INTERNATIONAL REGULATORY UPDATE 02 – 06 NOVEMBER 2020

- **EBA publishes revised guidelines and draft RTS on G-SIBs methodology and disclosure**
- **EBA publishes opinion on accounting for ML/TF risks in the supervisory review and evaluation process**
- **Sustainable finance: EBA consults on management and supervision of ESG risks**
- **CSDR: ESMA publishes implementation reports on cross-border services and internalised settlement**
- **Sustainable finance: ESMA consults on draft advice under Article 8 of Taxonomy Regulation**
- **Basel Committee reports on Basel III implementation**
- **Coronavirus: FCA delays implementation of European Single Electronic Format**
- **Brexit: FCA changes open banking identification requirements**
- **Brexit: FCA publishes statement on share trading obligation**
- **Brexit: FCA publishes advice on process for existing intragroup exemptions from margin between UK and third country group entities**
- **Brexit: House of Lords EU Services Sub-Committee publishes call for fresh evidence on financial services post-transition**
- **BaFin publishes revised version of depositaries circular**
- **Prospectus Regulation and Money Market Funds: Italian Council of Ministers announces new implementing measures**
- **CSSF amends circular on implementation of ICAAP and ILAAP and circular on principles of a sound stress testing programme**
- **CSSF publishes new final terms submission form to be used as of 30 November 2020**
- **Coronavirus: CSSF issues circular adopting EBA guidelines to ensure compliance with CRR 'quick fix'**
- **Polish Financial Supervision Authority sets out position on provision of robo-advice**
- **HKEX concludes consultation on corporate weighted voting rights beneficiaries**

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

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

Marc Benzler +49 69 7199 3304

Caroline Dawson +44 207006 4355

Steven Gatti +1 202 912 5095

Lena Ng +65 6410 2215

Gareth Old +1 212 878 8539

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

Clifford Chance LLP,
10 Upper Bank Street,
London, E14 5JJ, UK
www.cliffordchance.com

- **Hong Kong Government consults on legislative proposals to enhance anti-money laundering and counter-terrorist financing regulation**
- **HKMA develops two-year roadmap to promote Regtech adoption in Hong Kong banking sector**
- **MAS issues compliance toolkit for financial institutions conducting regulated activities under Securities and Futures Act**
- **Payment Services (Amendment) Bill moved for first reading in Singapore Parliament**
- **Council of Financial Regulators publishes report on review of regulation of stored-value facilities**
- **Recent Clifford Chance briefings: Sukuk Al Ijarah template documentation, UK insurance regulation reform, and more. Follow this link to the briefings section.**

EBA publishes revised guidelines and draft RTS on G-SIBs methodology and disclosure

The European Banking Authority (EBA) has published revised final draft regulatory technical standards (RTS) on identifying the indicators of global systemic importance and revised guidelines on their disclosure. The revisions follow the Basel Committee on Banking Supervision's (BCBS) revised framework on global systemically important banks (G-SIBs) identification and the new requirements laid down in the fifth Capital Requirements Directive (CRD5) which recognise the importance of cross-border activities within the European Banking Union area.

The BCBS' list of EU G-SIBs and the global systemically important institutions (G-SIIs) identified by Member States' authorities have remained identical. One of the key changes is the introduction of a new trading volume indicator, which adds to the existing 12 indicators used to measure systemic importance, and the revised standards include insurance activities in the indicators-based measurement approach.

At EU level, CRD5 has mandated the EBA to develop an additional methodology for the identification of G-SIIs that excludes the cross-border activities of EU banks in Member States of the European Banking Union, with the aim of recognising the efforts made in recent years to create harmonised European banking regulation and a common approach to resolution. This additional EU methodology shall take into account the Single Resolution Mechanism (SRM), which could lead to the re-allocation of a G-SII from a higher to a lower sub-category, hence potentially translating into lower capital buffer requirements.

