INTERNATIONAL REGULATORY UPDATE 9 – 13 SEPTEMBER 2024

- **EU Commission publishes report on future of European competitiveness**
- **Central Counterparties (Transitional Provision) (Extension and Amendment) Regulations 2024 published**
- **Digital assets: Property (Digital Assets etc) Bill introduced**
- **HMT sets out legislative approach for changes to UK prudential banking framework, including implementation of Basel 3.1 and SDDT regime**
- **PRA publishes second near-final policy statement on Basel 3.1 implementation and consults on other banking capital changes, including SDDT regime**
- **PRA announces review of leverage ratio requirement thresholds**
- **FCA consults on consumer credit regulatory returns**
- **FCA consults on draft guidance on authorised push payment fraud**
- **FCA sets out temporary measures on naming and marketing sustainability rules**
- **UK-US Financial Regulatory Working Group publishes joint statement on tenth meeting**
- **BaFin reminds payment service providers that reporting period for payment account offers has begun**
- **CSSF publishes circular amending Circular 24/859 on replacement of secure exchange channel for notification and enforcement of court orders**
- **CSSF publishes circular clarifying obligations on identification and verification of identity of ultimate beneficial owners**
- **CSSF publishes updated Circular CSSF 12/522 relating to central administration, internal governance and risk management**
- **Dutch Ministry of Finance, AFM and DNB present recommendations for review of EU prudential framework for investment firms**
- **Anti-Money Laundering and Other Matters Act 2024 gazetted**
- **Financial Institutions (Miscellaneous Amendments) Act 2024 (Commencement) Notification 2024 gazetted**
- **FRB Vice Chair indicates that US implementation of Basel endgame**

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.

To request a subscription to our Alerter: Finance Industry service, please subscribe to our Client Portal, where you can also request access to the Financial Markets Toolkit and subscribe to publications, insights and events.

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
Rocky Mui +852 2826 3481
Lena Ng +65 6410 2215
Gareth Old +1 212 878 8539
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

and G-SIB surcharge rules could be re-proposed for public comment in near future

EU Commission publishes report on future of European competitiveness

The EU Commission has published a report written by former European Central Bank (ECB) President, Mario Draghi, on his vision of the future of European competitiveness.

The report is split into two sections, with the first setting out a proposed competitiveness strategy focusing on three 'areas for action'. These are:

- closing the innovation gap with the US and China, especially in advanced technologies;
- establishing a joint plan for decarbonisation and competitiveness, so that the EU's decarbonisation efforts do not run contrary to its growth and competitiveness; and
- increasing security and reducing dependencies, including by establishing a strong foreign economic policy.

This section includes analysis of current barriers to these areas for action, as well as Draghi's recommendations for addressing them in both the short and medium term. He notes that the report's proposals are intended to be implemented quickly and to make a tangible difference to the EU's prospects.

The second section contains an overview of the current status of the EU's competitiveness in ten sectors (energy, critical raw materials, digitalisation and advanced technologies, energy-intensive industries, clean technologies, automotive, defence, space pharma and transport), followed by targeted sectoral objectives and proposals. It also contains a section focusing on cross-sectoral policies, including closing the skills gap, sustaining investment and strengthening governance.

The EU Commission requested the report from Draghi and intends to use its findings to develop a new plan for Europe's prosperity and competitiveness, including a new Clean Industrial Deal, which will be presented in the first 100 days of the new Commission mandate.

Central Counterparties (Transitional Provision) (Extension and Amendment) Regulations 2024 published

The Central Counterparties (Transitional Provision) (Extension and Amendment) Regulations 2024 (SI 2024/923) have been made and laid before Parliament, along with an explanatory memorandum.

The Regulations amend the Central Counterparties (Amendment, etc, and Transitional Provisions) (EU Exit) Regulations 2018 (SI 2018/1184) to extend the temporary recognition regime (TRR) for overseas central counterparties (CCPs) by 12 months, to 31 December 2026. This is intended to allow overseas CCPs currently in the TRR to continue to offer clearing services in the UK while they wait for their applications for recognition to be determined by the Bank of England (BoE).

