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Brexit prompts EU to hasten regulatory clean-up

The scramble among EU-27 financial centres to host UK located firms looking for a new home in the Union is likely to accelerate the drive towards regulatory convergence. *By Justin Pugsley.*

The UK's decision to leave the EU has led to a sense of urgency among the union's supranational supervisory authorities over plugging potential gaps in the regulatory architecture, fearing they could be a source of systemic risk.

EU regulatory authorities have for some time fretted over too many national options and discretions (NODs) being held by member states.

The capital requirement directive, for example, contains some 150 of them according to the European Central Bank (ECB). NODs reflect the challenge of applying a single framework to 28 member states when many of them have very different banking systems and legal regimes. At the same time, the term 'single rule book' is somewhat misnamed as there are 19 different versions of it across the eurozone.

James Greig

Another example is the market in financial instruments directive I (MiFID I) implemented differently across the EU: France, for example, took a lighter touch approach to certain aspects of it than the UK. The European authorities partly addressed this with the markets in financial instruments regulation (MiFIR). In the EU, regulations give much less national interpretive flexibility than directives.

"You're seeing asset managers getting different messages from the UK and *to page 3*

Delays and high failure rates hit FRTB implementation

Banks trying to implement the Fundamental Review of the Trading Book with the less capital-intensive Internal Model Approach are finding it difficult. Some are considering not bothering with it. *By Farah Khalique.*

Banks are inundated with new post-financial regulations, but there is one that stands out as particularly challenging: the Fundamental Review of the Trading Book (FRTB). The global financial crisis prompted financial regulators to inspect banks' trading books, and they did not like what they saw.

"After the financial crisis, regulators were quite busy in filling the gaps they discovered. They were aware something needed to be done," says Andreas Bohn, associate director in risk management at the Boston Consulting Group.

Piecemeal measures were introduced, including Stressed Value-at-Risk – designed to measure potential losses during bad market conditions – but ultimately the decision was made to clean out banks' trading books from top to bottom.

Daniel Mayer

The Bank for International Settlements' Basel Committee on Banking Supervision (BCBS) set about ensuring that banks are robust enough to survive volatile periods and ultimately avoid government bailouts.

"Regulators have in the past argued that FRTB isn't designed to increase capital per se, but it does," says Daniel Mayer, senior manager at Deloitte.

The go-live deadline for FRTB is December 31, 2019, although Australia's financial regulator has told the country's banks it will not confirm the new market standards until 2020 at the earliest. US banks are still waiting on the Fed for additional guidance. *to page 7*

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Editor's letter
Europe rebooted?

Justin Pugsley
Editor

The EU is on a roll. That is a surprising observation, given that it is set to lose one of its largest economies and one of its biggest budget contributors, the UK.

But there are some facts to support this assertion. The eurozone economy is growing, looks broadly based, and is outpacing the US and UK. Even one of the EU's bogeyman, US president Donald Trump, seems less menacing as his reforms get bogged down in the US political system.

The election of the fervently pro-EU Emmanuel Macron as president of France looks set to re-ignite the Franco-German motor for integration and has transformed the continent's mood in the process. Gone is the gloomy talk of disintegration as the sunlit uplands of 'ever-closer union' beckon.

It was only a few months ago that European Commission president Jean-Claude Juncker issued a white paper contemplating five future pathways for the EU, including simply retreating to the single market. But the EU, and especially the eurozone, now seem to be hurtling towards the fifth option: doing much more together.

This has implications for the region's regulatory frameworks, the capital markets union, the European banking union and the delivery of financial services generally across the union, which now look more likely.

Moves are afoot to further curb national options and discretions, according member states the right to more loosely interpret certain parts of directives *(see GRR lead story: Brexit prompts EU to hasten regulatory clean-up)*. Even the European supervisory authorities, currently under review, could in time emerge as much more powerful and independent pan-EU supervisory bodies.

So whereas regulatory divergence is likely to gradually occur between the UK and the EU after Brexit, within the union there should be sharp convergence. This will be welcomed by global financial institutions often faced with barriers when trying to sell certain types of financial services across borders, i.e. a real single market.

In theory this could eventually lead to some consolidation as various players bulk up to generate economies of scale and seek to benefit from a more level playing field.

This shift does leave questions over how the eurozone will be regulated as distinct from non-eurozone countries, which have more freedom in some regulatory matters.

But the European Commission has an answer. Why not simply draw in all the EU states outside the eurozone into the euro-area, as without the UK they will be a small minority anyway? And this is exactly what European economic and financial affairs commissioner Pierre Moscovici is proposing to do, by 2025 no less. The idea is to make joining the euro more attractive.

All EU states, except Denmark and the UK, are obliged to one day adopt the euro. But many had their enthusiasm curbed following years of euro-crises, and convincing all of them to join could be quite a tough job.

'More Europe' is also a typical response by the commission to crises, and expanding the euro-area is seen as part of a wider campaign to reverse the surge in euroscepticism.

If achieved, it would address the question of eurozone versus EU non-eurozone regulation. It would also make it much harder for countries to leave the EU, undoubtedly a key consideration for the commission.

However, following what happened in Greece, they should be careful who they let in. More members potentially makes managing the eurozone harder, and those let in should meet minimum standards of governance and fiscal probity, and maybe even undergo tests of their economic suitability. Also, it is far from obvious that adopting the euro reduces euroscepticism. In cases where a country has struggled to live with it economically, it has arguably fuelled it.

The road to integration and harmonisation is inevitably a long and tortuous one and the eurozone and EU still face many tests if that is to be their eventual destination. GRR

Brexit prompts EU to hasten regulatory clean-up

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France over complying with MiFID II," says PJ Di Giammarino, CEO of regulatory think tank JWG. This is the case with the unbundling of the cost of research from broker fees for asset managers, for example.