The revised RTS will apply from the 2022 G-SII assessment exercise based on end-2021 information.

The EBA has also updated its guidelines on G-SIIs disclosure, which apply to other very large entities in the EU that have an overall leverage ratio exposure measure exceeding EUR 200 billion, as well as institutions that have already been identified as G-SIIs. According to the EBA, its guidelines go beyond the requirements laid down in the Regulation and enable Member State authorities to perform the identification and scoring process and disclosure in a timely manner, and in particular before the identification of any G-SIIs.

EBA publishes opinion on accounting for ML/TF risks in the supervisory review and evaluation process

The EBA has published an opinion setting out how prudential supervisors should consider money laundering and terrorist financing (ML/TF) risks in the context of the Supervisory Review and Evaluation Process (SREP).

The opinion sets out the EBA's expectations for prudential supervisors' consideration of ML/TF risks in relation to, in particular, the following components of the SREP:

- key indicator monitoring;
- business model analysis;
- assessment of internal governance and institution-wide controls;
- assessment of risks to capital; and
- assessment of risks to liquidity and funding.

The EBA will include more detailed guidance on the same topic in the revised version of the SREP Guidelines it plans to publish by the end of December 2021. The opinion forms part of the EBA's wider work to strengthen the link between prudential and AML/CFT supervision, and to lead, coordinate and monitor the EU financial sector's fight against ML/TF.

Sustainable finance: EBA consults on management and supervision of ESG risks

The EBA has launched a consultation on the incorporation of Environmental, Social and Governance (ESG) risks into the governance, risk management and supervision of credit institutions and investment firms.

The discussion paper is intended to fulfil the EBA's mandates stipulated under Article 98(8) of CRD5 and Article 35 of the Investment Firms Directive (IFD), compromising among other things:

- the development of a uniform definition of ESG risks;
- the development of appropriate qualitative and quantitative criteria for the assessment of the impact of ESG risks;
- the arrangements, processes, mechanisms and strategies to be implemented by institutions to identify, assess and manage ESG risks; and
- the analysis methods and tools to assess the impact of ESG risks on lending.

Comments are due by 3 February 2021 and a webinar on the discussion paper is being held on 26 November from 14:00 CET.

The EBA intends to deliver its final report in June 2021.

CSDR: ESMA publishes implementation reports on cross-border services and internalised settlement

The European Securities and Markets Authority (ESMA) has published its first reports to the EU Commission on the implementation of the Central Securities Depositories Regulation (CSDR). The two reports cover central securities depositories' (CSDs') cross-border services and handling of applications and internalised settlement. Both reports draw on responses to ESMA's survey of national competent authorities, CSDR relevant authorities and trade associations in June-July 2020.

ESMA's report on cross-border services and handling of applications highlights findings related to the provision of services by CSDs in other Member States. While no major variations in the provision of cross-border services have been detected since the CSDR's entry into force, a potential increase is predicted in the future, along with challenges linked to the application process.

The report on internalised settlement presents the findings related to settlement which does not take place in the securities settlement systems operated by CSDs in the EEA. It draws up on the survey of NCAs and other interested parties as well as an analysis of internalised settlement data based on quarterly reports submitted by settlement internalisers for the period Q2 2019 – Q3 2020. Although no major risks have been identified, NCAs have highlighted some risks related to this activity, including operational risk and custody risk, which could be mitigated through adequate identification of the clients' accounts involved, and the improvement of operational processes.

ESMA expects that the Commission will use these reports in its upcoming review of the CSDR.

Sustainable finance: ESMA consults on draft advice under Article 8 of Taxonomy Regulation

ESMA has published for consultation its draft advice to the EU Commission under Article 8 of the Taxonomy Regulation.

Article 8 covers the content, methodology and presentation of the key performance indicators (KPIs) that non-financial undertakings and asset managers are required to disclose.

