the supervisory powers of the Financial Consumer Agency of Canada;
- Improve efficiency by reducing the administrative burden on financial institutions and adding regulatory flexibility;
- Allow the creation of "federal credit unions"; and
- Increase the limit for the "widely-held" rule from C$8 billion to C$12 billion so that banks can now have as much as $12 billion in equity and still have a controlling shareholder.

2015 Federal Budget Measures

The April 21, 2015 federal budget contained a number of measures that will be relatively significant for the banking industry once they are enacted, especially several initiatives that further the goal of protecting federal jurisdiction over banking that are intended to provide the exclusive set of rules governing consumer protection for banks that will provide "uniform protection" for consumers across the country. In addition, the Budget outlined six high-level principles for the proposed federal Financial Consumer Code (i.e. simple disclosure and use of summary boxes; expanded ID for account openings; ban on high-pressure sales tactics and use of cooling-off periods; role of boards to oversee consumer protection; transparency on complaints; clear and accurate advertising).

AML/ATF Measures

The 2014 federal Budget announced that the federal government would bring forward legislative and regulatory amendments to strengthen Canada's anti-money laundering and anti-terrorist financing regime. Legislative amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) were subsequently introduced in a bill, which passed on June 19, 2014. However, the changes have not yet come into force, pending the passage of the Regulations that will be required to fully implement the new requirements. In the Budget it states that the Government proposes to:

- Introduce anti-money laundering and anti-terrorist financing regulations for virtual currencies, such as Bitcoin.
- Make online casinos subject to the PCMLTFA.
- Enhance the ability of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to disclose to federal partners threats to the security of Canada.
- Adopt new administrative measures and propose legislative and/or regulatory amendments as necessary to improve the effectiveness of its targeted financial sanctions regime.
- Expansion of the application of the enhanced due diligence requirements (in other words, the screening) applicable to "politically exposed domestic persons" who hold prominent public positions within Canada or at any of the international organizations that are specified within the Act.
- Requires reporting entities to report to the Canada Revenue Agency international electronic funds transfers of C$10,000 or more.
- Expressly prohibits Canadian financial institutions from opening or maintaining an account for, or having a correspondent banking relationship with foreign money service businesses or with foreign dealers in virtual currencies that provide services to residents of Canada and which are not registered with FINTRAC.
- Enables the Minister of Finance to issue written directives requiring reporting entities to take certain measures in respect of financial transactions originating from or bound for a foreign jurisdiction or entity.
- Introduces amendments to the provisions of the PCMLTFA governing information sharing between FINTRAC and other governmental agencies

It is understood that the relevant Regulations will be released shortly for comment.

Cybersecurity threats to financial institutions operating in Canada

In the 2015 Federal Budget, the government announced that "new legislation will require operators of vital cyber systems to implement cyber security plans, meet robust security outcomes for their systems and report cyber security incidents to the Government of Canada." To date, no further details have been released on the substance of the legislation. For banks, OSFI requires that banks complete a self-assessment of information technology risks. The self-assessment covers all aspects of information technology management, cybersecurity, and data security.

Covered Bond Legislation

As part of the 2012 Federal Budget, amendments were made to the National Housing Act charging CMHC with administering a legal framework for covered bonds. CMHC implemented

the legal framework in December 2012, and published the Canadian Registered Covered Bonds Program Guide. The legal framework supports financial stability by helping lenders further diversify their sources of funding and by attracting more international investors to the market for Canadian covered bonds. Canadian covered bond programs have uninsured 1 to 4 unit Canadian residential mortgage loans as the primary covered bond collateral. Insured mortgages are not permitted to be held as covered bond collateral.

Housing

Canada Mortgage and Housing Corporation (CMHC)

In keeping with its commitment to closely monitor the housing market and assess measures to further reduce taxpayer exposure and risks to the long-term stability of the sector, the federal government announced additional measures to address Canada's housing finance system. In November 2014, OSFI finalized its B-21 Guidelines, which sets out prudent residential mortgage insurance standards for federally regulated private mortgage insurers. The Guidelines come into effect on June 30, 2015. While CMHC is not legally bound to comply with the B-21 Guidelines, it has made a commitment to comply. The Guidelines effectively impose the same underwriting standards for insured mortgages on non-federally regulated financial institutions that B-20 imposes on federally regulated financial institutions.

CMHC also made further refinements to their products and premiums during the last year. More specifically, CMHC:

- Discontinued mortgage loan insurance for the financing of multi-unit condominium construction;
- Aligned the low-ratio homeowners mortgage insurance product with that of the high-ratio product by establishing maximum house prices, amortization periods and debt-servicing ratios;
- Increased National Housing Act Mortgage-Backed Securities (NHA MBS) guarantee fees across all NHA MBS terms; and,
- Increased homeowner mortgage insurance premiums by 15% for homebuyers with less than a 10% down payment.

In the 2015 federal Budget, the federal government reiterated its commitment to implement regulatory measures that limit the extension of portfolio insurance through the substitution of mortgages in insured pools, tie the use of portfolio insurance to CMHC securitization vehicles, and prohibit the use of government-backed insured mortgages as collateral in securitization vehicles that are not sponsored by CMHC.

Finance Canada Payments Advisory Committee (FinPay)

In June 2010, the federal government formed an independent Task Force to review the payments system and make recommendations where appropriate on reform. With the release of the Task Force's Final report in March 2012, the government acknowledged the importance of continued dialogue on payments system issues by establishing a consultative committee made up of senior-level public and private sector stakeholders. The Finance Canada Payments Advisory

Committee (FInPay) continues to meet regularly and serves as a discussion forum that helps advise the government on policy issues such as competition, innovation, safety, user needs and consumer protection. The banking industry has three seats: one that is represented by the President of the CBA and two that are assigned to member banks. FinPay is in discussion with the government on a number of important payments files. This includes a review of how the payments system in Canada is governed, and implementing enhancements to a Code of Conduct that applies to the Credit and Debit Card Industry to ensure it dovetails with mobile payments and to promote transparency for merchants regarding the cost of accepting credit cards.

Basel III in Canada

Canada's adoption of Basel III is well advanced (more detail is provided in the sections below). The BCBS's 2014 Regulatory Consistency Assessment Programme (RCAP) of Basel III regulations in Canada found Canada to be "compliant" with the standards prescribed under the Basel framework. Indeed, some aspects of Canada's capital rules have been adopted earlier than required under the Basel framework (e.g. Basel capital ratio requirements for 2019 were brought forward to 2013). Basel III adoption in Canada was ranked category 4 (i.e. final rules in force) in the RCAP's March 2015 updated progress report (i.e. adoption status of the risk-based capital requirements and the requirements for global and domestic systemically important banks, the liquidity coverage ratio (LCR), and the leverage ratio.)

Summary of Financial Crisis Regulatory Actions

Imposition of Enhanced Capital and Other Requirements

As part of sound capital management and in response to the continuing uncertainty caused by regulatory reform, Canadian banks must be able to demonstrate to OSFI (both continually and prior to any transaction that may negatively impact their capital levels) that they have prudent internal capital targets and that they would have sufficient capital to meet their internal capital targets at all times. Canadian banks implemented the Basel III regulatory capital requirements on an "all-in" basis as of January 1, 2013, which is early in the Basel Committee's transition period.

The six Canadian domestic systemically important banks (D-SIBs) (i.e. Royal Bank of Canada, TD Bank Financial Group, The Bank of Nova Scotia, Bank of Montreal, CIBC, and National Bank of Canada) will be subject to enhanced capital requirements (1% common equity Tier 1 or CET 1) starting in 2016. They are also subject to more intensive supervision and are required to comply with the Basel Committee's risk data aggregation and risk reporting principles, as well as the Enhanced Disclosure Task Force's (EDTF) disclosure recommendations.

In December 2014, OSFI published an updated version of their Capital Adequacy Requirements (CAR) Guideline for purposes of consolidating some earlier advisories into the CAR Guideline and providing clarification in certain areas.

Non-Viability Contingent Capital (NVCC)

As of January 1, 2013, OSFI required Canadian capital instruments (other than common shares) to contain a contractual feature providing for automatic conversion to common shares upon

the occurrence of a 'trigger event'. Some Canadian banks have now issued NVCC preferred shares and subordinated debt.

Potential Bail-in Debt Framework

In 2014, the government conducted a public consultation on its proposed "*Taxpayer Protection and Bank Recapitalization Regime*", which was largely consistent with the Financial Stability Board's (FSB) "*Total Loss-Absorbing Capacity*" consultative document. The government is likely to introduce amending legislation, regulation, and guidelines to implement this "bail-in" regime in Canada in the near future.

Recovery and Resolution Plans (RRPs)

The Canadian D-SIBs have for several years now been developing RRPs in conjunction with OSFI and the CDIC. The recovery plan process is being led by OSFI, while the resolution plan process is being led by CDIC. Work on these RRPs continues into 2015 as OSFI, CDIC, and the Canadian D-SIBs continue to address challenges related to large bank resolution. The federal government announced in Budget 2015 that it would not require Canadian D-SIBs to adopt the bank holding company structure to better facilitate a potential resolution.

Canada Deposit Insurance Corporation (CDIC) Review

The federal government announced that it would be undertaking a *"Deposit Insurance Framework Review"* in Budget 2014 to ensure continued protection for the savings of Canadians. While this work continues, Budget 2015 was silent on this review.

Enhanced Disclosure Task Force (EDTF)

In October 2014, the EDTF published a third report with the results of a self-assessed survey by internationally active banks on EDTF implementation. The report also included findings from a review of a subset of EDTF disclosures by a group of investor and analyst members of the EDTF. This user group confirmed that banks in the U.K. and Canada have fully implemented the overwhelming majority of the EDTF recommendations. The report also noted that the implementation rates for U.K. and Canadian banks reflect the fact that regulators in these two countries have formally mandated the full implementation of the EDTF disclosures.

Risk Data Aggregation

The Canadian D-SIBs are in the process of implementing data quality measures to ensure compliance with the BCBS's Risk Data Aggregation and Risk Reporting Principles. Canadian D-SIBs have been working closely with OSFI to ensure that compliance can be achieved by December 31, 2016, which is the implementation date set by OSFI.

Leverage Ratio

In 2014, OSFI issued their guidelines on leverage requirements and leverage ratio disclosures. Beginning in Q1 2015, institutions were required to maintain a leverage ratio that

meets or exceeds 3% at all times. OSFI also prescribed authorized leverage ratio requirements for individual institutions, which also took effect in Q1 2015. D-SIBs were required to fully implement the leverage ratio disclosures starting in Q1 2015, while non-D-SIBs must fully implement the disclosures for 2015 year-end.

Liquidity Risk Framework

In 2014, OSFI issued its final *"OSFI Liquidity Adequacy Requirements (LAR) Guideline"* as well as regulatory reporting and disclosure requirements. OSFI's guidelines are consistent with the Basel Committee's liquidity framework (e.g. the LCR and Net Stable Funding Ratio (NSFR)). It also includes the domestic Net Cumulative Cash Flow (NCCF) measure, which captures the maturity spectrum between the 30-day LCR and 1-year NSFR and assumes a business-as-usual, non-stressed scenario. OSFI's guidance on the quantitative liquidity measures are complimentary to the 2012 *Liquidity B6 Guideline*, which is focused on Basel III qualitative liquidity principles. Implementation of the liquidity measurement framework began in 2015:

- The implementation date for the LCR is January 1, 2015 and the minimum LCR requirement for Canadian institutions is set at 100% as of that date (i.e. no phase-in period will be permitted).
- All banks began to submit monthly LCR regulatory reports to OSFI with an "as at" date of January 31, 2015.
- Electronic filing of data supporting the other liquidity monitoring tools, including the NCCF supervisory tool, also began as at January 31, 2015.
- D-SIB Canadian banks began public disclosure of their LCR in Q2 2015 (May 2015).
- Implementation of the intraday liquidity monitoring tools and NSFR will follow the Basel implementation timelines (i.e. 2017 and 2018 respectively).

Regulation of Over-the-Counter (OTC) Derivatives

In the fall of 2014, a revised guideline on *"Derivatives Sound Practices*" was issued by OSFI. The guideline set out OSFI's expectations in a number of areas relating to the regulation of OTC derivatives, including trade reporting and clearing. The guideline directed the banks to comply with trade reporting rules that were issued by the provinces and came into effect in November 2014. Canadian banks have been working to achieve full compliance with the trade reporting rules. OSFI will be issuing its rules on margin for uncleared swaps in the near term and those rules are expected to be in effect this year.

CHINA

Significant Developments in the Banking Industry

- On December 20, 2014, the State Council of the People's Republic of China (the State Council) published new rules to ease access for foreign banks in a move to further open up the domestic banking sector. The amended rules will no longer require a specific amount of operating funds to be transferred from the parent foreign bank to its newly-established branch in China. The new rules will also scrap the previous requirement that foreign banks or Sino-foreign joint venture banks should first establish a China representative office before they could set up branches. Under the new rules, if a foreign bank has one branch already carrying out RMB business, its other branches will no longer face restrictions in launching the same business. The new rules took effect on January 1, 2015.

- On December 27, 2014, the People's Bank of China (PBOC) issued a circular on adjusting rules for calculating deposits, which will increase the base of funds available for lending at commercial banks. According to the circular, some interbank deposits, including savings for securities and transaction settlement and savings held by banks for non-deposit-taking financial institutions, will be calculated as regular bank deposits.

- On April 12, 2015, the State Council issued a statement to reform three Chinese policy banks. The banks are the China Development Bank (CDB), the Export-Import Bank of China (Exim Bank) and the Agricultural Development Bank of China (ADBC). According to the statement, the CDB must adapt to the market and internationalization to improve development-oriented financial operation models and play its key role in stabilizing economic growth and restructuring; the Exim Bank must play its role in stabilizing growth, restructuring, boosting exports and implementing the "going-out" strategy; the ADBC must keep policy-oriented businesses as priorities and distinguish between policy-oriented businesses and self-operated businesses in accounts, responsibilities and risk compensation systems.

- On June 2, 2015, the PBOC issued a statement that it will allow the issue of large-denomination, floating-rate tradable certificates to deposit (CD) to individuals and companies. That's a key step to liberalize interest rates. According to the statement, the CDs will be tradable in the secondary market, and the floating rates will be based on the Shanghai Interbank Offered Rate.

- On June 11, 2015, the PBOC published a report on its website saying that it plans to accelerate the launch of its international payment system, with the first phase of the rollout by the end of this year. This system will be located in Shanghai and will enable foreign banks to be part of the *yuan* clearing business. The steps will also accelerate *yuan*'s internationalization by creating a bigger and more diverse group of clearing banks, making the *yuan* clearing process cheaper. The PBOC will encourage government departments to use the yuan as the main currency in statistics, settlements and in the management of foreign-related economic work. It also wants foreign institutions to issue *yuan*-denominated bonds in the onshore market, and expand *yuan* lending in offshore market.

Significant Developments in the Securities Industry

- On September 26, 2014, China's Shanghai Stock Exchange (SSE) released final detailed rules for the stock trading link between the Chinese mainland and Hong Kong. Most of the items in the set of draft rules for the Shanghai-Hong Kong Stock Connect remained, but authorities deleted one that bans securities margin trading. The SSE said the rules have fully taken into consideration factors of the market and international orientation, as well as strengthening supervision to prevent cross-border risks.

- On November 17, 2014, the Shanghai-Hong Kong Stock Connect program started officially. It is a significant move toward a more open capital market in the Chinese mainland. Under the program, which caps cross-border investment at 550 billion *yuan* (90 billion U.S. dollars), investors, with over 500,000 *yuan* in their brokerage accounts, will be allowed to trade eligible shares listed on either market through local securities firms or brokers. Each day, investors are permitted to buy and sell up to 23.5 billion *yuan* worth of stock from a select list of companies. Up to 10.5 billion *yuan* of that daily quota goes to mainland investors and the rest to Hong Kong.

Significant Developments in the Insurance Industry

- On August 13, 2014, the State Council of the People's Republic of China announced new measures to develop China's insurance industry, vowing to raise premium incomes to 5 percent of GDP by 2020. Under the new measures, commercial insurance will become the primary undertaker of individual and household programs and an important supplier of corporate pensions and health insurance, etc. Insurance funds will be encouraged to invest in bonds and equities to support major infrastructure projects, urban renewal and urbanization.

- On August 27, 2014, an executive meeting of the State Council decided to speed up development of commercial health insurance to support ongoing medical reforms and meet public demand for better healthcare services. Insurance companies in China will be allowed to carry out large-scale medical insurance services for urban and rural residents. Funds will be allocated from the basic medical insurance for urban residents and the new rural cooperative medical care system.

DENMARK

Danish Banks

The number of banks in Denmark is decreasing. In June 2015, the Danish banking sector comprised a total of 80 banking institutions. The decrease is due to the fact that several banks have merged and a smaller number have become distressed and taken over by the winding-up company, Financial Stability A/S. Since June last year 5 Danish banks have been closed by mergers between banks.

The downward trend in the number of banks is expected to continue due to new regulation, efficiency gains etc. and the incentives for sound banks to take over the activities of distressed banks are greater.

Earnings in the Danish banks have been strengthened, however, after some very lean years. Especially, the declining depreciations contribute to the bottom line, but also that costs have decreased more than the interest and fee incomes.

The latest calculation for 2014 shows a total equity of DKK 306 billion, which generated a profit after tax of DKK 14.1 billion. This corresponds to a return on equity after tax of 4.8 per cent. The level itself is still rather low compared to the level before the crisis and compared to other industries.

The Danish banks are looking robust, generally well-padded compared to other major European banks and overall the liquidity situation is good.

Banks have narrowed their customer funding gap since 2008 and even turned it into a surplus. This has been driven both by lower loans and higher deposits. The surplus has increased from DKK 36 billion in April 2014 to DKK 50 billion in April this year. Adjusted for repo transactions – thereby disregarding deposits and loans, which are secured by a high degree of collateral – there is a deposit surplus of DKK 174.6 billion. The largest banks are again issuing unsecured senior debt.

The level of lending from Danish banks to households has begun to stagnate during the last couple of years. The lending to Danish corporations is still at a very low level, and seems to be very influenced by the fact that the demand for credit still is not back to its normal level.

However, the non-financial corporations' level of lending from both banks and mortgage credit institutions as a ratio of GDP is higher now than it was in 2007, when the economy was still booming. Furthermore, the Danish government estimates that the level of lending as a rate of GDP currently is still above the trend based on the past 30 years.

As a result of the expansive monetary policy led by the ECB, the rates on the government bonds in Denmark have been kept at a very low level by the Danish central bank. Since the policy rate has been kept on such a low level it has also been possible for the Danish banks to keep their lending rates low.

Thus, the lending rates to large corporations have been kept equivalently low while the lending rates to small- and medium sized corporations have been on a slightly higher level, reflecting differences in e.g. credit risks and size of the engagement.

Cyber- and Information Security

Denmark has been at the forefront in many aspects of the digitization processes: all paper based securities were digitized in the mid-eighties, there is one public key infrastructure/digital identity, NemID, to online banks and the public sector's services and Denmark has, as the only country in the world, a 100 pct. digitized property registration. In turn Denmark has an advanced

financial sector that relies on secure and efficient use of IT infrastructure across borders to other countries, other private sectors and other disciplines. The level of digital maturity is supported by the Danish government's launch in December 2014 of the "National Strategy for Cyber- and Information Security" highlighting 27 specific initiatives ensuring a. o. improved IT supervisory authority and the building of strong intelligence whilst acknowledging and respecting the individual's right to privacy.

The Danish Bankers Association presented the banks' corresponding "Vision and Strategy for Financial Cyber Security" at the end of January 2015 mirroring the focus on quality assurance and the need for trust building with the consumers, when banking digitally; as well as a continuous contribution to the public/private digital collaboration and growth, all of which will ensure the overall prosperous digitization of Denmark.

As part of the development in public and financial digitization the development of 2nd generation NemID has been announced by the Danish Agency for Digitization. The intention is to carry this project out based on a public/private partnership tendering the IT development contract affecting 4.4 million users in early 2016. The combined Danish banks aim to become the preferred partner in this process based on the widespread usage and sheer number of transactions amounting to around 2.7 billion in the current lifespan of NemID.

A further modernization of the Danish common payment infrastructure, instant payments were launched in November 2014 introducing the express clearing, which is active 24/7, 365 days a year. The express clearing offers credit transfers with an initial maximum of DKK 500,000 (EUR 67,000) pr. transaction (adjustable), but supports in principle all payment types. The clearing is furthermore fully ISO 20022 compliant.

Banking Union in the EU

The Banking Union consists of the Single Supervisory Mechanism and the Single Resolution Mechanism. The Banking Union was originally intended to include a common deposit guarantee scheme, but this element has subsequently been dropped. Instead, national deposit guarantee schemes have been further harmonized, and a depositor preference has been implemented whereby deposit guarantee schemes are to a larger degree protected from losses.

At present, the Banking Union comprises the 19 euro area Member States. EU Member States joining the euro area will at the same time enter the Banking Union.

It is possible for non-euro area Member States, including Denmark, to participate in the Banking Union by entering into a "close cooperation" with the ECB. This can happen after a decision taken by the ECB upon request from the non-euro area Member State in question. For instance, if Denmark applies to participate, the ECB will make a decision based, inter alia, on an assessment of whether Denmark will ensure by law that the national authorities will follow the instructions issued by the ECB. In addition, the ECB will assess Denmark's credit institutions to ensure that they are adequately capitalized. As part of establishing a close collaboration with the ECB, Denmark will also automatically be subject to the Single Resolution Mechanism.

For participating non-euro area Member States, the ECB's supervision will be implemented by means of instructions issued to the national supervisory authorities responsible for the following implementation. On the other hand, the European Single Resolution Board will be responsible for the crisis management of the Danish credit institutions.

The financial markets in Europe still become more and more integrated across national borders. The credit institutions work internationally and are in some cases very large compared to the national economies.

At the same time, both supervision and partly the financial regulation are nationally anchored. There is a risk that this asymmetry can contribute to financial instability and representations of national interests when international crises arise.

The Banking Union aims to reduce the risk of financial instability through the establishment of a single European supervisory and a single European resolution authority for distressed credit institutions. Thereby, the goal is to create a stronger internal market for financial services in Europe.

It is the Danish Bankers Association's assessment that the principles and the construction behind the Banking Union are generally reasonable.

It is reasonable to harmonize supervisory practices (single book rule), standards and, in the long run, a set of rules for financial institutions in the EU. This will help contributing to a solid foundation for an internal market for financial services. In this way, the competitive environments will also become more uniform.

The financial stability in Europe is expected to be strengthened with the establishment of the Banking Union. The European Central Bank (ECB) is expected to be able to better predict and manage systemic risks and crises compared to national authorities alone. With a single resolution fund and an insurance scheme, a greater risk diversification is achieved, just as the costs are allocated between more countries.

It is the Danish Bankers Association's assessment, that despite the stated advantages, there are several elements of uncertainty. The decision whether to participate in the Banking Union should hence await further clarifications. Furthermore, it is a prerequisite that an adherence agreement taking the Danish mortgage credit system into account can be made.

The Danish Bankers Association recommends that an assessment of the elements of uncertainty is made on an on-going basis in order to assess if it is in the Danish interest to participate in the Banking Union.

It is the assessment of the Government that altogether much speaks in the favour of participation in the Banking Union as being in the interest of Denmark.

At the same time, additional clarification in some areas would be desirable. This is particularly the case for the treatment of the Danish mortgage credit system and the Governing Council's right to bypass the Supervisory Board when it comes to decisions on macro prudential

tools in Denmark. The needed clarifications concerning the treatment of the Danish mortgage credit system, macro prudential decisions etc. within the Banking Union should be provided before deciding on Danish participation in the Banking Union.

A new Resolution Scheme

After the recent financial crisis, a number of measures were adopted by the EU to ensure the stability of financial and banking services. The Bank Recovery and Resolution Directive (BRRD) was adopted in spring 2014 to provide authorities with comprehensive and effective arrangements to deal with failing banks at national level, as well as cooperation arrangements to tackle cross-border banking failure.

BRRD came into force in Denmark as of the first of June 2015. Financial Stability (FS) was appointed resolution authority.

The BRRD sets out the rules for the resolution of banks and large investment firms in all EU Member States. Banks will be required to prepare recovery plans to overcome financial distress. Authorities are also granted a set of powers to intervene in the operations of banks to avoid them failing. If they do face failure, FS is equipped with comprehensive powers and tools to restructure them, allocating losses to shareholders and creditors following a clearly defined hierarchy. They have the powers to implement plans to resolve failed banks in a way that preserves their most critical functions and avoids taxpayers having to bail them out.

Precise arrangements are set out for how home and host authorities of banking groups should cooperate in all stages of cross-border resolution, from resolution planning to resolution itself.

A new resolution fund has also been established.

The liquidity Coverage Requirement (LCR)

Following the postponement of the LCR at EU-level and the recognition of Danish covered bonds as level 1 assets it has been decided that the Danish SIFIs will have to fulfill the full LCR measurement by the first of October 2015. The LCR for non-SIFI banks in Denmark will be phased in according to the implementation proposed at EU-level.

Supervisory Diamond for the Danish Mortgage Banks

The Danish FSA have introduced the Supervisory Diamond for the Danish mortgage banks. It will be established alongside the existing Supervisory Diamond for banks.

The Supervisory Diamond for mortgage banks consists of five indicators and the purpose of the diamond is to reduce or limit financial risks for the Danish mortgage banks through soft legislation governed by the Danish FSA.

The corners of the diamond for mortgage banks are focused on mortgage banks' credit risk on lending and access to the necessary funding. Specifically, the diamond relates to lending growth, borrowers' interest-rate risk, deferred amortization, short-term funded loans and large

exposures. The diamond corners are supervisory elements intended as an early warning system if a mortgage bank is assuming excessive risk.

Mortgage banks are typically outside the targets of the Supervisory Diamond today and are expected to reach the targets of the Supervisory Diamond gradually. Therefore, the indicators for deferred amortization and short-term funded loans will first apply from 2020 and the other indicators (Large exposures, Lending growth and Borrower's interest-rate risk) will first apply from 2018.

EUROPEAN UNION

Better Regulation

On 19 May 2015, the European Commission published a Better Regulation Package, aimed at ensuring that EU action is more effective. The Commission wishes to assess the impacts of current and future pieces of legislation, from their planning to their implementation. This review will have a particularly strong focus on specific sectors, i.e. agriculture, energy, environment and financial services. The Commission will now start negotiations with the Parliament and Council on the proposal, with the aim of completing negotiations by the end of 2015.

Banking Supervision and Regulation

Structural Reform of the Banking Sector

The proposal from January 2014 aims to finalise the Single Rulebook by addressing systemic risk. It includes two main components: a ban on proprietary trading in financial instruments and commodities; and the power and, in certain instances, the obligation for supervisors to require the transfer of other high-risk trading activities to separate legal trading entities within the group. On 23 February, the Economic and Monetary Affairs Committee (ECON) considered the amendments to the MEP Hökmak's report. It raised numerous concerns, especially on proprietary trading and market making. The ECON vote scheduled in March has been postponed and the report has finally been rejected on 26 May.

Capital Requirements

On 26 February, the European Banking Authority (EBA) published an opinion on several aspects of calculation of own funds requirements for Credit Valuation Adjustment (CVA) risk. It intends to reconsider the exemptions on the application of CVA charges because of potential risks not being captured, and suggests to assess the Basel Committee's review of the trading book before adding anything. The EBA will release further guidance on CVA risk, allowing competent authorities to decide whether or not supervisory measures should be taken depending on the specific situation of each institution.

In March, the EBA also published Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS), for benchmarking the internal approaches to calculate own-funds requirements for credit and market risk exposures as foreseen by the CRD IV. Those

standards are expected to improve consistency on the calculation of Risk Weighted Assets and to specify the framework for EU institutions and competent authorities when carrying out the annual supervisory benchmarking.