Regional differences

Stuart Willey, a partner at law firm White & Case, highlights some of the reasons NODs could be challenging to harmonise. He says there are differences across the eurozone around insolvency hierarchies, the treatment of senior creditors and in the capital instruments banks can use for resolution capital.

"The SSM [single supervisory mechanism] hasn't really resulted in a single market for bank capital and instruments because of those types of issues," says Mr Willey. "Even the BRRD [the bank recovery and resolution directive] hasn't resulted in a uniform approach to how a large failing bank should be dealt with or how non-performing loans should be addressed." The SSM was set up in 2014 and oversees 125 banks.

"There is an important point to make about discretions," says Helena Walsh, an executive director at integrated communications firm Cicero Group. "Because they are national discretions, nothing is being done incorrectly. But it's not within the remit of the national supervisors, it's in the remit of the governments." She says that means NODs are not just a technical issue, but also political.

Though there have been attempts to reduce the number of NODs, the issue has been propelled up the list of regulatory priorities due to the push among financial centres in the EU-27 to host London located firms looking for a new EU home.

What has apparently emerged from this scramble is that some financial centres are offering financial firms special regulatory inducements such as easier approval processes, less stringent supervision and even more favourable capital treatment.

It is difficult to discern the extent of this occurrence as none of the banks contacted by *GRR* would comment, while other industry sources had not seen evidence first-hand.

"Regulators are advertising that they're open for business, but are being careful not to overstep the mark in terms of offering a lighter touch approach," says David Lawton, a managing director at professional services firm Alvarez & Marsal.

No brass plates

Ahsan Mallick, general counsel at SEI UK and executive sponsor at Codify, a London-based regtech incubator, identifies three areas where there could be scope for regulatory variation.

First, national regulators which signed up to providing passporting must commit to meeting harmonised standards, and this is evident at a high level. But at a lower level there can be variation with conduct rules being an example.

Stuart Willey
"The SSM hasn't really resulted in a single market for bank capital and instruments because of those types of issues"

Second, there are differing regulatory attitudes towards applications and approval processes. "Brass plate applications are not being welcomed and there needs to be some substance," says Mr Mallick. "But the degree of substance that needs to be present in the local country and the dictation that comes out from the regulator could vary and that could have an influence on a firm's location decision."

A third point is that supervisory regimes can differ between member states. Mr Mallick says a UK firm only looking to access the EU passport rather than building more substantive operations may be tempted by a jurisdiction with a less demanding supervisory regime.

Soon after the UK referendum result in June 2016, one compliance officer at a global bank told *GRR* that they were trying to negotiate a deal with Ireland's regulators to keep the bulk of their EU activities in London, with a client servicing office in Dublin.

Echoing that conversation, some investment banks, broker dealers and asset managers have apparently been doing the rounds of regulators in the EU-27 asking them if they could outsource much of their EU business back to London to minimise disruption to their operations.

This sort of approach has since been quashed by the ECB, and the European Securities and Markets Authority (ESMA) has also made a strong stand.

Reflecting substance

The ECB has said banks will not get eurozone operating licences if they do not have substantial operations within the zone comprising regulatory capital, separate balance sheets and risk and management functions. They would have to be more subsidiary-like rather than having a simple branch structure, particularly if they intend to run large and complex operations in the eurozone.

Back-to-back business models between the eurozone operation and a more substantial UK entity, which conducts the real activity, will not be tolerated either.

Risk management and governance structures should reflect the true scale and complexity of the firm's eurozone footprint and fully comply with the SSM, which covers banks operating in the eurozone with more than €30bn ($33bn) in assets.

The ECB has also made it clear that it will be analysing internal models used by London banks even though they have already been approved by UK regulators. This can take up to six months.

"The ECB is saying, don't take it for granted that we're going to be doing a grandfathering arrangement on your internal models," warns Ms Walsh.

Sabine Lautenschlaeger, who sits on the ECB's governing council, says there will be transition periods in terms of regulatory approvals for London banks setting up operations within the eurozone.

Meanwhile, the European Commission is proposing, controversially, that a non-EU bank wanting to operate in the EU should set up an intermediate parent undertaking with its own consolidated balance sheet, which would address some delegation and outsourcing concerns. This is similar to what the US requires of foreign banks operating on its turf (See April issue of *GRR*: Banks ponder motives behind EU holding companies initiative). ▶

Not all the same

Though some financial firms are apparently carefully studying NODs available in individual states as part of their relocation decisions, these are not all created equal.

This is because there is a hierarchy of NODs: some are embodied in law and others in regulations.

"Where a discretion is embodied in primary law by an EU member state, the ECB doesn't have the power to trump it," says James Greig a partner at White & Case. "However, where some of the discretions are embedded in regulation, the ECB does have the power to direct a change."

Mr Greig cites the example of internal large exposure limits, a set of measures designed to stop an institution running up huge intra-group exposures. In some EU countries, this is embodied in regulation, in others it is part of national law.

"That means some jurisdictions could say to their banks that they're not going to apply the reduced internal large exposure limits that the ECB wants them to or will give group capital waivers so they can consolidate at a particular level," Mr Greig explains. "It's clear that the ECB have these issues on their radar and it is also clear that from pre-Brexit days that they were opposed to the uneven playing field that banks operate under."

The worry is that issues such as delegation and outsourcing and capital waivers could turn out to be a can of worms for intra-EU regulatory arbitrage as financial firms could pit rival financial centres against each other to extract favourable terms.

Race to the bottom

"There is a danger of a race to the bottom where the rules all look slightly different. Europe's statutes allow rules to be interpreted as they go into national law even if they appear identical. They can be enforced with different degrees of rigour. There are all kinds of ways to make arguments for why the French flavour needs to taste different," says Mr Di Giammarino, commenting on the effect of countries' national economic and financial goals.

ESMA chair Steven Maijoor has warned on several occasions about the dangers of a potential race to the bottom in terms of regulatory standards and that it could undermine the planned capital markets union (CMU).

