

# International Regulatory Update

08 – 12 May 2017

## IN THIS WEEK'S NEWS

- BRRD: EBA consults on draft RTS further specifying criteria for granting simplified obligations for recovery and resolution planning
- PSD2: EBA consults on security measures for operational and security risks
- EBA publishes final draft technical standards to enhance transparency and comparison of payment account fees
- ECB consults on future RTGS services
- FSB publishes Global Shadow Banking Monitoring Report 2016
- PRA publishes policy statement on strengthening accountability regimes for banking and insurance
- FCA updates appropriate qualification exam standards
- BoE publishes blueprint for RTGS service renewal
- BaFin restricts CFD trading
- MiFID2: AMF consults on changes to its General Regulation
- AMF and ACPR update their guide on regulatory framework for crowdfunding in France
- Ministerial order approving amendments to AMF General Regulation concerning intermediaries in miscellaneous assets published
- Draft Act on Combating Money Laundering and Terrorist Financing published
- Polish Ministry of Development and Finance presents amendments to Act on Payment Services
- Monetary Authority of Singapore (Amendment) Bill 2017 moved for first reading in Singapore Parliament
- MAS consults on draft Securities and Futures (Financial Benchmarks) Regulations 2017
- SAFE publishes Q&As providing further operational guidance on authenticity and compliance checks for cross-border transactions.
- Commencement Notice and Protected Arrangements Regulation under Financial Institutions (Resolution) Ordinance gazetted
- SFC consults on new guidelines on online distribution and advisory platforms
- APRA consults on substituted compliance for margin rules

*Clifford Chance's International Regulatory Update is a weekly digest of significant regulatory developments, drawing on our daily content from our Alerter: Finance Industry service.*

If you would like to continue to receive International Regulatory Update or would like to request a subscription for a colleague, please [click here](#).

To request a subscription to our Alerter: Finance Industry service, please email [Online Services](#).

If you would like to know more about the subjects covered in this publication or our services, please contact:

### International Regulatory Group Contacts

[Chris Bates](#) +44 (0)20 7006 1041

[Nick O'Neill](#) +1 212 878 3119

[Marc Benzler](#) +49 69 7199 3304

[Steven Gatti](#) +1 202 912 5095

[Paul Landless](#) +65 6410 2235

[Mark Shipman](#) + 852 2826 8992

[Donna Wacker](#) +852 2826 3478

### International Regulatory Update Editor

[Joachim Richter](#) +44 (0)20 7006 2503

To email one of the above, please use [firstname.lastname@cliffordchance.com](mailto:firstname.lastname@cliffordchance.com)

Clifford Chance LLP, 10 Upper Bank Street, London, E14 5JJ, UK

[www.cliffordchance.com](http://www.cliffordchance.com)

- Recent Clifford Chance briefings: EMIR review proposals; and more. [Follow this link to the briefings section.](#)

### **BRRD: EBA consults on draft RTS further specifying criteria for granting simplified obligations for recovery and resolution planning**

The European Banking Authority (EBA) has launched a [consultation](#) on draft regulatory technical standards (RTS) on the eligibility criteria for granting simplified obligations for recovery and resolution planning under the Bank Recovery and Resolution Directive (BRRD).

Simplified obligations may be applied by competent and resolution authorities based on their assessment conducted on the basis of the criteria laid down in the BRRD, which include the size of institution, interconnectedness, scope and complexity of its activities, risk profile, legal status, nature of business and shareholding structure. The draft RTS further specify the criteria for granting simplified obligations and have been developed taking into account experience acquired in the application of the EBA guidelines on simplified obligations, which were published in July 2015.

In particular, the draft RTS specify that authorities should follow a two-stage approach by:

- selecting institutions that may potentially benefit from simplified obligations based on a number of quantitative criteria measured on the basis of a set of quantitative indicators; and
- verifying whether the institutions selected as potentially eligible for simplified obligations also meet relevant qualitative criteria.

To cater for exceptional cases, the draft RTS also provide a short and exhaustive list of exclusions applicable to the first stage of the assessment.

Comments on the consultation are due by 8 August 2017.

### **PSD2: EBA consults on security measures for operational and security risks**

The EBA has launched a [consultation](#) on draft guidelines on security measures for operational and security risks under the revised Payment Services Directive (PSD2). The proposed guidelines set out the requirements that payment service providers should implement in order to mitigate operational and security risks derived from the provision of payment services. The guidelines cover:

- governance of the risk management framework, the risk management and control models and outsourcing;
- identification, classification and risk assessment of functions, processes and assets;
- protection of integrity and confidentiality of data and systems, physical security and access control;
- monitoring, detection and reporting of security incidents;
- business continuity management, including scenario-based continuity plans and their testing, incident management and crisis communication;
- testing of security measures;
- situational awareness and continuous learning; and
- management of the relationship with the payment service user.