The EBA also launched a public consultation on its guidelines on remuneration policies. It provides specific guidance on the calculation of the ratio between the variable and the fixed components of remuneration, in line with specific remuneration elements (e.g. allowances, sign-on bonus, retention bonus and severance pay). Finally, the EBA launched a public consultation on its guidelines to limit EU institutions' exposures to shadow banking entities, as mandated by the CRD IV.

Single Supervisory Mechanism (SSM)

Prior to assuming its full supervision responsibility on 4 November 2014, a comprehensive assessment of the banking sector has been performed. It included both an asset quality review and a stress test operated in cooperation with national supervisors of participating Member States. This exercise aimed to enhance transparency of banks' balance sheets and consistency of supervisory practices in Europe. The ECB's Governing Council also appointed all five members and two alternates of the Administrative Board of Review.

By adopting the euro on 1 January 2015, Lithuania joined the Single Supervisory Mechanism as the 19th participating country. Its three largest banks therefore fall under the direct supervision of the European Central Bank.

Single Resolution Mechanism (SRM)

The Regulation on the Single Resolution Mechanism entered into force on 19 August 2014, setting out uniform rules and procedures for the resolution of banks under the Single Resolution Mechanism, supported by a Single Resolution Fund.

On 22 January 2015, the Council implementing Regulation specifying uniform conditions of application of ex ante contributions to the Single Resolution Fund was published in the Official Journal of the EU. Prior to that, the Council appointed permanent members of the Single Resolution Board in as well as a methodology for banks' contributions to the resolutions funds, following the adoption of a proposal for a Council implementing act to calculate the contributions of banks to the Single Resolution Fund.

Bank Recovery and Resolution Directive (BRRD)

On 2 June 2015, the EBA has published the list of responses to its consultation on draft regulatory technical standards for notifications and notice of suspension under the BRRD. It followed the European Commission's request to Bulgaria, the Czech Republic, France, Italy, Lithuania, Luxembourg, the Netherlands, Malta, Poland, Romania and Sweden to fully implement the Directive as its transposition deadline was 31 December 2014. On 26 May, the EBA published its final guidelines on the circumstances under which an institution shall be considered as 'failing or likely to fail' and sets procedures.

Earlier, the EBA published three sets of final Guidelines aimed at facilitating the implementation of resolution tools in the banking sector across the EU, a public consultation on draft Regulatory Technical Standards to specify the minimum set of the information on financial contracts that should be kept in the detailed records and a public consultation on its draft RTS on the "content of business reorganisation plans and progress reports" including guidelines, under BRRD.

Financial Markets and Securities

Credit Rating Agencies (CRAs)

On 6 March, the Joint Committee (EBA, EIOPA and ESMA) launched a consultation on ITS on the allocation of External Credit Assessment Institution (ECAIs) under Solvency II. The report contains a table assigning the appropriate Credit Quality Steps to the rating categories of ECAIs, which should help EU insurers to improve their risk management operations.

On 23 March, the European Securities and Markets Authority published guidelines regarding the information that is periodically submitted to ESMA by CRAs; these will become effective two months after publication.

Markets in Financial Instruments Review (MiFID II/MiFIR)

Comments received on ESMA's general consultation were published on 10 March 2015. ESMA's consultation on draft guidelines specifying criteria for the assessment of knowledge and competence of natural persons was launched on 23 March and is open until 10 July 2015.

Packaged Retail Investment Products (PRIIPS)

The package was published in the Official Journal on 9 December 2014. The Commission sent a mandate to EIOPA for advice on delegated acts on 30 July 2014. A call for expression of interest for a Consultation Expert Group on Key Information Documents (KIDs) has ended on 15 December 2014. Submission of comments on European Supervisory Authorities (ESAs)' Discussion Paper on KIDs ended on 17 February 2015. EIOPA's consultation on Product Intervention Power ended on 27 February 2015. A second ESMA consultation is expected in spring 2015.

Securities Financing Transactions (SFT)

On 23 March, the ECON Committee passed several compromise amendments on the Securities Financing Transactions Regulation. The European Parliament will now start the negotiations with the Council. At this stage, it seems that the Council could agree to these exemptions, but the Commission may try to challenge this potential compromise, having stated that the exemptions are not likely to increase transparency of shadow banking activities.

The trilogue debate may focus on the concept of title transfers. The idea that title transfers are different from classical re-use would certainly be opposed by the European Commission. In particular, the Commission highlighted that simple contractual change in each master agreement

would easily turn classical re-use agreements into title transfer agreements, thus circumventing the regulation and defeating its very purpose. The European Parliament is scheduled to vote the report in plenary on 7 July.

Undertakings for Collective Investments in Transferable Securities (UCITS V & VI)

UCITS V was published in the Official Journal on 28 August 2014 and the ESMA sent its final advice on 28 November 2014. The European Commission expected to adopt delegated acts on depositories by this summer. The European Commission Consultation on UCITS VI ended on 18 October 2012. Adoption of legislative proposals not explicitly mentioned in the 2015 Work Programme. The Commission has tackled the issue of long-term investment in the ELTIF regulation, agreed upon in December 2014, and the issue of Money Market Funds in a proposal published on 4 September 2013.

Indices and Benchmarks

The Commission's proposal to improve benchmarks' reliability and reduce the risk of manipulation has been published on the 18 September 2013. The European Parliament adopted the proposal in plenary session on 19 May 2015. Negotiations with the Council and the Commission are now taking place.

Central Securities Depositories Regulation

On 28 August 2014 the Regulation on settlement and Central Securities Depositories was published in the Official Journal of the EU. Together with EMIR and MiFID II, the three pillars will form a framework in which systemically important securities infrastructures are subject to common rules on a European level. Under the Regulation, Target2-Securities (T2S) has been created, the European Central Bank initiative to streamline Europe's securities settlement structure. The first markets will migrate to T2S on 22 June 2015 when a first group of five central securities depositories (CSDs) will migrate to the new European settlement platform provided by the Eurosystem.

On 27 February, the EBA launched a public consultation on draft RTS on prudential requirements for CSDs. While the RTS has been developed within the CSDR framework, this consultation focuses on CSDs that are offering banking-type services in an ancillary way. CSDs providing banking-type ancillary services need to comply in parallel with the capital rules of the CSDR and with the capital rules of the CRR.

Money Market Funds

On 26 February, the ECON Committee adopted its report on the Regulation on MMFs, which did not include the original clauses that required MMFs to hold a 3% capital buffer. The Commission had stated that this would make it harder for investors to withdraw their money from MMFs. The Parliament's own impact assessment document said that it did "not believe that there would be a substantial take-up of Retail CNAV or EU public debt CNAV. That means that the funds might struggle to be viable." Perhaps the creation of these new entities is just the

consequence of a political compromise; in five year time, many CNAVs might end up being converted into VNAV (Variable Net asset Value) MMFs.

While Member States have not yet reached a general approach, the European Parliament adopted its report in plenary session on 29 April 2015. The debate in the Council may re-start in April or even in May, therefore the Luxembourg Presidency will probably be the one finalising the dossier.

European Market Infrastructure Regulation

On 5 June 2015, the European Commission adopted a Delegated Act in accordance with Article 85(2) of EMIR, extending transitional relief from central clearing requirements for Pension Scheme Arrangements until 16 August 2017.

On 9 March, The European Securities and Markets Authority (ESMA) published a revised opinion on its draft Regulatory Technical Standard (RTS) on the clearing obligation for Interest Rate Swaps (IRS). This revised opinion comes after some disagreement between the Commission and ESMA at the end of last year, and ESMA's revised RTS still contains criticism of the Commission's approach to intra-group transactions. The implementation date for the IRS clearing obligation is still unclear. ESMA's other RTS appear to be on hold, notably credit default swaps, until the Commission finalises its assessment process of the IRS RTS.

Capital Markets Union

The Green Paper consultation has ended on 13 May 2015. A conclusive Conference will be held on 8 June 2015. The publication of an Action Plan is announced by September 2015. European Parliament: An exchange of views with Commissioner Hill was held on 24 February 2015. A debate on a resolution drafted by ECON MEPs is scheduled for the plenary session of 8-11 June 2015. The initiative also includes a Review of the Prospectus Directive, a European Framework for High-quality Securitization, resolution and recovery for non-banks (CMU) as well as the creation of a EU covered bond framework.

Financial Reporting and Taxation

Automatic Exchange of Information

Council Directive was adopted on 9 December 2014 and significantly extends the scope of the automatic exchange of information for tax purposes among EU Member States. The proposal is based on the Common Reporting Standard developed by the OECD, which draws in many aspects of FATCA, and shall become effective on 1 January 2016, with a view of performing the first exchange of information between tax authorities in 2017.

The said directive brings interest, dividends, as well as account balances and sales proceeds from financial assets within the scope of the automatic exchange of information by way of amendment of Directive on administrative cooperation in the field of direct taxation. In the meantime, the Council has invited the European Commission to present a proposal for the repeal

of the European Savings Directive, as amended, and to coordinate the repealing of that directive with the date of application of the revised Directive on administrative cooperation.

Tax Transparency Package

On 18 March 2015, the European Commission presented a package of tax transparency measures. The next day, it also concluded negotiations on a new tax transparency agreement with Switzerland to fight against tax evasion.

The package also contains a communication outlining a number of other initiatives to advance the tax transparency agenda in the EU. It notably includes an assessment of possible new transparency requirements for multinationals, a review of the Code of Conduct on Business Taxation, a quantitative exercise on the scale of tax evasion and avoidance and a review of the Savings Tax Directive.

Financial Transaction Tax

While the FTT appeared to have been re-launched in early 2015, there have been complaints from the 17 Member States not participating, after a Council Working Group on 24 February. As a result, all documents that the Commission prepares on the FTT for the 11 participating Member States, should be shared with the other 17. The next Council Working Group to discuss the FTT is scheduled for May 2015. German Minister of Finance recently spoken in favour of a significantly cut-down version of the FTT.

Retail Financial Services and Payments

Payment Services Directive (PSD2)

The Directive on Payment Services (PSD) provides the legal foundation for the creation of an EU-wide single market for payments. The review of the Directive aims to improve security, widen consumer choice and keep pace with innovation. A trilogue agreement was reached on 5 May 2015. Formal adoption by the European Parliament is expected in July 2015, while the transposition into national law is scheduled by September 2017.

Interchange Fees Regulation

On 10 March, the European Parliament’s plenary adopted the Regulation on Interchange Fees. The final text of the Regulation was adopted by the European Council on 20 April 2015.

The Regulation applies to card-based payment transactions carried out within the EU, where the payer's and the payee's payment services providers (PSPs) are both in the EU. However, it doesn't apply to commercial card transactions, or cash withdrawals at ATMs. The Regulation would cap the interchange fees for debit card transactions at 0.2% of transaction value. For credit card transactions, the fees are capped at 0.3% of transaction value, but Member States can set a lower fee cap for domestic credit card transactions. The capping rules do not affect ATM cash withdrawals and commercial cards used only to pay business expenses.

Importantly, "three party" schemes are exempted if they do not license other parties to issue cards for them. However, if a three-party card scheme licenses other parties to issue cards, effectively operating as four-party scheme, then the Regulation applies. Also, the final text includes a new article for universal card transaction services (mostly used in France) that do not distinguish between credit and debit cards. Specific rules apply to this system and an 18 months transition period has been granted

Payment Accounts

On 28 August 2014 the Payment accounts Directive was published in the Official Journal of the EU. The European Banking Authority (EBA) then launched a public consultation in line with the preparation of the guidelines on the list of the most representative services and standardised terminology at national level. On 24 November 2014 the first transposition workshop organised by the European Commission with national authorities took place

Digital banking

On 2 July 2014, the European Commission adopted the Communication on the data-driven economy. The EP Own initiative report "Towards a thriving data-driven economy" was released on 10 April 2015.

Corporate Governance and Financial Crime

4th Anti-Money Laundering Directive

On 10 February 2015, the Council approved the political agreement reached with the European Parliament in December on a directive and regulation to prevent money laundering and terrorist financing. The new rules will strengthen EU rules against money laundering and terrorist financing and ensure consistency with the approach followed at international level.

The Council adopted on 20 April 2015 the text at first reading. The formal adoption by the European Parliament took place on 20 May 2015. Member States have two years to transpose the text in their national law (deadline: 26 June 2017).

Corporate Governance

On April 2014 the European Commission presented a proposal for the revision of the Shareholder Rights. The proposal would tackle corporate governance shortcomings relating to listed companies and their boards, shareholders (institutional investors and asset managers), intermediaries and proxy advisors (i.e. firms providing services to shareholders, notably voting advice). On 7 May 2015 the Legal Affairs Committee of the European Parliament voted the amended text of the Proposal. The Basel Committee released in April a set of revised guidelines on corporate governance at banks for consultation until January 2015. Results should be available soon.

Data protection

A first reading position was adopted in the Plenary of the European Parliament on 13 March 2014. A Council Working Group work is on-going and exchanges of views at Ministerial level. A partial General Approach was approved by the Council on 13 March 2015. The coming Luxembourg EU Presidency announced that they have reinforced the Permanent Representation to the EU and they have now 6 attaches dealing with data protection issues. Their aim is to finalise the trialogue negotiations by the end of 2015 in order to provide clear legal framework for Single Digital Market Agenda.

Economy, Business and Trade

Investment Plan for Europe

The European Commission's Investment Plan for Europe, also known as the 'Juncker Plan', is a 3-year infrastructure investment project launched in November 2014.
The Investment Plan focuses on removing obstacles to investment, providing visibility and technical assistance to investment projects and making smarter use of new and existing financial resources. To achieve these goals, the plan is active is three areas: mobilising investments of at least €315 billion in three years; supporting investment in the real economy; and creating an investment friendly environment.

On 28 May 2015, EU legislators successfully concluded negotiations on the Regulation for a European Fund for Strategic Investments (EFSI), the core of the Investment Plan for Europe which should be operational by September 2015.

FRANCE

Cybersecurity

Financial institutions are a prime target for cyber criminals and are subject to daily attacks generating more and more significant damages, including personal data theft or embezzlement, online-bank websites suddenly unavailable or employees' computers infected, denial of service attack, espionage, and sabotage.

For years, huge investments have been made by the banking sector to hedge such risks and will be maintained in the future as to keep the highest degree of safety to comply with new European and French regulations.

Because threats and attacks are multiple and internationally originated, cooperation is the key action to response to this criminality.

In 2014, FBF reviewed its policy against cybercriminality to better answer the needs of the French banking community and develop cooperation in France and at the European level.

Internally, at FBF, the Committee dedicated to Major Risks and Security was opened to the main bank's Chief Information Security Officers (CISO): the objective is to centralise main points of attention on cybersecurity to be shared with General Managers. It is also the place to determine the global actions to share with French or European regulators.

Besides FBF, CISOs maintain a very close contact to cover technical and operational matters, notably within an association of banks and insurance companies' CISO.

In France, FBF has initiated a cooperative relationship with the French Police. The main projects are (i) to build a framework to better fight all kind of malwares (in cooperation with EC3/Europol) and (ii) to be more pro-active against phishing threats and attacks. Another project, jointly followed by French Police and FBF, is related to the current European extension of the "Online Fraud Cyber Center and Expert Network (OF2CEN)" created by Italian Police and Banks.

At a European level, FBF joined the EBF's cybersecurity working group, among the 25 other countries already members. With quarterly meetings, the WG allows participants to have the benefits from different kinds of expertise. Moreover, in September 2014, the European Banking Federation and Europol's European Cybercrime Centre, known as EC3, signed a Memorandum of Understanding which paves the way for intensifying cooperation between law enforcement and the financial sector in the EU.

Since, a close cooperation has been in place, notably with an exchange of expertise, statistics and other strategic information between both parties.

On the regulatory issues, FBF is actively following the NIS Directive's legislation process at the European level but its main concern relates to the new French law, the Military Planning Act 2014-2019. As critical infrastructures essential for the maintenance of vital economic activities, some French banks are regulated by this law and must comply with some specific rules and obligations. The French banking sector and the FBF fully approve this evolution of security/safety measures and maintain a close cooperation with ANSSI (French Network and Information Security Agency) to facilitate the application of the new regulation.

At FBF, the main objective is to maintain customer trust vis-à-vis the banking sector that is essential to preserve.

It is why the FBF pursues initiatives to alert all stakeholders on the issues of security and supervision involved by the PSD2 which will be definitively adopted this year. Security standards of payments will be defined at level 2 (adoption by European Commission after EBA proposal).

Supervision and Resolution

The national supervisory authority is the Supervisory and Resolution Authority ("*ACPR: Autorité de Contrôle Prudentiel et de Résolution*"), with a resolution college and extended resolution powers.

As of 4 November 2014, and following the ECB's comprehensive assessment of banks' balance sheets, the ACPR has transferred supervisory powers of "significant institutions" to the

ECB as part of the Single Supervisory Mechanism (SSM). The ACPR remains responsible of the supervision of "less significant institutions". The ACPR is also in charge of the prevention of money laundering and terrorism financing, of client protection, of EMIR and banking separation regulations.

The national deposit guarantee scheme is the Deposit Guarantee and Resolution Fund ("*Fonds de Garantie des Dépots et Résolution*"). It may intervene in a bank under resolution to: buy shares or "*parts sociales*" of the institution under resolution; subscribe to the bridge bank capital; participate in a capital increase of the institution under resolution or the bridge bank; provide financing to the institution under resolution or the bridge bank; assume some of the costs of the measures necessary to guarantee the solvency of an institution affiliated to a central institution.

The transposition in national law of the European Bank Recovery and Resolution Directive and of the European Deposit Guaranteed Schemes Directive is underway in France to be effective at the 1st January 2016. The French deposit guarantee fund will remain unchanged and the European Resolution Fund will enter into force.

Macro-Prudential Supervision

Macro-prudential decisions in France are dealt with through the High Committee of Financial Stability (*"Haut Conseil de Stabilité Financière"* (HCSF)), created by the 26 July 2013 Banking law.

The HCSF is in charge of monitoring financial stability in France and may set, where necessary, the systemic risk buffer, the countercyclical buffer, and any other measure mitigating macro-prudential risk.

The last HCSF meeting was held in March. The HCSF annual report was published on June 10, inclusive of section dedicated to shadow banking (the HCSF states is its report that shadow banking remains limited in France, representing around 15% of the overall banking sector at end 2014).

Payment

The European regulation (EU) No. 751/2015 came into force on the 8 May. It specifies the level of interchange rates that will apply as from 9 December 2015, namely 0.2% for debit cards and 0.3% for credit cards in respect of the transaction amount. Member States are given the freedom to set lower rates at national level.

PSD2, the second revision of the Payment European Directive

After two years of discussions, the final text agreed by the EU institutions reflects multiple political compromises on many key points, including the security of user credentials, distribution of liability between service providers and exemptions. A fragile balance has been sought between sometimes conflicting objectives such as innovation, user security, market integration, data

protection and competition. The final agreement broadly reflects political ambitions to see a bigger role played by non-bank service providers.

Level 2 legislation is necessary to define security standards of payments (protection of user credentials…) This is key to ensure effective consumer protection and the safety of the payment chain.

French Banking Sector Facts and Figures

The banking sector is one of France's main economic assets, according to the OECD. In January 2015, the French banking industry numbered 383 banks. Financial corporations account for 4.9% of total value added in France, of which approximately 60% for the banking industry. There are five French banks among the 35 largest banks in the world in terms of Tier 1 capital. The banking industry employed more than 370,000 people at the end of 2014, representing 2.3% of the private workforce in mainland France.

The results of the combined asset quality assessment and stress testing, conducted by the European Banking Authority and the European Central Bank, demonstrate the high level of capitalization of French banks. The aggregate common equity Tier 1 capital (CET1) of French banks, calculated according to CRD IV/CRR rules, stands at 11.3% and is projected at 9% in 2016 under a stressed scenario, which places them among the most resilient banks in the Eurozone.

The six largest French banking groups, which mostly operate according to the 'universal banking' model, reported a strong financial performance in 2014, with total net banking income of 137.3 billion euros (+1.8% compared to last year), of which retail banking activities account for 69.4%, a total cost of risk of 12.6 billion euros (down 17.8%) and group net income of 14.3 billion euros (down 20.6%). Restated for exceptional items, group net income increased by 8%.

French banks are contending with a growing number of international and European regulatory requirements and heavier tax burdens.

French banks at the core of financing the economy

Regulatory changes and advances in technology are prompting banks to transform and adjust their models for financing the economy. Despite these hurdles, French banks continue to finance businesses and households. At the end of 2014, outstanding loans to the economy stood at 2,017 billion euros, up 2.3% year-on-year.

Outstanding loans to businesses stood at 838 billion euros at the end of December 2014, up 2.3% year-on-year. Investment outstanding loans were the fastest-growing segment, at 582 billion euros (+2.6%). Short-term loans rose by 2.3%.

SMEs are the primary beneficiaries of bank lending. Loans to SMEs accounted for 45% of total loans granted to businesses in December 2014. Total outstanding loans to these businesses rose by 2.3% year-on-year. Applications for loans by SMEs were very broadly approved, with nine out of 10 SMEs obtaining the investment loans they requested and eight out of 10 SMEs receiving

the short-term loans requested in the last quarter of 2014. However, demand for loans remained low in 2014: only 21% of SMEs sought an investment loan and 6% requested short-term loans.

French banks also actively finance the projects of French retail customers. Outstanding household loans stood at 1,018 billion euros at the end of December 2014, up 2.6% year-on-year. Most household loans were home loans, representing 833 billion euros (+2.3% year-on-year).

The financing model is evolving

Businesses are increasingly using the financial markets and banks are actively helping them find new sources of financing. Out of total corporate financing of 1,353 billion as of the end of December 2014, the proportion of bank lending to market financing was 62%/38%, compared to 70%/30% at the end of 2009.

GERMANY

German legislation has addressed perceived high-risk banking activities by introducing certain restrictions on banks' organizational structure and measures regarding the resolution of banks. In order to strengthen IT security in Germany, draft legislation envisages minimum standards and reporting requirements for critical infrastructures, which would include the financial sector. Other reforms are taking place in the field of company law, mortgage credit, corporate governance and insolvency regulation. The introduction of a financial transaction tax is still under discussion. In addition, SEPA Card Clearing, a new format for clearing and processing debit and credit card-based transactions between banks, and a new European communication standard for financial transactions have been developed.

Regulatory Reforms to Address the Causes of the Financial Crisis

Legislation on Protection Against Risks and on Planning the Recovery and Resolution of Banks and Financial Groups (so-called Ringfencing Act)

The above-mentioned legislation was passed on 17 May 2013. The new law is aimed, among other things, at protecting retail activities better against risks arising from activities deemed to be speculative. If, in the case of a deposit-taking institution or a group to which a deposit-taking institution belongs, activities in the "held for trading" and "available for sale" categories exceed an absolute threshold of €100 billion or if these activities account for over 20% of the balance sheet total and amount to more than €90 billion (relative threshold), the activities classified under the law as particularly risky must be discontinued or spun off to a legally, economically and organizationally independent company (financial trading institution, which can be part of the same financial group) within twelve months. The financial trading institution must refinance itself independently without relying on any guarantees from the superordinated enterprise; the waiver under Section 2a of the German Banking Act may not be applied: the financial trading institution is not allowed to provide any payment services or conduct any e-money business. Transactions with group entities are allowed, though the financial trading institution must be treated as a third party. "Banned" activities include (i) proprietary trading, (ii) lending and guarantees to hedge funds, EU and foreign alternative investment funds which use leverage on a substantial scale, or their

respective management companies and (iii) proprietary trading within the meaning of the High-Frequency Trading Act using a high-frequency algorithmic trading strategy, with the exception of market making. Not covered by the ban are service-type activities and activities which are designed to protect an institution, serve long-term investment purposes or are non-speculative. The ban must be applied as of 1 July 2015. If a threshold is exceeded on this date, the activities concerned must be discontinued or spun off within twelve months. From 1 July 2016, the Federal Financial Supervisory Authority BaFin (*Bundesanstalt für Finanzdienstleistungsaufsicht*) can, moreover, make use of its newly created authority to order in individual cases particularly the separation of market-making activities or of activities covered by the aforementioned ban, irrespective of whether a threshold is exceeded. The condition for this is supervisory concern that the activities concerned threaten to endanger the solvency of a deposit-taking institution or a group to which a deposit-taking institution belongs.

Act Implementing the EU Bank Recovery and Resolution Directive (BRRD)

The May 2014 government bill implementing the EU Bank Recovery and Resolution Directive (BRRD) is designed to transpose the provisions of the BRRD into national law by 1 January 2015. The sections of the BRRD implemented in Germany by means of the so-called Ringfencing Act of 2013 have been integrated into this bill. In addition to setting requirements for recovery and resolution planning and assessment of an institution's resolvability, the bill provides for bailing in creditors in the event that an institution is wound up. The current bank levy, which flows into the German Restructuring Fund, is to be replaced by a new bank levy in line with the BRRD. Starting in 2016, national restructuring funds in the eurozone countries will be replaced by the Single Resolution Fund. Only Union branches (branches of institutions established outside the EU) and investment firms subject to solo supervision, which are outside the scope of the Single Resolution Mechanism (SRM), will continue to pay into the relevant national restructuring fund.

Resolution Mechanism Act

This legislative project, which the German government intends to fast-track, will first and foremost adjust German law governing bank restructuring and resolution to comply with EU requirements. Among other things, banks and group entities will be required to ensure contractually that their counterparties recognize the suspension by the German resolution authority of termination rights in financial contracts (resolution stays) which are subject to the law of a third country or for which a third country has been agreed as the place of jurisdiction. The requirement will generally cover only liabilities created after 1 January 2016. There is an exception, however, for financial contracts under the same netting agreement. In addition, a special rule is to be inserted into the German Banking Act which will modify the ranking of banks' creditors in an insolvency situation by making senior unsecured debt securities issued by all banks subordinated to the liabilities with which they currently rank pari passu. The objective is to enhance financial stability by making it easier to apply bail-in rules effectively. In the event of a bank's insolvency, the new rule will enable the resolution authority to draw on these debt instruments before other, currently equally ranked, liabilities are bailed in.

New Developments in Mortgage Credit Law

The EU Mortgage Credit Directive has to be implemented in German law by March 2016. In the draft implementing act (*Gesetz zur Umsetzung der Wohnimmobilienkreditrichtlinie*),

German lawmakers have introduced additional rules on overdrafts (new information requirements for banks vis-à-vis the customer). Furthermore, limitations on the customer's right of withdrawal are being discussed since customers have frequently misused this right to terminate existing mortgage loans and enter into new contracts with much lower interest rates.

New Developments in Company Law

The upcoming law amending the Stock Corporation Act (*Aktienrechtsnovelle 2014*) is designed by the government to further develop and bring specific changes to current stock corporation law. One main change is that banks operating in the legal form of a stock corporation (*Aktiengesellschaft*) will be allowed for the first time to generate Tier 1 capital by issuing non-voting preference shares that do not give entitlement to deferred dividend payments. In addition, reversible convertible bonds providing for a conversion right of the issuer, i.e. the company, are to be introduced. The proposed amendment to the Stock Corporation Act will also introduce a record date for registered shares. Like the record date for bearer shares, it will be 21 days before the day of the shareholders' meeting. This will enable the ownership of all shares worldwide to be determined on a uniform cut-off date in line with international standards. The usual current practice of determining shareholdings ahead of a meeting (by suspending the recording of transfers of ownership in the shareholders' ledger) will then be superfluous. Foreign shareholders often mistakenly understood this to be a type of share blocking.

New Developments in Insolvency Law

Currently, there are two major proposals for reform:

- A draft bill for a law facilitating the management of corporate group insolvencies has been published. This is intended to prevent corporate groups from falling apart uncontrollably in insolvency and to preserve the chances of restructuring. The draft bill creates a new group venue for corporate group insolvencies and generally relies on coordination and cooperation. There will be no consolidation of the group companies' assets. The draft bill gives each group-affiliated debtor the right to apply for a uniform group venue. A distinction must be made between the application for a uniform group venue and the insolvency petition. The group venue will lie with the court in which the application for a uniform group venue was first filed, as soon as that court has confirmed jurisdiction. If the insolvency court grants a group venue, the group venue will also apply to group companies which would otherwise have had another venue.
- Further, a draft bill for a reform of the regulations concerning actions to set aside willful disadvantages was published at the beginning of 2015.

