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Briefing note

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- Recent Clifford Chance briefings: Securitised Origination Warehouse Financing; and more. Follow this link to the briefings section.

Money Market Funds: EU Council Presidency reaches agreement with Parliament

The EU Council Presidency has reached a provisional agreement with representatives of the EU Parliament on the proposed regulation on money market funds (MMFs). The proposed regulation is intended to ensure the smooth operation of the short-term funding market, maintaining the role that MMFs play in the financing of the economy.

A number of technical issues relating to the regulation are to be finalised in the coming days. The agreement will then be submitted to the Permanent Representatives Committee for endorsement on behalf of the Council. The Parliament and the Council will then be called upon to adopt the regulation at first reading.

Anti-Money Laundering: EU Council Presidency publishes compromise text

The EU Council Presidency has published a compromise text for the proposed Directive amending the fourth Anti-Money Laundering Directive (AMLD 4) to grant tax authorities access to information on the beneficial ownership of companies held by authorities responsible for the prevention of money laundering. Granting access to this information is intended to ensure tax authorities are better able to fulfil their monitoring obligations and thereby help prevent tax evasion and fraud. Under the proposed Directive, tax authorities will be able to access information on the beneficial ownership of financial account holders in intermediary structures. The proposed Directive also addresses new means of terrorist financing such as prepaid cards and virtual currencies, and seeks to improve cooperation between the Member States' financial intelligence units.

The Presidency is aiming for an agreement on the proposed Directive by the end of 2016, to enable negotiations with the EU Parliament to start early in 2017.

ESAs publish guidelines on anti-money laundering and counter-terrorist financing supervision

The Joint Committee of the European Supervisory Authorities (ESAs), comprising the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA), has published final guidelines on anti-money laundering and countering the financing of terrorism (AML/CFT) and the steps to be taken when conducting supervision on a risk-sensitive basis.

The guidelines are aimed at National Competent Authorities (NCAs) responsible for supervising credit and financial institutions' compliance with applicable AML/CFT obligations and set out what NCAs should do to ensure that their allocation of supervisory resources is proportionate to the level of money laundering and terrorist financing (ML/TF) risk associated with credit and financial institutions in their sector.

The guidelines will apply from November 2017.

ESMA publishes final guidelines on credit ratings methodologies

ESMA has published a final report on guidelines on the validation and review of credit rating agencies' (CRAs') methodologies. The report sets out ESMA's feedback on the responses it received to its consultation in July 2016 and the final guidelines.

ESMA has decided to publish guidelines on the validation and review of CRAs' methodologies based on its supervisory experience of CRAs' application of Articles 8(3) and 8(5) of the CRA Regulation, Articles 7 and 8 of the regulatory technical standards (RTS) and comments from stakeholders. The guidelines are intended to ensure a consistent application of quantitative measures used by CRAs to review their methodologies, in particular discriminatory power, predictive power and historical robustness..

The guidelines will become effective two months after their publication in all the official languages of the EU.

EMIR: ESMA publishes final report on central clearing for small financial counterparties

ESMA has published its final report on the clearing obligation under the European Market Infrastructure Regulation (EMIR) for financial counterparties with a limited volume of activity.

ESMA has previously drafted regulatory technical standards (RTS) in relation to the clearing obligation under EMIR. There are currently three Commission Delegated Regulations on the clearing obligation based on draft RTS submitted to the EU Commission by ESMA.

Some financial counterparties with a limited volume of activity were facing difficulties in preparing for the clearing obligation. ESMA consulted with affected stakeholders on issues facing counterparties in establishing access to clearing, on the regulatory developments affecting access to clearing, on the relative systemic importance of these counterparties in the OTC derivative market and on a proposal to amend the phase-in period of the clearing obligation.

ESMA's report proposes to amend the Delegated Regulations on the clearing obligation to delay the phase-in for financial counterparties with a limited volume of derivatives activity by two years. The report also proposes aligning the three compliance dates for Category 3 firms regarding interest rate swaps and credit default swaps to 21 June 2019.

The report has been submitted to the Commission for endorsement of the draft RTS. The Commission should decide whether to endorse within three months.

EMIR: ESMA publishes opinion on common supervisory approach for CCPs' service extensions and change of risk models

ESMA has published an opinion that defines a common supervisory approach for supervisors dealing with central counterparties (CCPs) wishing to extend their existing authorisation under EMIR.