Comments are due by 7 August 2017.

### **EBA publishes final draft technical standards to enhance transparency and comparison of payment account fees**

The EBA has published its [final draft technical standards](#) under the Payment Accounts Directive (2014/92/EU – PAD), setting out the standardised terminology for services linked to a payment account, and the standardised formats and common symbol of the fee information document and the statement of fees.

The EBA aims to enhance the comparability of fees through standardised terminology and disclosure documents across the EU, to help consumers make informed decisions on the payment account that best suits their needs.

The final draft technical standards introduce eight standardised terms for services linked to a payment account, as well as consumer-friendly definitions of these terms in all EU official languages. Payment service providers are expected to use the terminology in the pre-contractual fee information document and the post-contractual statement of fees. The standards also prescribe a standardised template for the fee information document and its symbol and a standardised template for the statement of fees and its symbol.

The standardised terminology is currently being translated and will be made available by end of May 2017. Once the standards are adopted by the EU Commission, Member States will have to integrate these standardised terms into their provisional lists of the most representative services and publish their final national lists.

### ECB consults on future RTGS services

The European Central Bank (ECB) has launched a [consultation](#) on the user requirement documents on the future Real Time Gross Settlement (RTGS) services as part of the T2-T2S consolidation project, which is intended to consolidate and optimise the provision of the TARGET2 (T2) and TARGET2-Securities (T2S) services and the overall provision of liquidity to other services, such as TARGET Instant Payments Settlement (TIPS).

Among other things, the ECB proposes:

- a new Central Liquidity Management (CLM) service that will also segregate the credit institution's Central Bank operations from the high-value payments and ancillary system business in RTGS;
- harmonisation of the provisioning of supporting functionalities for the future RTGS, T2S and TIPS;
- adoption of the ISO 20022 format for communication with the different Eurosystem market infrastructures; and
- multi-currency enabling for all market infrastructures.

The Eurosystem intends to decrease the running costs of the market infrastructures, to be passed on to users along with several functional benefits.

Comments on the consultation are due by 30 June 2017.

### FSB publishes Global Shadow Banking Monitoring Report 2016

The Financial Stability Board (FSB) has published the [results](#) of its sixth annual monitoring exercise to assess global trends and risks in the shadow banking system, covering data up to the end of 2015.

28 jurisdictions are covered in the report, including Belgium and the Cayman Islands for the first time, accounting for about 80% of global GDP. The report compares the size and trends of financial sectors across jurisdictions based on sector balance sheet data, focussing on those parts of non-bank credit intermediation that may pose financial stability risks.

The FSB's main findings include:

- non-bank financial intermediation and its components grew in 2015 in 21 jurisdictions and the euro area, although more slowly than in previous years;
- credit intermediation associated with collective investment vehicles compromised 65% of the narrow

measure of shadow banking and has grown by around 10% on average over the past four years;

- assets from other financial intermediaries (OFIs) rose to USD 92 billion in all but seven jurisdictions, due in part to a combination of higher equity valuations and an increase in non-bank credit intermediation; and
- loans extended by the OFI sector have been growing steadily, increasing at an annual rate of 10% or more in Australia, China, Germany, Indonesia, Korea and South Africa, with China reporting the highest increase of 35%.

New data collected on the interconnectedness among the bank and non-bank financial sectors and on the trends of short-term wholesale funding, including repos, suggested that banks' credit exposures to and funding from OFIs have continued to decline in 2015 but still remain above the levels before the 2007-09 financial crisis.

### PRA publishes policy statement on strengthening accountability regimes for banking and insurance

The Prudential Regulation Authority (PRA) has published a policy statement ([PS12/17](#)) on strengthening individual accountability in banking and insurance. The policy statement includes:

- final rules amending the Senior Managers and Certification Regime (SM&CR) and the Senior Insurance Managers Regime (SIMR);
- updates to Supervisory Statement 28/15 on strengthening individual accountability in banking and Supervisory Statement 35/15 on strengthening individual accountability in insurance;
- the PRA Statement of Policy on conditions, time limits and variations of approval; and
- the final versions of forms to be used for applications from 12 September 2017.