New Developments in Securities Law

The German Retail Investor Protection Act (*Kleinanlegerschutzgesetz*) was adopted on 23 April 2015 and entered into force on 10 July. The objective of the new legislation is to improve investor protection, especially in the "grey" capital market. It does so, for instance, by extending the requirement to produce a prospectus to further financial products (e.g. investments such as subordinated and profit-participating loans). Prospectuses now also have to be regularly updated and made more easily accessible. In addition, the act introduces a minimum term of 24 months for capital investments and a notice period of at least 12 months. The reason for this is that, in the past,

some providers got into financial difficulties as a result of being obliged to repay investors at short notice. A further new feature of the act is a legal framework for crowdfunding.

Germany's financial watchdog BaFin is given the new task of collective consumer protection, i.e. the protection of consumers as an entire group. Furthermore, BaFin is now able to restrict or even prohibit the sale of certain financial products or services.

Legislation on IT Security

In March 2013, the Federal Ministry of the Interior published a bill on IT security which was signed into law in June 2015.

The main features of the bill are:

- a requirement for critical infrastructure operators to meet minimum IT security standards: operators of key critical infrastructures must take state-of-the-art IT security measures and ensure compliance with these. Business sectors may develop sector-specific standards that are recognized by the Federal Office for Information Security (BSI) as fleshing out the statutory requirement;
- a requirement for critical infrastructure operators to report serious IT security breaches: operators of key critical infrastructures must immediately report to the BIS – through channels established specifically for this purpose – IT security breaches that would cause sustained supply shortages or significant disruptions of public safety or security. The aim is to allow the BSI to compile an overview of the situation in Germany.

Both requirements apply to all critical sectors, such as energy, telecommunications, transport and traffic, finance (insurance and banking) and food, for example. Further provisions specifically affect the telecommunications sector.

For banks, the main features of the new legislation pose two challenges on top of the high IT system security standards already in force. Firstly, they have to develop, implement and demonstrate compliance with minimum security standards. Secondly, an incident reporting set-up – ideally, establishing a single point of contact (SPOC) – needs to be put in place via the regulator.

The Fight against Money Laundering and the Financing of Terrorism

The lawmaking process on the 4th EU Anti-Money Laundering Directive was completed in May 2015. The Directive has to be transposed into German law within two years. One of the key implementation issues from the perspective of German banks is the establishment of registers containing customer and beneficiary data to support the banks' customer due diligence (CDD) process. As regards CDD standards, these may be impacted by other new rules stemming from the EU Bank Account Package Directive, which has to be implemented in German law by September 2016. On the obligations of banks to support state control of gambling, authorities are still considering guidance on implementing the amended rules in the German Money Laundering Act of 2013 and in the treaty between the German states (*Bundesländer)* about the legal framework for gambling in Germany (*Glücksspielstaatsvertrag*).

Tax Developments

In light of the pressing need for fiscal consolidation resulting from the global economic and financial crisis, the European Commission issued a proposal for a directive on an EU-wide financial transaction tax (FTT) back at the end of September 2011. The ensuing discussion by member states in the Council led to the conclusion at the end of June 2012 that the proposed directive had no chance of success at EU-wide level. The German and French governments, with the support of some other member states, then suggested introducing an FTT by way of the enhanced cooperation procedure. On 14 February 2013, the European Commission adopted a proposal for an FTT directive involving Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia and Spain. It was originally envisaged that the tax would take effect on 1 January 2014, but this proposal is also still under discussion in the Council. More problems than expected emerged, making it impossible to meet the objective of agreeing about details of the tax by the end of 2014. The aim now is to reach agreement in the course of 2016. While Germany is still one of the strongest supporters of the FTT under the enhanced cooperation procedure, it does not intend to introduce a national FTT within Germany only. In its coalition agreement, moreover, the German government promised to ensure that the planned tax would not affect the real economy or small investors and would not end up harming government-sponsored private provision for old age.

SEPA Card Clearing: an Open Standard for Card Processing in SEPA

The harmonisation of euro card payments is the next step on the road to implementing the Single Euro Payments Area (SEPA). The requisite standardisation of the various interfaces involved is a market-driven process and is being closely observed by European legislators and the Eurosystem. For the acquirer-issuer interface, a European standardisation initiative known as the Berlin Group has developed SEPA Card Clearing (SCC), a new format for clearing and processing debit and credit card-based transactions between banks. The German banking industry is the first to implement this new standard and from February 2016 all card-based transactions will be processed via SCC. Preparatory talks with further interested countries and card schemes on implementing the new standard are ongoing.

SCC aims at creating a new common ISO 20022 standard as an open standard – i.e. independent of a specific scheme – which can accommodate the different market needs and existing card standards in different countries. This will enable an unbundling of card schemes and processing to be achieved, leading to enhanced competition and lower market entry barriers for new players.

The SCC Framework is based on the SEPA Direct Debit (SDD) scheme and its associated SDD message standards and business processes, which allow German banks to use a single clearing infrastructure for all relevant payment instruments in SEPA. What is more, its specific payment message container can also be used to process any other type of payment, such as payments using mobile devices or transactions in securities. The SCC Framework is freely available to any market participant in Europe.

Germany, France and Switzerland to Work Jointly on the Common European Standard for Financial Transactions

In 2010, the German and French banking industry founded the EBICS company to develop and promote a new common European communication standard for financial transactions (Electronic Banking Internet Communication Standard, EBICS). In May 2015, the EBICS company welcomed the Swiss banking industry, represented by SIX Interbank Clearing, as a new shareholder. From now on, EBICS will be developed jointly by these three countries.

The participation of the Swiss banking sector in EBICS is a major step towards the Europeanisation of EBICS. This reflects the idea behind the founding of the EBICS company in 2010.

EBICS facilitates the exchange of financial transactions in Europe, particularly within the Single Euro Payments Area (SEPA). As an open standard, EBICS is freely available (no licence fee is payable). Many companies have only been able to complete the SEPA migration of their payment applications thanks to the availability of this pan-European communication protocol.

EBICS is easy to integrate into companies’ IT systems. A widely accessible, inexpensive standard, EBICS can process any volume of data swiftly and securely. Based on a secure internet protocol (IP) with multiple encryption, it allows flexible, efficient, documented and secure processing of banking transactions using electronic signatures. For this reason, EBICS is also becoming increasingly important for transactions between financial institutions and clearing houses.

HONG KONG

Banking Industry Overview

During the period between July 2014 and June 2015, the capitalisation of the banking sector remained well above the minimum international standards. The consolidated capital adequacy ratio (CAR) of locally incorporated Authorized Institutions (AIs) increased from 15.9% at the end of 2013 to 16.8% at the end of 2014, well above the minimum CAR of 8% required by the Basel capital standard. The tier-one CAR also stood at a comfortable level of 13.9% at the end of 2014.

Renminbi (RMB) Banking Business

The robust development of offshore RMB business continued in 2014 as evidenced by the sizeable growth in a number of areas highlighted below:

Offshore RMB banking statistics	As of end-2014 (RMB billion)	Growth against end-2013
RMB deposits and certificates of deposit	1,158	+10%
RMB trade settlement transactions	6,258	+63%

Outstanding RMB loans	188	+63%
Outstanding dim sum bonds	381	+23%

The industry also welcomed the following developments in further strengthening Hong Kong's status as the major offshore RMB hub and promoting the internationalization of RMB:

- The Shanghai-Hong Kong Stock Connect programme was launched in November 2014. This marked a major milestone for the liberalization of the Mainland's capital account, creating further channels for two-way flow of RMB between the onshore and offshore markets. At the same time, the uplifting of the daily RMB conversion limit of RMB20,000 for Hong Kong residents has facilitated acquisition of RMB funds by Hong Kong residents while at the same time allowing the local financial industry to enjoy greater flexibility in product design to better meet customers' demand for RMB investment products and financial management services.

- To support Shanghai-Hong Kong Stock Connect, the Hong Kong Monetary Authority (HKMA) introduced an RMB10 billion intraday repo facility and designated seven banks as Primary Liquidity Providers to enhance interbank liquidity and support market-making activities in the offshore market.

- As jointly announced by the Mainland and Hong Kong authorities on 22 May 2015,eligible Mainland and Hong Kong funds such as general equity funds, bond funds and mixed funds can be distributed in each other's market from 1 July 2015. In opening up the Mainland's funds market to offshore funds, the Mutual Recognition of Funds initiative will make available a wider selection of fund products to investors in both markets.

- The People's Bank of China announced on 3 June 2015 the opening of onshore Repo market to RMB participating banks in Hong Kong, a key step of opening up onshore money market to international participants.

Implementation of Basel III in Hong Kong

The HKMA continues to implement the Basel III reform package in Hong Kong in accordance with the timetable set by the Basel Committee on Banking Supervision (BCBS):

- The second phase of Basel III standards, relating to the Basel III capital buffers and the Liquidity Coverage Ratio (LCR), came into effect from 1 January 2015, with the associated disclosure requirements (together with the disclosure requirements in relation to the Basel III leverage ratio) becoming effective from 31 March 2015.
- The HKMA announced the Hong Kong Countercyclical Capital Buffer (CCyB) on 27 January 2015 at 0.625% (i.e. one fourth of 2.5%, in line with the Basel Committee's phase-in provisions), effective on 1 January 2016. The HKMA considers every quarter, based on updated information, whether any change of the buffer level is required and decided in March to maintain the previously announced 0.625% level.
- In February 2015 the HKMA set out in a module on "Systemically Important Banks" within its Supervisory Policy Manual its approach to assessing which AIs should be regarded as

systemically important domestically (i.e. as D-SIBs). Designated D-SIBs will be required to build up an additional capital buffer (a "Higher Loss Absorbency" (HLA) capital requirement) which can be used to absorb losses and should reduce any probability of them becoming non-viable. They will also be subject to more intensive supervisory measures. The HKMA announced on 16 March 2015 the designation of 5 AIs as D-SIBs and the corresponding HLA capital requirements with which they must comply within twelve months (i.e. by March 2016).

- In the course of 2014, the BCBS conducted an assessment of Hong Kong's implementation of the Basel capital and liquidity standards under its Regulatory Consistency Assessment Programme (RCAP)[24]. The resulting assessment reports were published by the BCBS on 16 March 2015. Overall, Hong Kong's capital and liquidity regulations were assessed as "compliant" with the Basel standards, reflecting Hong Kong's continued strong commitment to implementing international regulatory standards.

Recovery and Resolution Planning (RRP) in Hong Kong

- The Financial Services and the Treasury Bureau (FSTB), in conjunction with the HKMA, the Securities and Futures Commission and the Insurance Authority undertook a second consultation between January and April 2015 on legislative proposals to establish an effective resolution regime for financial institutions in Hong Kong. The second consultation paper set forth the authorities' conclusions on issues that were raised in the first consultation paper (published in January 2014) and invited comments on further proposals relating to how the Hong Kong resolution regime should be structured, in particular with respect to governance arrangements, resolution powers, safeguards and funding.

Prevention of Money Laundering and Terrorist Financing

- Even though the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO) has come into force since April 2012, the Hong Kong Government has committed to conduct a comprehensive review in light of international developments including the emerging standards issued by the Financial Action Task Force. As a first step, in March 2015, the Government extended the relevant provisions in the current AMLO permitting the use of specified intermediaries in conducting customer due diligence from March 2015 to March 2018.

- The HKMA has issued a guidance paper for AIs on anti-money laundering controls over tax evasion, taking reference from the good practices observed by the HKMA during on-site examinations. Tax evasion has been a predicate offence underlying money laundering and terrorist financing activities within the existing AML framework. The practices outlined in this guidance paper will assist AIs in not only meeting the legal and regulatory obligations under the AMLO but also enhancing the effectiveness of measures to mitigate their money laundering risks in respect of tax evasion.

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[24] A key objective of the RCAP is to assess the consistency of the implementation of a jurisdiction's capital and liquidity requirements in relation to the minimum standards set out in the Basel II, Basel 2.5 and Basel III standards.

Deposit Protection Scheme

- The FSTB and the HKMA jointly launched a public consultation in September 2014 on several enhancements to the Deposit Protection Scheme (DPS) which was first launched in 2006. The consultation conclusions were published on 8 May 2015. A key proposal is to introduce the gross payout approach whereby the depositor's liabilities would no longer be netted from the depositor's deposits maintained with the same bank in calculating the compensation payments to depositors upon triggering the DPS as at present. This would make the payout process simpler, increase payout efficiency and speed up the payout process, thereby enhancing depositor confidence and maintaining stability of the banking system.

Cybersecurity

- In light of the development of the industry and advances in mobile computing technologies, the Hong Kong Association of Banks issued in October 2014 recommendations on Bring Your Own Device (BYOD) as minimum controls on the use of computing devices (e.g. personal computers, tablets or smartphones) personally owned by bank staff for work purposes. The recommendations are supported by the HKMA which expects banks to comply with the standard in implementing BYOD.

Code of Banking Practice

- First issued by the Hong Kong Association of Banks (HKAB) and the DTC Association (DTCA) in 1997 and endorsed by the HKMA, the Code of Banking Practice (Code) aims to promote good banking practices by setting the minimum standards AIs should follow in their dealings with personal customers. A comprehensive review of the Code was completed to offer better protection to banking customers. The revised Code is effective from 6 February 2015 and it includes a number of new or strengthened provisions such as incorporating the *G20 High-level Principles on Financial Consumer Protection* as general principles for AIs to observe when providing products and services to their customers. Other major enhancements to the Code include extending the coverage of the Code to subsidiaries and affiliated companies controlled by AIs; and enhancing the disclosure and transparency about terms and conditions by AIs, for example, through provision of new standardized Key Facts Statements to customers setting out major terms and conditions of loan products to allow them to easily access and compare details of such products.

Development of Innovative Payment Products and Channels

- The Clearing and Settlement Systems (Amendment) Bill 2015 was introduced to the Legislative Council on 4 February 2015. The Bills seeks to put in place a legal framework for regulating Stored Value Facilities and Retail Payment Systems to enhance consumer protection.

- After the launch of the Electronic Bill Presentment and Payment Services in December 2013, Hong Kong aims to offer paperless cheques (e-cheques) to both consumers and businesses. If everything goes smoothly, a three-month pilot run is scheduled for launch in December 2015,

followed by a commercial launch in March 2016.

Common Reporting Standard

In response to the Organisation for Economic Co-operation and Development, the Government pledged on 15 September 2014 to adopt the new global standard on automatic exchange of information for the purpose of enhancing tax transparency and combating cross-border tax evasion. To facilitate relevant financial institutions to comply, the Government issued a public consultation paper on 24 April 2015 inviting comments on the proposals including legislative amendments to ensure effective implementation of the new standard.

Competition Ordinance

- The Competition Ordinance which was passed into law on 14 June 2012 is expected to be brought into force in the second half of 2015.

- To facilitate businesses to understand and comply with the Ordinance, the Competition Commission published revised draft guidelines in March 2015 after the first round of public consultation in October 2014. The revised draft guidelines outline how the Commission expects to interpret and give effect to the First Conduct Rule, the Second Conduct Rule and the Merger Rule (which applies to the telecommunications sector only), as well as the procedures for handling complaints, conducting investigations and considering applications for exclusions and exemptions.

IRELAND

Context

The Irish economic recovery is well underway with growth in employment, consumer spending, construction and bank lending. Challenges remain however, including a mismatch between housing demand and supply and new Central Bank mortgage regulations that could have an impact on Ireland's international competitiveness and economic activity, respectively.

Ireland became the fastest growing EU country in 2014 as gross domestic product (GDP) grew in volume terms by 4.8%, the fastest growth rate since 2007, according to the Central Statistics Office (CSO).

Key consumer indicators improved significantly during 2014. Personal consumption expenditure grew for the first time since 2010. The seasonally adjusted volume of retail sales grew by 6.4% in 2014, the second successive year of retail sales growth, and by 9.2% in Q1 2015. The seasonally adjusted unemployment rate fell for 13 consecutive months from March 2014, dropping to 9.8% by April 2015.

Companies Act 2014:

The Irish Government enacted legislation to consolidate and reform Irish company law in 2014. The Companies Act 2014 is effective from 1 June 2015. The legislation affects every Irish company, shareholder and director. The Act provides a modern company law code to the users of Irish company law, consolidating the previous law which was contained in over thirty enactments and introducing significant reforms in a number of areas.

CENTRAL CREDIT REGISTER

The Credit Reporting Act 2013 and the requirement to establish a National Central Credit Register (CCR) is in the process of being enacted.

Once operational, the CCR will provide a reliable and secure source of credit intelligence which will facilitate enhanced credit assessment and responsible lending. The establishment of such a dataset for credit activity in the Irish market will address the requirement for an improved, independent and consistent verification of a customer’s total indebtedness. A consultation paper CP93 was issued in mid - April by the Central Bank of Ireland with a submission deadline of 12 June 2015.

SME CODE REVIEW

The Central Bank of Ireland is required under law to carry out a review of its statutory Codes every 5 years. A consultation paper (CP91) reviewing the Code of Conduct for Business Lending to Small and Medium Enterprises (“SME Code”) was published in mid-January 2015, with a 12 week period for receipt of submissions. The Banking sector has significant concerns in relation to the impact of the proposed Regulations on lending to SMEs and on SME restructures. It is also concerned with the timing of the review and the consequent impact on economic recovery, the fact that Ireland is an outlier in the EU with regard to regulation of SME lending,

Mortgage Arrears

The numbers of borrowers in mortgage arrears is declining significantly (Q1 2015 Central Bank of Ireland data indicates 13.8% of all accounts are in arrears), reflecting the impact of the economic recovery on income and the implementation by lenders of resolution strategies. The Central Bank’s Mortgage Arrears Resolution Process provides the framework in which solutions are provided to distressed borrowers, and lenders are focused on managing the more challenging cases of long term arrears, unsustainable mortgages and non-cooperating borrowers.

On 13th May the Government announced a framework for dealing with mortgage arrears, including some changes to the Insolvency Service regime (discussed below) and the Mortgage to Rent scheme, with a major focus on enhanced communications to mortgage borrowers in financial distress. The main mortgage lenders are finalising an agreement with the UK charity Stepchange Debt Charity to fund their charitable activities in Ireland in order to enable indebted borrowers with multiple creditors to achieve a holistic solution. This is in addition to the revised protocol agreed with the stage agency Money Advice Budgetary Services.

Insolvency

The Personal Insolvency legislative framework is in place and the Insolvency Service of Ireland (ISI) is responsible for overseeing the process. Over 150 Personal Insolvency Practitioners (PIPs) have been licensed by the ISI to prepare and submit proposals on behalf of borrowers. While the level of activity to date through the Insolvency process has been relatively low, the ISI acknowledge that the introduction of the framework has led to an increased level of borrower engagement across the range of mortgage arrears resolution options. A recent announcement by the Government has heralded the introduction of some additional amendments to the legislation including the opportunity for the Debtor to appeal the decision where Creditors have declined a proposal. The amendments to the legislation will be introduced in the latter half of 2015.

Macro Prudential Regulations

Late in 2014, the Central Bank of Ireland (CBI) announced proposals to introduce limits on Loan to Value (LTV) and Loan to Income (LTI) criteria as part of macro-prudential policy in Ireland. The consultation was comprehensive with a significant level of responses from a range of stakeholders due to the importance of the proposals which will impact on loans to both 'owner occupier' and 'buy to let' / investment categories of the market.

The CBI introduced the new regulations for mortgage lending with effect from 9th February 2015. (See Table 1 below). The introduction of a proportionate limit for First Time Buyers and the inclusion of exemptions have introduced a level of complexity to the implementation process for Mortgage Lenders. According to the Central Bank, the key objective of these regulations *'is to increase the resilience of the banking and household sectors to the property market and to reduce the risk of bank credit and house price spirals from developing in the future.'*

The new LTV and LTI limits introduced in the Irish Market

Summary of Regulations:

- Owner Occupier mortgage loans are subject to a limit of **3.5 times gross income (LTI)**
  Exemption limit of 20% of the value of all housing loans during an annual period
- '**Owner Occupier'** mortgage loans are subject to a limit of **80% of loan to value (LTV)**
- **'First time buyers**' are subject to a maximum **LTV of 90% for properties valued up to €220,000**
  An 80% limit will apply on any value in excess of this amount.
  Exemption limit of 15% of the value of all housing loans during an annual period
  - **Buy to Let** mortgages are subject to a limit of **70% of loan to value (LTV)**
    Exemption limit of 10% of all housing loans for BTL during an annual period

The impact of the new measures on mortgage lending and the housing market more generally, will be monitored closely by all stakeholders including Consumers, Estate Agents, Government Agencies and Mortgage Lenders. The measures will be reviewed to ensure their effectiveness and the Governor of the CBI, Patrick Honohan has stated that; *'although they have been designed to be stable, the requirements are flexible enough to be adjusted in the future should the need arise'.*

The BPFI will evaluate the impact of these new measures throughout 2015 as we continue to support the development of a stable and well regulated financial system in Ireland.

ECB Single Supervisory Mechanism (SSM)

The ECB's SSM came into effect on 4th November 2014, with the ECB taking over direct supervisory responsibility for four significant banking groups (SIs) in Ireland. In addition there are 24 financial groups of local significance (LSIs). The SSM has introduced ECB-led Joint Supervisory Teams (JSTs) for the larger institutions, with the aim of supervisory and inspection consistency across the Eurozone. Since then, Irish banks have experienced a noticeable change in the supervisory approach. In addition there has been a substantial increase in supervisory inspections, with particular attention to credit risk; liquidity risk; capital risk; operational risk and governance themes. We expect increased attention on IT risk and Cybercrime in the future. The supervisor is feeding back regularly on the new approach to the industry, both bilaterally and thorough industry groups, to enhance future standards.

The CBI is actively involved at ECB level in working groups on policy and development of manuals for supervision and inspection, to enhance SSM consistency. The CBI's PRISM risk management regime has been used as a base for the ECB risk framework. BPFI is actively participating in EU-wide industry working groups, through the EBF on such topics as SSM Strategy, National Discretions and SREP. A major challenge to the Irish and other SSM SIs has been the scale and timelines for information requests, in particular for the Short Term Exercise. Ongoing developments will include continued liaison and coordination between the JSTs, SIs, LSIs and inspection teams and also steps to refine multiple requests for data from different sources.

Liquidity Risk Management

The European Commission adopted the much debated Delegated Act (DA) on the Liquidity Coverage Ratio (LCR) under the Capital Requirements Regulation (CRR) in October 2014, which requires banks to have sufficient high quality liquid assets to cover the difference between expected outflows and inflows over a 30-day stressed period. This is the first detailed short term liquidity ratio formally introduced at EU level. The LCR will be progressively implemented in accordance with the CRR from October 2015. However, many banks are likely to achieve the LCR requirements considerably ahead of schedule, as it represents best practice.

BPFI, along with our EBF colleagues, raised a number of inconsistencies and inaccuracies in the final, delayed DA to the EU Commission. The Commission has indicated that there will be some amendments to the LCR Delegated Act in relation to certain inconsistencies raised, which may be in place for 1 October, the start date for LCR.

IFS 2020 - Ireland's New Strategy for International Financial Services

For the first time in 20 years the Irish Government has appointed a Minister with specific responsibility for international financial services. Following a period of extensive consultation Minister Harris has launched a new strategy for Ireland's International Financial Services Sector

for the next five years (IFS2020), which seeks to consolidate and grow Ireland's position as the global location of choice for specialist international financial services (IFS).

The strategy will build on the IFS sector's existing strengths while simultaneously anticipating and strategically positioning the sector for enhanced development. It represents a new action-oriented approach to growing and developing the international financial services sector in Ireland. It sets out a clear vision for the sector and a target to create 10,000 net new jobs in the sector by 2020. A significant number of these jobs will be created outside Dublin, reflecting the increasing national profile of the sector. The IFS2020 target is the IFS sector's contribution to the Government's overall job-creation objectives: to create 40,000 new jobs in 2015 alone, and to restore the economy to full employment with a 2.1 million-strong workforce by 2018.

IFS2020 continues Ireland's well-established tradition of driving development through constructive cooperation between government and industry. BPFI have been centrally involved to date in the development IFS 2020 working closely with Minister Harris and his team. We continue our involvement as we enter the implementation phase.

ITALY

Significant Market Developments

The economic performance of the Italian banking sector is still constrained by the slow recovery of the economy, the key factor in the profitability of Italian banks, as a result of their business model, which implies a strong correlation between banks' performance and domestic economic growth.

Nevertheless, in the last few months the market is taking a more constructive stance on Italian banks, thanks to: their solid progress on balance sheet restructuring and recapitalization; a better operating environment, partly due to the reduction in the sovereign spread that contributed to the normalization of funding conditions; the falling operating costs; the increase of the asset management volumes and fee-based income more generally. The Italian banking system has also increased its activity in the last 12 months: an increase in the quality and quantity of the services on offer to clients went hand in hand with loans and the types of conditions available to them.

At the end of 2014, the Italian banking system accounted for 12.5% of the total banking assets of the 19 Eurozone countries, only behind Germany and France. In December 2014, bank loans (as a percentage of Italian GDP) had risen to about 130% from 96.4% in 2006. With respect to the largest European countries, Italian bank loans were about 50% of total assets (in Spain the share was 49%, in France 28% and in Germany 36%).

When compared to European data, more Italian loans are granted to firms than to households, both as a proportion of the total figure and on average: at the end of 2014, loans to Italian firms accounted for 58% of total credit, compared with an average of 45% in the Eurozone. Loans to households totaled 43%, compared with an average of 55% in the eurozone.

According to the latest data, banks have decreased loans to the private sector (a decrease of about 1% was recorded at the end of April 2015, resulting especially from the annual change of lending to non-financial corporations (-2.2%), lending for home purchases (-0.3%) and consumer credit (about +6.7%)).

At the end of 2014, Italian banks numbered 663, a decrease of 21 banks from the end of 2013. Moreover, the number of branches has decreased over the past year (-1,036) and dropped from 31,759 to 30,723. However, the number of POS increased (+377,456 units – from 1,502,813 to 1,880,269) and the number of ATMs went up (from 42,909 to 40,999) in the same period.

Regarding the low Italian bank performance level, a full recovery of profitability will be achieved only through the combination of actions by the banks together external interventions. Banks profitability can be supported:

- by leveraging on cost containment, through various strategies including the reorganisation of distribution models (the gap between Italian and EU banking groups in terms of "operating costs on total assets'' is still +15%, and is larger than 27% for the staff costs; the number of branches per 100,000 inhabitants is 54 in Italy vs 39 in the Euro Area countries);
- by leveraging on revenue upside potential (in Italy there is plenty of room for growth in a number of markets: e.g. the number of current accounts per inhabitant is still 75% less than in Europe; the number of credit cards is -103%; the stock of asset under management as a % of GDP is 7 percentage points less; the stock of mortgages on GDP is 33 percentage points less);
- by technology / investment in ICT both for improving the supply of products and services and for efficiency gains;
- by supporting a radical transformation of Italian non-financial firms to increase their competitiveness. Firms must diversify their sources of funding:
    - bank loans represent a larger share of firms' total financial debt than in other industrial countries (66% vs 47%);
    - loans with original maturity of less than 1 year are around 34% of firms' banks debt, compared to 29% in the Euro Area; the contribution of equity as a source of funds is significantly lower than in the Euro Area (especially in the component of listed shares).

With respect to the external interventions, the current Government has already acted in a proper way to reinforce domestic demand and, to reinforce the supply side, has a tight agenda for reforms which, if well implemented, could prove beneficial for the Italian economy as a whole (sustaining the on-going recovery) and thus for the banking sector.