Under Article 15 of EMIR, CCPs wishing to extend their businesses to additional services or activities not covered by their initial authorisation must submit a request for extension to their competent authority. Article 49 requires CCPs to obtain validation from their competent authority and ESMA before adopting any significant change to the model parameters. EMIR does not define 'additional services or activities' or 'significant change'. In its 2015 review of CCP colleges under EMIR, ESMA noted the need for a common approach at EU level on the implementation of Articles 15 and 49.

ESMA has decided to provide the opinion to national competent authorities (NCAs) to ensure uniform procedures and consistent approaches throughout the EU and to assist NCAs to guide CCPs in identifying planned new activities and services which qualify as 'additional' and therefore require an extension of authorisation under Article 15 or changes which qualify as 'significant' and therefore trigger the procedure under Article 49 and in planning the necessary time for their related regulatory approval processes.

EBA consults on revised standards on supervisory reporting

The EBA has published a consultation paper on revised implementing technical standards (ITS) on supervisory reporting.

These ITS aim at collecting information on institutions' compliance with prudential requirements as set out in the Capital Requirements Regulation (CRR) and related technical standards, as well as additional financial information required by competent authorities to perform their supervisory tasks, in a consistent way.

The consultation proposes an amendment of the ITS on supervisory reporting, including:

- new requirements for the reporting of information on sovereign exposures; and
- changed requirements for the reporting of operational risk information.

Comments are due by 7 January 2017.

EBA consults on guidelines on application of IRB approach

The EBA has published a consultation paper on its draft guidelines on the estimation of risk parameters for non-defaulted exposures, namely of the probability of default (PD) and the loss given default (LGD), and on the treatment of defaulted assets.

The draft guidelines are part of the review of the internal ratings-based (IRB) approach, aimed at reducing the variability in the outcomes of internal models while preserving the risk sensitivity of capital requirements.

The draft guidelines detail the estimation of PD and LGD parameters for non-defaulted exposures, including specification of main definitions, requirements for the data used and clarifications on modelling techniques. In case of defaulted assets, the guidelines provide clarification on the estimation of risk parameters such as best estimate of expected loss (ELBE) and LGD in-default based on the requirements specified for the LGD for non-defaulted exposures.

Additionally, the guidelines specify other aspects that are common to all risk parameters, such as the judgmental component when developing and applying internal models, the appropriate level of conservatism that should be included in risk parameters, as well as the need for regular reviews of the models.

Considering the material changes to numerous rating systems that the guidelines may entail, the EBA intends to implement the changes end-2020.

Comments are due by 10 February 2017.

CRR: EBA consults on monitoring metrics for liquidity

The EBA has launched a consultation on its revised implementing technical standards (ITS) on additional monitoring metrics for liquidity.

The EBA proposes to reintroduce a maturity ladder in line with the reporting requirements laid down in the Commission's Delegated Act on the Liquidity Coverage Ratio (LCR). The aim of the revised ITS is to provide competent authorities with harmonised information on institutions' liquidity risk profile, taking into account the nature, scale and complexity of their activities.

The revised maturity ladder will require less detail on assets other than high quality liquid assets and on credit steps. It also captures the outflows from committed facilities as well as those due to downgrade triggers. In addition, a memorandum section has been included in the revised ITS to provide details on five LCR components, which help estimate any upcoming volatility of the LCR. Finally, the composition of the time buckets has been amended and the number of rows to be reported reduced.

Comments are due by 2 January 2017. The EBA intends to finalise and submit the revised ITS to the Commission in March/April 2017, with the revised reporting requirements applying from March 2018.

FSB agrees 2017 work programme

The Financial Stability Board (FSB) has met and agreed on its 2017 workplan. Issues discussed in the meeting that will form the priorities of the FSB's 2017 workplan are as follows:

- globally systemically important financial institutions (G-SIFIs) and the implementation of the TLAC standard;
- the resilience, recovery and resolvability of central counterparties;
- structural vulnerabilities from asset management activities;
- the decline of correspondent banking;
- misconduct in the financial sector;
- the work of the Task Force on Climate-related Financial Disclosures (TCFD);
- reporting on the implementation and effects of G20/FSB reforms;
- increasing the resilience of shadow banking; and
- issues relating to FinTech.