Asked whether ESMA has evidence of such activity, a spokesman responded: "We've not commented on those stories," adding that: "Our view is from a supervisory convergence point of view and that everybody is applying the same rules."

He explained that financial firms moving to the EU-27 should be subject to the same level of scrutiny, supervision and authorisation processes regardless of which country they are relocating to.

An ECB spokesman adds: "You certainly saw reports in the press here about workshops that are being held where national banking supervisors would inform banks about the procedures, but as far as I'm aware that is pretty much it."

Nicolas Veron
The diagram for the EU-27 is one of a distributed network"

In a written statement in response to questions from *GRR*, the European Commission said various EU-27 financial supervisors have been approached by UK-based firms contemplating relocating part of their business activities to the EU-27. But added that at this point, the commission has no evidence of 'regulatory arbitrage' happening in the EU-27 resulting from those relocation efforts and exploratory discussions.

"From our perspective, it is clear that regulatory and supervisory effectiveness and rigour cannot be elements of any 'bargain offer'," the commission statement read.

However, Ireland raised the issue with the commission. The Irish authorities were unwilling to comment on progress since then when approached by GRR.

Press speculation suggests the complaint was aimed at Luxembourg and revolves around US insurance giant AIG allegedly benefiting from a 'light' approval process. Luxembourg denies this.

Ireland voices concerns

The commission has confirmed that vice president Valdis Dombrovskis met with Eoghan Murphy, the Irish minister for finance and public expenditure and reform on February 28 in Brussels and discussed a range of issues, including progress on CMU and Ireland's international financial services strategy.

During that meeting, the commission said Mr Murphy raised concerns about some member states possibly deviating from supervisory and regulatory standards. Mr Dombrovskis assured him that the commission will closely monitor the issue.

"More broadly, the commission is very attentive to ensuring that high levels of supervisory convergence, standards and practices are maintained throughout the EU," the statement to *GRR* read. "We are working closely with the European supervisory authorities in this area to ensure that this continues to be the case."

In other words, the commission has not launched a formal investigation into intra-EU regulatory arbitrage. However, there is clearly an aim to nip any such activity in the bud before it can flourish, making the playing field even more uneven.

Meanwhile, Gerry Cross, director of policy and risk at the Central Bank of Ireland, stressed at a Brexit seminar in New York that the system cannot work if firms located in one country are able to undercut those in another because rules or approaches are looser or substantially different.

However, there is no industry consensus suggesting that NODs are that decisive in relocation decisions, or even necessarily a major source of systemic risk.

"It is true that there are some national discretions given to regulatory authorities to give some waivers," says Andrew Henderson, a financial regulation partner at Eversheds Sutherland. "But you're still thrown into the situation that most of the fundamental EU banking rules are set out in a directly applicable EU regulation, the capital requirements regulation [CRR]."

No flexibility

The CRR sets out the fundamental minimum regulatory capital requirements, and national supervisors have little flexibility to tweak them.

Mr Henderson explains that CRD is important when looking at issues around organisational requirements, and certain countries have far more onerous governance requirements such as the UK.

Additionally, banks operating in the eurozone are subject to the single resolution mechanism, which Mr Henderson describes as a prescriptive legislative piece that also narrows interpretative scope by national supervisors.

If anything, national supervisors in the EU have been seeing their powers steadily whittled away for years as the likes of the ECB became ever more dominant.

Reflecting that trend, the ECB won a court case in May at the European Court of Justice (ECJ), the EU's top court, against a German bank called Landeskreditbank Baden-Württemberg.

The German lender claimed it should not be directly supervised by the ECB and come under the SSM because its low-risk business model means it is not a significant entity or a threat to eurozone financial stability. The bank argued that it should instead be answerable to German regulators.

However, the ECJ ruled that the bank is a significant entity because it has assets of more than €30bn. The bank was not able to convince the judges that German regulators would do a better job of supervising it than the ECB or that there were special circumstances justifying domestic-only supervision.

In fact, all the law firms contacted by *GRR* said their clients were more concerned about employment laws across the EU-27 than NODs.

Many employment regimes are not compatible with the cut and thrust of investment banking. In some countries, it is illegal to work more than a certain number of hours, firing employees when a bank wants to downsize can be expensive and cumbersome and in others work councils must be part of the decision-making process.

Also, there is a general consensus that top-tier financial institutions will not select a jurisdiction on the basis of weak supervisory capabilities and even NODs may only play a limited role in the decision process. Though these issues may have a bearing on smaller less well-resourced institutions.

Distributed models

Brexit has upset the status quo that has evolved over several decades and is now making flaws in the EU's framework more glaring.

In effect, the City of London has benefited from a 'winner takes all' dynamic in that it has steadily dominated many key sectors of financial services, such as currency and derivatives trading and clearing, as they have grown in size and globalised.

"What has developed is a hub-and-spoke model with London as a hub and the other countries as spokes," explains Nicolas Veron, senior fellow with think tank Bruegel and a board member of the Depository Trust & Clearing Corp.

Post-Brexit, Mr Veron doubts that any of the other EU-27 financial centres can ever become as dominant in EU financial services as London is now.

Recent relocation announcements suggest a range of financial centres are being chosen.

Barclays and Citigroup are focusing on Dublin, as is possibly JPMorgan. For HSBC it is Paris, for UBS, Standard Chartered and possibly Nomura it is Frankfurt. Lloyds bank is reported to have picked Berlin while Lloyds of London, the insurance market, opted for Brussels

"The diagram for the EU-27, and leaving aside the role of London as an offshore centre, is one of a distributed network," says Mr Veron. "You will have at least half a dozen different financial centres in different member states trading with each other so you have a more complex diagram than the London-centric hub-and-spoke model."

He explains that while London is so dominant, and due to the experience and resources of UK-based regulators, the need to address differences in the way EU rules are interpreted across member states is less urgent even though the tension has been there for years.