The Regulations also extend the transitional regime for qualifying CCPs (QCCPs) in Article 497(1)(b)(ii) of the UK Capital Requirements Regulation

(UK CRR) for an additional 12 months. The expiry date of this transitional regime differs between individual CCPs as it is dependent on when a firm has applied for recognition in the UK. For most firms within the regime, the current expiry date is 31 December 2024. The extension is intended to ensure that UK firms with indirect exposures to the QCCPs within the transitional regime will not face a sudden and disruptive increase in their capital requirements on the expiry of the transitional regime.

The extensions to the transition regimes follow equivalent extensions made by HM Treasury (HMT) in November 2022 and September 2023.

The Regulations come into force on 29 November 2024.

Digital assets: Property (Digital Assets etc) Bill introduced

The Property (Digital Assets etc) Bill has been introduced as a Government bill in the House of Lords. The Government has also published a written statement in response to the Law Commission's report on digital assets published in June 2023, as well as its supplemental report published in July 2024.

The Bill is intended to give effect to the recommendations of the Law Commission to confirm in statute the common law position that certain digital assets can constitute property. The Law Commission recommended statutory confirmation that a thing will not be deprived of legal status as an object of personal property rights merely by reason of the fact that it is neither a thing in possession nor a thing in action. The second reading of the Bill is yet to be scheduled.

In its statement, the Government accepts the recommendation by the Law Commission to set up an expert group on control of digital assets, and reports that the Ministry of Justice has asked the UK Jurisdiction Taskforce (UKJT) to take forward this work.

The statement also indicates that HMT is currently reviewing the Law Commission's recommendations to make statutory amendments to the Financial Collateral Arrangements Regulations, and to set up a multi-disciplinary project to formulate a statutory framework for the entering into, operation and enforcement of certain cryptotoken and cryptoasset collateral arrangements.

HMT sets out legislative approach for changes to UK prudential banking framework, including implementation of Basel 3.1 and SDDT regime

HMT has published a policy paper confirming its legislative approach for implementing the final post-crisis reforms to banks' capital requirements, known as Basel 3.1, as part of the process of applying the FSMA 2000 model of regulation to the Capital Requirements Regulation (CRR).

The update sets out how HMT will revoke certain parts of the CRR, which the Prudential Regulation Authority (PRA) will then replace with rules implementing the new Basel standards. The update also outlines the proposed legislative approach for revoking the remainder of the CRR and for revoking and restating with modifications the Capital Buffers Regulation (CBR).

Applying the FSMA model to the CRR and CBR will take place in three stages:

- the first stage will be to revoke articles of the CRR which the PRA needs to replace with rules in order to implement its Basel 3.1 package;
- the second stage will revoke any CRR provisions left on the statute book following Basel 3.1 implementation. It will also make revocations and restatements with modifications to the CBR; and
- the final stage will involve legislation needed for three purposes to restate the CRR equivalence regimes in legislation, to restate in legislation some of the key CRR definitions which are needed to ensure that the overall legislative framework for the regulation of banks, building societies and investment firms continues to operate as intended once the CRR is fully revoked, and to make any consequential amendments to other parts of the statute book which will be needed once the CRR has been completely revoked. The policy paper does not cover the legislative approach of this final stage and the Government intends to consult on proposals for this final legislative stage in due course.

HMT has published the following three pieces of draft legislation alongside the policy update and invited technical comments on the proposed legislative approach within the next 6 weeks:

- draft commencement regulations that will give effect to the Basel 3.1 revocations;
- draft regulations that will restate some of the CBR requirements in legislation; and
- draft commencement regulations that will bring into force the revocation of parts of the CRR related to the definition of capital.