### FCA updates appropriate qualification exam standards

The Financial Conduct Authority (FCA) has published a policy statement ([PS17/11](#)) setting out updates to the appropriate exam standards (AES) for appropriate qualifications listed in its Training and Competence (TC) sourcebook, as well as feedback on responses received to its consultation (CP16/24).

Overall, respondents were broadly supportive of the proposed updates to the AES, which included:

- amendments to reflect the current knowledge that individuals working in financial services need in order to perform their roles competently;

- reducing the number of ‘regulation and ethics’ AES from three to two; and
- adding guidance on how to read and use the appropriate qualification tables included in the TC sourcebook.

The consultation also sought feedback on the addition of an equity release qualification intended to help consumers access this market. Most respondents did not feel that this would lead to a significant increase in the number of appropriately qualified people and the FCA has therefore decided not to change the appropriate qualification for equity release at this time.

#### **BoE publishes blueprint for RTGS service renewal**

The Bank of England (BoE) has published its [blueprint](#) for the new Real-Time Gross Settlement (RTGS) service for the UK. The renewed RTGS service has been designed around five key features:

- higher resilience to ensure continuity of service and integrity of data across a wide range of possible scenarios, including against evolving threats such as cyber attacks;
- broader access, including a forthcoming framework for expanding RTGS eligibility to non-bank payment service providers (PSPs) in order to help promote financial stability as well as innovation and competition in the payment market;
- wider interoperability, including the introduction of ISO 20022 messaging, greater flexibility for users to reroute payments if necessary, and a system designed to interface with distributed ledger technology (DLT) in future;
- improved user functionality; and
- strengthened end-to-end risk management of the high-value payment system (HVPS) through a ‘direct delivery’ model used in a majority of jurisdictions globally.

The BoE intends to build upon the strengths of the current system and will begin the multi-year renewal programme immediately. For the remainder of 2017, the BoE’s priorities will be to:

- secure a smooth and timely transition to direct delivery for the HVPS;
- initiate the process for allowing non-bank PSPs to apply for access to UK payment systems; and
- define the renewal programme as a whole, working closely with users and stakeholders across the industry.

The BoE intends that the renewed RTGS will be live by the end of 2020.

#### **BaFin restricts CFD trading**

The German Federal Financial Supervisory Authority (BaFin) has issued a [general decree](#) pursuant to section 4b para. 1 of the German Securities Trading Act (WpHG) to restrict the marketing, distribution and sale of contracts for financial differences (CFDs).

Contracts with an additional payment obligation (Nachschusspflicht) may no longer be offered to retail clients. Offerors of CFDs with additional payment obligations have three months from the date of publication of the general decree to adjust their business models accordingly.

#### **MiFID2: AMF consults on changes to its General Regulation**

The French Autorité des marchés financiers (AMF) has launched a [consultation](#) on proposed changes to its General Regulation to transpose the MiFID2 measures set out in the EU Commission’s Delegated Directive of 7 April 2016 on the safeguarding of financial instruments and funds belonging to clients, product governance, and rules governing the provision or reception of fees, commissions or any other benefits.

The following changes applicable to investment service providers and asset management companies are proposed:

- adapting existing measures and creating new ones on the safeguarding of financial instruments belonging to clients;
- creating a chapter on the new product governance obligations; and
- replacing the existing provisions of article 314-76 with new provisions on inducements.

The transposition into French law of MiFID2, which will apply from 3 January 2018, has already been partially achieved by way of the Ordinance no. 2016-827 of 23 June 2016, and a further Ordinance will follow in due course.

Comments are due by 10 June 2017.

#### **AMF and ACPR update their guide on regulatory framework for crowdfunding in France**

Following amendments introduced by Order 2016-520 of 28 April 2016 on interest-bearing notes (bons de caisse) and the amendments to the General Regulation of the AMF and to its policy, the AMF) and Autorité de contrôle prudentiel et

de résolution (ACPR) have updated their [guide](#) contributing to the regulatory framework for crowdfunding in France.

Presented in a Q&A format, the guide is intended for operators of lending, donation or securities subscription platforms, as well as fund-seeking project initiators.

The guide now includes the 2016 Order on interest-bearing notes (bons de caisse) creating 'minibons' and its implementing Decree. Minibons are offered by crowdfunding investment advisers (CIAs) and investment services providers (ISPs) via websites and are subject to a specific regime as provided for in the French regulation.

Amendments to the provisions on crowdfunding intermediation activity in the form of loans were published on the ACPR website on 25 March 2017.