"The European financial system is a sort of halfway house between competing financial systems and an integrated market for financial services, and this is a story that underlines the tension," he says. "The legal framework is not in line with the vision of the single financial system and arguably not in line with the vision of the single market."

At the time of writing, ESMA was due to release a series of opinions on what is acceptable for countries pitching financial firms to host their EU headquarters.

"These opinions are not binding. Nevertheless they set the tone for the conversation," says Alvarez & Marsal's Mr Lawton. The ESMA spokesman adds: "These have been agreed by the EU-27," and he suggest that this puts them under moral pressure to toe the line. Any evidence of flouting the spirit of those opinions is likely to result in a swift rebuke from the European Commission, according to industry sources, and would be an excuse to tackle some of the NODs more vigorously.

A power grab?

Meanwhile, the Brexit saga is also likely to colour the European Commission's review of the role of the three European supervisory authorities covering banking, securities and insurance.

Granting them more powers would promote deeper harmonisation, which is likely to be favoured by the commission and the authorities.

A cynical take on harmonisation moves is that Brexit is being used as an excuse by pan-EU regulators to grab more power from the member states. Some industry sources think the issue of systemic risk is being overplayed for precisely that purpose.

For example, differences in internal models for mortgages reflect genuine nuances, such as national foreclosures procedures through to historic default rates, rather than specifically designed to game the system creating systemic risks in the process.

However, others believe there is a real cause for concern and that greater integration is needed to support EU objectives such as the capital markets union and the European banking union. They think that there is a real danger of a race to the bottom as competing EU financial centres fight for market share and relax their supervisory standards, potentially allowing dangerous risks to build up unnoticed.

But where there does seem to be a consensus is that the EU and eurozone are almost certainly going to see greater regulatory harmonisation and that its enforcers are going to gain more power as a result.

Whatever the true motives behind harmonisation, firms have been repeatedly warned. Manoeuvres designed to circumvent or dilute EU rules will not be tolerated and those that chose weaker jurisdictions or negotiate 'sweatheart deals' for that purpose are likely to be caught out in time. GRR

ESAs likely to gain more power after European Commission review

The European Commission's review of the three European supervisory authorities is likely to grant them more power. But it could also lead to some quite radical outcomes.

By Justin Pugsley.

The European Commission is reviewing the role of the EU's three European supervisory authorities (ESAs), believing they need greater powers to more effectively execute their mandates.

In the introduction to the associated consultation, which closed on May 16, the commission's slant was on greater harmonisation, particularly to support the capital markets union (CMU), the continued development of the single rule book and to meet challenges posed by the UK's upcoming exit from the EU and its single market. The comission is also concerned about market fragmentation and supervising risk.

In a joint statement, the three ESAs said now is a good time to analyse their effectiveness and efficiency and how they can be strengthened and improved. The ESAs cover banking, markets and insurance and develop common regulatory frameworks and convergent supervisory practices and advise EU bodies about legislation.

Due to Brexit, "there is a resource drain from the EU from a supervisory perspective because the EU needs to have the same capacity and depth [as the UK] from a supervisory perspective. And that is a reason for a redesign right there", says Helena Walsh, an executive director at integrated communications firm Cicero Group.

Supporting CMU

One approach is to enhance the European Securities and Markets Authority's (ESMA) powers to improve the uniform implementation of EU rules so that they are applied more efficiently to EU capital markets. This would close loopholes and stop rival financial centres using them to compete for business. ESMA could therefore get more authority to directly supervise data reporting, the commission wrote.

Another issue is over the supervision of clearing houses. Currently, these institutions are supervised by national regulators with their cross-border activities overseen by colleges of supervisors. The commission is suggesting there could be a case for giving ESMA greater pan-EU supervisory powers.

At the moment, ESMA supervises credit rating agencies and trade repositories with some intervention capabilities for certain products under the market in financial instruments directive II. Some industry sources believe there is a case for giving ESMA greater supervisory powers, arguing that colleges of supervisors are not particularly efficient as they involve different national regulators.

In its response, the European Association of Clearing Houses said it would be very challenging for a single supervisory structure to represent the interests of the industry's various stakeholders and favours the continued use of supervisory colleges.

The World Federation of Exchanges was on the same page. CEO Nandini Sukumar said in a statement that national authorities are best placed to understand and take swift action on local markets issues. He said to do otherwise could undermine financial stability and fair, efficient and orderly markets.

"I think giving ESAs, such as ESMA, a bigger supervisory role is a very natural development in the vision of a single financial system and CMU," says Nicolas Veron, a senior fellow at the think tank Bruegel.

In terms of governance, the commission floated the idea of giving management boards a stronger role and the chair more power for faster decision-making. Currently, the ESAs have boards of supervisors made up of national regulators and representatives of EU institutions, with only the former having a right to vote. Also, the chair cannot vote.

The commission believes this set-up leads to conflicts of interest because ESAs are supposed to work for the benefit of the EU, but national interests often influence decision-making.

Another topic is around funding. It is generally accepted that the ESAs are under-resourced. Currently, they collect 60% of their revenues from national supervisors and 40% from the general EU budget, although ESMA also collects some fees from the firms it supervises.

Contributions are decided by qualified majority voting, meaning resources are not in line with the size of the financial sector, which undermines their capabilities.

Addressing this issue will likely see a gradual shift towards ESAs being funded by industry so they have more adequate resources and are more independent of member states and EU regulatory bodies. This is particularly necessary, industry sources argue, if their remits are to expand.

Mr Veron explains that if the aim is to make ESMA into a body more like a combination of the US Securities and Exchange Commission and the Commodity Futures Trading Commission, then it will need a different governance and funding framework. "It's not independent enough in terms of governance and funding. It's too dependent on the goodwill of the commission, the European Parliament and member states."

Merging ESAs?