ESMA's draft advice is intended to ensure a consistent application of the disclosure obligations required under the Taxonomy Regulation by non-financial undertakings and asset managers that fall within the scope of the Non-Financial Reporting Directive (NFRD).

Comments to the consultation close on 4 December 2020.

ESMA expects to submit its final advice report to the EU Commission by 28 February 2021.

Basel Committee reports on Basel III implementation

The Basel Committee on Banking Supervision (BCBS) has published its tenth report on the implementation of Basel III regulatory reforms.

Prepared for the G20 leaders ahead of their November 2020 summit in Riyadh, the report sets out progress by member jurisdictions in implementing the reforms, assesses the consistency of domestic banking regulations with the Basel III standards and analyses the prudential outcomes of those regulations. The Committee also reports on Basel-framework measures taken by member jurisdictions in response to the COVID-19 pandemic.

The report finds that further progress has been made since last year in implementing the Basel III standards, and banks have continued to build capital and liquidity buffers while reducing their leverage.

With regard to COVID-19, the Committee has monitored regulatory and supervisory measures taken by members, including the use of flexibility and consistency of these measures with Basel III standards. Most measures taken by members have been capital- or liquidity-related, with the primary aim of supporting banks' ability to continue lending and providing liquidity to the real economy.

Coronavirus: FCA delays implementation of European Single Electronic Format

The Financial Conduct Authority (FCA) has decided to push back the mandatory requirements related to the European Single Electronic Format (ESEF) for annual financial reports by one year, in order to relieve the burden on issuers during the COVID-19 pandemic.

The implantation of ESEF introduces requirements for annual financial reports to be prepared in a structured electronic format: a web-browser format using extensible hypertext mark-up language (XHTML) or a packaged format where information is tagged using extensible business reporting language (XBRL). According to the FCA, the change in format will improve the accessibility, analysis and comparability of annual financial reports and, in the long term, make capital markets more efficient and therefore help lower the cost of capital for issuers.

The requirements will now only be mandatory for financial years starting on or after 1 January 2021, although issuers are encouraged to publish and file their financial reports in the ESEF standard before that date, to help them prepare for the initiative and to improve transparency.

The FCA has also introduced changes to how annual financial reports are filed, including a specific new case type. Submitters not already using the FCA's electronic submission system (ESS) will need to be registered and will need to be authorised by the issuers they want to submit on behalf of. For ESEF-related submissions, the FCA expects to adopt the format published by the XBRL International Consortium, with the additional requirement of legal entity identifiers (LEIs) to be used in the filename. The FCA expects system changes to be implemented in January 2021.

The FCA has decided not to delay implementation of the ESEF requirement to tag notes to the annual financial statement, so this requirement will apply to financial years starting on or after 1 January 2022.

Brexit: FCA changes open banking identification requirements

The FCA has announced changes to its open banking identification requirements policy to limit the risk of disruption to open banking services after Brexit. The changes will permit UK-based third-party providers (TPPs) to use an alternative to eIDAS certifications to access customer account information from account providers, or initiate payments, after Brexit.

Under the Strong Customer Authentication Regulatory Technical Standards (SCA-RTS), eIDAS certificates are the only accepted identification standard permitted between providers of open banking services in the EU, which allow firms to interact and share customer account information online in a trusted and secure way. The EBA announced in July 2020 that eIDAS certifications of

UK TPPs would be revoked when the transition period ends on 31 December 2020.

The FCA's near final instrument allows TPPs to rely on an alternative certificate. According to the FCA, the changes mean that UK-based TPPs will likely need to obtain a new certificate to be able to continue to provide open banking services in the UK, post-Brexit. Account providers will also likely need to make technical changes to their systems to enable TPPs to continue accessing customer account information, by accepting an alternative certificate and informing TPPs as soon as possible which certificates they will accept.

Firms are expected to review the changes immediately and implement any necessary changes as soon as possible. The FCA will provide a transition period until the end of June 2021 for complying with its rules.