#### **Ministerial order approving amendments to AMF General Regulation concerning intermediaries in miscellaneous assets published**

A Ministerial order (Arrêté) dated 27 April 2017, approving amendments to the General Regulation of the Autorité des marchés financiers (AMF) has been [published](#) in the French Journal Officiel.

In particular, the amendments concern:

- information addressed to non-professional clients, which shall be fair, clear, and not misleading as provided by articles 314-10 to 314-17 and, in case of forecasts, must contain a prominent warning that these are 'simulated' and not a reliable indicator of future performance; and
- new provisions for all intermediaries in miscellaneous assets regarding their professional obligations and compliance with the conditions set out in articles 441-1 to 441-3 implementing articles L. 550-1 to L. 550-3 and R. 550-3 of the French monetary and financial code pursuant to article 79 of Law 2016-1691 of 9 December 2016 (Sapin II Law).

These amendments entered into force on 11 May 2017, the day following publication of the Ministerial order.

#### **Draft Act on Combating Money Laundering and Terrorist Financing published**

The Ministry of Development and Finance has presented the [draft Act](#) on Combating Money Laundering and Terrorist Financing, which is aimed at, amongst other things, implementing the Fourth Money Laundering Directive (EU) 2015/849 into Polish law.

Amongst other things, the draft Act provides for new categories of obliged institutions and changes to the duties of obliged institutions, including with regard to customer due diligence and the functioning of the Central Register of Beneficial Owners.

The draft has been sent for internal approvals and public consultation.

#### **Polish Ministry of Development and Finance presents amendments to Act on Payment Services**

The Ministry of Development and Finance has presented a [draft Act](#) on Payment Services, which implements the revised Payment Services Directive (EU) 2015/2366 (PSD2) into Polish law.

Under the draft, new types of payment services will be introduced:

- payment initiation service (PIS); and
- account information service (AIS).

The draft also provides for a new entity authorised to provide payment services – the small payment institution. Entities with this status will be able to conduct activity only in the territory of the Republic of Poland after they have been recorded in the register of small payment institutions. The average of the total amount of payment transactions over the last 12 months effected by a small payment institution will not be permitted to exceed EUR 1,500,000 per month.

The draft has been sent for internal approvals and public consultation.

#### **Monetary Authority of Singapore (Amendment) Bill 2017 moved for first reading in Singapore Parliament**

The Monetary Authority of Singapore (MAS) has [announced](#) that the Monetary Authority of Singapore (Amendment) Bill 2017 has been introduced for its first reading in Parliament. The Bill sets out proposed legislative amendments to enhance the resolution regime for financial institutions in Singapore, further to the MAS' [public consultation](#) published in April 2016. In addition, the MAS has published its [responses](#) to the feedback it received on the public consultation.

The key provisions in the Bill include:

- recovery and resolution planning (RRP) – introducing amendments that will consolidate the MAS' powers to impose requirements relating to recovery and resolution planning on pertinent financial institutions;

- temporary stays on termination rights – introducing amendments that will dis-apply counterparties’ rights to terminate contracts with pertinent financial institutions where these rights arise solely by reason of the financial institution’s entry into resolution, and empower the MAS to temporarily stay the early termination or acceleration rights of counterparties to contracts entered into with a pertinent financial institution over which the MAS has exercised its resolution powers;
- statutory bail-in regime – empowering the MAS to write down or convert into equity, instruments issued or contracted after the effective date of the bail-in regime, so as to absorb losses or recapitalise a distressed financial institution;
- cross-border recognition of resolution actions – introducing a framework for the MAS to recognise all or part of any resolution action taken by foreign resolution authorities on financial institutions in Singapore;
- creditor compensation framework – providing creditors and shareholders, who receive under the resolution of a financial institution less than what they would have received had the financial institution been liquidated, with a right to compensate for the difference. This is in line with the ‘no creditor worse off than in liquidation’ principle; and
- resolution funding arrangements – introducing a framework that will be used to meet the costs of implementing resolution measures, including the provision of loans to a financial institution under resolution, initial capital for a bridge entity, administrative costs, and creditor compensation claims.

Amongst other things, the Bill also provides for the merger of the Currency Fund with the other funds of the MAS, introduces amendments relating to the MAS’ financial arrangements with the Government, and introduces specific financial and annual report provisions for the Financial Sector Development Fund.

#### **MAS consults on draft Securities and Futures (Financial Benchmarks) Regulations 2017**

The MAS has launched a [public consultation](#) on the [draft Securities and Futures \(Financial Benchmarks\) Regulations 2017](#).