One radical suggestion is to merge some ESAs. The European Insurance and Reinsurance Federation opposes this as it believes doing so would reduce consumer protection and prudential oversight effectiveness. "We need a strong, dedicated European insurance supervisor," it has said.

One industry participant believes that once the UK has left the EU, there would be less need for the European Banking Authority (EBA). And if moved to Frankfurt, merging it into the Single Supervisory Mechanism would make more sense as the latter is more developed in its remit, which is overseeing the largest eurozone banks.

He adds that the basis of the commission's consultation was partly down to getting the banking industry on board with moving the EBA from London to Frankfurt. If say, Madrid, was chosen, it is thought it would be more likely to remain intact.

The three ESAs have come a long way since 2011 when they were established. The commission's consultation and Brexit are likely the next big catalysts in their development. GRR

Delays and high failure rates hit FRTB implementation

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The rationale for FRTB is that it addresses the shortcomings of the current market risk capital regulation, Basel 2.5.

New rules

First, it defines the blurred boundary between a bank's trading book and its banking book, the latter of which has lower capital requirements. Regulators want to prevent traders from moving trades from the trading book into the banking book, to avoid higher capital charges.

FRTB also aims to fill in any gaps uncovered over the past decade in risk architectures: banks are using it as an opportunity to overhaul their market risk systems.

One of the biggest modifications is changing the fundamental methodology behind how banks calculate market risk. Previously, Value-at-Risk (VaR) was the industry standard, but this was heavily criticised in the wake of the financial crisis. Under VaR, banks did not anticipate the looming credit crash and hence were ill-prepared. The new standard is called the Expected Shortfall, which is better at measuring the probability of events or outcomes that have only a very small chance of happening, but could prove to be catastrophic.

Banks now have two approaches to calculating market risk: an individually tailored Internal Model Approach (IMA) that captures the nuances of a specific trading book, or a broader Standardised Approach (SA).

Even the Standardised Approach under FRTB is radically different from Basel 2.5, in that the capital charge is now based on sensitivities that have to be computed using front office pricing models, says Vinod Bhaskaran, global solutions lead in the trading and risk business at financial software provider Misys.

"The purpose of this is clear: to make the standardised capital charge more risk-based and aligned with the front office," he says.

The SA needs to be available for all trading desks anyway, but banks with complex trading books may also pursue the IMA. It has the benefit of incurring fewer capital charges, but is trickier to calculate and secure the necessary regulatory approval.

Misys' clients are seeing that FRTB SA results in a two to six times' higher capital charge, says Mr Bhaskaran, whereas FRTB IMA results in a 1.1 to 1.5 times' impact, a significantly lower capital charge.

Low pass rate

The IMA is where banks are struggling, say market experts. The IMA under FRTB is substantially different to that under Basel 2.5: approval is granted to individual trading desks as opposed to the entire bank's trading floor, and is now based on passing difficult profit and loss (P&L) attribution tests and back testing.

"The P&L attribution test in particular ensures that there is a tight alignment between the front office and risk pricing models," says Mr Bhaskaran

Anke Raufuss "[End 2019]is the expected timeline everyone is working against"

But if a desk fails either of its two-monthly P&L attribution tests four times or more within a year, it will lose its hard-won internal model approval and be forced to adopt a standardised model. Most banks that are testing out FRTB are experiencing high failure rates, of anywhere between 60% and 79%, by market estimates.

"That is definitely a challenge. [But] the banks are fairly sure they will have a solution in place at the time of go live. The question is what is their ambition level? How many of their desks will be on the IMA?" asks Anke Raufuss, partner at McKinsey & Company

The decision to pursue IMA or not is a question that some Tier 2 banks are grappling with, says Ted Rees, senior director at Synechron Business Consulting.

"Is it worth the investment and efforts? A few of our clients are facing a tough decision on that," he says. "There is some pressure from regulators if you're a globally significant bank to be mainly on an IMA. If you're not, it's going to be a question of what the benefits are."

Banks are therefore assessing whether or not to invest in building huge risk models for products, or even entire desks, that may not be profitable a few years down the line. FRTB is forcing banks to consider whether they need to exit certain businesses altogether, if they are not worth the resultant capital charges or the hassle of devising an IMA to avoid such high charges.

Those further down the food chain are looking to shun the IMA in favour of a more straightforward SA. The capital charges are higher, but their trading books are smaller than those of their larger competitors.

Steve Wilcockson is a financial risk specialist from MathWorks which provides the mathematical modelling tools used by banks, asset managers and central banks. "We have not seen complete professional implementations of FRTB-ready systems yet," he says.

Data dilemma

Banks have trouble sourcing good-quality data for risk models, says Mr Wilcockson, particularly for complex derivatives where internally-sourced granular data is limited and third-party market data sources have historically been lacking.

Charlie Browne is head of the market data and risk solutions division at GoldenSource, a data provider to banks including Deutsche Bank, HSBC and Nordea.

"From a data perspective, you need a lot more of it, and the rules that you need to do the calculations are a lot more prescriptive. Banks spent the past 10 years aggregating data not at trade level, [but rather at a] more summarised level," he says.

The availability of public trade data varies wildly across jurisdictions and products. The US has a central reporting depository, the Trade Reporting and Compliance Engine, while the introduction in Europe next year of the Markets in Financial Instruments Directive II (MiFID II) also promises to open the gateway to more publically available trade data. The same cannot be said of Asia-Pacific, which has few public data facilities and does not subscribe to the principles of MiFID II.

To overcome this problem, Bloomberg Intelligence is working with a group of banks to pool trade data, says global ▶

head of regulatory products and reference data Chris Casey.

FRTB requires banks to calculate data at individual trade level in a specific way. To be able to model a risk factor, the bank must look at historical real trades or committed quotes, defined as at least 24 observable real prices over a rolling 12-month period with a maximum period of one month between any two consecutive observations.

Risk factors that can not be modelled in the above format are classified as non-modellable risk factors (NMRF), and incur higher capital charges.