Regulation and Supervision of Banks

Corporate Governance

Directive 2013/36/EU ("CRD IV") was finally implemented in the Italian law with the Legislative Decree of 8 May 2015 which modifies the Italian Consolidated Banking and Financial Laws, in the field of requirements for members of management/strategic supervision boards, sanctions, whistleblowing and conflicts of interest.

The Legislative Decree requires the implementation of specific rules which will be enacted by the Ministry of Economy and Finance, having heard the opinion of the Bank of Italy and/or of the Consob (Financial Markets Authority).

Regulation of Over-the-Counter (OTC) Derivatives

As it regards the developments in the Italian local regulation within the scope of over-the-counter derivatives, no major developments were recorded in the national legislation during the period under review. Indeed, the majority of additions made to the Italian Consolidated Law on Finance, (Legislative Decree n.58 of 24 February 1998) in order to comply with Regulation EU n.648/2012 were introduced in 2013 and reported in last year's edition of IIB's Global Survey. Thus, in 2014, only minor amendments were brought in, and these specifically regarded the allocation of the supervisory responsibilities of Italian supervisory authorities (Consob, the Bank of Italy and COVIP).

Meanwhile, in May 2014 the Central Counterparty (CCP) operating in Italy, *Cassa di Compensazione e Garanzia* (CC&G) of the London Stock Exchange Group, was formally recognised and authorised by the Bank of Italy to operate as a CCP under the provisions of EMIR as well as to operate an EMIR-compliant interoperability link with France-based LCH.Clearnet SA. In 2013 and 2014, CC&G introduced new organizational and operative regulations in order to be authorised, and these regarded specifically the following:

- maintenance of segregated records and accounts;
- segregation and portability of clients' positions and assets;
- collateral, stress test and back test;
- default fund(s);
- institution of a Risk Committee composed of representatives of its participants and clients.

Concerning the "reporting obligation", as reported in the 2014 edition of the IIB's Global Survey, the entry into force on the 12th of February 2014 of the obligation to report to trade repositories all transactions in derivative financial instruments (i.e. OTC and non-OTC) prompted the entire banking and financial industry to launch internal assessments aimed at understanding how to structure the reporting prescribed by EMIR. Such in-depth analysis allowed the Italian Banking Association to identify a number of issues related to the correct identification of the trades to be reported, in order to be certain not to include transaction not following within the scope of this obligation. The results of those analysis and the consequent follow-up are properly described in this survery's 2014 edition. Some of those issues found a resolution thanks to the actions undertaken, another one will be signaled in the consultation process(es) currently open by ESMA.

Cybersecurity and the Protection of Bank IT Systems

In July 2013 Bank of Italy issued the banking regulation on internal controls, information systems and business continuity, effective from 1st February 2015 in regard to the provisions for information systems. The regulation deeply revises ICT governance, focusing great attention towards IT Risk Management, cybersecurity policy, as well as towards the relevant and strategic involvement of top management in the cybersecurity topics. Within this framework, Italian banks are obliged from February 1st to notify and report any major IT and information security incident

to the National Competent Authority (i.e. Bank of Italy). Moreover, the regulation includes and adopts the ECB recommendations on the security of Internet payments.

On December 2014, EBA published its final Guidelines on the security of internet payments. The requirements represent the first output of the cooperation between the EBA and ECB on retail payments and are a follow-up to the ECB recommendations; they are applicable as of 1 August 2015, and will apply until the new Payment Service Directive requirements come into force.

At national level, the Italian government published in 2013 the Cybersecurity National Strategy, in line with the proposal of the Network and Information Security Directive. The aim is to define specific roles and responsibilities, in order to address cybercrime and to protect cyberspace. The National Strategy focuses attention on public-private partnerships and on the activities of the national CERT (Computer and Emergency Response Team), in order to increase awareness on cyber risks and to enhance the protection of critical infrastructures.

With regard to Public Private Partnerships, it is worth noting the presence of a formal agreement between the Italian Banking Association and the Italian Police to prevent and fight cybercrime. This agreement promotes and strengthens cooperation and information sharing activities between banks and Police, thanks also to the support of ABI Lab Consortium, the Research and Innovation Centre promoted by the Italian Banking Association. The purpose is to stop and proactively countermeasure frauds related to remote payments.

The cybercrime risk has been identified by SSM (Single Supervisory Mechanism) as a strategic topic for supervisory activity in 2015, requiring to conduct a thematic review across all the Significant Institutions (SI). In this regard, ECB sent to the European SI (in Italy there are 14 SI) a Questionnaire, to be completed and returned by April 2015, aimed at providing a quick assessment of the key controls needed to manage cybercrime risk effectively. Banks had also to provide a risk profile, i.e. a summary of some key risk indicators, and had to consider a list of supporting documentation that will have to be provided upon request. The structure of the Questionnaire refers to the Framework for Improving Critical Infrastructure Cybersecurity, published by the US National Institute of Standards and Technology in February 2014. Prescriptions concern the circulation of information in banking environments and the tracking of banking transactions.

In September 2014, the Personal Data Protection Authority published its order on "Prescriptions Concerning the Circulation of Information in Banking Environments and the Tracking of Banking Transactions." The order is aimed at ensuring protection against unauthorised access to bank customers' data, and thus prescribes the adoption of measures concerning the circulation of information amongst banks belonging to the same banking group; the circulation of information amongst group banks and managers of information systems that contain clients' banking data; the tracking of transactions; audit instruments and information in the event of unauthorized access.

Other Regulatory Developments

Compounding of Interest

The 2014 Stability Act (Art. 1 (629) of Law 147/2013) modified the banking law that allowed the compounding of interest on interest (Art. 120 (2) of the Consolidated Law on Banking). The main change relates to the fact that the *Interministerial Committee on Credit and Savings (CICR) establishes the methods and criteria for the generation of interest in transactions undertaken in the context of banking business, providing, in any event, that periodically compounded interest may not generate additional interest, which in subsequent compounding calculations, is figured solely on the principal amount.* The CICR resolution has yet to be passed.

Digitalisation of Banking Business - Regulatory Changes

At present, the legal framework of reference in the area of digitalisation is gradually being implemented, although the rules in this field have yet to be completely defined. In particular, the primary legislation was implemented through the publication in Italy's *Official Journal*, General Series, no. 8 of 12 January 2015, of the Decree of the President of the Council of Ministers of 13 November 2014, laying down the new technical rules on the electronic document and document management. These technical rules - along with those on the storage system (Decree of the President of the Council of Ministers of 3 December 2013) and electronic signatures (Decree of the President of the Council of Ministers of 22 February 2013) - provide important support for digitalisation, revamping and completing the Italian legislative framework. Measures in other areas include the publication of the Decree of the President of the Council of Ministers of 24 October 2014, which defines the characteristics of the public system for managing the digital identities of citizens and companies (SPID) and ministerial decree no. 205 of 3 October 2014, which concerns the presentation for payment in electronic form of cheques and bank drafts.

JAPAN

Regulatory Developments

Actions to incorporate IFRS

In its endeavors for expanding voluntary adoption of IFRS, the Japanese Government made a statement saying, “With a view to achieving ‘a single set of high-quality accounting standards’, which was prescribed in the G20 Leaders’ declaration in 2008, the Government will strive to increase the number of companies voluntarily adopting the IFRS,” in the “Japan Revitalization Strategy (Revised in 2014) – Japan’s challenge for the future” (Cabinet Decision in June 2014). In response to this, in April 2015, the Financial Services Agency (FSA) conducted a fact-finding survey and interviews with companies voluntarily adopting IFRS and released the “IFRS Adoption Report” that compiled how they overcame any challenges they faced during their transition to IFRS and what advantages the shift brought to them.

As for dealing with the international accounting standards in Japan, the Accounting Standards Board of Japan (ASBJ) issued an Exposure Draft on “Japan’s Modified International Standards (JMIS): Accounting Standards Comprising IFRSs and the ASBJ Modifications” in July 2014, and issued it as the standard on June 30, 2015. JMIS adopted the standards and interpretations issued by the International Accounting Standards Board (IASB) after deleting or

modifying "non-amortization of goodwill" and "non-recycling of other comprehensive income (OCI)". This represents an endorsement procedure to accept IFRS in a more flexible manner, aside from adoption of IFRS as is, by deleting or modifying certain parts of the accounting standards, etc. where the thinking in IFRS is critically different from the fundamental thinking on accounting standards generally accepted in Japan or where there are significant practical difficulties in implementing them. This procedure will also allow the ASBJ to demonstrate its opinions and comments more strongly, and is expected to facilitate the IASB to develop accounting standards that can be adopted in Japan. Furthermore, an entity may apply JMIS to consolidated financial statements for annual periods ending on or after March 31, 2016.

Prudential Regulations

The Basel Committee on Banking Supervision (BCBS) publicized "Basel III: The Liquidity Coverage Ratio and Liquidity Risk Monitoring Tools" in January 2013 and "Liquidity coverage ratio disclosure standards" in January 2014. These rules required internationally active banks to calculate the Liquidity Coverage Ratio (LCR), which is a ratio to indicate if banks have enough assets cashable in the short term to cover funds anticipated to outflow within 30 days under stressed conditions, as well as to maintain it at a certain level and disclose it.

Following these publications, the BCBS announced a notification regarding the calculation method of LCR, etc. (Pillar 1) in October 2014 and a notification regarding disclosure of LCR (Pillar 3) in February 2015 for internationally active banks. Supervision guidelines and financial inspection manuals related to these notifications were also prepared.

Moreover, pursuant to the "Basel III leverage ratio framework and disclosure requirements," a rules document publicized by the BCBS in January 2014, internationally active banks are required to disclose the leverage ratio, a simple, non-risk based and complementary index, starting in 2015. Based on this, notifications on disclosure (Pillar 3) and calculations as well as supervision guidelines were prepared in March 2015 for internationally active banks.

Preparation of "Japan's Corporate Governance Code"

The Tokyo Stock Exchange formulated "Japan's Corporate Governance Code" in May 2015. The Code, designed for listed companies, went into effect in June 2015.

The revised version of the "Japan Revitalization Strategy," on which the Cabinet decided in June 2014, picked up "enhancing of corporate governance" as an endeavor to help reform corporate managers' mindsets so that they will make proactive business decisions to win in global competition. In this regard, the Strategy clearly stated that the Tokyo Stock Exchange would draft the Corporate Governance Code applicable to listed companies in time for the season of general shareholders' meetings in 2015. Subsequently, the Council of Experts Concerning the Corporate Governance Code, for which the Financial Services Agency and the Tokyo Stock Exchange serve as the secretariat, proposed the basic policy (Japan's Corporate Governance Code [Final Proposal] – Seeking Sustainable Corporate Growth and Increased Corporate Value over the Mid- to Long-Term –). This basic policy was materialized in the above-mentioned "Japan's Corporate Governance Code" by the Tokyo Stock Exchange, designed for listed companies.

The Code is constructed around the five principles of "Securing the Rights and Equal Treatment of Shareholders," "Appropriate Cooperation with Stakeholders Other Than Shareholders," "Timely Disclosure and Transparency," "Responsibilities of the Board" and "Dialogue with Shareholders". The Code demands companies to appoint at least two highly-independent outside directors, as the existence of outside directors who can take an objective view in checking business operations and other aspects is effective in disciplining corporate management, and to disclose the policy with respect to holding shares of other listed companies as cross-shareholdings, if any, among other requests.

Furthermore, as two sides of the same coin along with the Japan's Stewardship Code established in February 2014 as the code of conduct for institutional investors, the Code is expected to become an essential tool for Japanese companies to continuously enhance their earning power.

Dealing with Cyber Security

In April 2015, the Financial Services Agency (FSA) revised its "Comprehensive Guidelines for Supervision of Major Banks" and "Inspection Manuals" in order to clarify the focus points of supervision in terms of information/cyber security management and internet banking services as well as to enhance the focus points and verification items regarding the system risk management scheme.

The revision is aimed at clarifying the focus points of supervision with regard to the cyber security management system that FSA requests banks, etc. to establish, in view of such factors as the full enforcement of the Cyber Security Basic Act by the Japanese government (January 9, 2015) and the increasingly serious threats to cyber security occurring on a global scale. Aside from enhancing the scheme for cyber security, the revision requests banks to adopt mechanisms to prevent important information of their customers from being accessed unjustly and leaked.

LATVIA

The period under review was a challenging one. However, in spite of some uncertainty in the geopolitical situation and economic growth, the economy of Latvia continued to progress in the direction undertaken in the previous years — towards development, which had a favourable impact on the growth of the Latvian financial sector. The signs of stable growth were observed in all participating segments of the financial market. In the banking sector, the capitalisation and liquidity levels remained high, the earning capacity and the quality of the loan portfolio improved, deposits continued to increase and the rate of reduction in the bank loan portfolio slightly slowed down. In 2014, total gross premiums written by insurance companies exceeded the pre-crisis level, and their profitability indicators improved.

During the reporting period, some important changes took place in the framework of banking supervision.

Banking supervision was affected by establishing the single supervision mechanism (the SSM). On 4 November 2014, the SSM became effective and Latvia as a eurozone country

automatically joined the SSM. Within the scope of the SSM the European Central Bank has assumed new supervisory duties over banks and shared them with national supervisory authorities. In Latvia, the ECB supervises the three largest banks. The FCMC continues supervising other banks and other financial market segments.

From the perspective of the stability of the financial system as a whole, macro-prudential supervision is being implemented in Latvia, which provides for appropriate measures to promote the resilience of the system. In the future, should cyclical (e.g. excessive increase in crediting) or structural (e.g. related to systemically significant (too big to fail) credit institutions) systemic risks increase, the FCMC will be able to apply appropriate instruments — introduce the capital buffer requirements, raise the minimum capital and liquidity requirements, impose tighter restrictions on large exposures, etc. In Latvia, the Bank of Latvia is a macroprudential supervision authority. Whereas, according to the Credit Institution Law, the FCMC is the authority responsible for applying the macroprudential tools. Taking responsibility for the use of a number of new macro-prudential instruments, macro-prudential supervision has become one of the strategic areas, which the FCMC will continue to consolidate. From 2015 onwards, the FCMC will determine, on a quarterly basis, and publish the requirement of the countercyclical capital buffer (CCB) in transactions with Latvian residents, which will apply 12 months after determining the CCB requirement specific to a particular credit institution. The CCB aims to ensure that credit institutions accumulate a sufficient capital base during an economic upturn to absorb losses during a downturn. It will serve as a kind of a safety cushion to banks, so that they are able to continue crediting when difficult times strike.

The reform entailing the publishing of supervisory decisions was another development in 2014. The FCMC started the publication of information about all sanctions (fines, warnings, etc.) applied by the FCMC to banks. The FCMC has opted to publish information on the type of the applied sanction, as well as disclosing the name of the market participant. Previously, under the effective Latvian laws and regulations all information obtained in the course of the supervisory process along with the decisions passed qualified as restricted access information that could only be disclosed in a summarised form so that the specific market participant could not be identified.

As of beginning 2015, the FCMC assumed the powers of Resolution Authority by establishing Resolution and Guarantee Funds Division which also represents the FCMC in the European Resolution Board. One of the priorities for the forthcoming years will be the implementation of an effectively functioning resolution mechanism that is appropriate for the Latvian financial sector and integrated within the EU system, to consolidate the supervision of market participants and improve the instruments for the prevention of crisis, protect the interests of the general public during the resolution process and maintain financial stability in the country.

In 2014, the FCMC continued to improve the regulatory framework governing the activities of the financial and capital market participants, based on the directives issued by the EU institutions, best international practices and considering the specific nature of the Latvian financial sector.

In the banking sector a new *Law on Recovery and Resolution of Credit Institutions and Investment Firms* was adopted in June 2015. The law *requires the adoption of recovery and resolution plans for credit institutions and investment firms and enables the resolution authority to*

use resolution tools to resolve the failure of credit institutions and hence avoid recourse to public financial support. The law establishes four resolution tools that are at the disposal of the resolution authority and may be applied individually or in any combination in case: the forced sale of business tool, the bridge institution tool, the asset separation tool and the bail-in tool.

New law *Insurance and Reinsurance Law* was adopted on 16.07.2015 to transpose the provisions of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (*Solvency II*) into the national laws and regulations. The law introduces amendments to the existing solvency and supervisory regime for the insurance and reinsurance sector, lays down a new procedure for the calculation of capital requirements based on risk assessment, as well as incorporates the requirements of the current regulations which remain applicable. The existing regulatory framework provides for a capital requirement calculation which is based on the amount of premiums or claims. Thus, not all risks are taken into account when determining capital requirements, e.g. market risk, credit risk and operational risk, to which an insurance company or a reinsurance company is exposed. After implementing the new solvency and supervisory regime Solvency II, the protection of the interests of policyholders will significantly improve. The requirements of the law will take effect gradually, the full application of the requirement is planned to become effective from 1 January 2016.

On 01.07.2014, amendments to the *Payment Services and Electronic Money Law* were adopted considering the previous practice of payment institutions and electronic money institutions and the deficiencies identified during the supervisory process. The amendments are aimed at improving and enhancing the supervisory requirements, as well as transposing the requirements for the calculation of own funds arising from the Directive of the European Parliament and of the Council 2007/64/EC. Considering that the FCMC has been identified as the competent authority which supervises the retail payment systems and compliance of their operation with the European Parliament and Council Regulation No 260/2012, the amendments provide for the registration of retail payment systems. Furthermore, the amendments make the FCMC eligible to request the necessary information and carry out inspections of payment systems.

On 02.07.2015, amendments to the Activities of Insurance and Reinsurance Intermediaries Law were adopted aimed at improving the supervision of insurance and reinsurance intermediaries, making it more efficient, as well as identifying the procedure for handling complaints received from customers, enhancing the protection of customer interests and eliminating practical deficiencies identified in the current regulatory framework. The amendments refine the existing employment relationship between the insurance broker and the employees directly involved in insurance or reinsurance intermediary activities, provide for the right of insurance companies and the branches of non-EU insurance companies to submit documents for registration on behalf of an insurance agent, as well as to make a request to cancel the entry in the register of insurance and reinsurance intermediaries. The latest amendments also complement the list of applicable sanctions, providing for the right of the FCMC to set reasonable restrictions on the activities of the insurance and reinsurance intermediaries. The amendments also provide for an additional kind of third-party liability insurance for insurance and reinsurance intermediaries — an equivalent to a guarantee issued by a credit institution.

LUXEMBOURG

Legal Developments

- Law of 25 July 2015 on electronic archiving recognizes the legal value of dematerialised documents.

- Law of 24 July 2015 ratifying the execution of the Intergovernmental Agreement (IGA) implementing the US "Foreign Account Tax Compliance Act" (FATCA) signed between Luxembourg and the United States of America on 28 March 2014 as well as the related Appendices and Memorandum of Understanding

- Law of 24 July 2015 transposing Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013;– transposing Articles 2 and 3 of Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011;– transposing Article 6(6) of Directive 2011/61/UE of the European Parliament and of the Council of 8 June 2011;– amending: 1. the law of 5 April 1993 on the financial sector, as amended; 2. the law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier"), as amended; 3. the law of 12 July 2013 on alternative investment fund managers

- Law of 1 April 2015 establishing the Systemic Risk Board and amending the Law of 23 December 1998 concerning the monetary status and the Luxembourg Central Bank
  The law implements the recommendation of the European Systemic Risk Board (the "**ESRB**") of 22 December 2011 on the macro-prudential mandate of national authorities, urging Member States to designate an authority responsible for the conduct of macro-prudential policy and a second recommendation of the ESRB of 4 April 2013 on intermediate objectives and instruments of macro-prudential policy governments asking to assign the "first" role to the national central banks in the macro-prudential supervisory framework. The Law of 1 April 2015 has established the Systemic Risk Board, consisting of the authorities involved in the regulation and supervision of the financial system, namely the Minister of Finance, the Luxembourg Central Bank, the Commission for the Supervision of the Financial Sector and the insurance regulator "Commissariat aux Assurances".

- Law of 1 August 2014 implementing certain provisions of regulation EU n°1214/2011 of the European Parliament and the Council of 16 November 2011 on the professional cross-border transport of euro cash by road between euro-area Member States and modifying Law of 12 November 2002 regarding private security and surveillance activities.

- Law of 28 July 2014 regarding immobilisation of bearer shares and units and the keeping of the register of registered shares and the register of bearer shares and amending 1) the law of 10 August 1915 on commercial companies, as amended, and 2) the law of 5 August 2005 on financial collateral arrangements, as amended. Bearer shares will now be immobilised with a professional depositary which will be subject to the obligations applicable in relation to the anti-money laundering and counter-terrorist financing. The

management body of the company will designate this professional. The depositary must keep a register including all the necessary information for the identification of the bearer shareholders. Ownership of the bearer share will no longer be established through the mere holding of the security, but through registration in the register kept by the depositary.

- Law of 18 July 2014 approving the Convention of the Council of Europe on cybercrime signed in Budapest and its additional protocol on xenophobia and racism signed in Strasbourg on 28 January 2003, modifying Penal code and the procedural criminal law and modifying law of 30 May 2005 on the protection of privacy. The Law is adapting criminal laws to the specific needs of combating cybercrime.

- Law of 25 November 2014 modifying the Law of 21 June 2005 transposing into domestic law the European directive 2003/48/CE related to the taxation of savings income in the form of interest payments. As from 1 January 2015, Luxembourg applies the automatic exchange of information on interest payments made by a Luxembourg paying agent to individuals resident in other EU Member States.

- Law of 25 November 2014, on the procedure applicable to the exchange of tax information upon request and modifying the Law of 31 March 2010 approving fiscal conventions and providing for the procedure applicable to the exchange of information upon request.

- Law of 12 July 2014 on various tax provisions applying to the agreement between the direct Tax Administration of Luxembourg and the tax agency of the Ministry of Finance à Taipei, Taiwan aiming to avoid double taxation and to prevent fiscal fraud with respect to taxes on income and the Protocol signed in Luxembourg, on 19 December 2011.

- Law of 1 July 2014 approving
  1. the Protocol, signed in Brussels, on 9 July 2013 modifying convention between the Grand Duchy of Luxembourg and the Government of the Kingdom of Denmark aiming to avoid double taxation and to establish rules on mutual administrative assistance with respect to taxes on income and on wealth.
  2. approving the Protocol, signed in Luxembourg on 20 June 2013, modifying the Convention between the Grand Duchy of Luxembourg and the Republic of Slovenia aiming to avoid double taxation on income tax and wealth tax.
  3. approving convention between the Grand Duchy of Luxembourg and the Government of Saudi Arabia aiming to avoid double taxation and preventing fiscal fraud in case of tax income and on wealth and the Protocol , signed in Riyadh, on 7 May 2013.
  4. approving convention between the Grand Duchy of Luxembourg and Guernsey aiming to avoid double taxation and preventing fiscal fraud in case of tax income and on wealth and the Protocol, signed in London on 10 May 2013.
  5. approving convention between the Grand Duchy of Luxembourg and Isle of Man aiming to avoid double taxation and preventing fiscal fraud in case of tax income and on wealth and the Protocol, signed in London on 8 April 2013.
  6. approving convention between the Grand Duchy of Luxembourg and Jersey aiming to avoid double taxation and preventing fiscal fraud in case of tax income and on wealth and the Protocol, signed in London on 17 April 2013.

7. approving convention between the Grand Duchy of Luxembourg and the Czech Republic aiming to avoid double taxation and preventing fiscal fraud in case of tax income and on wealth and the Protocol, signed in Brussels on 5 March 2013.

THE NETHERLANDS

Dutch Banking Association (NVB)

The Nederlandse Vereniging van Banken (NVB) is the representative voice of the Dutch banking community with 79 members, large and small, domestic and international, carrying out business in the Dutch market, the European markets and overseas. The NVB strives towards a strong, healthy and internationally competitive banking industry in the Netherlands. Representing the common interests of the banking sector, it strives towards the effective operation of market forces whilst taking into account the interests of its interlocutors.

Dutch Banking Sector

The Dutch banking sector is characterised by its relatively large size, high level of concentration and its international orientation. Measured against the size of the Dutch economy, the Dutch banking sector is large from an international perspective. Nonetheless, Dutch banking has shrunk considerably in the past years. The size of the assets relative to the GDP of the Netherlands has decreased from 600% in 2008 to 400% in 2014.

Cybersecurity

The EU has recently published its evaluation report on the measures on cybercrime for the Netherlands. The report is part of the 7th mutual evaluation cycle of the EU Council working group on current matters including evaluations (GENVAL). A peer review is part of this evaluation cycle to assess the implementation and application of EU policy on the prevention and fight against cybercrime in every member state. The report of the evaluation of the Netherlands highlights the successful initiative of Electronic Crimes Task Force (ECTF), a multi- stakeholder group which was set up to fight digital bank fraud in a more effective way, especially phishing and financial malware. Public- partnership initiatives like “Digibewust” increases the awareness of cybersecurity. Digibewust is a cooperation between the Dutch Ministry of Economic Affairs, The European Commission, telecoms, banks, digital providers etc. Another successful initiative was the campaign "Hang op, klik weg, bel uw bank" that was successfully launched by the Nederlandse Vereniging van Banken to improve the online self-defense capacity of clients. The campaign ran until end of 2014.

Prudential Requirements

On 1 January 2014 various amendments to the Dutch Bank Act and the Dutch Financial Supervision Act came into effect, assigning DNB with the formal duty of promoting the stability of the financial system. With the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD IV) entering into force, DNB in 2014 imposed additional capital requirements of 3% of risk- weighted assets on ING Bank, Rabobank and ABNAMRO Bank and

1% on SNS Bank. Pursuant to the SRM Regulation DNB has been the designated national resolution authority since 1 January 2015.

Resolution Planning/Living Will Requirements

In 2015 the Single Resolution Mechanism has started, and is rightfully regarded as the next step towards the European Banking Union, indispensable to develop the European Economic and Monetary Union and to prevent bank bail-outs. Resolving failing banks can be expensive for the society as a whole. Based on the Bank Recovery and Resolution Directive, the Single Resolution Mechanism will ensure that any resolution costs must first be borne by a bank's shareholders and creditors. All Dutch banks are now in the process of drafting resolution plans in which the process of resolution instruments is described. Furthermore, together with the Dutch central bank (DNB) they are preparing recovery plans for events of default. In the Netherlands the final implementation of the Banking Recovery and Resolution Directive (BRRD) is about to take place and is planned to be finalized for the fall. The Dutch banks are preparing at the moment to calculate their contribution to the Single Resolution Fund for the year 2015. The Dutch bank will contribute approximately EUR 500 million per year and in total 4.5 bln. Euros (in 9 years).
In the Netherlands there is no special resolution regime. We are part of the Single Resolution Mechanism as described above.

EMIR

The European Commission has adopted delegated acts and regulatory standards to complement the obligations defined under the Regulation on OTC derivatives, central counterparties (CCPs) and trade repositories (EMIR) which was adopted on 4 July and entered into force on 16 August 2012. The Netherlands Authority for the Financial Markets (AFM) and the Dutch central bank (DNB) carried out supervision of the obligations under EMIR that came into effect in 2013 and 2014.

Central Clearing

In 2014, two central counterparties (CCP's) established in the Netherlands are authorised under the European Markets Infrastructure Regulation (EMIR): ICE Clear Netherlands and European Central Counterpart. According to the first draft technical standards on the clearing obligation for Interest Rate Swaps the clearing obligation will only start applying as of the second half of 2015 and only for a limited number of counterparties.

On 30 October 2014 the European Commission has adopted its first 'equivalence' decisions for the regulatory regimes of central counterparties (CCPs) in Australia, Hong Kong, Japan and Singapore. The CCPs in these third country jurisdictions will be able to obtain recognition in the EU, and can therefore be used by market participants to clear standardised OTC derivatives as required by EU legislation, whilst remaining subject solely to the regulation and supervision of their home jurisdiction. Although rules may differ in the detail, international regulators are pursuing the same objectives to promote financial stability by promoting the use of CCPs that are subject to robust prudential requirements. Through the use of deference, as agreed by the G20, regulatory gaps, duplication, conflicts and inconsistencies which can lead to regulatory arbitrage and market fragmentation are limited.