PRA publishes second near-final policy statement on Basel 3.1 implementation and consults on other banking capital changes, including SDDT regime

The PRA has published its second near-final policy statement (PS9/24) providing feedback to responses to its consultation on the implementation of the Basel 3.1 standards (CP16/22). This follows the PRA's first near-final policy statement (PS17/23), which was published in December 2023.

PS9/24 covers feedback to and near-final rules and policy material on:

- credit risk – standardised approach;
- credit risk – internal ratings based approach;
- credit risk mitigation;
- output floor;
- Pillar 2;
- disclosure (Pillar 3);
- reporting; and
- the Interim Capital Regime (ICR).

The PRA has indicated that, while the policy material in PS9/24 is being published as near-final, it does not intend to change the policy or make substantive alterations to the instruments before the making of the final policy

material. The PRA intends to publish the final rule instruments, technical standards instrument and policy in a single, final policy statement covering the entire Basel 3.1 package, once HMT has made commencement regulations to revoke the relevant parts of the CRR that the final PRA rules will replace.

The PRA has continued to monitor the implementation timelines of other jurisdictions and to assess the adequacy of the period between publication of PRA rules and their implementation. Having considered these issues, the PRA has decided to move the implementation date for the Basel 3.1 standards by a further six months to 1 January 2026 with a transitional period of 4 years to ensure full implementation by 1 January 2030.

Alongside the publication of PS9/24, the PRA has published a wider banking capital package comprising the following four consultation papers:

- CP7/24 – The Strong and Simple Framework: The simplified capital regime for Small Domestic Deposit Takers (SDDTs), which sets out proposals for Phase 2 of the Strong and Simple Framework, covering the proposed simplified capital regime and additional liquidity simplifications for SDDTs. The PRA is proposing to simplify all elements of the capital stack, including Pillar 1, Pillar 2A, buffers, and the calculation of regulatory capital. CP7/24 also proposes to revoke the ICR, a temporary and optional regime that provides SDDT-eligible firms and consolidation entities with the option to remain subject to existing CRR capital provisions until the capital regime set out in CP7/24 is implemented. The PRA has proposed that the implementation date for the simplified capital regime for SDDTs will be 1 January 2027;
- CP8/24 – Definition of Capital: restatement of CRR requirements in PRA Rulebook, which sets out the PRA's proposed rules to restate, and in some cases modify, CRR requirements relating to the definition of own funds in the PRA Rulebook;
- CP9/24 – Streamlining the Pillar 2A capital framework and the capital communications process, which sets out the PRA's proposal to streamline the Pillar 2A capital framework and capital communications process; and
- CP10/24 – Updates to the UK policy framework for capital buffers, which sets out the PRA's proposals to streamline some of its policy materials on capital buffers, as part of the process of removing certain regulatory material on the UK capital buffers framework from the statute book and replacing it with PRA policy material.

All four consultations will close on 12 December 2024.

PRA announces review of leverage ratio requirement thresholds

The PRA has announced a review of the leverage ratio requirement thresholds and is offering a modification by consent, where certain conditions are met, to disapply the relevant part of the PRA Rulebook until the review is complete.

The leverage ratio is an indicator of a firm's solvency that relates its capital resources to its exposures. Rule 1.1 of the Leverage Ratio – Capital Requirements and Buffers Part requires firms with more than GBP 50 billion retail deposits or GBP 10 billion non-UK assets (the leverage ratio requirement

thresholds) to meet a minimum leverage ratio of 3.25% plus buffers at all times.

The review follows the PRA's October 2021 policy statement (PS21/21) on the UK leverage ratio framework, in which it said it would keep the leverage ratio requirement thresholds under review to ensure they remain consistent with the Bank of England's concurrent stress testing framework, and the Financial Policy Committee (FPC)'s announcement in 2023 that this framework, including the coverage of banks subject to concurrent stress testing, is being reviewed.

Until its review of the leverage ratio requirement thresholds is complete, the PRA is offering a modification by consent to disapply the 'Leverage Ratio – Capital Requirements and Buffers Part' of the PRA Rulebook.