FCA publishes interim findings of asset management market study

The Financial Conduct Authority (FCA) has published the interim findings of its November 2015 asset management market study, which looked at whether institutional and retail investors receive good value for money when purchasing asset management services.

Key findings from the FCA's study include:

- investors often pay high charges for actively managed funds owing to limited price competition, while passively managed funds generally had stronger competition on price;
- fund objectives are not always clear, and performance is not always reported against an appropriate benchmark; and
- although they undertake due diligence for pensions funds, investment consultants are not effective at identifying outperforming fund managers. The FCA also identified conflicts of interest in the investment consulting business model which require further scrutiny.

The FCA has proposed a package of remedies to support competition in the market, including:

- the introduction of an 'all-in' fee so that investors can easily see what is being taken from the fund;
- measures designed to help retail investors identify which fund is right for them, such as requiring asset managers to be clear about the objectives of the fund, strengthening the use of benchmarks and providing tools for investors to identify persistent underperformance;
- requiring clearer communication of fund charges and their impact at the point of sale and in ongoing communication to retail investors;

- requiring increased transparency and standardisation of costs and charges information for institutional investors; and
- exploring the potential benefits of greater pooling of pension scheme assets.

The FCA has also recommended that HM Treasury considers bringing the provision of institutional investment advice within the FCA's regulatory perimeter, and is consulting on whether to make a market investigation reference to the Competition and Markets Authority (CMA) on the investment consultancy market. The FCA will also undertake further competition work on the retail distribution of funds.

The FCA welcomes feedback on the findings and proposed actions in the report. Comments on the interim findings are due by 20 February 2017.

FCA publishes feedback on approach to payment services

The FCA has published a feedback statement (FS16/12) following a call for input on its approach to the current payment services regime, which was launched in February 2016. The feedback statement summarises the responses received from stakeholders, and outlines the FCA's response and intended next steps.

Overall, respondents were broadly happy with the current FCA guidance, but in light of the feedback the FCA proposes to:

- consider where further practical examples can be included in the approach document and PERG in order to ensure the guidance is user-friendly;
- publish updated guidance to take into account new developments, including new technologies and business models for providing payment services and relevant legislation or regulatory initiatives; and
- combine the two approach documents on payment services and electronic money, as well as update the learning module to cover changes as a result of the recast Payment Services Directive (PSD2).

Fintech: FCA and People's Bank of China sign cooperation agreement

The FCA and the People's Bank of China (PBC) have signed a cooperation agreement aimed at promoting innovation in financial services.

The agreement provides a framework for cooperation, and sets out how the FCA and PBOC plan to share and use information to promote innovation in their respective markets, including:

- emerging market trends and developments;
- regulatory issues pertaining to innovation in financial services; and
- information on organisations or bodies which lead efforts to promote innovation in financial services.

HM Treasury consults on FMI administration rules

HM Treasury has published a consultation paper on draft financial market infrastructure (FMI) administration rules.

In 2013 the Financial Services (Banking Reform) Act 2013 introduced a form of special administration for certain FMI companies operating payment and/or security settlement systems (but excluding recognised CCPs) to mitigate the risk of disruption occurring due to the insolvency of an FMI company.

The Treasury's consultation seeks views on rules that are needed, including modifications of general insolvency rules, to ensure the effective functioning of an FMI administration. These rules will apply to England and Wales, where all of the companies currently within the scope of this proposal are registered. Rules for Scotland and Northern Ireland will be made separately.

Comments to the consultation close on 15 January 2017. The Treasury expects the rules to be laid in 2017 to come into force following the introduction of the Insolvency (England and Wales) Rules 2016 and the commencement of Part 6 of the 2013 Act.

BaFin consults on circular 4/2010 regarding minimum requirements for compliance function and additional requirements governing rules of conduct, organisation and transparency

The German Federal Financial Supervisory Authority (BaFin) has launched a consultation regarding the Minimum Requirements for the Compliance Function and Additional Requirements Governing Rules of Conduct, Organisation and Transparency pursuant to Sections 31 et seq. of the German Securities Trading Act (MaComp).

BaFin intends to amend BT 3.2 MaComp by including a new requirement for investment services undertakings (Wertpapierdienstleistungsunternehmen) when forwarding third party information. Every investment services undertaking needs to adequately flag third party information as information provided by third parties when forwarding such information to third parties.