Trade Reporting

As of 12 February 2014, financial and non-financial counterparties must ensure that details of any derivative contract concluded and any modification or termination of those contracts are reported to a trade repository. As of this date, financial and non-financial counterparties must ensure that details of any derivative contracts (OTC derivatives contracts and exchange traded derivative contracts) concluded, and any modifications or terminations of those contracts are reported to a trade repository. The responsibility to report applies to both counterparties, but parties can delegate this obligation to a third party or arrange for one of the counterparties to report on behalf of both counterparties.

Risk Restraints Similar to the Proprietary Trading Restrictions Contained in the U.S. "Volcker Rule"

The Dutch banks have written in their social charter that investment banking and proprietary trading activities are, therefore, always related to the service to customers or careful management of risks and are not an object in themselves. With respect to a potential ban on proprietary trading the Dutch banks await proposals in the context of structural reform as currently developed by the European Commission.

Remuneraton

The Dutch Act on the Remuneration Policies Financial Undertakings has come into effect on 7 February 2015. The Act is part of the Dutch government's wider endeavours aimed at a sound and sustainable Dutch financial sector, to which a far more strict bonus law of max 20% is applied. Besides that, the Act introduces all-encompassing legislation that requires financial undertakings to maintain sound remuneration policies and to curb excessive variable pay, is primarily known for the 20% bonus cap, but also provides for other pay constraints.

Social Charter and Bank Code

An updated Dutch Banking Code came into effect on 1 January 2015, along with the Social Charter ("Maatschappelijk Statuut") which is complementary to the Code. The updated Dutch Banking Code takes into account the recommendations of the Banking Code Monitoring Commission, the report of the Committee on the Structure of Banks, the government's view on the Dutch banking industry and the vision of the Dutch Banking Association. The charter emphasizes the social role of banks and their commitment to meeting the expectations of society at large.

Oath and Discipline Law

Along with the introduction of a social charter and updating the Banking Code, the Dutch banking industry has also taken the initiative to implement an ethics statement. The Dutch banks intend this to show that everyone working in the industry is bound by the codes of conduct for the ethical and careful practice of this profession. Employees have personal responsibility for complying with those codes of conduct and can be held accountable for non-compliance.

The bankers' oath is a so-called "moral ethics statement" that is given by all employees working at a bank with offices in the Netherlands, with the aim of being fully aware, keeping in mind their special role in society, that they must always carefully weigh the interests of all stakeholders, with the interests of the customer taking a central place. The most important parts of the bankers' oath to be taken concern:

- Integrity and diligence;
- Careful weighing of interests with the customers' interests taking a central place;
- Compliance with laws, rules and code of conduct;
- Confidentiality and no abuse of knowledge;
- Transparency and responsibility;
- Preservation of trust in the financial industry.

If there is a violation of the code of conduct, a report regarding the relevant employee is submitted to an independent Bank Disciplinary Law Foundation (Stichting Tuchtrecht Banken) specially set up for this purpose. The Bank Disciplinary Law Foundation carefully reviews whether there was a violation and whether it was serious enough to bring it to the Disciplinary Commission. This Commission can impose penalties.

Since April 1 2015 the oath and the Disciplinary Law are effective and implemented in the Dutch Financial Supervision Act ("Wft").

NORWAY

The Financial Supervisory Authority of Norway (FSA) announced on 26 June 2014 that the Norwegian Savings banks' equity certificates fulfill the EU requirements as common equity tier 1 capital. This was a very important clarification for the savings banks since the EU regulation is still not implemented in the EEA agreement.

Due to Norway not being a part of the EU, there has been a need for clarification when it comes to EU's structure for supervision for financial markets. Norwegian authorities do not accept that EBA, ESMA and EIOPA are the decision-making authorities for Norwegian private entities, since transferring powers to international organizations where Norway is not a member, violates the Norwegian constitution. On the other hand, EU does not want involvement from the domestic supervision authorities in relevant situations.

However, the Norwegian government, EU countries and other EEA-countries were able to find a solution to the problem during the fall of 2014. Under the agreed model, EFTA Surveillance Authority (ESA) will be responsible for decisions that are binding on Norway or Norwegian companies. The goal is that the EFTA and EU supervisory bodies will cooperate and be able to participate in each other's introductory work and decision-making processes. It is important to note that the suggested solution needs acceptance from the Norwegian Parliament before being implemented in the EEA agreement. Norwegian authorities have stated that this should be done by the end of 2015.

New EU regulations regarding liquidity and the LCR were announced by the EU commission last October. Norwegian covered bonds ("OMF") were among the securities that can

be treated as level 1 assets. This applies only for loans over 500 million euro in size and will also depend on overcollateralization and a credit assessment. A haircut is set at 7 percent. Covered bonds with minimum volume of 250 million euro can be regarded as level 2A or 2B assets, depending on the rating. The haircut for 2A and 2B assets is set at 15 percent and 30 percent, respectively.

The countercyclical capital buffer for Norwegian entities will become effective from 30 June 2015. The level is set to 1 percent by the Ministry of Finance based on recommendation from the Norwegian Central Bank (Norges Bank). The central bank delivers its comments on the level of the buffer 4 times a year, when it publishes its Monetary Policy Report. The advice is confidential until the Ministry of Finance has reached a decision. On 18 June, the Ministry of Finance announced that they will increase the capital buffer to 1.5 percent based on the recommendation from Norges Bank. The new level will apply from 30 June 2016.

The buffer for systemically important financial institutions (SIFIs) became effective 30 June this year. The level is set at 1 percent, but will increase to 2 percent 30 June 2016. DNB, Nordea and Kommunalbanken are currently considered as systemically important banks. To become a SIFI, at least one of the following criteria must be met:

- By the end of the previous year, total assets must have been equivalent to over 10 percent of GDP for Mainland – Norway.
- By the end of the previous year, market share for domestic lending to the general public needs to have been higher than 5 percent.

The Ministry of Finance concluded 22 August 2014 on several adjustments in the rules regarding capital requirements and remuneration schemes. The goal of altering the regulation was to ensure that Norwegian regulation is adapted to the EU regulation until these are implemented in the EEA-agreement. The new regulations on capital requirements include more strict demands regarding the quality of equity and subordinated loan capital, that a higher degree of capital qualifies as deductable in the calculation of capital adequacy, no implementation of reduced capital requirements for loans to small and medium businesses (SME discount), and an additional capital buffer for SIFIs on top of the buffer regarding systemic risk (set to 3 percent). These new regulations came into force on 30 September 2014.

The new regulation on remuneration schemes became effective as of 1 January 2015. The changes reflect those done in the EU-regulation and aims to reduce incentives for risk taking for relevant persons in the financial industry. Hence, there is a maximum limit for bonuses depending on a person's wage and position. The limit is set at 50 percent for CEOs and similar persons and 100 percent for employees taking risk on behalf of the company etc. The limit for the latter can however increase to 200 percent if decided at a general meeting.

A new law on financial companies and financial groups ("Finansforetaksloven") were approved in the spring of 2015 and will come into effect from 1 January 2016. The new law implies that several new EU/EEA regulations as well as different, previous laws regarding financial institutions are combined into one law.

Cybersecurity

There has been little explicit development regarding cybersecurity in the last 12 months. An exception was the introduction of a duty to warn The Norwegian Data Protection Authority if one were to transfer personal information to certain countries. This change in regulation became effective as of 1 July 2014. Although there has been little definite development on this issue recently, there has been introduced several changes in regulation in preceding years. There are also numerous issues currently pending, including PSDII, new law on money laundering, directive on data protection etc.

Housing Market

Norwegian authorities has for some time been concerned about the risk in the housing market and whether this risk is fully reflected in the models used by IRB-banks. As a consequence, the FSA implemented a 20 percent floor on loss-given-default (LGD) estimates for residential mortgage loans which came into effect 1 January 2014. However, the FSA was of the perception that even stricter requirements on models should be imposed. Requirements for probability of default (PD), as well as LGD, was thus tightened, increasing risk weights assigned to residential mortgage portfolios from 10 – 15 percent, to approximately 20 – 25 percent. Banks were to adapt their models through the second half of 2014, meaning that the new requirements came into effect from the first quarter of 2015.The potential negative effect on banks' capital ratios will depend on the extent to which they are bound by the transitional rule. Under this rule, the total risk-weighted assets for IRB banks must be at least 80 percent of the level that would have applied under Basel 1. The transitional rule will, under CRD IV, continue to apply until 2017.

On 15 June 2015, the government announced a new strategy for the housing market. The objective of the strategy is to simplify regulations and bureaucracy to increase housing supply in relevant areas, as well as tighten credit regulations to dampen the growth in house prices and household debt. The latter led to a change in regulation, and lenders now face the following requirements:

- Maximum LTV of 85 percent (it is possible with higher LTV if one has additional security in the form of a mortgage on other property or others provide a personal guarantee).
- Mandatory installments for loans with LTV over 70 percent (set to 2.5 percent annually or the equivalent to installments on an annuity loan with 30 year duration).
- Credit lines up to maximum 70 percent of market value.
- Lenders must be able to withstand an increase in the mortgage interest rate of 5 percentage points.

To ensure flexibility, banks are able to deviate from the above requirements in certain cases. The limit is however set to 10 percent of granted loans each quarter. The new regulations will only affect new loans, i.e. refinancing or transferring a loan to another bank is not affected. This applies as long as the nominal amount is the same, collateral is in the same object and the maturity is the same or lower. The regulation is effective from 1 July 2015 and is set to last until 31 December 2016, but can be extended further.

Life Insurance and Pensions – Solvency II

The Norwegian Ministry of Finance presented a draft proposal for transposition of Solvency II into Norwegian law on the 20 June 2014. The new law will enter into force on 1 January 2016.

On the 19 December 2014 the Ministry of finance issued a public consultation on a draft proposal for detailed regulation based on the Solvency II implementing measures. This regulation will cover the parts of Solvency II not covered by the aforementioned new law, including several of the permanent and transitional measures for long-term guaranteed products under Solvency II that were introduced by the Omnibus II-Directive in 2013. The Ministry of Finance is currently in the process of adopting this detailed regulation. The Norwegian FSA is envisaging publishing guidance to the complete Solvency II regulation by the end of Q3 2015.

The implementation of Solvency II and CRR/CRD IV connotes the introduction of significantly different capital requirements regimes for the different sectors of financial institutions, and the largest financial institutions in Norway are part of groups with activities within different sectors. On the 23 April 2015 the Norwegian Ministry of Finance issued a public consultation on a proposal for consolidated capital requirements for financial groups. The consultation ends on 10 August 2015.

A new (hybrid) pension product was introduced at the beginning of 2014. At the same time the limits of savings in new defined-contribution (DC) schemes and existing DC-schemes were increased.

For several years, there has been a trend in Norway of transmission from defined benefit pension schemes (DBs) to defined contribution schemes (DCs) in the private sector. The FSA lowered the calculation rate from 2015 (to 2.0 percent) for issuance and new entitlements under existing arrangements. This change in interest rates has further increased conversion from DB to DC. New hybrid pension products (“target benefit pensions”) were introduced from 2014 and at the same time it was introduced better framework (higher limit of possible maximum saving) for existing and new DC pensions.

Almost all new schemes are drawn up as DC plans. No new private DB plans have been established in the past few years. Companies are no longer willing to receive a DB product or paid-up policies from another company. As of September 2014 legislation was introduced for a new product called “paid-up policies with investment choice”. The new product makes it possible for existing holders of paid-up policies with guarantees, to convert their paid-up policies into unit-linked policies (if they relinquish the guarantees). Some companies have needed capital injections from their owners.

The market for public sector pensions is about to change significantly, due to several reasons. In the following years, the providers of the municipal pension are expected to consist of a reduced number of life insurance companies. A new legislation for public-sector disability pensions was introduced in January 2015.

Other central legislative initiatives taken by the authorities:
• The FSA decided to reduce the maximum guaranteed interest rate in life insurance to 2.0 percent from 1 January 2015.
• A new disability pension system in public sector and in the Social Security System was introduced from January 2015. New rules of disability pensions in private sector was decided in April 2015, but are still not in force.
• Paid-up policies with investment choice were introduced as a new product from 1 September 2014.
• New mortality tables were introduced from 1 January 2014.
• From 1 January 2014 new hybrid pension products was introduced and at the same time it was introduced better framework for existing and new DC pensions.

Tax Changes

The personal wealth tax was decreased by 0.15 percentage points to 0.85 percent as of 1 January 2015. Basic tax-free allowance was at the same time increased from 1 million NOK to 1.2 million NOK.

Other Regulatory Changes

The FATCA (Foreign Account Tax Compliance Act) agreement between USA and Norway came into force on 1 July 2014. It implies that Norwegian authorities will inform IRS on financial accounts in Norway belonging to American citizens.

Under Active Consideration in Norway

Liquidity requirements are set to be an important topic in the years to come. The Norwegian FSA has recently published their comments on the design of the LCR and NSFR. They argue that all institutions should have an LCR equal to 60 percent by 1 October 2015. Further development in requirements will differ depending on whether an institution is regarded as systemically important (SIFI) as well as the size of total assets. The FSA suggests that SIFIs and other institutions with total assets over 20 bn. NOK should have a minimum LCR requirement of 100 percent from 1. January 2016. For smaller institutions the LCR should be set at 70 percent from 1 January 2016, 80 percent from 1 January 2017 and 100 percent from 1 January 2018. There is an ongoing debate on an explicit level of LCR in NOK, as there is limited amount of qualified securities in the Norwegian market. The FSA suggests that the LCR in NOK should be monitored and set through Pillar 2.

The FSA refrains from concluding on the NSFR until the EU has reached a decision on implementation and minimum requirement. However, they state that the largest institutions, with an LCR requirement at 100 percent from 1 January 2016, also should have a minimum requirement of 100 percent NSFR.

The Ministry of Finance has issued a public consultation on the proposal from the FSA with the deadline set to 21 September 2015.

PORTUGAL

During the period in review, as in previous years, the evolution of the financial sector legislative and regulatory framework in Portugal, and of the banking system in particular, continued to be largely determined by the European authorities' regulatory and legislative initiatives.

National banking conduct supervision norms were also imposed following the resolution of Banco Espírito Santo (BES), one of Portugal's five major banks.

Regulatory Framework

The application of specific resolution measures to Banco Espírito Santo by the Portuguese Central Bank, in August 2014, entailed the need to make amendments to the Portuguese legal framework, anticipating the implementation of some provisions of Directive 2014/59/EU of the European Parliament and of the Council, of 15 May 2014, which establishes a framework for the recovery and resolution of credit institutions and investment firms.

In October 2014, the Portuguese Government implemented Regulation (EU) Nº 575/2013 (CRR) and transposed Directive 2013/36/EU (CRD IV), on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, into the domestic legal framework.

The Portuguese Credit Institution Legal Regime was further subject to another amendment in March 2015, in order to implement Directive 2014/49/EU of the European Parliament and of the Council, of 16 April 2014, on deposit guarantee schemes, as well as the remaining provisions of Directive 2014/59/EU.

With the changes made to the Portuguese Credit Institution Legal Regime, in March 2015, it turned out necessary to adjust the national law on State Aid to credit institutions, in order to align it with the provisions of Directive 2014/59/EU.

Moreover, in the area of retail banking, Banco de Portugal issued, in December 2014, a Notice setting out the minimum reporting requirements and information duties that credit institutions must comply with in relation to consumer credit agreements, namely the issuance of regular statements. The Notice entered into force on July 1, 2015.

Capital, Liquidity and Resolution

On August 3, 2014, Banco de Portugal decided to apply a resolution measure to Banco Espírito Santo, by transferring its general activity, the healthy assets and deposits to a bridge bank, Novo Banco. The troubled assets, subordinated liabilities and own funds remained in BES. Novo Banco was capitalized with EUR 4.9 billion from the Portuguese Resolution Fund. Of this amount, EUR 377 million came from the National Resolution Fund own resources, whereas the remaining (EUR 4.523 billion) came from a loan granted by the State (EUR 3.9 billion), using the Bank Solvency Support Facility foreseen in the Economic and Financial Assistance Programme, and from a syndicated loan of eight banks (EUR 700 million).

Following this operation, the total amount used from the Bank Solvency Support Facility reached EUR 9.5 billion, out of the EUR 12 billion maximum authorized under the Economic and Financial Assistance Programme. The other three banking groups that also resorted to public funds for recapitalization purposes, by the end of 2012, from this Facility, have been repaying the instruments subscribed by the State. By June 2015, EUR 4.025 billion out of the EUR 5.6 billion previously used had been repaid.

With regard to solvency, the Portuguese banking system situation has improved. The banking sector's Common Equity Tier 1 (CET 1) Ratio stood at 11.3%, at the end of 2014, above the minimum requirement of 7% imposed by the national regulator as a complement to the CRR. On the other hand, the Overall Solvency Ratio was 11.5% in June 2014, adequately complying with the minimum 8% required by the Capital Requirements Regulation.

Furthermore, three of the four largest Portuguese banks, which are now under direct supervision of the ECB (the fourth being Novo Banco, formerly known as BES) were subject to the Comprehensive Assessment Exercise which the European Central Bank conducted on the 130 largest banks of the euro area, just before taking on its new role within the Single Supervisory Mechanism. The three Portuguese banks successfully completed the Asset Quality Review and revealed resilience under the EBA stress tests scenarios, despite the specially punishing assumptions of these tests, given the unfavourable national macroeconomic context.

In terms of liquidity, Portuguese banks continued to show a comfortable position, confirmed by the 107% Loan-to-Deposit Ratio at the end of 2014, which clearly stood below the threshold of 120% recommended by Banco de Portugal. The positive trend followed by deposits highly contributed to this situation and provided Portuguese banks' balance sheets with a stable funding structure. This source of financing plays a crucial role, accounting for approximately 60% of the sector's aggregated balance sheet (on a consolidated level) at the end of 2014. Simultaneously, Portuguese banks have managed to reduce their dependency on the ECB funding, decreasing the amounts borrowed from the Eurosystem by 23% between July 2014 and April 2015.

Reporting Requirements

New supervisory reporting requirements were introduced by Banco de Portugal following the entry into force of Commission Implementing Regulation (EU) 680/2014, of 16 April 2014, namely FINREP (on a consolidated basis) and COREP. Furthermore, the ECB will request financial and accounting data reporting on an individual basis by the end of 2015. Banco de Portugal anticipated this requirement from the end of 2014. Additionally, new statistical reporting requirements regarding real estate were also introduced. Banco de Portugal started collecting data about banks' balance sheet exposure to real estate, about collateral on credit contracts and also about debtors.

Other Initiatives

In August 2014, a legal framework (Law) for the treatment of deferred tax assets (DTAs) that result from the non-deductibility for corporation tax purposes of expenses and negative

changes arising from losses from credit impairments and from post-employment and long-term employee benefits, was approved. This is a non-mandatory regime, applicable to all companies, financial and non-financial, which entered into force on January 1, 2015.

This regime protects the solvency levels of credit institutions, since the DTAs that rely on future profitability are to be deducted from the CET 1 Capital under the CRR/CRD IV legislation. The regime, which falls under Article 39, number 2 of the Capital Requirements Regulation, breaks the dependency on future profitability by allowing these DTAs to be converted into tax credits.

The solution adopted aims at eliminating distortions introduced by the Portuguese fiscal law while ensuring a level playing field with financial institutions of other European countries where the accounting treatment and the tax treatment of the abovementioned costs are identical.

Lastly, a new regime for the issuance of commercial paper was approved on February 2014, aimed at facilitating the use of this instrument. The most relevant change concerns legitimacy factors for the issuance of commercial paper (in particular, the adoption of an adequate financial autonomy ratio, instead of the previously established minimum equity amount). Other relevant aspects relate to the publication of a semi-annual report and the obligation of releasing information to the market.

ROMANIA

The period under review witnessed strong advances in the prudential field of credit institutions, consisting of the adoption of new provisions focusing on the following:

Legislation

The transposition process of CRD IV (Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC) has been completed by including in the Law approving Government Emergency Ordinance No. 113/2013 on some budgetary measures and on amending and supplementing Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy of those provisions of the Directive which could not be promoted through a government emergency ordinance (Law no.29/2015 on approving Government Emergency Ordinance no.113/2013 on some budgetary measures and on amending and supplementing Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy).

Regarding the covered bonds framework, a new legislative proposal is in the process of being adopted. The draft law envisages the best practices in the area of covered bonds issuances identified by the European Banking Authority in its *"EU covered bond frameworks and capital treatment"* report.

Regulatory Framework

In December 2014, the National Bank of Romania issued Regulation no. 5/2014 on supplementing the NBR Regulation no. 5/2013, aimed to supplement the regulatory framework on liquidity risk in order to be fully compliant with the Recommendation B – Risk management of asset encumbrance by institutions of ESRB Recommendation on funding of credit institutions (ESRB/2012/2). The regulation also transposes the liquidity risk provisions of CEBS Guidelines on the management of concentration risk under the supervisory review process.

The National Bank of Romania issued *Regulation No.3/2015 supplementing NBR Regulation No.16/2012 on the Classification of Credits and Investments and the Establishment and Use of Prudential Value Adjustments* providing that those operations performed according to law by which fiscal facilities and other advantages are granted to debtors natural persons are excepted from the application of the requirements related to replacement operations involving troubled loans.

By taking over of EBA Guidelines on the remuneration benchmarking exercise and of EBA Guidelines on the data collection exercise regarding high earners, the National Bank of Romania issued Order no.8/2014 on the benchmarking exercise by credit institutions on remuneration of their employees and Order no.9/2014 on the data collection by credit institutions regarding high earners.

Moreover, starting with the CRD IV/CRR implementation, credit institutions are required to observe the EC's implementing regulations laying down technical standards directly applicable in all Member States, including also those related to the reporting field.

One of the key objectives in the regulation field is to continue the harmonisation process of national regulations with the guidelines and standards issued by EBA.
Beside these, following the entry into force of the new legislative proposal on covered bonds, National Bank of Romania will develop the regulatory framework for setting technical requirements for covered bonds issuance by credit institutions.

Ongoing Financial Regulatory Reform Efforts

Following the approval of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council ("BRRD"), the national legal framework will be updated in order to ensure the transposition of this directive in the national legislation.

Given that the future law transposing Directive 2014/59/EU will establish the grounds for the recovery and resolution framework of credit institutions, the existing provisions of Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy, subsequently amended and supplemented, regarding the stabilisation measures will be repealed (by the time of entering into force of the resulting law).

The NBR has been actively involved – along with all concerned authorities - in the transposition in the national legislation of the *Directive 2014/59/UE*, which offers the MS authorities a credible set of instruments, in order to intervene promptly and in time in the case of a non-viable or problem institutions, in order to guarantee the continuation of their critical financial and economic functions, the objective being to obviate the need for saving institutions using taxpayers' money.

The legal proposal includes provisions regarding the preparation, the early intervention and the banking resolution. For each stage, the triggering conditions, the objectives (aims) and principles to comply with, the competences of the involved authorities, the instruments to be applied, as well as their conditions, the financing mechanisms for the resolution, the preventative measures, the appeals against the decisions of the designated authorities were drafted according to the provisions of Directive 2014/59/UE.

The NBR is also actively involved – along with all other concerned authorities - in the transposition in the national legislation of the *Directive 2014/49/EU on deposit guarantee schemes*, which aims to eliminate the differences between the legislation of the MS as regards the deposit guarantee schemes, as well as to increase the protection of the covered depositors and, finally, to increase the confidence in the banking system. In transposing the deposit guarantee schemes directive, two distinct pieces of legislation were drafted: one regarding the harmonization with the new EU provisions of the unique existent deposit guarantee scheme – the Banking Deposit Guarantee Fund – and another one which will set the general organization, official recognition, operation and supervision framework for any deposit guarantee scheme to be established, including contractual ones.

Developments in the Accounting Regulation Field

Taking into consideration the Ministry of Public Finance reporting requirements, in order to ensure the comparability of the information covered by the semi-annually accounting reports at the national level, the Semi-annually accounting reporting system, applicable to the entities under the National Bank of Romania accounting regulation scope, was updated by the National Bank of Romania in August 2014 by issuance of the following order:

- Order no.4/2014 amending Order no.10/2012[25], modifying the template of one of the semi-annually accounting reporting forms - code 30 – "Informative data", for all the categories of entities under the scope of the NBR Order no.10/2012, according to the reporting requirements set out in the Ministry of Public Finance Order no. 936/2014 approving the accounting reporting system on the 30th of June 2014 for economic entities, namely by changing the name of some indicators and including new indicators regarding paid dividends, royalties and rentals, paid – up capital and receivables taken by assignment from legal entities.

In order to ensure the optimal conditions for the unitary application of the FINREP individual reporting framework by the Romanian credit institutions, as well as the correlation thereof with the new FINREP consolidated reporting framework drawn-up by the European

[25] National Bank of Romania Order no.10/2012 for the approval of the Semi-annually accounting reporting system, applicable to the entities under the National Bank of Romania accounting regulation scope

Banking Authority which, starting with 2014, is subject to a communitarian regulation directly applicable[26], Order no.3/2011[27] was repealed starting with the reference date for reporting 30.09.2014 by issuance of the following order:

- Order no.6/2014 for the approval of the Methodological rules regarding the preparation of FINREP individual financial statements, according to International Financial Reporting Standards, applicable to the credit institutions for prudential supervision purposes, the main aspects envisaged thereby being: the adaptation for solo reporting purposes of the FINREP consolidated reporting framework provided by the (EU) Regulation no.680/2014, the ensurance of other information necessary in the individual supervision process and for the preparation of analyses and studies at the National Bank of Romania level and the correspondence of the FINREP individual financial statements with the chart of accounts as well as the correlations within and between templates.

With a view of ensuring the comparability of the financial and accounting statistical information related to Romanian branches of credit institutions having their headquarters in other Member States, needed for performing analyses and studies at the National Bank of Romania level, with the similar information reported by the credit institutions in the FINREP reports, Order no.2/2011[28] was repealed starting with the reference date for reporting 30.09.2014 by issuance of the following order:

- Order no.5/2014 for the approval of the Methodological rules regarding the preparation of the periodic reports containing financial and accounting statistical information applicable to Romanian branches of credit institutions having their headquarters in other Member States, establishing:
  - the structure, reporting frequency and remittance deadline for the periodic reports containing financial and accounting statistical information;
  - specific rules for the preparation of the periodic reports containing financial and accounting statistical information as well as the templates thereof;
  - the correspondence of the periodic reports with the chart of accounts and the correlations within and between templates.

As regards the *Accounting regulations according to IFRS*[29], they were amended by the National Bank of Romania Order no.7/2014[30]. The objective of this order was to include some new provisions and accounts, as well as to change the name and content of some actual accounts, in

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[26] Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council

[27] National Bank of Romania Order no.3/2011 for the approval of the Methodological rules regarding the preparation of FINREP individual financial statements, according to International Financial Reporting Standards, applicable to the credit institutions for prudential supervision purposes, as subsequently amended and supplemented

[28] National Bank of Romania Order no.2/2011 for the approval of the Methodological rules regarding the preparation of the periodic reports containing financial and accounting statistical information applicable to Romanian branches of credit institutions having their headquarters in other Member States, as subsequently amended and supplemented

[29] Accounting regulations according to International Financial Reporting Standards, applicable to the credit institutions, approved by NBR Order no.27/2010, as subsequently amended and supplemented

[30] National Bank of Romania Order no.7/2014 amending and supplementing the Accounting Regulations according to International Financial Reporting Standards, applicable to the credit institutions, approved by NBR Order no. 27/2010

order to ensure the regulatory framework needed for the unitary bookkeeping of operations performed by credit institutions. The main provisions of this order are the followings:

- the inclusion of the bookkeeping rules regarding the direct reduction of the uncollectible loans/ other financial assets and introducing off balance sheet accounts for recording those loans/ other financial assets;
- the introduction of some separate accounts for facilitating the reporting under FINREP framework without using excerpts of accounts (e.g. accounts for recording the allowances for interest related to impaired financial assets);
- amending the name and content of the accounts/ groups of accounts which record the past-due unimpaired receivables and impaired receivables, as well as of the accounts which record the interest income on impaired receivables, in order to designate the more comprehensive category of financial assets (which also include the securities).