The modification by consent is available to a firm if it:

- did not meet the relevant Rulebook criteria before 10 September 2024; and
- expects to meet the criteria after the next accounting reference date or any accounting reference date before 31 December 2025.

The modification will cease to have effect at the end of 30 June 2026. The PRA may revoke the modification earlier, at an appropriate time following the completion of the review.

FCA consults on consumer credit regulatory returns

The Financial Conduct Authority (FCA) has published a consultation paper (CP24/19) on consumer credit regulatory returns.

The FCA is seeking views on its proposals to issue a new regulatory return for consumer credit firms engaging in any one, or more, of the regulated activities of:

- credit broking;
- providing credit information services;
- debt adjusting; and
- debt counselling services.

The new return would replace the existing returns for these activities, and the FCA hopes that the changes will allow it to better understand firms' activities, the products and services they are providing, and the extent of their regulated activities. The proposed return will include five mandatory sections of questions for all firms in scope relating to permissions, business model, marketing, revenues and employees, followed by a series of tailored questions to the relevant permissions held. This method aims to tailor questions so they are more readily aligned to firms' business models and activities.

Comments are due by 31 October 2024.

FCA consults on draft guidance on authorised push payment fraud

The FCA has launched a guidance consultation on changes to its Payment Services and Electronic Money Approach Document to support new legislation to tackle authorised push payment (APP) fraud.

HMT has proposed amendments to the Payment Services Regulations (PSRs 2017) to enable payment service providers (PSPs) to delay making a payment transaction where they have reasonable grounds to suspect fraud or dishonesty. The policy is intended to increase firms' ability to tackle APP fraud while minimising the impact on legitimate payments.

To support the policy, the FCA is proposing changes to its guidance intended to:

- minimise impacts on legitimate payment transactions, such as uncertainty about how long the execution of a payment order will take;
- offer additional clarity and detail on issues such as the threshold for delays, as well as the treatment of inbound payments so that firms adopt a similar approach; and
- monitor trends in the sector, to understand the effect of the payment delays legislation, to identify outlier PSPs and to enable the FCA to make targeted supervisory interventions where needed.

Comments are due by 4 October 2024. Following the end of the consultation period, the FCA intends to update the draft guidance to reflect feedback from stakeholders. The FCA plans to publish a revised approach document for payment services by the end of 2024.

FCA sets out temporary measures on naming and marketing sustainability rules

The FCA has published a statement setting out temporary flexibility, until 5pm on 2 April 2025, for firms to comply with the 'naming and marketing' rules under the Sustainability Disclosure Requirements (SDR) in relation to a sustainability product which is a UK authorised investment fund in exceptional circumstances where the firm:

- has submitted a completed application for approval of amended disclosures in line with ESG 5.3.2R for that fund by 5pm on 1 October 2024; and
- is currently using one or more of the terms 'sustainable', 'sustainability' or 'impact' (or a variation of those terms) in the name of that fund and is intending either to use a label, or to change the name of that fund.

The SDR and investment labels regime were published on 28 November 2023 and the 'naming and marketing' and disclosure rules come into force from 2 December 2024.

The FCA has emphasised that, where firms can comply with the rules without requiring the temporary flexibility, they should do so, and that it expects firms to comply with the rules as soon as they can, without waiting until 2 April 2025.

UK-US Financial Regulatory Working Group publishes joint statement on tenth meeting

HMT has published a joint statement on the tenth US-UK Financial Regulatory Working Group (FRWG) meeting, which was held in Washington D.C. on 3 September 2024.

The discussion covered themes including the economic and financial stability outlook, banking issues, digital finance and operational resilience, sustainable finance and climate-related financial risk, capital markets, and developments

in the non-bank sector. The participants discussed developments in their domestic banking systems, the importance of fostering resilience in the non-bank financial intermediation (NBFI) sector, and climate-related financial risks and sustainable finance. The meeting highlighted the importance of ongoing dialogue among international partners when implementing initiatives and reforms, and the need for continued implementation of NBFI reforms at the domestic level.