In addition, BaFin intends to revise BT 5 MaComp with respect to definitions which have been moved from the German Securities Trading Act to Article 20 of the Regulation (EU) No 596/2014.

The consultation period ends on 14 December 2016.

FINMA defines its strategic goals for 2017-2020

The Swiss Financial Market Supervisory Authority (FINMA) has set out the following seven strategic goals for the next four years (2017-2020):

- FINMA will ensure that banks and insurance companies have a strong capitalisation;
- FINMA will make a sustainable positive impact on the conduct of financial institutions, especially in the prevention of money laundering;
- the 'too big to fail' problem will be further mitigated through viable emergency plans and credible resolution strategies'
- in addition to structural change in the financial industry, FINMA will contribute to systemic stability and the protection of creditors and insured persons;
- FINMA will push for the removal of unnecessary regulatory obstacles for innovative business models;
- FINMA remains committed to principles-based financial market regulation and will continue to promote equivalence with relevant international requirements; and
- in principle, the cost of supervision will only rise if FINMA's remit is expanded. Further efficiency gains are achievable through the strict application of risk-based supervision approaches and clear prioritisation both in-house and in the regulatory audit process.

These goals were approved by the Federal Council, and reflect a shift in focus towards the opportunities and risks associated with technological innovation.

FSC announces plan to improve short selling and disclosure rules

The Financial Services Commission (FSC) has announced its plan to improve short selling and disclosure rules to strengthen investor protection. Under the plan:

- short sellers shorting during a period of paid-in capital increase will be barred from buying the newly-issued stocks – an amendment proposal for the Financial Investment Services and Capital Markets Act will be submitted to the National Assembly in the first quarter of 2017;
- the Korea Exchange (KRX) will designate 'overheated short-selling stocks' at the close for stocks showing extraordinary increases in short selling and sharp falls in prices during the trading hours to prohibit short-selling for those stocks on the following day – the new rule will be implemented in early 2017 after the revision of relevant regulations by the KRX;
- sanctions against violation of short-selling rules will be strengthened by:
  - subjecting those who breach short-selling rules such as the prohibition of uncovered short-selling or up-tick rules to heftier fines than those imposed on other violations – the KRX will revise the relevant regulation in the first quarter of 2017;
  - adding price manipulative activities exploiting short-selling positions to the types of 'Market Disruptive Activities' under the Financial Investment Services and Capital Markets Act – an amendment proposal for the Financial Investment Services and Capital Markets Act will be submitted to the National Assembly in the first quarter of 2017;
- the deadlines for reporting and disclosure of short positions in large amounts or by shares will be shortened from the current T+3 days to T+2 days – the relevant regulations will be implemented in the fourth quarter of 2016;
- deadlines for the disclosure of technology transfer will be shortened to provide investors with timely information – the proposal will be implemented in the fourth quarter of 2016;
- in case of long-term contracts, every crucial step in the progress of the contract will be required to be disclosed – the proposal will be implemented in the fourth quarter of 2016; and
- the maximum penalties for the violation of disclosure rules will be raised fivefold to make companies more accountable for accurate and timely disclosure – the proposal will be implemented in the fourth quarter of 2016.

HKEX defers volatility control mechanism rollout for derivatives market

Hong Kong Exchanges and Clearing Limited (HKEX) has decided to defer the rollout of its Volatility Control Mechanism (VCM) for the derivatives market, scheduled for 14 November 2016, to a date to be announced after a potential technical issue was identified during its final rollout preparation.

The decision will not have any impact on the market's operations. Exchange participants and most information vendors are not required to make any system changes in light of HKEX's decision on the system rollback.

SFC issues circular on providing securities dealing services under Shanghai-Hong Kong and Shenzhen-Hong Kong Stock connects

The Securities and Futures Commission (SFC) has issued a circular to licensed corporations on providing securities dealing services under the Shanghai-Hong Kong and Shenzhen-Hong Kong Stock connects.

The Shanghai-Hong Kong Stock Connect has been operating for about two years since its launch on 17 November 2014. Licensed corporations who are exchange participants of the Stock Exchange of Hong Kong Limited may provide Northbound trading services to their clients and such activities are subject to the relevant requirements of the SFC, Hong Kong Exchanges and Clearing Limited (HKEX), the Shanghai Stock Exchange (SSE) and the China Securities Depository and Clearing Corporation Limited (ChinaClear).