The industry understands the merits of NMRFs, says Mr Casey, but it is tough to comply with on an ongoing basis. The cyclical nature of some asset classes means a risk factor could trade every month and comply with FRTB, but one month encounter 35 days between two trades. That instrument would then be classified as an NMRF.

"Banks are now speaking to regulators about the practicalities of complying with this. They are aware that nuanced technical aspects of requirements can be extremely burdensome," says Mr Casey.

Operational challenges

FRTB compliance incurs huge operational challenges too, particularly adherence to the Internal Model Approach. It imposes a greater computational burden than the existing standard, management of more than 10 years of market data, calibration of a bank's worst stress periods, scenario generation across multiple trading desks and orchestration with SA workflow elsewhere in the bank. Some desks within a single bank may choose to pursue an IMA, while others will stick to the SA.

Banks will also have to show a strong correlation between the data and calculations in their risk department and those in their finance department. Historically, these have been separate functions, says Synechron's Mr Rees. "Risk is more forward-looking while finance is about catching up with month-end and reconciling data," he says. "Bringing the two together is a big challenge. It is rare that banks have a single data warehouse for both risk and finance. These units have often developed along their own lines."

Furthermore, once a bank has secured its regulatory approval for an IMA, it has to maintain it. A failure to pass the P&L attribution and back-testing tests means the desk drops down to an SA, which could lead to higher capital charges.

"It is also important to note that FRTB SA requires new prescribed sensitivities to be computed in the front-office systems and then integrated with the FRTB aggregation element, which can be a challenge for large banks with multiple front-office systems," says Mr Bhaskaran.

Banks are so focused on choosing the right FRTB model and passing the desk-level tests that they forget one important detail, says James Phillips, global head of regulatory strategy at Lombard Risk. "Once those numbers are done, they have got to report them. That impact is overlooked," he says.

Banks need to gather data at raw level, clean the information, compute it and aggregate the results to present to their regulator. Lombard Risk works with financial institutions to help with the regulatory reporting requirements.

James Phillips
"Firms are looking to redesign what their whole end-to-end world looks like"

The huge range of financial regulation facing banks are largely driven by data, as regulators push to keep a close eye on what banks are getting up to.

"We see a complete overhaul of how banks gather, organise and share data across different functions, and how they consume data. Firms are looking to redesign what their whole end-to-end world looks like," says Mr Phillips.

Political slowdown

FRTB has been in the pipeline since 2012 and banks are well underway in their impact assessments, says Ms Raufuss.

They are using 2017 and the first half of 2018 to implement new risk models, the rest of 2018 and the first half of 2019 to complete dry runs and will seek regulatory approval by the end of 2019.

"This is the expected timeline everyone is working against," she says.

But earlier this year, the vice-chairman of the Financial Services Committee in the US House of Representative wrote to Federal Reserve chief Janet Yellen to warn her that she should re-evaluate the US's commitment to international rules from the BCBS. Congressman Patrick McHenry described agreements like the Basel III accords as the result of an "opaque decision-making process" that "unfairly penalized the American financial system".

He wrote: "The international standards were then turned into domestic regulations that forced American firms of various sizes to substantially raise their capital requirements, leading to slower economic growth here in America."

He called on the Federal Reserve to cease all attempts to negotiate binding standards until "President Trump has had an opportunity to nominate and appoint officials that prioritize America's best interests". Ms Yellen's term as chair comes to an end in February 2018, but it is anyone's guess whether she will be reappointed or replaced and what impact that will have on the Fed's guidance on BCBS rules for US banks.

Banks sat up and took notice of this development, says Mr Wilcockson. MathWorks has already seen some banks reduce their focus on the Basel-inspired FRTB, as they speculate that already-delayed timelines will extend further, and may continue to soften its implementation.

"Regulatory ambivalence too perhaps encourages internal de-prioritisation, as the cost-benefit of moving to modellable from non-modellable risk factors may be a little less obvious and a little more in the future than before," he says.

Even in the European Union, which is ahead of the pack, FRTB will not be fully implemented until at least 2025, say market experts. In December, the European Commission published the draft European legislation that will implement FRTB, which stated that the proposed amendments will start entering into force in 2019 "at the earliest".

The fine detail in the ensuing text says that the date of application of FRTB is two years from 2019, and there is an additional three-year phase-in period during which regulators give banks a 65% discount factor.

"The EC is proposing a carefully considered progressive implementation of FRTB," says Mr Phillips. "It would be getting on for 2025 before full FRTB implementation in Europe." GRR

A cashless society is no regulatory panacea

The push to create a cashless society has its supporters, but from a regulatory perspective it opens new challenges and does not necessarily address existing ones such as money laundering. *By Dan Barnes.*

Creating an electronic alternative to physical currency has support, as it allows authorities to exert greater control over transactions to support fiscal policy and tackle tax evasion and money-laundering.

"To me the question of cash or not cash is more a question of how much do we want to trace transactions, and to what extent do the public want us to trace transaction actions," says Jon Nicolaisen, deputy governor of Norges Bank.

Electronic cash could also enhance monetary policy at a time when short-term interest rates are low to negative across much of the world.

"Monetary policy strategies based on traditional simple policy rules lead to poor economic performance when the equilibrium real interest rate is low, with economic activity and inflation more volatile and systematically falling short of desirable levels," wrote Michael Kiley, senior adviser for research and statistics, and John Roberts, assistant director for research and statistics at the Federal Reserve Board, in their March 2017 paper for the Brookings Institution 'Monetary policy in a low interest rate world'.

One solution

To avoid negative rates, asset holders can switch to physical currency. Central banks however have nowhere to turn in exerting further controls on monetary policy. They are running into the 'zero lower bound' (ZLB) problem which is expected to become more commonplace, according to the Brookings paper, forcing central bankers to consider unconventional options. It is now a case of looking beyond quantitative easing.