The next Working Group meeting is expected to take place in May 2025.

BaFin reminds payment service providers that reporting period for payment account offers has begun

The German Federal Financial Supervisory Authority (BaFin) has issued a press release to remind PSPs that the reporting period for payment accounts began on 1 September 2024. All payment account providers in Germany are required to report data on specific comparison criteria, such as the monthly fee or the amount of the overdraft interest rate, on their payment accounts for consumers to the financial regulator for the first time by 30 September 2024.

The basis for this is the Payment Accounts Act (Zahlungskontengesetz- ZKG) in conjunction with the Comparison Website Reporting Ordinance (Vergleichswebsitemeldeverordnung - VglWebMV), which provide for the creation of a free payment accounts comparison website accessible to all consumers in implementation of guidelines under the Payment Accounts Directive (Directive 2014/92/EU). The German Federal Government has mandated BaFin to set up and operate such a website, which is envisaged to go online at the beginning of 2025.

Due to the reporting obligation, the BaFin account comparison will be the only up-to-date and market-wide overview of payment accounts. It also includes so-called basic account tariffs, which banks and other PSPs have to offer since 2016 pursuant to the ZKG.

The providers themselves are responsible for the accuracy of the tariff details. After reporting, the data is automatically transferred to the comparison website without further processing by BaFin. Inclusion in the account comparison is therefore not a BaFin seal of approval for account providers or their payment accounts but is required by law.

CSSF publishes circular amending Circular 24/859 on replacement of secure exchange channel for notification and enforcement of court orders

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has published Circular CSSF 24/862 amending Circular CSSF 24/859 on the replacement of the secure exchange channel for the notification and enforcement of court orders and repeal of Circular CSSF 13/566.

The circular is addressed to all credit institutions supervised by the CSSF.

The purpose of the circular is to modify two points in CSSF Circular 24/859:

- firstly, it changes the date of the implementation of the new secure exchange method for the notification and execution of court orders to 6 November 2024; and

- secondly, it adds steps to Annex 1: Technical User Guide, including the creation and certification of a professional MyGuichet space, and the receipt of court orders in the certified professional space.

The updated version of Circular CSSF 24/859 is appended to Circular CSSF 24/862.

CSSF publishes circular clarifying obligations on identification and verification of identity of ultimate beneficial owners

The CSSF has published Circular CSSF 24/861 amending Circular 19/732 of 20 December 2019 on the Prevention of Money Laundering and Terrorist Financing: clarifications on the Identification and Verification of the Identity of the Ultimate Beneficial Owner(s).

The purpose of the circular is to modify point 74 of Circular CSSF 19/732 with immediate effect so as to apply a risk-based approach in the identification and verification of legal persons or arrangements that are placed between the customer and the natural person beneficial owner, rather than foreseeing a list of information and documents to be collected in relation to such legal persons or arrangements. A marked-up version of Circular CSSF 19/732 showing the changes is appended to the circular.

CSSF publishes updated Circular CSSF 12/522 relating to central administration, internal governance and risk management

The CSSF has published Circular CSSF 24/860 updating Circular CSSF 12/552, as amended by Circulars CSSF 13/563, 14/597, 16/642, 16/647, 17/655, 20/750, 20/759, 21/785, and 22/807, relating to central administration, internal governance and risk management.

The purpose of this update is to clarify certain provisions of the circular. In particular, it specifies the definition of significant institutions in Part I of the circular and introduces the definition of 'transactions with related parties'.

The scope of application of the circular has also been clarified for (mixed) financial holding companies when they are intermediaries in the holding chain in order to promote proportionality.