Brexit: FCA publishes statement on share trading obligation

The FCA has published a statement on its approach to the share trading obligation (STO) at the end of the Brexit transition period on 31 December 2020 if mutual equivalence is not agreed.

Reiterating that it does not consider that the ISIN or currency of shares should determine the scope of the STO, the FCA intends to use the temporary transitional power (TTP) to allow UK firms to continue trading all shares on EU trading venues and systematic internalisers (SIs) where they choose to do so, and where the regulatory status of those venues and SIs permits such activity.

The FCA intends to publish a transitional direction to implement these changes before the end of the transition period, but notes that it is ready to review its approach in light of market developments and remains open to dialogue with ESMA.

ESMA published a statement on its approach to the EU STO on 26 October 2020, whereby EEA ISIN shares on UK trading venues in British Pounds (GBP) will not be subject to the EU STO under Article 23 of MiFIR.

The FCA also intends to hold discussions with market participants and trading venues on cross-border trading, including whether the MiFID2 transparency calibrations remain appropriate for the UK in the absence of equivalence being recognised.

Brexit: FCA publishes advice on process for existing intragroup exemptions from margin between UK and third country group entities

The FCA has updated its European Market Infrastructure Regulation (EMIR) webpage with advice to UK firms that currently benefit from intragroup exemptions from the clearing obligation and margin requirements for non-centrally cleared derivatives under EMIR following the publication of the draft Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 by HM Treasury, which amend the onshored Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (EMIR SI).

The changes confirm that UK firms who currently benefit from intragroup exemptions from clearing with their EU or third country group entities, and from margin exemptions with their EU group entities, may continue to benefit from those exemptions from 1 January 2021 until the defined 'relevant day' in accordance with the conditions of the transitional regime for intragroup exemptions in the EMIR SI.

However, under the EU regime, intragroup exemptions from margin granted to UK firms with their third country group entities where no equivalence has been determined, expired in January 2020. Since then, the FCA has permitted these exemptions on a supervisory basis, following guidance from ESMA.

Expected EU RTS on margin to legislate an extension of the derogation to 21 December 2020 have not been made, and as a consequence, all intragroup exemptions granted to UK firms on this basis require a proper foundation, and firms will be required to re-apply for those exemptions in order to benefit from the transitional regime in the EMIR SI.

The FCA's page sets out a process for firms who are required to apply for these new exemptions.

Brexit: House of Lords EU Services Sub-Committee publishes call for fresh evidence on financial services post-transition

The House of Lords (HoL) EU Services Sub-Committee has published a call for fresh evidence as part of its ongoing inquiry into financial services after Brexit.

Following the evidence taken in early 2020 and the publication of its findings in March 2020, the Committee seeks to update its knowledge and understanding of the priorities for the future UK-EU relationship in the financial services sector and the potential consequences if no free trade agreement is reached. In particular, evidence is sought on:

- whether the UK financial services sector is well prepared for the end of the transition period;
- which specific areas should be prioritised in a UK-EU comprehensive trade agreement;
- the implications of a 'no agreement' scenario for financial services firms;
- the consequences if the EU does not grant the UK positive equivalence determinations, and the areas where equivalence decisions are particularly important;
- how the future UK-EU regulatory dialogue should be structured and divergence managed;
- the strengths and weaknesses of the UK Government's proposals set out in the Financial Services Bill and the Financial Services Future Regulatory Review consultation paper;
- the impact of financial regulators being delegated greater powers and the oversight of these bodies; and
- how the absence of a positive data adequacy decision from the EU could impact the sector.

The deadline for submissions is 20 November 2020.

BaFin publishes revised version of depositaries circular

The German Federal Financial Services Supervisory Authority (BaFin) has published a revised Circular 05/2020 (WA) on the tasks and obligations of depositaries according to Chapter 1 Part 3 of the German Capital Investment Code (Kapitalanlagegesetzbuch, KAGB).