The consultation is intended to support the implementation of the legislative amendments under the Securities and Futures (Amendment) Act 2017, passed by the Parliament

on 9 January 2017 and when the relevant provisions are operative.

The public consultation follows the MAS’ 2013 supervisory review into benchmarks in Singapore and censure of a number of banks after identifying cases of attempted manipulation of Singapore dollar rate benchmarks and of foreign exchange spot benchmarks (FX Benchmarks). Following its review, the MAS proposed a new regulatory framework for financial benchmarks to strengthen the governance processes and accountability mechanisms in the determination of financial benchmarks, set out in the Securities and Futures (Amendment) Act 2017. The new regulatory framework will provide the MAS with powers under the new Part VIAA of the Securities and Futures Act (SFA) to designate key financial benchmarks and to regulate administrators of such designated benchmarks as well as submitters who contribute information required to compute such designated benchmarks. The Act will also introduce criminal sanctions and civil penalties to prevent manipulation of financial benchmarks.

The MAS proposes to issue new Securities and Futures (Financial Benchmarks) Regulations 2017 to operationalise the new Part VIAA of the SFA. In implementing the regulatory regime for financial benchmarks, the MAS intends to designate the Singapore Interbank Offered Rate (SIBOR) and Singapore Swap Offer Rate (SOR) as designated benchmarks. The proposed regulations set out admission, ongoing and other requirements which administrators of and submitters to designated benchmarks would be subject to.

In particular, the MAS seeks comments on:

- requiring a benchmark administrator to establish an oversight committee responsible for the maintenance and governance of the designated benchmark;
- requiring at least one third of the membership of the oversight committee to be persons who are not directors, key management officers or substantial shareholders of the benchmark administrator and benchmark submitters who provide information to the benchmark administrator in respect of that particular designated benchmark;
- the requirement for an independent external audit of benchmark administrators and benchmark submitters; and
- providing a transition period for benchmark administrators and submitters.

Comments on the consultation are due by 2 June 2017.

### **SAFE publishes Q&As providing further operational guidance on authenticity and compliance checks for cross-border transactions**

The State Administration of Foreign Exchange (SAFE) has issued a set of questions and answers ([Q&As](#)) in respect of the circular on further promoting the foreign exchange administration reform and enhancing authenticity and compliance checks (batch 2), providing further operational guidance on carrying out authenticity and compliance checks for cross-border transactions. Among other things, the Q&As specifically clarify the SAFE's position in respect of the following issues:

- proceeds under Nei Bao Wai Dai may be remitted into China in the form of (either direct or indirect) foreign debts and/or foreign direct investments under the corresponding regulatory regimes. However, securities investments are still prohibited;
- when processing a Nei Bao Wai Dai registration, the competent local bureaus of SAFE should register whether the proceeds will be remitted into China and the detailed proposed usage of proceeds;
- the restriction that proceeds under Nei Bao Wai Dai should only be used within the business scope of the debtor is still applicable;
- Nei Bao Wai Dai may not be used to pay the acquisition price in an outbound direct investment (ODI) project that is restricted under the current ODI policy;
- if the proceeds under Nei Bao Wai Dai are to be invested into special industries such as real estate, hotels, studios, entertainment, and clubs or used in specific investment structures that are discouraged, banks and competent local SAFE bureaus (where applicable) should enhance compliance and authenticity checks according to the relevant ODI rules and policies; and
- Chinese banks may not extend outbound loans to foreign borrowers for the purpose of supporting a Chinese entity's ODI transactions that are restricted under the current ODI policy.

### **Commencement Notice and Protected Arrangements Regulation under Financial Institutions (Resolution) Ordinance gazetted**

The Hong Kong Government has gazetted the [Financial Institutions \(Resolution\) Ordinance \(Commencement\) Notice](#) and the [Financial Institutions \(Resolution\) \(Protected Arrangements\) Regulation](#).

Enacted in June 2016, the Financial Institutions (Resolution) Ordinance establishes a cross-sector resolution regime for within scope financial institutions that is designed to meet the Financial Stability Board's (FSB's) Key Attributes of Effective Resolution Regimes for Financial Institutions. To bring the Ordinance into operation, the government has made the Commencement Notice to appoint 7 July 2017 as its commencement date.