Certain elements of the circular have been adjusted for consistency with the applicable regulations:

- the requirement to establish an audit committee in Part II has been aligned with the Law of 23 July 2016 concerning the audit profession;
- the provisions concerning the veto right of the head of the risk management function and his/her ability to challenge management decisions have been adapted to fully comply with the European Banking Authority (EBA) guidelines on internal governance (EBA/GL/2021/05). Some adjustments have also been made to align with Circular CSSF 22/806 on outsourcing arrangements;
- in Part III, Chapter 3 on credit risk, the circular now establishes direct links with Circular CSSF 22/824 adopting the EBA guidelines on loan origination and monitoring (EBA/GL/2020/06) and Circular CSSF 17/675 adopting the EBA guidelines on credit institutions' credit risk management practices and accounting for expected credit losses (EBA/GL/2017/06) and develops the

content of the requirements applicable for exposures to individuals secured by mortgages on residential property and for exposures to real estate developments; and

- in accordance with Directive 2013/36/EU, the term 'risk control function' has been replaced by 'risk management function' throughout the circular, and the legal references have been updated.

In the near future, the CSSF plans to publish a consolidated and amended version of all applicable FAQs relating to the circular.

Update changes are shown in a mark-up version annexed to Circular CSSF 24/860.

The updated version of the circular is applicable from 30 September 2024.

Dutch Ministry of Finance, AFM and DNB present recommendations for review of EU prudential framework for investment firms

The Ministry of Finance, the Netherlands Authority for the Financial Markets (AFM) and the Dutch Central Bank (DNB) have presented recommendations for the review of the EU Investment Firms Regulation (2019/2033, IFR) and the Investment Firms Directive (2019/2034, IFD).

The IFR/IFD form the prudential framework for investment firms in the European Union. Acknowledging that the IFR/IFD generally function well, the Ministry of Finance, the AFM and DNB do consider it necessary to strengthen several elements of the prudential framework. In particular, the Dutch regulators believe that the review of the IFR/IFD should improve the risk-based nature of the framework, ensure a level playing field for investment firms active inside and outside the EU, prevent regulatory arbitrage, and increase proportionality and clarity of governance requirements.

The recommendations are provided in the joint non-paper 'Investment Firms Regulation and Directive (IFR and IFD) Review'.

Anti-Money Laundering and Other Matters Act 2024 gazetted

The Singapore Government has gazetted the Anti-Money Laundering and Other Matters Act 2024, which was passed by Parliament on 6 August 2024 and assented to by the President on 26 August 2024. The Act is intended to:

- align Singapore's anti-money laundering and countering the financing of terrorism framework for casino operators with the Financial Action Task Force standards;
- enhance the ability of Government agencies to detect and take enforcement action against money laundering through enhanced data sharing and strengthened prosecutorial levers; and
- clarify and improve processes to deal with seized or restrained properties linked to suspected criminal activities by allowing the Court to order the sale of seized or restrained properties, and deal with seized properties linked to suspects who have absconded.

The Act will come into operation on a date that the Minister appoints by notification in the Gazette.

Contributed by Clifford Chance Asia, a Formal Law Alliance in Singapore between Clifford Chance Pte Ltd and Cavenagh Law LLP.

Financial Institutions (Miscellaneous Amendments) Act 2024 (Commencement) Notification 2024 gazetted

The Singapore Government has gazetted the Financial Institutions (Miscellaneous Amendments) Act 2024 (Commencement) Notification 2024 to announce 30 August 2024 as the effective date for Sections 2(a) and (c), 10, 12(a), 15, 16, 26, 33(b), 34, 39(a) and (b), 42, 43, 45, 49(a) and (b), 50, 52, 54, 56, 62, 64, 66, 77, 83, 84, 90, 91, 93(h) and (i), 94, 107, 109, 110 and 111 of the Financial Institutions (Miscellaneous Amendments) Act 2024 (FIMA Act).