In September 2015, Andrew Haldane, chief economist and an executive director at the Bank of England, posited that the most "radical and durable option" would be to use technology to levy "a negative interest rate on currency, or of breaking the constraint physical currency imposes on setting such a rate".

This could be achieved by abolishing coins and notes, which he noted would have the "added advantage of taxing illicit activities … such as drug-dealing, at source", or by establishing an exchange rate between paper currency and electronic money. As such, abolishing cash could be a tool to support monetary and/or fiscal policy.

The ability to curb tax evasion and money-laundering should be enhanced as the authorities would be able to see more transactions. However, the prevalence of crime using electronic funds suggests that criminals could migrate to paperless cash.

"We've seen it with big banks and money-laundering cases," says Laurie MacFarlane, senior economist at think tank the New Economics Foundation. "One argument is that a lot of black markets are cash-based and this is an anonymous way of dealing, whereas going cashless would change that. I just don't buy that. A lot of the drug trade is actually taking place online using Bitcoin on the dark web. Technology is evolving so rapidly at the moment that thinking simply going cashless is going to help is a bit of a spurious claim."

Europe's Fourth Anti-Money Laundering Directive (AMLD), implemented in May 2015, was updated in July 2016. It boosts the authorities' ability to spot and track illicit funds, with the establishment of centralised national bank and payment account registers or central data retrieval systems in all member states.

The inclusion of virtual currency exchange platforms under the scope of the AMLD, requires them to apply due diligence controls upon users when exchanging any virtual currencies for real currencies. This tackles the anonymity associated with dark web transactions within the EU. However, the ability to trade via non-EU currency exchange platforms could limit the effectiveness of these rules.

Furthermore, authorities will need to assess what such a shift in responsibility means in terms of data protection, as the risk of breaches could be increased.

"The privacy dynamic is a double-edged sword," says Mr MacFarlane. "The flip side to preventing crime is that by using a third party for every transaction you have got privacy and cybersecurity concerns. The power that it gives third parties to that data is a fascinating issue."

No alternative

Vivek Wadhwa, distinguished fellow at Carnegie Mellon University's College of Engineering, says: "The risk is really to the public, not to the government. If [transaction data] is managed by third parties, governments don't want the third parties doing what [the government] would do with the data, i.e. snooping on them. They will need regulation on how they would handle it."

From a regulatory point of view, in the event that businesses were to be responsible for managing paperless currency absent of paper cash, data protection concerns in the current electronic payment environment would be heightened further by the lack of an alternative.

In the EU, the revised Payments Services Directive and General Data Protection Regulation are creating a framework in which private firms could gain greater access to digital transactions to facilitate digital payment and data aggregation services, while bearing greater responsibility.

An important dynamic in the need for a new regulatory framework will be the extent to which a cashless society catches on. Where the public voluntarily reduces the use of paper currency, it is effectively ceding control of transactions to third parties.

"Take the UK as an example, where the big trend to cashless is driven by contactless payments," says Jeremy Light, managing director for Accenture payment services, Europe, Africa and Latin America. "The more it is used, the less cash is needed. In the UK contactless volumes have been trebling each year and will probably treble against this year. Yet every contactless transaction is being recorded on your bank statement."

Paper currency could potentially fall from favour under market pressures, making it non-viable for most transactions, says Mr Light. The potential for a country to ▶

Getty

A number of countries are seeing a big drive towards cashless societies

see cash payments disappear depends on the level of technology adoption. A 2015 study by Stockholm's KTH Royal Institute of Technology found Sweden was increasingly cashless, with fewer than SKr80bn in circulation in 2015, having fallen from SKr106bn in 2009, facilitated by the wide adoption of mobile payment systems, including a dominant platform, Swish.

Yet the scenario envisaged by the BoE's Mr Haldane was of an imposed model that allows the authorities to better dictate monetary policy. That would involve the central bank creating a new digital currency to handle the ZLB problem, which would create a new set of conditions for regulators to assess.

Unintended consequences

While no central bank has nailed its colours to the mast on the issue, many have announced an interest including those of the UK, China, South Korea and Sweden.

Mr Nicolaisen says Norway has made no formal decision. "We will provide physical cash as long as it's demanded. We have to think hard about other ways of providing central bank money, which may or may not become popular in the future. And basically it will be up to the public to decide through their actions," he says.

Providing central bank money to the public as paperless currency is a novel idea. Currently only select banks have access central bank money.

"To me, central bank money is an interest-free transferrable bond," explains Mr Nicolaisen."I haven't heard of any base money that carries interest."

In March 2016 the BoE's deputy governor for monetary policy, Ben Broadbent, set out the potential for a central bank to widen the scope of access to central bank money using distributed ledger technology. This enables the transfer of value to be made without any need to reconcile balances, as the balance is visible on one shared database, thereby reducing the costs and risks associated with extending the system.

"We are looking into the issue [of an electronic currency]; the problem with electronic central bank money is you very quickly get to a range of very hard and big questions that need to be answered," says Mr Nicolaisen. "Should they carry interest? Are we going to open accounts for every citizen at the central bank? What are we doing then, as opposed to the private bank system?"

It also materially changes the way in which the instruments are used, and can interact with one another. "When you move to a digital currency you have currency equivalence – other currencies don't go away," says Kelvin Dickenson, head of compliance and data solutions at technology provider Opus. "Can the currency become an investment opportunity rather than being used as a payment vehicle?"

Mr Broadbent acknowledged that a central bank digital currency could fully displace paper currency, which would "open the door to the possibility of materially negative interest rates" but that it "would require explicitly abolishing cash, not just introducing an electronic alternative".

Furthermore, he observed that while there is any chance of using "something with a guaranteed nominal return of zero, there's a similar lower bound on all other forms of money".

This highlights the real challenge a top-down approach to cashless models would face. Where alternatives for transferring value exist, from other currencies to commodities, regulators would need to account for those instruments or risk creating an arbitrage opportunity and even fragility.