In light of the upcoming Shenzhen-Hong Kong Stock Connect and the SFC's observations in its recent inspections of licensed corporations on their business activities under the Shanghai-Hong Kong Stock Connect, the SFC has reminded licensed corporations to ensure compliance with the relevant requirements when conducting such business activities.

Amongst other things:

- licensed corporations should ensure that their clients are aware of the differences in rules and regulations, trading and settlement arrangements and risks associated when trading SSE securities under Northbound trading;
- licensed corporations are reminded to put in place adequate policies and procedures to ensure compliance with all applicable regulatory requirements and the firm's own internal policies and procedures; and
- licensed corporations are reminded that the requirements set out in the circular are also applicable to the provision of Northbound trading services under the Shenzhen-Hong Kong Stock Connect.

The circular advises licensed corporations to observe any changes to the relevant requirements relating to the Shanghai-Hong Kong Stock Connect and the Shenzhen-Hong Kong Stock Connect from time to time and review their policies and procedures to ensure ongoing compliance with all relevant regulatory requirements.

Credit Bureau Bill 2016 moves to Singapore Parliament for second reading

The Monetary Authority of Singapore (MAS) has announced that the Credit Bureau Bill 2016 has been moved for its Second Reading in Parliament.

The Bill has been introduced to enable the MAS to license and supervise credit bureaus that collect customer credit information from banks and other financial institutions in Singapore. In particular, the Bill is intended to:

- empower the MAS to license credit bureaus and subject them to corporate governance and operational requirements;
- empower the MAS to require licensed credit bureaus and their approved members to safeguard the confidentiality, security and integrity of customer credit information; and
- require licensed credit bureaus and their approved members to protect consumers' rights to access, review and rectify the customer information held by the credit bureaus.

MAS consults on proposed amendments to Code on Collective Investment Schemes

The MAS has launched a public consultation on proposed amendments to the Code on Collective Investment Schemes. The proposed amendments to the Code are intended to:

- effect the policy proposal in respect of retail investor access to collective investment schemes that invest solely in precious metals set out in the MAS' September 2015 responses to the Consultation on Proposals to Enhance Regulatory Safeguards for Investors in the Capital Markets published in July 2014; and
- enhance and refine the regulatory framework for collective investment schemes to enhance transparency and market discipline, improve operational effectiveness, and provide greater clarity to market practitioners.

To safeguard the interest of policyholders of investment linked policies (ILP) as well, the proposals will similarly apply to ILP sub-funds issued by insurers under the MAS Notice 307 on Investment-Linked Policies. This will ensure

consistency in the regulatory requirements for collective investment schemes and ILP sub-funds.

Amongst other things, the consultation paper covers the following key proposals:

- proposed requirements for authorised funds that invest solely in gold, silver and platinum;
- proposed requirements for disclosures on a fund manager's credit assessment practices, additional disclosures on securities lending or repurchase transactions, and to extend the additional disclosure requirements under the Code to recognised funds;
- a proposal to require managers of authorised and recognised funds to ensure that advertisements comply with the Code of Best Practices in Advertising Collective Investment Schemes and Investment-Linked Life Insurance Policies and the guidance note on Recommended Disclosures to Support the Presentation of Income Statistics in Advertisements;
- a proposal to require a REIT to calculate the weighted average lease expiry of its portfolio and new leases based on the date of commencement of the leases;
- a proposal to allow all funds, except property funds and hedge funds, to pay out redemption proceeds within seven business days from the receipt of the redemption request;
- clarification of the term 'passing rent' in Appendix 6 of the Code; and
- a proposal to allow an SGX-listed REIT to issue summary financial statements to unitholders in place of full financial statements and report.

Comments on the consultation paper are due by 12 December 2016.

Securities and Futures (Amendment) Bill 2016 moves to Singapore Parliament for first reading

The MAS has announced that the Securities and Futures (Amendment) Bill 2016 has been moved for its first reading in Parliament.

The Bill completes the MAS' two-phase review to implement over-the-counter (OTC) derivatives regulatory reforms, in line with recommendations made by the Financial Stability Board (FSB) and the G20 to strengthen regulation of OTC derivatives markets following the 2008 global financial crisis, by introducing amendments aimed at enhancing regulatory safeguards for retail investors, enhancing the credibility and transparency of the capital markets, and strengthening the MAS' ability to take enforcement action against market misconduct.