The revision relates to Delegated Regulation (EU) 2016/438, which entered into force on 13 April 2016 and has applied since 13 October 2016. The circular addresses selected issues related to the obligations of the depositary, such as the authorisation of the depositary, custody and sub-custody and control obligations. It also replaces Circular 08/2015 on the tasks and obligations of depositaries pursuant to Chapter 1 Part 3 of the KAGB of 7 October 2015. The circular is not exhaustive, as further obligations or specifications may arise from other announcements made by BaFin.

Prospectus Regulation and Money Market Funds: Italian Council of Ministers announces new implementing measures

The Italian Council of Ministers has issued Communication no. 70 of 30 October 2020, preliminarily approving a draft legislative decree introducing rules for the adaptation of national legislation:

- to the provisions of Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market (Prospectus Regulation); and
- the provisions of Regulation (EU) 2017/1131 on money market funds (MMF Regulation).

CSSF amends circular on implementation of ICAAP and ILAAP and circular on principles of a sound stress testing programme

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued Circular 20/753 dated 23 October 2020 amending:

- Circular 07/301 (as amended) on the implementation of the Internal Capital and Liquidity Adequacy Assessment Process (ICAAP and ILAAP); and
- Circular 11/506 on principles of a sound stress testing programme.

The circular is intended to provide CRR institutions (as defined in CSSF Regulation No. 15-02) with updated supervisory expectations on the regulatory requirements applicable to the ICAAP/ILAAP and to stress testing programmes pursuant to the EBA guidelines EBA/GL/2018/042.

The circular and therefore the amended CSSF Circulars 07/301 and 11/506 have applied since 31 October 2020 and the CSSF expects institutions to reflect these changes in their governance and operating frameworks from 31 December 2020.

CSSF publishes new final terms submission form to be used as of 30 November 2020

The CSSF has published a new final terms submission form, applicable as of 30 November 2020, in the context of compliance with the Prospectus Regulation (EU) 2017/1129 and the launch of the new ESMA register.

The CSSF is the national competent authority in Luxembourg for the application of the Prospectus Regulation and the Luxembourg law of 16 July 2019 on prospectuses for securities, which implements certain provisions of the Prospectus Regulation and provides for requirements covering the national prospectus regime.

The user guide published by the CSSF alongside the new submission form describes in detail the information which issuers have to submit together with the final terms.

The CSSF has emphasised that it will only accept final terms submitted through the current form until 25 November 2020 16:00 CET. Therefore, the final terms for 26 and 27 November must be kept and submitted via the new form on 30 November 2020 with the new data required under Annex VII of the Delegated Regulation.

Coronavirus: CSSF issues circular adopting EBA guidelines to ensure compliance with CRR 'quick fix'

The CSSF has issued Circular 20/755 dated 28 October 2020 to inform all credit institutions designated as Less Significant Institutions under the Single Supervisory Mechanism and all branches of non-EU credit institutions that it complies with and applies:

- the EBA guidelines on supervisory reporting and disclosure requirements in compliance with the CRR 'quick fix' in response to the COVID-19 pandemic (EBA/GL/2020/11); and
- the EBA guidelines amending guidelines EBA/GL/2018/01 on uniform disclosures under Article 473a of the CRR on the transitional period for mitigating the impact of the introduction of IFRS 9 on own funds to ensure compliance with the CRR 'quick fix' in response to the COVID-19 pandemic (EBA/GL/2020/12, together with EBA/GL/2020/11, CRR 'quick fix' guidelines).

The circular also amends CSSF Circular 18/687, which implemented EBA/GL/2018/01.

The CRR 'quick fix' is part of a series of measures taken by the European co-legislators to mitigate the impact of the COVID-19 pandemic on credit institutions across EU Member States and introduces amendments to the regulatory requirements of the CRR. The CRR 'quick fix' guidelines specify how these measures shall be reflected by in-scope entities in their supervisory reporting and Pillar III disclosures.