In order to take into consideration the amendments brought to the FINREP consolidated reporting framework, approved by the European Banking Authority in July 2014, Order no.6/2014 and Order no.5/2014 were amended with the reference date for reporting 31.01.2015 by issuance of the following order:

- Order no.10/2014 amending Order no.5/2014 and Order no.6/2014, the main aspects envisaged thereby being: the correlation of the FINREP individual reporting framework with the amended FINREP consolidated reporting framework, the update of the reporting framework applicable by the Romanian branches of credit institutions having their headquarters in other Member States, according to the amendments brought to the FINREP individual reporting framework and the update of the correspondence of the reports with the chart of accounts, according to the amendments brought to the accounting regulation framework in force.

For ensuring a unified treatment with that provided for the economic operators in the regulation issued by the Ministry of Public Finance[31] and to meet the information needs for that authority, Order no.1/2013[32] was updated in May 2015 by issuance of the following order:

- Order no.3/2015 amending and supplementing Order no.1/2013, with the main changes presented as follows: the update of the provisions related to the entities which did not perform activity, the amendment of the template of the annual reporting form code 30 – “Informative data”, according to the Ministry of Public Finance requirements, the update of the templates of the annual reporting forms code 10 – „Statement of assets, liabilities and equity”, code 20 – “Statement of profit or loss” and code 50 – “Breakdown of certain items from the statement of profit or loss”, as well as the correlation thereof, according to the amendments brought to the FINREP reporting framework.

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[31] Ministry of Public Finance Order no.65/2015 regarding the main aspects related to the preparation and remittance of the annual financial statements and accounting reports of the economic operators to the territorial units of the Ministry of Public Finance

[32] National Bank of Romania Order no.1/2013 for the approval of the Methodological rules regarding the preparation of the annual reporting for Ministry of Public Finance information needs, applicable to the credit institutions

SINGAPORE

Significant Developments in Banking

Proposed Framework for Systemically Important Banks in Singapore - MAS finalised its framework to identify and supervise domestic systemically important banks (“D-SIBs”), and announced the inaugural list of D-SIBs, on 30 April 2015. Banks that are designated as D-SIBs will be required to comply with policy measures to address the risks that they pose. These include recovery and resolution planning, as well as liquidity coverage ratio requirements. In addition, foreign bank branches with a significant retail presence will need to locally incorporate their retail operations and be subject to higher loss absorbency. The final framework takes into account feedback received from the public consultation paper on the proposed D-SIB framework issued on 25 June 2014.

Leveraged Ratio Disclosure Requirements for Banks Incorporated in Singapore - On 14 October 2014, the MAS issued its response to feedback together with the revised MAS Notice 637 on Risk Based Capital Adequacy Requirements for Banks incorporated in Singapore (“MAS Notice 637”) following a consultation paper issued on 6 August 2014. The amendments implement the leverage ratio disclosure requirements for Singapore-incorporated banks with effect from 1 January 2015, in line with the standards and timeline set by the Basel Committee on Banking Supervision. The objective of the leverage ratio is to complement the existing risk-based capital framework by a non-risk based “backstop” measure that limits the build-up of leverage in the banking sector. With the disclosure requirements, transparency and comparability of disclosures relating to the composition of the leverage ratio across banks will be enhanced.

Minimum Liquid Assets and Liquidity Coverage Ratio – On 28 November 2014, the MAS issued its response to feedback together with MAS Notice 649 on Minimum Liquid Assets (“MLA”) and Liquidity Coverage Ratio (“LCR”) requirement for banks in Singapore following a consultation paper issued on 6 August 2014.

MAS is adopting a two-tier approach in applying the new liquidity requirements. All banks assessed by MAS to be systemically important in Singapore will have to meet the LCR requirement, both on an all currency and a Singapore Dollar (“SGD”) level. Banks that are not assessed to be systemically important in Singapore may elect to comply with the LCR requirement or choose to remain on the MLA framework, which will be modified to include an all currency requirement on top of the existing SGD requirement. The three local banking groups will be required to comply with the new liquidity framework from 1st January 2015, while compliance for all other banks will commence from 1st January 2016. Under both frameworks, in a liquidity stress situation the bank can utilize its high quality liquid assets (for banks which have to comply with the LCR requirements), or its liquid assets (for banks which have chosen to remain on the MLA framework) as long as it gives MAS prior written notification of its intent to do so.

Supervisory Oversight - As part of the MAS’ ongoing review of the banking regulatory framework, the MAS has proposed amendments to the Banking Act to ensure that it remains current and is reflective of the MAS’ expectations and requirements. The amendments specifically

serve to implement the MAS' regulatory and supervisory policies and effect several technical and administrative revisions.

The MAS has sought feedback on the proposed amendments, which include:

- Requiring banks to notify the MAS of material adverse developments and information in relation to the bank, its substantial shareholders and controllers, and key appointment holders;
- Strengthening MAS' control over the appointments of key office bearers and external auditors; and
- Formalising banks' duties to implement adequate risk management systems and controls that are commensurate with the scale and nature of their operations.

Proposed Changes to Outsourcing - The MAS issued a consultation paper on 9 September 2014 proposing revisions to the Guidelines on Outsourcing ("Outsourcing Guidelines") and draft Notice on Outsourcing ("Outsourcing Notice") which defines a set of minimum standards for outsourcing management to enhance the MAS' regulatory framework.

The objective of the revisions to the Outsourcing Guidelines is to raise the standards of institutions' risk management practice as the number and complexity of outsourcing arrangements have increased and can increase the risk profile of institutions due to reputation, compliance and operational risks arising from a failure of the service provider.

The draft Outsourcing Notice will set out requirements for the assessment of service providers, access to information, conduct of audits on a service provider, protection of customer data and termination of and exiting from an outsourcing management. The institution is expected to manage outsourcing arrangements as if the services continue to be conducted by the institution.

Significant Developments in Insurance

Deposit Insurance and Policy Owners' Protection Schemes Act (the "DI Act") - The Deposit Insurance Scheme ("DI Scheme") was introduced in 2006 with the primary objective of protecting the core savings of small depositors. The MAS proposed on 11 September 2014 to make technical amendments to the DI Act and MAS Notice on Deposit Insurance Returns ("DI Notice") to enhance the clarity and operational efficiency of the DI Scheme.

Amendments to enhance the Singapore Deposit Insurance Corporation's ("SDIC") operational efficiency include addressing the following areas:

- Expanding the protection of SDIC's directors and employees.
- Expanding SDIC's function to include the submission of a consolidated proof of debt on behalf of the depositors to the liquidator of the failed DI Scheme member for Singapore dollar deposits exceeding $50,000.
- Enabling SDIC to extend its assistance to depositors by allowing the deposit insurance fund to be used to enhance SDIC's system for the generation of the consolidated proof of debt, and such other ongoing costs as may be incurred.
- Allowing MAS to share data returns that it receives by way of MAS Notice DIA-N01 with SDIC.

Implementation of the Financial Advisory Industry Review recommendations - In 2012, the MAS launched the Financial Advisory Industry Review ("FAIR") to raise the standards and professionalism of the financial advisory industry and to enhance market efficiency in the distribution of life insurance and investment products in Singapore.
On 2 October 2014, the MAS proposed several amendments to the Insurance Act (the "IA") and changes to the relevant MAS notices and guidelines to implement the FAIR recommendations.

Key areas of the proposed amendments include:

- Requiring life insurers that serve the retail market to offer Direct Purchase Insurance products (DPI). DPI are simple life insurance products which consumers can purchase directly from insurers without commissions and financial advice. This initiative was launched on 7 April 2015.

- Facilitating the comparison of life insurance products on compareFIRST. Launched on 7 April 2015, compareFIRST is an informational tool that enables consumers to easily compare similar life insurance products offered by different life insurers catering to the retail market. This initiative empowers consumers to make informed decisions for their protection needs.

- Regulating the commission pay-out structure of regular premium life insurance products to incentivise financial advisory firms and representatives to provide quality after-sales services to customers.

Significant Developments in Financial Advisory

Implementation of the Financial Advisory Industry Review recommendations - MAS proposed several amendments to the Financial Advisers Act (the "FAA") and changes to the relevant MAS notices and guidelines to implement the FAIR recommendations[33].
Some key areas addressed by the proposed amendments include:

- Putting in place a continuing professional development framework for financial advisory ("FA") representatives to ensure that representatives keep abreast of market and regulatory developments.
- Restricting the types of non-FA activities that stand-alone FA firms and FA representatives are allowed to conduct, in order to ensure that they maintain a high level of professionalism and remain dedicated to their role as financial advisers.
- Enhancing conduct requirements for the use of introducers by FA firms for better accountability over the quality and conduct of introducers.
- Introducing a balanced scorecard framework ("BSC Framework") for remuneration of FA representatives and supervisors[34] to align the interests of FA representatives and supervisors with those of customers.
- Banning product-related incentives for FA firms, FA Reps and supervisors as such product related incentives may bias representatives to recommend unsuitable products that pay a higher remuneration.

[33] Please refer to Section 2 on "Significant Developments in Insurance" for a short description of FAIR.
[34] Legislative amendments to effect the Balanced Scorecard Framework will come into effect in January 2016. However, the MAS has instructed for FA firms to start implementing the BSC Framework from 1 January 2015, and to put in place the necessary systems, controls and processes to implement the BSC Framework by 1 April 2015.

MAS also proposed to allow foreign regulatory authorities ("FRAs") to inspect financial institutions in Singapore on their FA services. MAS will approve requests by FRAs for such inspections to enable them to carry out effective consolidated supervision of financial groups based in their jurisdictions, which such financial institutions in Singapore may be a part of.

In addition to the above-mentioned proposed legislative changes, the MAS is also working to implement other FAIR recommendations, including those that do not require legislative provisions and amendments. The MAS aims to implement the full suite of FAIR initiatives by Q1 2016.

Significant Developments in Securities

Amendment of the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 (the "SFA Regulations") - On 1 November 2014, amendments to the SFA Regulations came into effect. The SFA Regulations which earlier required only interest rate and credit derivatives contracts to be reported was amended to extend its coverage to Foreign Exchange ("FX") contracts. As of 1 May 2015, FX contracts booked in Singapore are required to be reported by banks and merchant banks.

Other key amendments are as follows:

- FX contracts settled by actual delivery of the underlying within 2 business days[35] of execution are exempted from reporting.
- The definition of "traded in Singapore" now refers to contracts executed by traders who are employed in Singapore; or contracts executed by traders who for at least the last 30 days before the execution of the contract, executes or is authorised to execute derivative contracts in Singapore, and who is physically in Singapore at the time of the execution.
- The reporting of mark-to-market valuation for all asset classes till 1 November 2015. The reporting of Interest Rate derivatives and Credit derivatives contracts traded in Singapore has also been further postponed to 1 November 2015.

Proposed amendments to the Securities and Futures Act (the "SFA") concerning OTC derivative reforms, short position reporting regime and market misconduct - On 11 February 2015, the MAS issued a consultation paper containing draft amendments to the SFA to complete the expansion of its regulatory ambit to over-the-counter derivatives, and to ensure the SFA remains current with market and international developments. Proposed amendments include:

- OTC derivative reforms

The MAS is proposing to introduce principles-based definitions of product classes regulated under the SFA which are simpler and more easily understood by the industry and general investing public. Some of the proposed revised definitions are "derivative contract", "securities", "investment products" and "organised market".

Also, in order to fine tune the current mandatory reporting requirement for over-the-counter derivatives transactions, the MAS proposes to include expressively in the SFA that a financial

[35] In some circumstances, FX contracts settled by actual delivery of the underlying within 7 business days are exempted from reporting.

institution that is subject to the banking secrecy or confidentiality laws will not be regarded as breaching the confidentiality laws when it discloses a customer's information for the purpose of complying with the reporting requirements for derivatives contracts in the SFA or foreign reporting obligations of jurisdictions prescribed by the MAS.

- Framework for short-selling and short position reporting

Currently, brokers who are Trading Members of the Singapore Exchange Securities Trading Limited (the "SGX-ST") are required to mark short-sell orders before they placed in the trading system. The requirements for marking of short-sell orders are set out in the SGX-ST Trading Rules. The MAS proposes to make legislative changes in the SFA to formalise the requirements for marking short-sell orders as well as to require the reporting of net short positions. These positions will be aggregated and published.

- Fine tuning changes to market misconduct provisions

The MAS proposes several changes to the market misconduct provisions in the SFA to strengthen the effectiveness of the enforcement regime in deterring market misconduct. Some of the proposals are clarifying the meaning of "material" in certain sections of the SFA and revising the civil penalty ceiling for contravening a market misconduct provision in the SFA.

Other Significant Market Developments

Cyber Security in Singapore - On 1 April 2015, the Cyber Security Agency ("CSA"), managed by the Ministry of Communications and Information and reporting to the Prime Minister's Office, was set up. The CSA will provide dedicated and centralised oversight of national cyber security functions, at the same time to develop national cyber security strategy and policies, coordinate cyber-related operations, focus on industry and manpower development and build international partnerships. The CSA will be working with a wide range of agencies in both the private and public sectors to help strengthen Singapore's defence against growing cyber threats and enhance the security and resilience of critical information infrastructure in banking, transport, energy and public sectors.

The Personal Data Protection Commission also worked with CSA to launch two guides on how to manage data breaches and how to secure personal data stored digitally with the increasing threat from cyber security incidents.

Regulations on Anti-Money Laundering and Terrorism Financing - On 24 April 2015, the MAS issued a series of revised Notices to financial institutions on anti-money laundering and countering the financing of terrorism ("AML/CFT"), as well as a set of corresponding Guidelines. The revisions are benchmarked against international best practices and the latest recommendations of the Financial Action Task Force ("FATF"), the global standard-setter for AML/CFT measures.

Key changes made to the AML/CFT Notices include:

- Requiring more comprehensive enterprise-wide money laundering and terrorism financing risk assessment to complement risk assessment of individual customers;
- Elaborating on the requisite steps to identify and verify beneficial ownership of companies, LLPs and trusts;
- Introducing a new category of Politically Exposed Persons; and
- Additional requirements for cross-border wire transfers exceeding S$1,500.

Enhanced Oversight of Credit Bureaus - In light of the fact that credit bureaus are collecting increasing and more detailed borrower credit information from banks, the MAS proposed on 12 August 2014 to subject credit bureaus to formal oversight under a new Credit Bureau Bill, so as to safeguard sensitive borrower credit information and protect consumers' interests. Under the proposed framework, credit bureaus will be licensed by the MAS and subject to ongoing regulatory requirements and supervision by the MAS. A key focus of these requirements will be for credit bureaus and their members to ensure data confidentiality, security and integrity. In addition, to better enable consumers to access and verify the accuracy and completeness of their credit records, licensed credit bureaus will be required to provide to a consumer a copy of his credit report at no cost within a specified period of approving or rejecting a credit application by the consumer.

NOTE: Click here for list of significant legislative/regulatory developments between July 1, 2014 and June 30, 2015

SOUTH AFRICA

South African Government Approach to Cybersecurity

Cybersecurity and cybercrime are both acknowledged as high priorities within our Government and despite not being a member of the Council of Europe, South Africa signed the Budapest Convention. The standards for international co-operation as set out in the Budapest Convention are being operationalised in South Africa with a 24/7 nodal point having already been established.

A National Cybersecurity Policy Framework was published for comment in 2010 and all sectors, including the financial sector, availed of the opportunity to comment. The Policy Framework was adopted in Parliament in March 2012 but was unfortunately classified as secret, due to the State Security Agency leading this initiative. As a result, the content of the approved policy is still unknown to the financial sector, and Parliament will be approached to declassify the document making it available to key stakeholders.

The State Security Agency, as sponsor of the bill, is not the only Government Department responsible for cybersecurity, with the departments of Justice and Constitutional Development, Police and Telecommunications and Postal Services each leading the debate on specific issues. A cross departmental committee has been established to facilitate inter-departmental collaboration and to give effect to the National Cybersecurity Policy Framework.

A Cybercrime and Related Matters Bill is expected to be published soon. The Department of Justice and Constitutional Development has consulted with private sector stakeholders during the drafting of the Bill and the financial sector contributed substantially to the draft.

The Cybercrime and Related Matters Bill caters for both a Cybercrime Centre within the police, as well as a 24/7 nodal point in terms of the Budapest Convention. The 24/7 nodal point will be further aligned to the intended structure and appropriately resourced. The South African Police Service is developing a holistic strategy on how to address cybercrime, together with the establishment of the Cybercrime Centre.

The Department of Telecommunications and Postal Services is responsible for establishing the Cybersecurity Hub for South Africa. They have contracted the Council for Scientific and Industrial Research (CSIR) in South Africa to develop and implement the required capability in line with international best practices. The Cybersecurity Hub will be the nodal point for all private sector cybersecurity issues and serve as the link to Government's CSIRT. All sector CSIRTs will link into the Cybersecurity Hub. A virtual Cybersecurity Hub is expected to become operational from mid-2015.

The South African banks are voluntary members of an industry body, the South African Banking Risk Information Centre (Sabric), and have proactively implemented a number of initiatives including a Cybersecurity Steering Committee that facilitates collaboration on cybersecurity issues between member banks, enabling confidential information sharing between participants.

The establishment of a banking sector CSIRT within Sabric, with FIRST accreditation as a liaison CSIRT to be sought towards the end of 2015, facilitates early warnings and information sharing at a technical level as well as the sharing of best practices. The sector CSIRT also facilitates information sharing with other CSIRTs including the Government CSIRT and Cybersecurity Hub in due course. Sabric member banks have also adopted a cybersecurity framework, improving the sectors resilience to cyber-attacks. The framework includes an assessment tool that enables each bank to determine its own readiness and for Sabric to determine its members' readiness to withstand cyber-attacks.

The South African Banks through their membership of Sabric are in a position to collaborate with Government, both as a stakeholder in the Cybersecurity Hub, through the Department of Telecommunications and Postal Services as well as law enforcement to create the necessary capacity to investigate and prosecute cybercrimes in South Africa.

As a member of the BRICS group of countries, South Africa established an Expert Group on Cybersecurity through Sabric that provides input and gives effect to decisions taken at the BRICS Expert Group on Cybersecurity. This Expert Group is relatively new and whilst Government has co-opted private sector stakeholders onto various work streams, it remains a Government initiative.

An issue that still needs to be addressed is the impunity with which international cybercriminals in other jurisdictions, continue to attack local institutions and their customers, and the ineffectiveness of existing mutual co-operation treaties to identify, apprehend and prosecute such offenders. We believe there is merit in cross-border cybercrime combatting, to be addressed with the same international vigour and focus as money laundering, terrorist financing, and weapons of mass destruction.

Significant Developments in the Financial Sector

Recovery and Resolution Framework

The South African Reserve Bank, as the proposed resolution authority, has drafted a policy paper on resolution to be released by the National Treasury. A Directive has been issued by

the Registrar of Banks providing minimum requirements for the recovery plans of banks, controlling companies and branches of foreign institutions and during 2015 the banks will be expected to benchmark their plans against the Directive and address any gaps identified.

Curatorship Powers

The failure of a medium sized bank towards the end of 2014 necessitated an amendment to the Banks Act in order to provide the curator with broader powers to establish a bridge bank and transfer assets and liabilities into this new institution. This amendment is an interim measure to strengthen the existing framework, until the resolution framework has been finalised.

Financial Markets Act

The Financial Markets Act gave effect to the Twin Peaks regulatory framework adopted in South Africa. The second draft of the Regulations to the Act has been released for comment and will make significant strides towards meeting South Africa's commitment to the G-20 on over-the-counter derivatives and central counterparties.

Developments Relating to Payment Systems

The regional real time gross settlement system known as SIRESS, SADC Integrated Regional Electronic Settlement System, reached a milestone at the end of April with ZAR 1 trillion in value passing through the system. Volumes have grown substantially from approximately 260 transactions per month to around 20,000 per month.

The next phase of development is the low value payment and securities settlement streams with testing currently taking place for the settlement of low value credit transfers in eight of the SADC countries and a pilot program is about to be launched in five of the SADC countries to test the cross-border securities delivery versus payment model.

Regulatory Reform Efforts

Regulation of OTC Derivatives

The Financial Services Board has published for comment the board notices accompanying the second draft of the Ministerial Regulation in respect of the Financial Markets Act that set the criteria for authorisation of over-the-counter derivatives providers, a code of conduct, margin requirements for non-centrally cleared derivatives, reporting obligation and licensing requirements for trade repositories.

Hedge Fund

The Financial Services Board has determined that hedge funds will be regulated under the Collective Investment Schemes Control Act and a revised draft of the hedge fund regulations is being prepared. Hedge funds will be split between retail hedge funds with an increased standard of regulation to the alternative, qualified investor hedge fund.

SPAIN

As in previous years, the legislative activity that has taken place in Spain during the period under review has largely been a result of the need to transpose into Spanish law applicable European Directives and, with respect to financial matters, laws corresponding in certain part to the various agreements adopted by the European Union Bodies. The most significant of these measures are the following:

- Law 22/2014, of 12 November, which has incorporated the Directive 2011/61/CE, making an important reform in the legislation of venture capital, hedge funds, undertaking for collective investment in transferable securities, and their asset managers.
- Royal Decree 84/2015, of 13 February, which has concluded the incorporation of Basel III rules to the Spanish legal system.
- Law 11/2015, of 18 June, which has incorporated the Directive 2014/59/UE, stating the legal regime of recovery and resolution for banks and investment services companies.

In addition to the foregoing provisions, laws have also been enacted to respond to the current economic situation and to foster the Spanish economy. The most significant of these measures are the following:

- Law 18/2014, of 15 October, on urgent measures to foster the economic growth, the competitiveness and the efficiency of the economy.
- Law 26/2014, of 27 November, which amends, among others, the Spanish Personal Income Tax Law and the Spanish Non-residents' Income Tax Law.
- Law 27/2014, of 27 November, which approves a new Spanish Corporate Income Tax Law.
- Law 28/2014, of 27 November, which amends, among others, the Spanish VAT Law and other tax Laws which are applicable in the Canary Islands.
- Law 31/2014, of 3 December, which has made an important reform to the commercial companies' legislation to improve their corporate governance.
- Law 9/2015, of 25 May, on urgent measures in the Spanish insolvency proceedings' regime.
- Royal Decree-Law 1/2015, of 27 February, which has incorporated to the Spanish insolvency regime a special proceeding to deal with the natural persons' insolvency situation.

SWEDEN

Market Developments

After a somewhat weaker first quarter, the Swedish economy will continue to recover this year, according to the National Institute of Economic Research. Swedish GDP grew by a moderate 0.4 per cent in the first quarter of 2015 after a temporary surge in the fourth quarter last year. Swedish exports fell in the first quarter. This was partly a consequence of temporarily high exports of services in the fourth quarter last year, but underlying growth has also been weak, and manufacturing export orders do not indicate any immediate improvement. However, the stronger global recovery in the forecast by the National Institute of Economic Research, especially in the euro area, and the relatively weak krona are expected to help Swedish export growth to pick up somewhat later this year.

Household real disposable income has risen rapidly in recent years due to strong growth in employment and reduced taxes. Very low interest rates have stimulated household consumption, but precautionary motives and efforts to even out consumption over time have contributed to the saving rate hitting record-high levels.

Employment rose slightly in the first quarter 2015, and unemployment held at 7.8 per cent. High immigration means that the population and the labour force are growing rapidly. Despite further strong growth in employment, unemployment will therefore remain high for a long period and will not fall below 7 per cent until 2017.

The protracted slump in Sweden and elsewhere has brought very low inflation in recent years, according to the National Institute of Economic Research. The sharp slide in crude oil prices in 2014 is also contributing to low inflation, but lower oil prices are positive for the economy in Sweden and other oil-importing nations. Low inflation and low inflation expectations contributed to the Riksbank lowering the repo rate to −0.25 per cent in March of this year. Inflation bottomed out at the beginning of last year and has shown a clear upward trend since the end of 2014, especially when the direct effects of lower energy prices are excluded. The krona’s depreciation since summer 2014 will continue to help push up inflation and inflation expectations for a time if the currency holds at these lower levels.

Household and Corporate Borrowing

Lending to households and non-financial corporations continues to increase in Sweden, according to Finansinspektionen, the Swedish FSA. Lending to households grew by 6.4 per cent at the end of the first quarter of 2015. This growth rate is still considerably lower than those levels reached prior to the last financial crisis although it has increased firmly since the middle of 2012. Lending to non-financial corporations also continued to increase over the past six months and the growth rate was 4.7 per cent at the end of the first quarter of 2015. Most of the loans for non-financial corporations were linked to the housing market.

The development of economic activity in Sweden is positive, according to Riksbank. The low interest rates have increased households' scope for consumption, and as the economy is expected to continue to strengthen, corporate investment will also begin to pick up speed. One sign

of this is that corporate borrowing has increased over the last 12 months. Moreover, companies' funding conditions from banks have improved.

The low interest rates are also an important explanation of why household debt has continued to increase and why housing prices have risen at an increasingly rapid rate. Although the Riksbank's assessment is that households have sufficient margins to be able to service their loans, growing indebtedness means that resilience in the household sector has weakened and that the risks have increased. Moreover, indebtedness and housing prices are expected to continue increasing in the period ahead.

In Sweden, the rate of increase of housing prices has strongly accelerated recently. Prices for tenant-owned apartments and detached houses have risen by 20 per cent and 13 per cent respectively over the last year alone. At the same time, there are expectations of continued rising housing prices in the period ahead. Rising housing prices is not a new phenomenon and there are explanations for the expansionary development of prices in recent decades. One important factor is that housing construction has been low at the same time as population growth has been relatively high. This has led to a shortage of housing in several parts of the country. The greater population growth a municipality has had, the greater the increase in housing prices.

In addition, the rise in prices has also been driven by factors such as an ineffective rental market, the fact that an increasing number of households own their homes, tax deductions for interest payments and the lowering of the property tax. Another important explanation lies in increasing household incomes and the substantial fall in interest rates since the beginning of the 1990s.

Earnings and Profitability

The Riksbank says the major Swedish banks have continued to report good results and high profitability. In addition, the debt-servicing ability of the banks' customers is good and their loan losses are very low. Consequently, the banks are still considered to be sound, which is reflected in high credit ratings and low CDS premium. This means that they can access inexpensive funding on the market and also provide Swedish households and companies with loans at low interest rates. The Riksbank's assessment is that the major banks will continue to report increased profits and low loan losses going forward. Profits are expected to rise primarily as a result of higher lending volumes. In recent years, the major Swedish banks have improved their resilience to both liquidity risks and credit risks, as confirmed, for example, by the Riksbank's stress tests. This development is positive, but the Riksbank's assessment is that resilience needs to be strengthened further, among other things as a consequence of the vulnerabilities that exist in the banking system. The financial infrastructure is deemed to be safe and efficient. However, there is also room for improvement, both in terms of the systems and the regulations in the field.

Capital

The banks' capital in relation to risk-weighted assets has strengthened in the Swedish banking system since the financial crisis, primarily as a consequence of increased capital requirements, according to Finansinspektionen. Requirements for Swedish banks are twice as high

as the EU's minimum requirement. The four major Swedish banks continue to satisfy Swedish capital requirements.

Banks' Funding

Swedish banks currently have good access to low-cost funding owing to continued low interest rates and high confidence in the Swedish banking sector, according to Finansinspektionen. Swedish banks are largely funded by deposits from households and corporations as well as market funding by issuing bonds and commercial paper in the financial market. In addition, banks also hold equity. Forty-five per cent of Swedish banks' total funding consisted of deposits at the end of the first quarter of 2015, which is low in a European comparison. Just below 70 per cent of deposits are denominated in SEK and the remaining 30 per cent are in various foreign currencies.