The FIMA Act is intended to enhance and harmonise the investigative powers of the Monetary Authority of Singapore (MAS) across six MAS-administered Acts: the Financial Advisers Act 2001 (FAA), the Financial Services and Markets Act 2022 (FSMA), the Insurance Act 1966 (IA), the Monetary Authority of Singapore Act 1970 (MAS Act), the Payment Services Act 2019 (PS Act), the Securities and Futures Act 2001 (SFA), and the Trust Companies Act 2005 (TCA).

In particular, the Commencement Notification operationalises the following provisions in the FIMA Act:

Sections 45, 64 and 66 of the FIMA Act amend the SFA to:

- provide that the MAS may specify the form and manner of an application for approval for appointment of a chairperson, chief executive officer or director of an approved clearing house;
- empower the MAS to issue written directions in relation to the conduct of certain 'additional business' by holders of a CMS licence which may pose contagion risks to their businesses and regulated activities; and
- permit a foreign regulatory authority to appoint any person to conduct an inspection under section 150B(1) of the SFA on behalf of the foreign regulatory authority, with the approval of the MAS.

Sections 2(a) and (c), 10, and 12(a) of the FIMA Act amend the FAA mainly to:

- provide for definitions necessitated by amendments made by the FIMA Act; and
- provide that written directions under that section may also be issued by the MAS for the protection of policy owners.

Section 26 of the FIMA Act amends the Insurance Act 1966 to enable regulations to be made with respect to the corporate governance of insurance brokers and the risk management of insurers and insurance brokers.

Sections 15, 90 and 107(a) of the FIMA Act amend the FAA, the SFA and the TCA respectively, to clarify that a person previously regulated under one of those Acts, and who has ceased to be regulated under the relevant Act, can be reprimanded by the MAS for misconduct, if the person was a regulated person at the time of the misconduct.

Sections 16, 91 and 109 of the FIMA Act amend the FAA, SFA, and the TCA respectively, to provide that the MAS may, on the application of any person,

by written notice exempt the person from provisions of the relevant Act, or requirements imposed by the MAS under the relevant Act.

FRB Vice Chair indicates that US implementation of Basel endgame and G-SIB surcharge rules could be re-proposed for public comment in near future

In a speech given at the Brookings Institution, the Federal Reserve Board's Vice Chair of Supervision Michael Barr addressed two pending proposals that relate to bank capital requirements. Barr announced that he intends to recommend that the Federal Reserve Board re-propose for public comment revised Basel III endgame rules as well as a proposal to adjust the capital surcharge for global systemically important banks (G-SIBs). Anticipated changes in the Basel endgame re-proposal will cover all major areas of the rule, including credit risk, operational risk and market risk.

In a departure from the initial proposal, other than the requirement to include unrealized losses and gains on certain securities into a bank's regulatory capital, the revised capital framework will not apply to banks with between USD 100 billion and USD 250 billion in net assets (i.e., Category III banking organizations). Additionally, banks with between USD 250 billion and USD 700 in net assets that are not G-SIBs will only be subject to the new credit risk and operational risk requirements.

In response to comments from the clean energy and mortgage industries, Barr indicated that the re-proposal would adjust the risk-weightings for tax equity investments and residential mortgages to be closer to where they are under the current framework. In addition, it would include a reduced capital charge for credit card exposures. Barr also announced that he intends to recommend changes to the G-SIB surcharge proposal to better align the capital surcharge for a G-SIB with its systemic risk profile. Taken together, the re-proposals would increase aggregate common equity tier 1 capital requirements for the G-SIBs by 9%. For other large banks that are not G-SIBs, the impact from the re-proposal would mainly result from the inclusion of unrealized gain and losses on their securities in regulatory capital, estimated to be equivalent to a 3 to 4% increase in capital requirements over the long run. The remainder of the re-proposal would increase capital requirements for non-GSIB firms still subject to the rule by 0.5%.

Barr characterized his meetings with US federal bank regulators about these re-proposals as productive, signaling that they could be published for public comment in the near future.

CLIFFORD
CHANCE