In particular, the guidelines define how credit institutions shall reflect the effects of CRR 'quick fix' measures in the:

- reporting of their credit risk, market risk, own funds and of their leverage ratio; and

- disclosure of their leverage ratio in their disclosure requirements in Part Eight of the CRR, as specified in Articles 6, 10 and 13 thereof (Pillar III report).

In the circular, the CSSF also provides additional information with respect to the scope of application and timing of reporting and disclosure requirements.

The CRR 'quick fix' guidelines have been put forward strictly in the context of the COVID-19 crisis and are applicable until 28 June 2021.

Polish Financial Supervision Authority sets out position on provision of robo-advice

The Polish Financial Supervision Authority (KNF) has published material dealing with the most important issues related to robo-advice that must be taken into consideration in the activity of supervised entities. The standpoint relates to the entire robo-advice process – starting from the time the service is being drafted, through implementation and monitoring. The purpose is to ensure that interested financial institutions provide robo-advice uniformly, while at the same time taking into account appropriate protection of clients, especially non-professional investors.

HKEX concludes consultation on corporate weighted voting rights beneficiaries

The Stock Exchange of Hong Kong Limited (SEHK), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (HKEX), has published the conclusions to its January 2020 public consultation on corporate weighted voting rights (WVR) beneficiaries.

Given the diverse views and expectations from the respondents to the consultation as to how the proposed regime would operate in practice, HKEX has decided to drop the proposal. However, existing grandfathering arrangements in respect of corporate WVR structures have been extended. The SEHK will treat 'Greater China Issuers' that are: (a) controlled by corporate WVR beneficiaries as at 30 October 2020 and (b) primary listed on a Qualifying Exchange on or before 30 October 2020 (Qualifying Corporate WVR Issuers) in the same manner as current 'Grandfathered Greater China Issuers' for the purposes of Chapter 19C of the Main Board Listing Rules.

The SEHK has clarified that strong existing investor protection safeguards will remain applicable to the Qualifying Corporate WVR Issuers seeking to secondary list in Hong Kong. In particular, these issuers must:

- meet a minimum market capitalisation threshold of at least HKD 40 billion, or at least HKD 10 billion with at least HKD 1 billion of revenue for their most recent audited financial year;
- be an 'innovative company' as part of the demonstration of their suitability for listing; and
- demonstrate that the domestic laws, rules and regulations to which they are subject and their constitutional documents, in combination, provide certain shareholder protection standards.

The SEHK has also clarified that, like other secondary issuers listed under Chapter 19C of the Main Board Listing Rules, Qualifying Corporate WVR Issuers will be exempt from certain Listing Rules. However, if trading in their shares migrates to the SEHK's markets on a permanent basis, these exemptions would fall away. In this case, the issuer will be treated as having a dual-primary listing and required to comply with the Listing Rules that apply to such issuers after a grace period of one year. The SEHK will allow these issuers to retain their existing Corporate WVR structures at that time, as already permitted for all Grandfathered Greater China Issuers.

Hong Kong Government consults on legislative proposals to enhance anti-money laundering and counter-terrorist financing regulation

The Hong Kong Government has launched a public consultation on legislative proposals to enhance the anti-money laundering and counter-terrorist financing regulation in Hong Kong through the introduction of:

- a licensing regime for virtual asset services providers;
- a two-tier registration regime for dealers in precious metals and stones; and
- miscellaneous technical amendments under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance.

The legislative proposals are intended to bring Hong Kong's regulatory regime up to date in line with the latest international requirements, as promulgated by the Financial Action Task Force.

Comments on the consultation are due by 31 January 2021.