SWITZERLAND

The world-wide economic environment remained challenging for Swiss banks in 2014/2015. The Swiss budget, however, remained balanced and national debt is still on a low level compared to other countries. Swiss banks proved again to be solid and profitable in the last year, as is underlined by ample credit, low CDS spreads and high capital levels. Swiss banking regulation continues to be in line with international standards. With respect to capital requirements, Swiss requirements will be among the highest globally, especially for the systemically important institutions. Swiss banks have clearly stated only to acquire and manage taxed assets in future, and to continue to apply international standards. Switzerland will adhere to the automatic exchange of tax-related information and is currently preparing its normative and practical implementation. A dramatic shift in the SNB's monetary policy, however, will affect the Swiss economy as well as the banks' business: in January 2015, the SNB discontinued to maintain the minimum exchange rate CHF of 1.20 per Euro and introduced negative interest rates on sight deposit account balances that exceed a given exemption threshold.

Capital and Liquidity Requirements

Regarding the ongoing refinements of Basel III, a National Working Group led by the Swiss Financial Market Supervisory Authority (FINMA) is currently preparing the Swiss implementation of the recommendations by the Basel Committee on Banking Supervision. As just one of many examples, the FINMA circular dealing with disclosure requirements (FINMA circular 2008/22) is currently being fundamentally revised.

As far as the leverage ratio is concerned, the details of its calculation have been specified in a new circular by FINMA (FINMA circular 2015/3), whereas the final calibration will be determined subject to the time-table of the Basel Committee on Banking Supervision.

In February 2013, and with effect from end of September 2013, a counter-cyclical capital buffer for mortgage loans has been activated at the level of 1%. In January 2014, this buffer has been increased to 2%, with effect from end of June 2014. The buffer targets loans financing residential property located in Switzerland and refers to the associated risk-weighted positions. The buffer is still in place.

On the liquidity side, the revised Liquidity Ordinance as well as a new FINMA circular (FINMA circular 2015/2) have entered into force at the beginning of 2015. They regulate liquidity risk management as well as the requirements with regard to the Liquidity Coverage Ratio (LCR).

With specific reference to systemically relevant banks, a regulatory package on "Too big to fail" has been put in place in 2012/2013. On the level of the Banking Law as well as a couple of Ordinances by the Federal Council, these additional requirements refer to capital, liquidity, risk diversification and contingency planning. Currently, and in the broader context of the Final Report by a high-level Expert Group on the strategy of the financial center, the requirements for systemically relevant institutions are being re-evaluated against the background of recent developments. More concretely, the Federal Department of Finance, together with a mixed Working Group, has been asked to make suggestions for a possible revision of the Swiss TBTF legislation by the end of 2015.

Fight Against Money Laundering

Following the review of the 40 FATF recommendations, Switzerland has adapted the respective legislation. As one of the most important changes, Switzerland has added tax crimes to the list of predicate offences for money laundering. Other changes are made due to the heightened transparency requirements for legal persons, also stated in the reviewed FATF recommendations. In this context, new rules regarding the identification of beneficial owners as well as transparency rules for non-listed companies issuing bearer shares have been introduced. Further changes concern the identification of national politically exposed persons and the introduction of new rules with regard to real estate and cash transactions.

Financial Market Legislation

Switzerland is overhauling its financial market legislation. The government has launched a large-scale legislative project to this end that will revise the existing legislation to varying degrees. The aim is to update investor protection and where required, align legislation with the European regulatory framework. The new financial services architecture will be based on six "floors", which include the existing Financial Market Supervision Act (FINMASA), the new Financial Services Act (FinSA), the new Financial Market Infrastructure Act (FMIA) and the new Financial Institutions Act (FinIA). A number of fundamental decisions have already been made: the FMIA has already been adopted by Parliament and is expected to come into force at the beginning of 2016. This legislation foresees that independent wealth managers will come under the remit of a single supervisory body. It introduces standardised rules of conduct and distribution rules for all financial services providers, and sets minimum requirements for the basic and advanced training of client advisors. Further important amendments will follow.

Tax Issues

Automatic exchange of information

With the G-20, the European Union and the OECD pressing ahead, it has become apparent that the automatic exchange of information (AEI) is becoming an international standard.

According to their strategy to accept and implement international standards, the banks in Switzerland will accept an AEI. Before an implementation in Switzerland, fair and feasible solutions to regularise untaxed assets have to be found. The standard should be applied by all important financial centres in the world and should provide for transparency of all financial instruments, including structures like trusts. The standard should contain reciprocity, the principle that exchanged data are exclusively used for tax purposes and appropriate data protection measures. It is not acceptable that exceptions are granted to single jurisdictions such as the US, as this creates unfair competitive advantages. The Swiss government is working on the legal frameset to implement the AEI, while the banks on their side are progressing with the preparation for its practical implementation.

Switzerland/US

In 2011, the US started investigations against eleven banks in Switzerland; one bank was indicted. The assumption in the US is that from 2009 onwards, various former US clients of UBS moved their assets to other banks in Switzerland and their assets remained undeclared as a result. In the efforts to resolve the tax dispute, the Swiss authorities are prepared to provide administrative assistance in tax matters to the US authorities. In August 2013, the US Department of Justice announced a programme open for Swiss banks. Within the frameset of this voluntary programme, banks are enabled to settle tax issues with the US on an individual, but unified basis. A significant number of banks have reached a final solution according to the programme during the reporting period.

TURKEY

By the Regulation on Procedures and Principles on Fees, Commissions and Expenses Other Than Interests to Be Charged on Financial Consumers, issued and put into force in 2014, various restrictions and limitations have been imposed on banks and non-bank financial institutions with respect to determination of fees and commissions which have an important place in complaints of financial consumers. This Regulation has become effective upon promulgation in the Official Gazette on 03/10/2014. Within the framework of the Regulation:

- Fees, commissions and similar cost items charged by banks and non-bank financial institutions on financial consumers are simplified and reduced, and it is provided that no fee may be charged other than 20 fee items listed in an annex of the Regulation.
- Charging a new fee or commission is subject to prior permission of the Agency.
- Unity of concepts has been provided among fees and charges termed by different names, thereby precluding the banks and non-bank financial institutions from charging more than one fee under different names for the same transaction.
- The banks and non-bank financial institutions are held liable to get separate consents of financial consumer for each product or service chargeable thereunder, thereby precluding the banks and non-bank financial institutions to effect any transaction beyond knowledge of financial consumer.
- Increase of fees and charges in a calendar year by 1.2 times or more of the annual consumer prices index increase rate published by the Turkish Statistics Institute (TÜİK) as of the end of the previous year-end is conditioned upon receipt of prior consent of financial consumer.

With a view to determining the procedures and principles relating to management of information systems used during performance by payment institutions and electronic money institutions of their activities and operations under the Law no. 6493 on Payment and Securities Settlement Systems, Payment Services and Electronic Money Institutions, and relating to audit of the said information systems by authorized independent audit firms, the Communiqué on Management and Supervision of Information Systems of Payment Institutions and Electronic Money Institutions has been put into force upon promulgation in the Official Gazette edition 29043 on 27/07/2014. Said Communiqué deals with not only risk management pertaining to information systems, management process of information security, confidentiality and security of data, principles of authorization, and continuity, emergency and contingency plans for information systems, management of outsourcing of services for information systems, and information of users, but also the restrictions and limitations on information systems.

"Development of Participation Banking and Non-interest Financial System" has been added as the seventh component to six components listed under IFM (Istanbul Finance Center) Priority Transformation Program as a part of the Tenth Development Plan (2014 - 2018)b Included among the actions scheduled to be taken with respect to said component are the policies of:

- improvement of existing perception as to non-interest financial system (4 actions), and
- development of human resources and enrichment of literature pertaining to non-interest financial area (6 actions), and
- increase of variety of non-interest financial products and services (11 actions), which have been made public within the frame of IFM Priority Transformation Program.

And by the Decision no. 2015/3 of the Higher Planning Committee, steps have been started to be taken for implementation of 31 actions in total under the component of "Development of Participation Banking and Non-interest Financial System".

Regulation on Internal Systems and Internal Capital Adequacy Assessment Process of Banks (Official Gazette edition 29057 dated 11/07/2014): Basic elements of this regulation which is prepared and issued as a part of the second pillar have been dealt with in section "Compliance With Basel Standards" under the heading of "Prominent Initiatives".

Regulation Amending the Regulation on Procedures and Principles of Audit To Be Performed by Banking Regulation and Supervision Agency (Official Gazette edition 29057 dated 11/07/2014): By this Amendment, a definition of "principle of proportionality" is added to the Regulation, and it is stated that with a view to showing the good practices expected from banks and informing the banks about assessment criteria to be taken into consideration in audits by the Agency, the Board may publish good practices guidelines, and that principles in such good practices guidelines will be used as criteria in assessment of efficiency and adequacy of banking practices, and will constitute a base for assessments to be made and decisions to be taken by the Agency with respect to audit findings during or after the audit, and that principles in such good practices guidelines will be applied within the frame of the principle of proportionality.

Regulation Amending the Regulation on Measurement and Assessment of Capital Adequacy of Banks (Official Gazette edition 29111 dated 06/09/2014): To the Regulation on

Measurement and Assessment of Capital Adequacy of Banks, provisions allowing the measurement of the amount subject to credit risk by Internal Ratings-Based Approach, and of the amount subject to operational risk by Advanced Measurement Approach have been added.

Regulation Amending the Regulation on Shareholders' Equity of Banks (Official Gazette edition 29111 dated 06/09/2014): The Regulation on Shareholders' Equity of Banks has been revised with respect to the items of shareholders' equity to be used in calculation of the amount subject to credit risk by internal ratings-based approach.

Regulation on Procedures and Principles of Fees To Be Charged on Financial Consumers (Official Gazette edition 29138 dated 03/10/2014): The Regulation sets down all kinds of fees, commissions and cost types, other than interests or profit shares, to be charged in consideration of products or services provided to financial consumers by banks, consumer crediting financial institutions and card organizations, as well as the procedures and principles pertaining thereto, and basic elements of this regulation are dealt with in section "New Provisions on Protection of Financial Consumers" under the heading of "Prominent Initiatives".

Regulation Amending the Regulation on Bank Debit Cards and Credit Cards (Official Gazette edition 29153 dated 22/10/2014): Considering that the ban on installments in payments by credit card with respect to jewelry expenditures may increase and promote underground trading, and may lead to unfair competition, and may cause narrowing of trading volume in the industry, it is decided that the ban on installments in payments by credit card provided by seventh paragraph of article 26 of the Regulation on Bank Debit Cards and Credit Cards will not be applicable in jewelry expenditures, and said expenditures will be subject to a limitation of installments for four months. On the other hand, by the amendment, parallel to the provision of non-application of the ban on installments about corporate credit cards, it is also provided that the limitation of four installments with respect to jewelry expenditures will not be valid about corporate credit cards.

Communiqué Amending the Communiqué on Uniform Chart of Accounts and Prospectus and Communiqué Amending the Communiqué on Uniform Chart of Accounts and Prospectus Applicable By Participation Banks (Official Gazette edition 29063 dated 17/07/2014): By considering the doubts and hesitations encountered in practice and the suggestions of banks and unions of associations, various different accounts have been opened in and account descriptions have been added to the said Communiqués.

Communiqué Amending the Communiqué on Calculation of Risk Based Amounts for Securitization (Official Gazette edition 29093 dated 19/08/2014): By the amendment, under Basel III standards, the option of deduction from shareholders' equity applicable as an alternative to calculation of risk based amount for a securitization position subject to a risk weight of one thousand two hundred and fifty percent is terminated.

Communiqué on Calculation of Amount Subject to Credit Risk By Internal Ratings Based Approaches (Official Gazette edition 29111 dated 06/09/2014): As the amount subject to credit risk which is currently calculated by Standard Approach pursuant to the Regulation on Measurement and Assessment of Capital Adequacy of Banks is further required to be calculated by Internal Ratings Based Approach as well pursuant to Basel II standards, in order to enable the

Banks to use this method as well, the Communiqué on Calculation of Amount Subject to Credit Risk By Internal Ratings Based Approaches has been issued and put into force.

Communiqué on Credit Risk Reduction Techniques (Official Gazette edition 29111 dated 06/09/2014): As the amendments relating to principles of application of credit risk reduction techniques in the case of calculation of the amount subject to credit risk by internal ratings based approaches required radical changes in contents and system of the Communiqué on Credit Risk Reduction Techniques promulgated in the Official Gazette edition 28337 dated 28/06/2012, said Communiqué has been repealed and superseded by this new Communiqué on Credit Risk Reduction Techniques.

Communiqué on Calculation of Amount Subject to Operational Risk By Advanced Measurement Approach (Official Gazette edition 29111 dated 06/09/2014): In addition to Basic Indicators Method or Standard Method applied in calculation of amount subject to operational risk pursuant to the Regulation on Measurement and Assessment of Capital Adequacy of Banks, in order to allow the calculation of this amount by a third method named Advanced Measurement Approach as well within the framework of compliance with Basel II standards, the Communiqué on Calculation of Amount Subject to Operational Risk By Advanced Measurement Approach has been issued and put into force.

Communiqué Amending the Communiqué on Chart of Accounts and Prospectus (Official Gazette edition 29214 dated 23/12/2014): By these amendments, the provisions of the communiqués providing that "surplus payments made by the customer in repayments of loan debts will be accepted and treated as demand deposit/special current accounts, and will be posted to the relevant deposit/special current accounts" have been removed, and accounts have been opened for recording of surplus payments which are made by credit customers in excess of outstanding loan debts and are not accepted as deposits/special current accounts, and accounts have been opened for recording of fee and commission charges for capital market transactions of participation banks under the issuance of lease certificates.

Regulation on Procedures and Principles Applicable on Factoring Transactions (Official Gazette edition 29257 dated 04/02/2015): By this Regulation, new provisions have been formulated with respect to factoring transactions within the framework of the Law no. 6361 on Financial Leasing, Factoring and Financial Companies, and as a part of the legislative instruments repealed by the said Law, certain circulars and descriptions relating to factoring transactions previously published by the Agency have been repealed.

Regulation Amending the Regulation on Procedures and Principles of Characterization of Credits and Other Receivables by Banks and on Provisions To Be Set Aside For Them (Official Gazette edition 29267 dated 14/02/2015): By this Regulation, transactions considered and treated as export credits subject to 0% general provisions have been clarified, and trade receivables insurance policies and Credit Guarantee Fund sureties not supported by the Treasury Undersecretariat are listed among the Second Group of guarantees, and the validity time of Temporary Article 6 pertaining to restructuring of credit facilities made available to maritime industry and application of more flexible new terms and conditions of agreement thereon has been extended until 31/12/2015 as the current situation of the said industry did not improve.

Circulars:

Circular no. 2015/1 dated 02/02/2015: Pursuant to the Decision no. 5969 dated 14/08/2014 of the Board, by the Circular no. 2015/1 issued in order to clarify the scope of the subject matter regulated by the Board Decisions and instructions pertaining to borrower funds accepted by development and investment banks, explanatory provisions have been issued and formulated with respect to activities of development and investment banks carried out within the frame of the Banking Law, also including borrower funds. Said Circular will enter into force on 01/06/2015.

Basel III:

In 2014, as a requirement of compliance with Basel II Accord, the regulations required in order to enable the banks to use internal methods have been completed. As a result of amendments made in the Regulation on Measurement and Assessment of Capital Adequacy of Banks by the Regulation put into force upon promulgation in the Official Gazette edition 29111 dated 06/09/2014, measurement of credit risk by Internal Ratings Based Approach (IRBA) has also been included in our legislation. The Communiqué on Calculation of Amount Subject to Credit Risk by Internal Ratings Based Approach and the Communiqué on Calculation of Amount Subject to Operational Risk by Advanced Measurement Approach, allowing the calculation of the amount subject to credit risk by internal ratings based approaches and the calculation of the amount subject to operational risk by Advanced Measurement Approaches have been simultaneously published in the same Official Gazette with an effective date of 01/01/2015. Accordingly, it has become possible for banks to use Internal Ratings Based Approaches for credit risk and Advanced Measurement Approach for operational risks.

With the intention of enabling the banks to keep an adequate capital against all risks exposed to in the course of management of their activities and to develop their risk management ability, the assessment processes to be carried out jointly by banks and the Agency have been reinforced.

By completion of preparations for internal methods, all of the calculation methods covered by Basel legislation have become enforceable in Turkey.

As a part of initiatives pertaining to the internal capital adequacy assessment process (ISEDES), in 2014, the Regulation on Assessment Process of Internal Systems and Internal Capital Adequacy of Banks, promulgated in the Official Gazette edition 29057 dated 11/07/2014 has become effective, and amendments have been made in the same direction in the Regulation on Procedures and Principles of Audit By Banking Regulation and Supervision Agency.

Amendments brought by the Regulation on Assessment Process of Internal Systems and Internal Capital Adequacy of Banks may be summarized as follows:

- It is provided that the principles relating to individual risk types will be regulated by these guidelines.
- With a view to ensuring that risk management issues are taken into consideration in line with the volume and complexity level of activities of banks, it is provided that the

guidelines on risk management will be enforced within the frame of the principle of proportionality, and the principle of proportionality has also been taken into the scope of the Regulation on Procedures and Principles of Audit By Banking Regulation and Supervision Agency.
- By the concepts of stress test program and capital planning buffers regulated in details, the provisions which created uncertainties in the repealed Regulation have been eliminated.
- Some provisions of the Regulation have been revised and amended for clarification purposes.

Thereafter, Good Practices Guidelines have been published, and internationally accepted principles required to be complied with by the banks in order to be able to efficiently conduct their activities and thus to efficiently manage their risks have been collected.

It is intended to establish a “future oriented” risk management and decision making process by scenario analyses and stress tests.

Scenarios to be used in ISEDES Reports of 2014 have been shared with banks, and the resulting reports will, after they are transmitted to the Agency as at the end of March 2015, be examined in further details in both format and contents in the cycle of audit.

Market Developments

The number of banks operating in Turkey was 52 in 2015, consisting of 5 participation banks, and 47 deposit banks and development and investment banks. The number of banks increased by 1 with the opening of Intesa Sanpaolo S.P.A. and Rabobank A.Ş.

UNITED KINGDOM

Key Regulatory Developments

Ring-fencing

Following the final report of the Independent Commission on Banking, the government and regulators are working to design and implement the rules for ring-fencing.

Secondary legislation – said to define the ‘location’ of the ring-fence – was completed in July 2014. Attention has since turned to putting in place the regulatory regime – said to define the ‘height’ of the ring-fence. ‘Near final’ rules were published in May 2015 setting out requirements on legal structure, governance and operational continuity. A further consultation is due later in the year on financial separation, exposures and access to payment systems. The final rules are expected to be published in the first half of 2016 in effect allowing a further 18 month – 2 years for banks to complete their plans and parallel run in keeping with ring-fencing being fully operational by 1/1/2019.

Parliamentary Commission on Banking Standards

The Parliamentary Commission on Banking Standards issued its final report on 19th June 2013. The recommendations which attracted most interest were those relating to the enhancement of individual responsibility. This involved replacing the Approved Persons Regime by:

- creating a senior persons regime that will make named individual responsible for core activities of a bank – this is expected to cover the main board and the executive committee
- introducing a certification regime to cover other senior individuals whose action, or lack of action, can significantly impact the bank's reputation, its customers or the wider economy
- reviewing the whistleblowing regime
- greater and longer deferral of variable remuneration along with provisions on malus and clawback
- introducing possible criminal sanctions for 'reckless' bank directors

A further focus of attention was the question of professional standards in banking. The PCBS supported a BBA proposal for the establishment of a public interest body, independent of the industry, charged with raising professional standards in banking and in September 2013 the industry announced that Sir Richard Lambert had been appointed to take the idea forward. Dame Colette Bowe was selected in Autumn to chair the new body and in April this year the new Banking Standards Board announced the appointment of its CEO and the line-up of its full Board.

Senior Managers Regime

The Senior Managers Regime will apply to those at the very top of an institution who will be required to take personal responsibility for a range of senior management functions and must be pre-approved. They will be subject to a reverse burden of proof and in the event that their institution fails with subsequent taxpayer support could be subject to criminal sanction.

A management responsibilities map setting out exactly who is responsible for what and how the responsibilities are shared between the senior managers concerned will be required. Many banks are completing these already.

The Senior Managers Regime will be supported by a *certification* regime applying to anyone whose actions or behaviour could seriously harm the bank, its reputation or its customers, the set being narrow for the PRA but wider for FCA purposes. These individuals will be subject to a regular assessment of their continuing 'fitness and proprietary' by their employer which who also have to make sufficient enquires from previous employers to ensure they are aware of possible regulatory breaches.

Lastly, very widely applicable *rules of conduct* will apply to virtually all bank staff under the FCA regime, but only to senior managers and certified persons under the PRA's approach. The Senior Managers Regime will also apply to UK branches of foreign banks operating in the UK.

Remuneration

Changes to UK remuneration code:

In July 2014 the PRA and FCA published a joint consultation paper seeking views on proposed changes to the remuneration code, covering:

deferral
A two-level deferral period of 7 years for senior managers and 5 years for other material risk takers, with a 3 year vesting period for senior managers:
clawback;
a three year extra extension of clawback (from 7 years) to 10 years for senior managers;
bailed-out banks;
clarification that there should be a presumption against payment or vesting of deferred remuneration, or other payments for loss of office and discretionary pension payments in the event of a bank's failure;
risk adjustment
the size of the bonus pool should be calculated by deducting a prudential valuation adjustment from the fair value accounting profit;
there should not be overreliance on simple revenue based measures, such as EPS, RoE or total shareholder return in determining entitlement to variable remuneration;
the remuneration of non-executive directors
non-executive directors should not receive any variable remuneration
buy-outs;
the PRA proposes 4 alternative approaches to addressing buy-outs of forfeited unvested variable remuneration by a member of staff's new employer.

In its June 2015 policy statement the PRA and FCA confirmed the majority of these changes but were persuaded by industry responses to their consultation that it would be disproportionate to apply five-year deferral to all Material Risk Takers (MRT). More junior MRTs will be subject to at least a three year deferral but for those MRTs with senior, managerial or supervisory roles they still believes that five-year deferral is appropriate.

The PRA and FCA did not make final proposals in relation to bonus buy-outs but confirmed that they will consider whether more detailed proposals, based on an approach that required buy-outs awards to be held in a form that permitted them to be subject to malus by the previous employer should be brought forward at a later stage.

Proportionality in EBA remuneration guidelines:

In March 2015 the European Banking Authority (EBA) issued draft guidelines seeking to clarify how firms and regulators should interpret the remuneration rules in CRD IV and specifically removing the proportionality principle. The industry contends that CRD IV gives Member States the flexibility to apply the remuneration rules proportionately which ensures that they are applied in a way that reflects the bank's nature, size and complexity.

Many EU countries, including Belgium, France, Germany and the UK, apply the guidelines proportionately to focus on the larger banks which have been the subject of public concern about the levels of bonuses paid before the global financial crisis. Smaller banks have been excluded by local regulators from the full range of the legislative requirements meaning that, for instance, they do not have to defer small bonuses for individuals, apply malus or clawback or

pay bonuses in financial instruments rather than cash. If finalised these revised guidelines are likely to have a significant impact on smaller firms although the outcome of the consultation is unlikely to be known before the end of 2015.

Leverage ratio

At the end of October 2014 the Financial Policy Committee (FPC) simplified its original proposals which mean it has the following powers of direction:

- A minimum leverage ratio that applies to all UK G-SIBs and other major domestic UK banks and building societies as soon as practicable and to all other banks from 2018
- A supplementary leverage ratio buffer for G-SIBs, ring-fenced banks and large building societies to be phased in in parallel with the G-SIB risk-weighted systemic buffers starting in 2016, and leverage buffers for ring-fenced banks and large building societies will apply from 2019 when ring fencing is finally established
- A countercyclical leverage ratio buffer that will apply to all institutions subject to the minimum ratio will come into force at the same time as the minimum requirement.

These final recommendations from the FPC were approved by Parliament on 6th April 2015. The final requirements are that the:

- Minimum leverage ratio requirement is set at 3%;
- Supplementary leverage ratio buffer rate will be set as a proportion of the systemic risk-weighted capital buffer rate using a scaling factor of 35%; and
- Countercyclical leverage ratio buffer rate will be set as a proportion of the countercyclical capital buffer rate using a scaling factor of 35%

The UK will need to review this regime once the European Commission has completed its review of the Leverage Ratio requirements under the Capital Requirements Regulation, due in 2017.

Bank Recovery and Resolution Directive

The secondary legislation to implement the requirements of the Bank Recovery and Resolution Directive was published in December 2014 and came into force between 1st and 10th January 2015. The new BRRD compliant UK special resolution regime framework is complemented by a revised Code of Practice issued by HM Treasury, which sets out how the UK authorities will exercise their powers and responsibilities. At the time of writing, the Bank of England is expected to issue a consultation paper covering the UK's implementation of the BRRD's Minimum Requirement of Eligible Liabilities ('MREL') and total loss –absorbing capacity ('TLAC'). The BRRD requires the authorities to begin to apply MREL requirements from 1st January 2016.

MiFID II & MiFIR

The legislation that takes the form of a revision to Markets in Financial Instruments Directive (MiFID II) and a new regulation (MiFIR) is one of the most important and far reaching pieces of the post financial crisis reform. It seeks to ensure a more robust EU framework of

regulation to address a more complex market which is characterised by increasing diversity in financial instruments and new methods of trading. The legislation is aimed at establishing a safer, sounder, more transparent and more responsible financial system that works for the economy and society as a whole.

The proposals aim to make financial markets more efficient, resilient and transparent, and to strengthen protection for investors. The revisions to MiFID will have implications for a number of integral areas of financial markets including client assets, wholesale and retail conduct, secondary market trading and transaction reporting.

Political agreement on the final shape of the legislation was agreed on 14 January 2014. The Level 2 regulatory technical standards process is now underway, with the industry expecting the European Commission to adopt the draft delegated acts by the summer. MiFID will come into force on 3rd January 2017.

EMIR

The *Regulation on over-the-counter (OTC) derivatives, central counterparties and trade repositories* – knows as EMIR – was published by the European Commission in 2010. EMIR is the EU implementing vehicle for the G20 commitments which aim to reduce systemic risk in the OTC derivatives markets via the mandatory clearing of eligible OTC contracts.

EMIR's impact on industry continues to be significant. Not only does it introduce a clearing obligation for eligible OTC derivatives contracts and a reporting obligation for all derivatives contracts, it also requires the implementation of measures to reduce counterparty credit risk for OTC contracts not considered eligible for clearing. Furthermore, EMIR establishes common governance and risk control rules for central counterparties and trade repositories.

Trade reporting continues to be problematic, with matching rates low despite recent attempts by regulators to address the fundamental causes behind the errors. Concerns still remain as to the frontloading and backloading of traders, especially as the clearing obligation is yet to be implemented. An opportunity to address these issues will arise later in 2015 when the European Commission (EC) initiates its EMIR II review, however it is unclear how much appetite exists within the EC for fundamental reform.

Significant Market Developments

Fair and Effective Markets Review

On 10 June, the UK's Fair and Effective Market Review (FEMR) report was published. The report, which examined the functioning, governance and culture of Fixed Income, Commodity and Currency (FICC) markets, was first announced by Chancellor George Osborne during his June 2014 Mansion House dinner. The final report makes 21 policy recommendations focused primarily on improving conduct outcomes, whilst making only minor recommendations when it comes to market structures.

The most significant of the FEMR Secretariat's recommendations relate to conduct, and in the creation of the FICC Market Standards Board (FMSB). The FEMR Secretariat confirmed that the FMSB would not be formed by either statute or from the FCA handbook. It will be 'market led and driven', comprising of senior representatives from all aspects of the FICC markets – banks, brokers, corporates, hedge funds, insurance funds etc. The authorities advised that the UK authorities will have a seat on the board of the FMSB however, and that they will nominate its first chairman, and they expect that – at least initially – they will be involved in setting its agenda. This will be one part of what gives the FMSB teeth.