Key provisions in the Bill include the following:

- regulation of OTC derivatives – the Bill will extend the scope of the Securities and Futures Act (SFA) to OTC derivatives by empowering the MAS to regulate market operators and capital markets intermediaries in respect of their OTC derivatives activities. Regulatory oversight of commodity derivatives, currently under the Commodity Trading Act, will consequently be transferred to the SFA. The MAS will also be empowered to require derivatives contracts that meet prescribed criteria to be traded on organised trading facilities or exchanges, instead of OTC;
- enhancement of regulatory safeguards for retail investors – the Bill will extend the scope of the SFA to non-conventional investment products that are in substance capital markets products, and will refine the definitions of accredited investors and institutional investors;
- enhancement of credibility and transparency of capital markets – the Bill will introduce requirements to enhance transparency on the level of short-selling in securities listed on approved exchanges and introduce a new regulatory framework for financial benchmarks;
- strengthening of enforcement regime against market misconduct – the Bill will clarify the scope of the prohibition against false or misleading disclosures, introduce a statutory definition of 'persons who commonly invest' for prohibitions against insider trading, confer priority on the MAS' civil penalty claims over private unsecured claims that accrue subsequent to the contravention of the SFA, and standardise the civil penalty ceiling; and
- other technical amendments – the Bill will also introduce several amendments to effect revisions relating to operational matters.

Bank Indonesia launches fintech office

Bank Indonesia (BI) has launched a financial technology (fintech) office to monitor the services offered by the fintech industry, so as to ensure the development of business innovation and security in Indonesia.

In ensuring innovation and security, the fintech office will have the following roles:

- facilitating ideas exchange among fintech regulators and industry players;

- monitoring the development of fintech companies through a regulatory sandbox (laboratory) where ideas on innovation will be shared between regulators and fintech players, and the products or business models will be tested and evaluated under BI's supervision before they are launched to the market; and
- providing a one-stop service to help industry players understand the regulatory policies.

As part of the ongoing efforts to further expand the fintech industry in Indonesia, the Financial Services Authority intends to issue a specific fintech regulation for third party fintech players before year-end.

CLIFFORD CHANCE BRIEFINGS

Securitised Origination Warehouse Financing – a flexible funding tool

A notable theme in the European securitisation market in recent times has been the move towards securitised warehouse financing facilities as a means of providing funding for originators of mortgage loans, auto leases and other consumer assets. Whilst the use of warehouse financing of itself is not a new phenomenon and has been an important funding source for many originators for many years, the current changeable nature of the public markets, combined with lenders willing to lend on an asset-backed basis has made warehouse financing an increasingly attractive option.

This briefing paper discusses warehouse transactions.

https://www.cliffordchance.com/briefings/2016/11/securitised_originationwarehousefinancing.html

PSC Regime – Scottish Share Security

Since 6 April 2016 the persons with significant control register regime (PSC Register Regime) has been effective in the UK. Most of its consequences are now settling in the market, but there has been some uncertainty about the consequences for security trustees holding fixed security over shares in a Scottish company. It is now becoming clear that they may need to be recorded on the company's PSC register – and may have an obligation to notify the relevant companies.

This briefing paper discusses the implications.

https://www.cliffordchance.com/briefings/2016/11/psc_regime_scottishsharesecurity.html

ICC Examines the Use of International Arbitration by Financial Institutions

An extensive report issued recently by the International Chamber of Commerce (ICC) confirms that arbitration is appropriate for resolving disputes in many fields of banking and finance activity, dispelling previously held conceptions that it is not. Taking an empirically based approach to its analysis, the report examines the use of arbitration across the industry and provides users with guidance as to how they can effectively tailor arbitration to their specific needs.

The use of arbitration in the finance sector has historically lagged behind its use in many sectors, with the general perception that litigation is better suited for the resolution of banking and finance disputes. This notwithstanding that in 2013, 69% of in-house counsel considered arbitration to be 'well-suited' to the industry, indicating a mismatch between perception and reality.

This briefing paper discusses the report.

https://www.cliffordchance.com/briefings/2016/11/icc_examines_theuseofinternationalarbitratio.html