HKMA develops two-year roadmap to promote Regtech adoption in Hong Kong banking sector

The Hong Kong Monetary Authority (HKMA) has developed a two-year roadmap to promote regulatory technology (Regtech) adoption in the Hong Kong banking sector, as laid out in a white paper entitled 'Transforming Risk Management and Compliance: Harnessing the Power of Regtech'.

The Regtech roadmap has been developed with reference to the 16 recommendations in the white paper, which span the following five core areas:

- boosting awareness by issuing practical guidance and organising targeted events;
- promoting innovation among the local and global Regtech community and facilitating access to infrastructure;
- enhancing regulatory engagement with the Regtech ecosystem through ongoing dialogue and collaboration;
- developing the talent pool by formalising a Regtech training and skills framework; and
- sustaining adoption via continued industry engagement and effective tracking of progress.

The HKMA has indicated that, to implement the recommendations set out in the white paper, it will roll out a series of events and initiatives in the coming two years.

MAS issues compliance toolkit for financial institutions conducting regulated activities under Securities and Futures Act

The Monetary Authority of Singapore (MAS) has published a compliance toolkit to guide capital market services (CMS) licensees (other than fund managers and Real Estate Investment Trust (REIT) managers), exempt financial institutions and other exempt entities on the various approval and reporting requirements and timelines under the Securities and Futures Act (SFA) and its subsidiary instruments.

The toolkit includes the common applications, notifications or other submissions made to the MAS, and excludes approvals, notifications or other submissions which may be imposed by the MAS bilaterally on financial institutions (FIs) due to their specific circumstances. In particular, the compliance toolkit aims to provide guidance on:

- applications for approvals from the MAS;
- notifications to be submitted to the MAS; and
- other regulatory submissions to the MAS, which are applicable to certain CMS Licensees, banks, merchant banks, finance companies, insurers conducting regulated activities under the SFA, exempt futures brokers, exempt over-the-counter (OTC) derivatives brokers, and exempt corporate finance advisers.

The MAS has clarified that the toolkit may not provide a fully exhaustive list of the approvals, notifications or other submissions required under the SFA or regulations or conditions issued under the SFA, and it therefore expects FIs to familiarise themselves with all applicable regulatory requirements to ensure compliance.

Payment Services (Amendment) Bill moved for first reading in Singapore Parliament

The Payment Services (Amendment) Bill has been moved for its first reading in the Singapore Parliament. The key amendments in the Bill are intended to amend the Payment Services Act 2019 to:

- expand the definition of ‘digital payment token service’ to regulate virtual asset service providers (VASPs) for anti-money laundering and countering terrorist financing (AML/CFT). Specifically, the definition will be expanded to include: (a) the transfer of digital payment tokens (DPTs); (b) the provision of custodian wallet services for DPTs; and (c) facilitating the exchange of DPTs without possession of moneys or DPTs by the DPT service provider. This aligns Singapore’s regime with the enhanced international standards adopted by the Financial Action Task Force (FATF) in June 2019 with respect to VASPs;
- broaden the definition of ‘cross-border money transfer service’ to cover a service provider that facilitates cross-border money transfers between entities in different countries, although moneys are not accepted or received in Singapore;
- expand the powers of the MAS to make regulations imposing additional requirements on licensees that provide DPT services;

- allow the MAS to prescribe additional licensees or classes of licensees in respect of certain payment services that must safeguard customer money;
- broaden the scope of 'domestic money transfer service' to include situations where either the payer or the payee is a financial institution; and
- provide that the general duty to use reasonable care not to provide false information to the MAS applies to all persons, whether or not the person is an individual.

The Payment Services (Amendment) Bill will come into operation on a date that the Minister appoints by notification in the Gazette.