The second part that gives the FMSB teeth is that under the incoming Senior Managers Regime, persons will be subject to its Individual Conduct Rules. Rule 5 requires persons to "….observe proper standards of market conduct". The FEMR Secretariat went on to explain that with the FMSB mandated to develop and/or endorse market standards and market codes over time, this will mean that under the FCA rulebook, individuals will be required to give due consideration to market standards developed by or endorsed by the FMSB

Stress Testing and the Asset Quality Review

During 2014 the European Central Bank and the European Banking Authority (EBA) together conducted a two part comprehensive assessment, firstly an asset quality review ahead of the European Central Bank (ECB) taking over responsibility for the supervision of the 128 largest eurozone banks in November 2014 and secondly the EBA's coordinated stress covering 124 EU banks, including four from the UK. At the same time the Prudential Regulatory Authority carried out a parallel stress test using UK specific stresses overlaid on the EBA's adverse scenario. The UK specific stresses included a 35% drop in house prices from their end 2013 levels, a sharp rise in unemployment to 12% and a snap-back in interest rates to 4.2%.

The PRA's stress test results were released in mid-December and showed that over the course of the three-year PRA stress period the aggregate core equity tier 1 ratios of the banks tested fell to 7.3%, well above the 4.5% CET1 minimum threshold, the eight banks make cumulative profits of £9 billion (compared to cumulative profits of £100 billion projected in the baseline scenario) but the distribution of profits and losses varied across the different banks depending on their business models – principally their exposure to UK mortgage lending.

One bank's capital resources were projected to be exhausted in the stress scenario and it subsequently submitted a revised capital plan which has been accepted by the PRA, although it is important to note that its aggregate exposure accounted for less than 1% of all the bank loans that were subject to the stress test.

Whilst the EBA has stated that it does not expect to undertake another stress test in 2015 the PRA is conducting a repeat stress test with a focus on global rather than UK specific downturn. The scenario comprises a deterioration in global nominal growth prospects, with a consequent flight of capital into high quality US assets as economic activity in China and other Asian countries turns down. In the euro area, weaker domestic demand, world trade and commodity prices lead to further disinflationary pressures and the rate of deflation increases. This flows through into the UK prompting increases in household and corporate saving rates due to precautionary behaviour with

subsequent falls in UK consumption, investment and property prices and sharp rise in risk premia on private sector borrowers.

The results of the PRA's 2015 stress test of the seven largest banks will again be released in mid-December.

Bank Levy

The UK bank levy has been in effect from 1 January 2011, applying – where relevant aggregate liabilities amount to £20 billion or more – to:

- The consolidated balance sheet of UK banking groups and building societies;
- The aggregated subsidiary and branch balance sheets of foreign banks and banking groups operating in the UK; and
- The balance sheets of UK banks in non-banking groups.

At Budget 2015, the Government announced that the rate of bank levy would increase to 0.21% from 1 April 2015. Since its introduction in 2011, this is the eighth rise in the bank levy. It has now tripled compared to the initial rate. This latest increase is expected to raise an additional £900 million annually, giving a revised annual contribution of approximately £3.7 billion over the next five years. This significant increase has led to increased calls for a review of the taxation of banks in the UK, given indications that some UK-parented banking groups are reviewing the location of their headquarters.

The Government has stated its intention to use the Bank Levy to meet EU requirements under the Bank Recovery and Resolution Directive (BRRD) and the Deposit Guarantee Scheme Directive (DGSD) without any additional ex-ante demands.

Financial Transaction Tax

In January 2015, Austrian Finance Minister, Hans-Jorg Schelling, and French counterpart Michel Sapin wrote a letter to the Finance Ministers participating of the European Member States pursuing the implementation the FTT under 'enhanced cooperation' proceedings, calling for a "fresh direction" for the FTT. They organised a meeting in the margins of the ECOFIN (27 January) and issued the following statement (of all participating member states minus Greece because of the elections and subsequent government reshuffle):

- "On substance, we decided that the tax should be based on the principle of the widest possible base and low rates, while taking full consideration of the impacts on the real economy and the risk of relocation of the financial sector."
- "On procedure, we decided to streamline future work methods in order to ensure operational effectiveness of the enhanced cooperation procedure."
- "We invite the Commission to be more involved in the work done within this framework, within the sphere of its responsibilities and in accordance with the Treaty."
- "We reiterate our willingness to create the conditions necessary to implement the European financial transaction tax on 1st January 2016"

They appointed a permanent Chair (Austria) for the 11-group as well as a Secretariat led by the Portuguese delegation. Member States continue technical work on the FTT.

UK Government Response to Cybersecurity Threats to Financial Institutions Operating in the UK

The previous UK Coalition Government developed a national cross-departmental strategy for cyber security, led by the Cabinet Office. This included £890 million allocation up to 2015 for cyber security intelligence and other capabilities. The new Government is conducting a Strategic Defence and Security Review that will include examination of the challenges posed by cyber threats and the response.

The Bank of England/Prudential Regulatory Authority has a critical role as the lead regulator for systemic cyber security matters. The Financial Conduct Authority has responsibilities for cyber matters where there are customer considerations. There has been close working between major banks and the regulators with new governance arrangements established and practical activities such as penetration tests of firms and sector wide exercises.

In terms of cyber security intelligence, the primary mechanism in the UK is the Cyber Security Intelligence Platform (CiSP) which is part of CERT-UK. The BBA has promoted the mechanism with our members, with over 50 firms now involved in the mechanism.

Of course banks have a close relationship with UK law enforcement on operational responses to cyber criminals. Key agencies include the National Cyber Crime Unit and the City of London Police – the BBA has focused on helping develop stronger arrangements between smaller and foreign banks and these agencies.

Given the concern over the risks posed by cyber threat actors targeting SMEs, the Government has sought to promote cross-sectoral cyber standards, including through the Cyber Essentials scheme. The BBA has supported the communication of this initiative across our membership. However, concerns remain within the banking industry over the targeting of corporate clients, suppliers and other 3rd parties.

UNITED STATES

Five years after enactment of the Dodd-Frank Act, banking organizations were required to come into compliance on July 21, 2015 with one of the key pillars of the Act – the Volcker Rule prohibitions on proprietary trading and covered fund activities. Meanwhile, foreign banking organizations (FBOs) subject to the intermediate holding company (IHC) requirement under Section 165 of the Act had to submit implementation plans to the Federal Reserve Board by January 1, 2015, outlining how they planned to come into compliance with the requirement by the extended deadline of July 1, 2016. In the derivatives area, the Commodity Futures Trading Commission further extended the deadline for compliance with its November 2013 cross-border staff advisory until September 30, 2016. In other significant developments during the period under review, the New York State Court of Appeals on October 23, 2014 upheld the separate entity rule,

while the White House and federal and state financial regulatory agencies elevated cybersecurity to a top priority.

DODD-FRANK ACT IMPLEMENTATION

Following is a review of the implementation status of key aspects of the 2010 Dodd-Frank Act that are of particular importance to foreign banking organizations (FBOs) operating in the United States.

- **Volcker Rule.** Banking organizations covered by Section 619 were required to come into compliance with the Volcker Rule by July 21, 2015. The final rule, issued by the Fed, OCC, FDIC, SEC and CFTC on December 10, 2013, prohibits insured depository institutions and companies affiliated with insured depository institutions ("banking entities") from engaging in short-term proprietary trading of certain securities, derivatives, commodity futures and options on these instruments, for their own account. The final rule also imposes limits on banking entities' investments in, and other relationships with, hedge funds or private equity funds (collectively "covered funds"). However, the Federal Reserve Board announced on December 18, 2014 that it would give banking entities until July 21, 2016, to conform investments in and relationships with covered funds and foreign funds that were in place prior to December 31, 2013 ("legacy covered funds") with the requirements of the Volcker Rule. The Board also announced its intention to grant banking entities an additional one-year extension of the conformance period until July 21, 2017.

  The extension would permit banking entities additional time to divest or conform only legacy covered fund investments. All investments and relationships in a covered fund made after December 31, 2013 were required to be in conformance by July 21, 2015.

  In a January 6, 2015 letter to the European Commission, the IIB and the European Banking Federation said the Fed's December 18th announcement about the conformance period extension left unanswered how the Volcker Rule's prohibitions on proprietary trading and fund investments might or might not apply on an extraterritorial basis to foreign public funds and "foreign non-covered private funds" (i.e., foreign private funds that are offered and sold exclusively to non-U.S. persons). "Considering the interconnectedness of the EU and U.S. financial markets and the possible negative impact on the EU financial sector, we believe that the Commission should raise this issue" at the January 12th meeting of the U.S.-EU Financial Markets Regulatory Dialogue, the letter stated. European officials subsequently "raised concerns" with their U.S. counterparts about the effect of the Volcker Rule on foreign funds, according to a joint statement issued after the meeting in Washington.

  On February 27th, a new Volcker FAQ was posted to the Volcker Rule FAQ web site addressing the scope of the restriction on marketing to U.S. investors included in the exemption for certain covered fund activities conducted "solely outside of the United States" by foreign banking entities. New FAQ 13 clarifies that "the marketing restriction, as implemented in the final rule, constrains the foreign banking entity in connection with its own activities with respect to covered funds rather than the activities of unaffiliated third parties."

On June 12th, the five Volcker Agencies published FAQ 14 addressing how the final rules implementing the statutory provisions of the Volcker Rule apply to a foreign public fund sponsored by a banking entity. Such funds, as defined in the final rules, are not themselves "covered funds" under the Volcker Rule, thereby raising the question whether they would be treated as "banking entities" that themselves are subject to the Volcker Rule's proprietary trading and covered fund prohibitions if viewed as being "controlled" by another banking entity (where "control" is determined under the Bank Holding Company Act and could be found on the basis of various contractual relationships, corporate governance structures or ownership of 25% or more of the voting shares of the fund). FAQ 14 concludes that a sponsored foreign public fund will not itself be treated as a "banking entity" under the Volcker Rule, and its activities and investments will not be attributed to the sponsoring banking entity, where the sponsoring banking entity (i) does not own, control, or hold with the power to vote 25 percent or more of the voting shares of the foreign public fund (after the applicable seeding period), and (ii) provides investment advisory, commodity trading advisory, administrative, and other services to the fund in compliance with applicable limitations in the relevant foreign jurisdiction. Accordingly, under FAQ 14 contractual relationships and various corporate governance structures between banking entities and their sponsored foreign public funds are not viewed as resulting in control of those funds for purposes of the Volcker Rule. The Agencies concurrently published FAQ 15 addressing the applicability of the joint venture exclusion under the final rules to covered funds. (Click here for a link to FAQs 14 and 15.)

On July 16th, the five Volcker Agencies issued FAQ 16 addressing the "seeding" of U.S. registered investment companies (RICs) and foreign public funds (FPFs) by banking entities. RICs and FPFs are excluded from the definition of "covered fund" under the Volcker Rule, and FAQ 16 provides that they will not themselves be treated as banking entities for purpose of the Volcker Rule "solely on the basis of the level of the ownership of the RIC or FPF by a banking entity during a seeding period." In addition, the Agencies stated that they "would not . . . expect an application to be submitted to the [Federal Reserve] Board to determine the length of the seeding period" for such a RIC or FPF.

As of the date of publication of this Survey, the Agencies have not addressed the impact the Volcker Rule will have on foreign private funds established on or after January 1st 2014.

- **OTC Derivatives/Swap Push-Out.** The CFTC on August 13th issued a no-action letter further extending by one year, to September 30, 2016, the deadline for compliance with its November 14, 2013 cross-border staff advisory (13-69). The action marked the fifth time that the CFTC extended the deadline. The 13-69 advisory took the view that a non-U.S. swap dealer registered with the Commission (whether an affiliate or not of a U.S. person) must comply with transaction-level requirements under Dodd-Frank when entering into a swap with a non-U.S. person if the swap is arranged, negotiated or executed by personnel or agents of the non-U.S. swap dealer located in the U.S. The advisory prompted a legal challenge by the IIB and others against the CFTC's cross-border swaps rules in December 2013. Subsequent to the legal challenge, the CFTC on January 3, 2014 voted to seek comments on all aspects of the advisory due to the "complex legal and policy issues

involved," and issued a no-action letter, extending the compliance deadline to September 15, 2014 (additional extensions followed).

Securities-Based Swaps. The SEC on April 29th voted unanimously to re-propose a rule under the Securities Exchange Act of 1934 governing the application of certain Title VII requirements to security-based swap transactions connected with a non U.S. person's dealing activity that are arranged, negotiated, or executed by personnel located in a U.S. branch or office or in a U.S. branch or office of an agent. In her opening statement, SEC Chair White said the new proposal "significantly improves" the approach taken in its original 2013 proposal. "It now centers on activity that is carried out by a non-U.S. person or its agent in the United States in connection with its dealing activity, rather than focusing on the activity of any counterparty to a security-based swap transaction," she said. The SEC's proposed rules would, among other things, specify: (i) activity that constitutes "arranging, negotiating or executing" a securities-based swap transaction; (ii) when certain non-U.S. persons would be required to count a security-based swap transaction with another non-U.S. person toward the requirement to register as a security-based swap dealer based on the dealer's activity in the United States; (iii) which transactions of a registered security-based swap dealer are subject to Title VII's external business conduct standards; and (iv) when and by whom certain security-based swap transactions must be reported to a registered security-based swap data repository and publicly disseminated under Regulation SBSR.

On July 13th, the IIB submitted a comment letter on the SEC's cross-border proposal. The letter expressed support for those aspects of the proposal that would tailor the "U.S. personnel test" but said additional steps are needed to prevent the U.S. personnel test from having a material adverse impact on effective risk management and U.S. and cross-border market liquidity.

In another SEC development, the agency on August 5th unanimously approved rules providing for the registration of security-based swap dealers and major security-based swap participants. The new rules address all aspects of the registration regime for security-based swap dealers and major security-based swap participants, setting forth the extensive set of information required to be provided and kept up to date by a registrant. In addition, the rules require foreign entities to certify in connection with their registration that they can, as a matter of law, and will provide the SEC prompt access to their books and records and submit to onsite inspection by the SEC outside the United States – requirements which have raised important concerns regarding potential conflicts with foreign privacy and data protection laws.

The SEC on August 5th also proposed a new rule of practice to create a process for security-based swap dealers and major security-based swap participants to apply to the Commission for permission to continue to have certain persons subject to statutory disqualifications involved in effecting their security-based swap transactions if such continuation is consistent with the public interest.

Margin Requirements for Uncleared Swaps. The CFTC on June 29th voted unanimously to propose a rule that would apply the Commission's margin requirements for

uncleared swaps to CFTC-registered swap dealers and major swap participants that are not subject to the margin requirements of other prudential regulators.
Under the proposed rule, U.S. covered swap entities would be required to comply with the Commission's margin rules for all uncleared swaps but would be eligible for substituted compliance with respect to margin that they post (but not that they collect) for swaps with certain non-U.S. counterparties. Uncleared swaps of non-U.S. covered swap entities whose obligations under the relevant swap are guaranteed by a U.S. person would be treated the same as uncleared swaps of U.S. covered swap entities. Uncleared swaps of non-U.S. covered swap entities whose obligations under the relevant swap are not guaranteed by a U.S. person would be eligible for substituted compliance unless the counterparty to the swap is a U.S. covered swap entity or a non-U.S. covered swap entity whose obligations under the swap are guaranteed by a U.S. person. Uncleared swaps between a non-U.S. covered swap entity and a non-U.S. counterparty would be excluded from the margin rules, if neither party's obligations under the relevant swap are guaranteed by a U.S. person and neither party is a U.S. branch of a non-U.S. covered swap entity nor consolidated in the financial statements of a U.S. person. With regard to substituted compliance, the proposed rule sets forth proposed procedures for requests for comparability determinations, including eligibility and submission requirements, as well as the standard of review that would apply to Commission determinations.

With respect to "de-guarenteeing", transactions between a non-U.S. swap dealer (but not conducted through its U.S. branch) and a non-U.S. counterparty would be excluded from the margin rules, if neither party's obligations under the relevant swap are guaranteed by a U.S. person nor consolidated in the financial statements of its U.S. parent. "Limiting the exclusion from our rule to only those transactions where neither party is guaranteed or consolidated with a U.S. person helps address the concern that there is risk to the U.S. even if there is no explicit guarantee," CFTC Chairman Timothy Massad said in his opening statement at the June 29th meeting. The exclusion would not apply to foreign banks that conduct their swaps business within the U.S. through their branches located in the U.S. "However, U.S. branches would be eligible for substituted compliance, which would reduce the potential for conflicts with foreign jurisdictions," Chairman Massad said.

On September 14th, the IIB filed a joint comment letter with SIFMA on the CFTC's proposed rules. The letter expressed serious concerns with the proposal's limits on the availability of substituted compliance, which is at odds with the framework developed by the Basel Committee and IOSCO and would result in overlapping rules that would deter cross-border trading and increase systemic risk. In addition, the letter opposed the proposed distinction between a non-U.S. covered swap entity and its U.S. branch and concludes that any application of U.S.OTC margin rules to non-U.S. persons based solely on the involvement of U.S. personnel would be unwarranted.

Swaps Push-Out. President Obama on December 16, 2014 signed a $1.1 trillion omnibus spending bill that included an amendment to the swaps push-out provision (section 716) of the Dodd-Frank Act. The push-out provision in the spending bill provides parity of treatment for uninsured U.S. branches and agencies of foreign banks vis-à-vis U.S. domestic banks, correcting a drafting error in the original push-out provision of Dodd-Frank. This change supports the long-standing U.S. policy of national treatment and

maintains a level playing field between U.S. branches and agencies of foreign banks and U.S. banks.

- **Proposed Legislative Changes to Section 165.** The Senate Banking Committee on May 21st approved Committee Chairman Richard Shelby's regulatory reform bill, the *Financial Regulatory Improvement Act of 2015*, in a 12-10 vote along party lines. The bill consists of eight titles, including one dealing with systemically important bank holding companies. Section 201 of Title II creates a new SIFI designation framework that requires the Fed and FSOC to evaluate bank holding companies (BHCs) with more than $50 billion in total consolidated assets for systemic designation based on certain criteria, including size, interconnectedness, substitutability, cross-border activity and complexity. BHCs with more than $500 billion in total consolidated assets would be subject to an automatic SIFI designation. "Title 2 addresses the growing consensus that the mandatory $50B asset threshold contained in current law is not only arbitrary, it is a blunt instrument that acts as a substitute for more sophisticated and thoughtful supervision," Chairman Shelby said in his opening statement. "The total assets held by a bank are an important factor, but not the only factor that should be considered when determining whether a bank poses a risk to the entire financial system." Regulatory reform legislation sponsored by Rep. Blaine Luetkemeyer is under consideration in the House of Representatives.

- **Living Wills.** The Federal Reserve Board and FDIC on July 28th provided guidance to 119 firms that in December 2015 will be filing updated resolution plans (Living Wills). Based on a review of their plans submitted late last year, the agencies said they are tailoring the requirements for the submissions. Some firms will receive individual feedback on areas for improvement. The guidance applies to U.S. bank holding companies with less than $100 billion in total nonbank assets and foreign-based firms with less than $100 billion in U.S. nonbank assets. The agencies said they are providing each firm with guidance, clarification, and direction for their upcoming resolution plans based on the relative size and scope of each firm's U.S. operations. Plan requirements are tiered with less complex firms filing more streamlined plans. The agencies also released an updated tailored resolution plan template. A tailored resolution plan focuses on the nonbanking operations of the firm and on the interconnections and interdependencies between the nonbanking and banking operations. The optional template is intended to facilitate the preparation of tailored resolution plans.

CAPITAL PLANNING/STRESS TEST RULES

On July 17th, the Federal Reserve Board issued for comment proposed revisions to its capital planning and stress testing regulations which would take effect for the 2016 capital plan and stress test cycles. For all banking organizations subject to these requirements (the proposal explains that it applies to FBOs' U.S. intermediate holding companies (IHCs) in accordance with the transition provisions of the final rules implementing Section 165), the proposal would remove the tier 1 common capital ratio requirement and replace it with the more stringent common equity tier 1 capital requirement. This change reflects that the 2016 capital plan and the stress test cycle is the first cycle in which the banking organizations will be subject to the 4.5% common equity tier 1 requirement for each quarter of the planning horizon. For banking organizations subject to the advanced approaches, the proposal would delay inclusion of the supplementary leverage ratio to

the 2017 capital plan and stress cycle and would delay until further notice use of the advanced approaches for calculating risk-based capital requirements for purposes of capital plans and stress tests. The proposal also would modify certain stress test capital action assumptions and make technical amendments to the rules to incorporate the capital deductions required under the Volcker Rule. The proposal notes that the Federal Reserve is considering a broad range of issues relating to the capital planning and stress testing rules, including how they interact with other elements of the regulatory capital rules, and states that any modifications that might result from this exercise would be made through a separate rulemaking that would not take effect before the 2017 capital plan and stress test cycle. Accordingly, "the Board does not anticipate proposing another rulemaking that would affect the 2016 capital plan and stress test cycle beyond what is contained in this proposal."

CAPITAL SURCHARGE FOR G-SIBs

On July 20th, the Federal Reserve Board approved a final rule incorporating into the U.S. risk-based capital regime for U.S. top-tier bank holding companies the framework for capital surcharges applicable to "global systemically important banks" (U.S. G-SIBs) agreed upon in the Basel Committee on Banking Supervision. The U.S. G-SIB surcharge will be phased in beginning on January 1, 2016 and will be fully effective on January 1, 2019. The final rule establishes the criteria for identifying U.S. G-SIBs and the methods by which they will calculate their risk-based capital surcharge. The final rule modifies the Basel Committee's methodology by, among other things, incorporating an approach that considers a firm's reliance on short-term wholesale funding and calibrating the surcharges in a manner that generally results in higher surcharges than those called for by the Basel Committee's method (in connection with the final rule, the Federal Reserve issued a white paper describing its methodology). The Federal Reserve announced that eight U.S. firms are currently expected to be identified as G-SIBs under the final rule: Bank of America Corporation; The Bank of New York Mellon Corporation; Citigroup, Inc.; The Goldman Sachs Group, Inc.; JPMorgan Chase & Co.; Morgan Stanley; State Street Corporation; and Wells Fargo & Company (these are also the U.S. banking organizations identified as G-SIBs under the Basel Committee methodology). Under the final rule, and using the most recent available data, estimated surcharges for the eight U.S. G-SIBs range from 1.0 to 4.5 percent of each firm's total risk-weighted assets (whereas the range under the Basel Committee's methodology is 1.0 to 2.5 percent). As described by Fed Chair Janet Yellen in her opening statement: "In practice, this final rule will confront these firms with a choice: they must either hold substantially more capital, reducing the likelihood that they will fail, or else they must shrink their systemic footprint, reducing the harm that their failure would do to our financial system. Either outcome would enhance financial stability." In his opening statement, Governor Tarullo noted that further consideration is being given to whether and, if so, how to incorporate the capital surcharges into annual Comprehensive Capital Analysis and Review (CCAR) program, and he stated that it is anticipated that Federal Reserve staff later this year will "develop a series of recommendations for consideration by the Board, including changes that would make the supervisory stress test and CCAR better address systemic risks arising from correlations in the exposures and activities of large financial institutions."

SEPARATE ENTITY RULE

The New York State Court of Appeals on October 23, 2014 issued its decision in *Motorola Credit Corporation v Standard Chartered Bank.* The 5-2 majority decision concluded that the separate entity rule prevents a judgment creditor from ordering a garnishee bank operating branches in New York to restrain a judgment debtor's assets held in foreign branches of the bank. This decision marked the successful culmination of the IIB's efforts in recent years in support of member banks' opposition to post-judgment enforcement actions brought against them in New York, by virtue of their maintaining a branch in New York, seeking to restrain customer funds held by the bank outside the United States, notwithstanding that the bank has had no involvement in the underlying dispute from which the judgment against the customer arises. Although the Court did not address the related question of the separate entity rule's application in post-judgment turnover actions - a question that was not before the Court - the rationale of its decision is equally compelling in this context as well.

The Court upheld the separate entity rule as a "firmly established principle of New York law, with a history of application both before and after the 1962 adoption of the CPLR." The Court rejected the argument that its 2009 decision in *Koehler v Bank of Bermuda Ltd.* abrogated the separate entity rule and distinguished its decision in *Commonwealth of the Northern Mariana Islands v. Canadian Imperial Bank of Commerce*. Expressly noting the concerns raised by the IIB and other *amici* regarding banks' exposure to double liability in connection with cross-border enforcement actions based on their maintaining a branch in New York, the Court also concluded that the separate entity rule "promotes international comity and serves to avoid conflicts among competing legal systems." Articulating a policy concern that the IIB has consistently advocated, the Court expressed at the conclusion of its decision its belief that "abolition of the separate entity rule would result in serious consequences in the realm of international banking to the detriment of New York's preeminence in global financial affairs."

CYBERSECURITY

During the period under review, cybersecurity increasingly became a top priority for the White House, Congress and federal and state regulatory agencies. On January 13th, President Obama announced new cybersecurity initiatives, including a legislative proposal to promote better cybersecurity information sharing between the private sector and government, and enhance collaboration and information sharing among the private sector. Specifically, the proposal encourages the private sector to share appropriate cyber threat information with the Department of Homeland Security's National Cybersecurity and Communications Integration Center (NCCIC), which will then share it in as close to real-time as practicable with relevant federal agencies and with private sector-developed and operated Information Sharing and Analysis Organizations (ISAOs) by providing targeted liability protection for companies that share information with these entities.

In February, the White House said it was forming a new Cyber Threat Intelligence Center that will be responsible for producing coordinated cyber threat assessments. On February 13th, President Obama hosted a summit on cybersecurity and consumer protection at Stanford University, where he signed an executive order to improve cybersecurity information sharing between the federal government and the private sector. The executive order is aimed at

encouraging more companies and industries to set up hubs to share information with each other, and it calls for a common set of standards so the government can share information on threats with these hubs more easily. The summit was attended by hundreds of experts, academics and private-sector representatives.

On April 1st, President Obama signed another executive order that provides a new authority to respond to the threat posed by malicious cyber actors. "Cyber threats pose one of the most serious economic and national security challenges to the United States, and my Administration is pursuing a comprehensive strategy to confront them," President Obama said in a statement. The order authorizes the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to impose sanctions on individuals or entities that engage in malicious cyber-enabled activities that create a significant threat to the national security, foreign policy, or economic health or financial stability of the United States.

At the regulatory level, New York Superintendent of Financial Services Ben Lawsky on December 10th sent a letter to all DFS-regulated banks outlining new targeted cybersecurity preparedness assessments that will be part of the department's ongoing exam process. Banks will be examined on their protocols for the detection of cyber breaches and penetration testing; corporate governance related to cyber security; their defenses against breaches, including multi-factor authentication; the security of their third-party vendors, and a number of other issues. "It is our hope that integrating a targeted cyber security assessment directly into our examination process will help encourage a laser-like focus on this issue by both banks and regulators," Superintendent Lawsky said. "Cyber hacking is a potentially existential threat to our financial markets and can wreak serious havoc on the financial lives of consumers. It is imperative that we move quickly to work together to shore up our lines of defense against these serious risks." DFS is also considering imposing a mandate on its regulated institutions that they receive "robust representations and warranties" from their third-party vendors that the vendors have critical cyberprotections in place. DFS is also considering regulations that would require firms to use of multi-factor authentication.

In other regulatory developments, the Federal Reserve Bank of New York formed a dedicated team to strengthen the NY Fed's overall supervisory approach to cybersecurity. In a March 24th speech on cybersecurity risks in the financial sector, Sarah Dahlgren, Executive Vice President of the NY Fed, said the team "will be working with our examination teams to establish a new risk-based cybersecurity assessment framework, based on best practices in the field, as well as exploring additional standards that might be set out for supervised institutions."

In Congress, it is unclear whether the full Senate will vote this fall on the Cybersecurity Information Sharing Act, a similar version of which has already passed the House of Representatives.