The Regulation, which will come into effect on the same day, imposes appropriate constraints on the resolution authorities under the Ordinance, namely the Hong Kong Monetary Authority (HKMA), the Insurance Authority and the Securities and Futures Commission (SFC), in the event that it is necessary for them to exercise resolution powers to manage the orderly failure of a non-viable systemically important financial institution in Hong Kong. These constraints are designed to safeguard the economic effect of a certain set of financial arrangements, defined as 'protected arrangements' under section 74 of the Ordinance, that are crucial to the daily functioning of financial markets. Before the Ordinance commences operation, it is considered prudent to have the Regulation in place in order to provide legal certainty on the treatment of the 'protected arrangements' if a resolution authority should need to exercise its resolution powers.

The Commencement Notice and the Regulation will be tabled before the Legislative Council on 17 May 2017, for negative vetting. The Commencement Notice and the Regulation will come into operation on 7 July 2017.

### **SFC consults on new guidelines on online distribution and advisory platforms**

The SFC has launched a three-month [consultation](#) on proposed guidelines on online distribution and advisory platforms. The proposed guidelines will apply to all SFC-licensed or registered persons when conducting their regulated activities in providing order execution, distribution and advisory services in respect of investment products via online platforms.

The proposed guidelines are intended to provide tailored guidance to the industry on the design and operation of online platforms and clarify how the suitability requirement would operate in the online environment.

The proposed guidelines clarify that the posting of factual, fair and balanced materials on online platforms should not in itself trigger the suitability requirement. The suitability requirement will apply where investors can be subject to

greater influence and need more protection, such as where robo-advice is provided.

Under the proposed guidelines, the suitability requirement will be extended to the sale of complex products on online platforms on the basis that retail investors may have difficulty in fully understanding the nature and risks associated with a complex product based only on the information posted on an online platform. 'Complex products' refers to products whose terms, features and risks are not reasonably likely to be understood by retail investors because of their structure and which are difficult to value. Under the proposed guidelines, online platforms are required to ensure that any transaction in a complex product (other than derivative products traded on an exchange) is suitable for the client in all circumstances, regardless of whether there has been any solicitation or recommendation.

The proposed guidelines also contain specific guidance on the provision of automated or robo-advice on an online platform.

Comments on the consultation are due by 4 August 2017.

#### **APRA consults on substituted compliance for margin rules**

The Australian Prudential Regulation Authority (APRA) has released for [consultation](#) a draft of Prudential Standard CPS 226 Margining and risk mitigation for non-centrally cleared derivatives (draft CPS 226), in which APRA proposes to recognise substituted compliance.

APRA assessed the margin requirements of various jurisdictions and lists these jurisdictions in the draft CPS 226. These are the jurisdictions which APRA finds to be comparable in outcomes with the BCBS-IOSCO framework as well as the requirements of the Australian margin rules.

The consultation closes on 6 June 2017.

## **RECENT CLIFFORD CHANCE BRIEFINGS**

### **European Commission releases EMIR review proposals**

On 4 May 2017 the European Commission published a legislative proposal to amend the European Market Infrastructure Regulation (EMIR), reflecting the outcome of its review of how EMIR has worked since its adoption in 2012. Rather than fundamental reform, the proposals set out a limited number of changes aiming to address specific issues identified in the review, although many of these will have significant impact on market participants. The Commission also issued a communication indicating that it will propose legislation in June 2017 to enhance the supervision of central counterparties (CCPs). Framed in the context of the UK's exit from the EU, this will include proposals for enhanced EU supervision and/or location requirements for third country CCPs that play a systemic role in EU markets.

This briefing paper discusses the proposals.

[https://www.cliffordchance.com/briefings/2017/05/european\\_commissionreleasesemirreviewproposals.html](https://www.cliffordchance.com/briefings/2017/05/european_commissionreleasesemirreviewproposals.html)

### **Litigation privilege limited**

A first instance judge has limited the scope of litigation privilege for entities under investigation by regulatory or criminal authorities. Anticipation of an investigation will not suffice to offer litigation privilege, nor will the investigation itself - at least, until sufficient evidence of wrongdoing emerges that might justify a sanction.

This briefing paper discusses the decision.

[https://www.cliffordchance.com/briefings/2017/05/litigation\\_privilegelimited.html](https://www.cliffordchance.com/briefings/2017/05/litigation_privilegelimited.html)



---

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

[www.cliffordchance.com](http://www.cliffordchance.com)

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ

© Clifford Chance 2017

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to [nomorecontact@cliffordchance.com](mailto:nomorecontact@cliffordchance.com) or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

---

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Jakarta\* ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

\*Linda Widyati & Partners in association with Clifford Chance.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.

Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.