Council of Financial Regulators publishes report on review of regulation of stored-value facilities

The Council of Financial Regulators (CFR) has published a report to provide the conclusions of its review of the regulation of stored-value facilities (SVFs) in Australia. The review was conducted by the CFR mainly to:

- identify opportunities to simplify the regulatory framework for SVFs;
- ensure that regulation does not pose an undue obstacle to innovation and competition, while maintaining appropriate levels of consumer protection and system-wide safety;
- identify any changes necessary to enable regulation to adapt to recent and prospective developments in the payments market, including those associated with advances in technology and new participants;
- identify opportunities to improve the 'competitive neutrality' of regulation; and
- improve the transparency and clarity of regulation, from the perspective of regulated entities, potential new entrants, and consumers and other users.

Based on the review, the report sets out certain recommendations which are intended to modernise regulatory arrangements for SVFs, recognising the potential for such facilities to play a more prominent role in the payments system in the future as has occurred in some other jurisdictions. The report follows an Issue Paper entitled 'Review of Retail Payments Regulation: Stored-value Facilities', which was published by the CFR in September 2018 for public consultation. The CFR recognises that payments is a fast-moving part of the financial system and that some flexibility will be required to ensure that regulation is able to adapt to innovations.

RECENT CLIFFORD CHANCE BRIEFINGS

European Commission launches impact assessment phase in its review of the Vertical Block Exemption Regulation and Vertical Guidelines

Article 101(1) of the Treaty on the Functioning of the European Union (TFEU) prohibits agreements between undertakings that restrict competition unless they contribute to improving the production or distribution of goods or services or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefits.

The Vertical Block Exemption Regulation (VBER) (and its accompanying Vertical Guidelines (VGLs)) provides automatic exemption from the prohibition in Article 101(1) for vertical agreements that meet certain criteria. These criteria include that the market share of each of the parties to the agreement does not exceed 30% and there are no 'hardcore' or 'excluded' restrictions in the agreement such as resale price maintenance obligations. Vertical agreements are agreements entered into between two or more undertakings operating at different levels of the production or distribution chain – for example, between a manufacturer and a wholesaler.

This briefing discusses the Commission's review of the VBER and VGLs.

https://www.cliffordchance.com/briefings/2020/10/european-commission-launches-impact-assessment-phase-in-its-revi.html

IIFM launch Sukuk Al Ijarah template documentation

The International Islamic Financial Market (IIFM) published a suite of template Sukuk Al Ijarah documents in October 2020.

The primary objective of the launch of the template Sukuk Al Ijarah documents is to create non jurisdictional specific templates which will ease the issuance of Sukuk Al Ijarah and such documents may be used by corporates, financial institutions, arrangers and lawyers working on Sukuk Al Ijarah transactions.

This briefing discusses the documents.

https://www.cliffordchance.com/briefings/2020/11/iifm-launch-sukuk-al-ijarah-template-documentation.html

Government to reform regulation of the UK insurance sector

On Monday 19 October, HM Treasury issued two papers on regulatory reform after Brexit. The first paper, a Call for Evidence, seeks industry views on how to tailor the prudential regulatory regime under Solvency II to better support the unique features of the UK insurance sector. The second paper, a consultation, launches the next phase of the Future Regulatory Framework (FRF) Review, which considers how the UK's regulatory framework for financial services could be adapted for the UK's post-Brexit future.

This briefing discusses the two papers issued by HM Treasury.

https://www.cliffordchance.com/briefings/2020/10/government-to-reform-regulation-of-the-uk-insurance-sector.html

What implications will the abolition of the Czech real estate acquisition tax have for real estate and corporate transactions and financing?

Enacted in September 2020, Act No. 386/2020 Coll. abolished the Czech real estate acquisition tax with retroactive effect (dating back to ownership titles registered in December 2019). The effects that this measure will have on the local residential market are evident and have been addressed in a number of commentaries. However, the potential effects of the tax change on business transactions, whether in the wholesale real estate market or otherwise, have largely been ignored.

This briefing discusses the potential effects of the tax change.

https://www.cliffordchance.com/briefings/2020/11/what-implications-will-the-abolition-of-the-czech-real-estate-ac.html