"There is an element here of preparedness in terms of cybercrime," says Mr Nicolaisen. "You could argue that for a payment system to be robust, you actually need two systems in order to keep at least one of them active if one of them breaks down."

A top-down imposition of cashless models is theoretically possible. Large denomination notes have repeatedly been targeted for removal by national authorities seeking to improve fiscal policy. India effectively banned the use of Rs500 and Rs1000 notes from December 31, 2016 for just this reason.

However, there are practicalities around removing cash as the Indian example showed, where there was a rush to Reserve Bank of India branches to exchange large denomination notes for smaller ones.

The Specified Banknotes (Cessation of Liabilities) Act 2017 which was notified in February 2017 set a deadline for exchange from March 31, 2017 for residents and June 30, 2017 for non-residents.

Yet the total removal of cash, whether to combat crime or to improve monetary policy, would require national and likely international consensus as well.

"There are some economies where things will align nicely: government policy, regulatory oversight, bank sentiment for future market growth and risk management and consumer behaviour would align," says Alex Kwiatkowski, senior strategist for banking and digital channels at bank system provider Misys. "We have seen that in Sweden, while in India for different reasons it's fast emerging. However there is wide variance within regions. Will somebody get the balance right and be accepted as blueprints [in other countries]? That's aspirational."

The effectiveness of a national policy in a global market could create challenges.

Capital constraints have been a feature in many economies, notably China and Brazil, in recent decades, but models have developed to circumvent these constraints. Consequently there is a case to be made for authorities allowing the market to decide whether cashlessness is viable or not.

"The cashless society is a function of efficiency and costs, and the best way to decide upon one is probably going to be at a decentralised market-based level," concludes Mr Nicolaisen. GRR

ISDA delegates vote capital levels and failing CCPs top priorities

Capital levels and resolution, and recovery plans for central counterparty clearing houses (CCPs) should be the main regulatory priorities for policymakers, according to a snap poll of delegates taken at a leading derivatives conference. *By Justin Pugsley.*

The tackling of capital levels and ensuring that failing clearing houses can be properly dealt with were the top regulatory priorities of delegates at the International Swaps & Derivatives Association (ISDA) 32nd annual general meeting in Lisbon.

"We're going to a world where, as a provider of market services, the single biggest counterparties across the board are clearing houses. So clearly, the thinking around central counterparty clearing house (CCP) resilience and transparency, CCP recovery plans, and ultimately CCP resolution are very much dominating our internal debates today," said ISDA chairman Eric Litvack.

Mr Litvack, who is managing director, head of regulatory strategy at Société Générale global banking and investor solutions, was speaking at a roundtable panel.

Delegates at the event voted that regulators should prioritise capital and CCP resilience.

Darcy Bradbury
"We don't want to substitute the risk of company A failing with the risk of a CCP failing"

"We were big supporters of central clearing because it reduced our counterparty risk, so we don't want to substitute the risk of company A failing with the risk of a CCP failing," said Darcy Bradbury, an ISDA board member and managing director at investment management firm DE Shaw & Co.

Ms Bradbury said policymakers were tackling CCP resilience issues in a correct manner and she would not have voted for it as being a top regulatory priority at the conference's snap poll.

However, she added: "I think it is important that CCPs are not asked to do things that they're not intended to do and so as long as clearing highly liquid swaps where there is pricing available and they really understand those instruments and can make sure the margin levels are appropriate, they should be fine. The problem comes when you use them as a political tool and start forcing stuff into central clearing that doesn't belong there."

Non-clearable concerns

Ms Bradbury voiced concern over the potential future impact of margin rules on non-cleared trades, which hadn't yet hit DE Shaw & Co as a buy-side firm. "But we've been posting margin on non-cleared trades pre-crisis for ever, but nobody is doing a swap with a hedge fund that doesn't post initial margin," she said.

She worried that if not revisited, rules on trades involving non-clearable, complex customised derivatives products could eventually render them uneconomic due to the levels of margin required. "These markets exist to support the real economy, and if you make it so people can't use certain financial instruments that are vital to hedging or investing, then that can't be the right outcome."

She hoped more reasoned conversations would emerge around the margin levels the buy-side needs to post on non-clearable swaps, saying that when (European) regulators were working on the markets in financial instruments directive (Mifid II) they weren't in listening mode.

But she felt there was hope, given the administration of US president Donald Trump is focused on recalibrating US regulation, and that European regulators are reviewing the European market infrastructure regulation (EMIR) and the implementation of Mifid II.

Karel Lannoo, CEO of think-tank the Centre for European Policy Studies (CEPS), pointed out there are mainly just three or four clearers in Europe, raising concerns about concentration risk. "First, the supervision of CCPs is a key issue, and second, recovery and resolution," he said.

Another concern he raised was the European Commission's proposal in November that the resolution of CCPs would be dealt with by colleges of supervisors. "But can you imagine we are supervising basically three to four CCPs in Europe with a college of 15 or 20 supervisors. How can they do their job properly?" he said.

He noted the EC is pondering more options since Brexit and may consider some changes. However, he complained there was not enough data from CCPs relating to their risks and concerns on whether they are properly supervised.

Ms Bradbury was more upbeat on that topic. She said that given the conference audience believes the regulatory focus should be on capital and CCPs, it was a sign that other areas, such as trade execution and regulatory reporting, are working well for highly liquid swaps.

"From my perspective, margin is and will continue to be a big issue," she said. One of her chief concerns was that banking regulators overweight capital, and securities swaps regulators overweight the role margin in derivatives transactions. "And we really need to think about them together."

Convergence moves

The panel's conversation veered towards execution and regulatory convergence between the US and the EU. Mr Litvack said he expected some convergence on trade execution rules between the US and EU in Mifid II, adding that this is still a work in progress with a lot depending on how equivalence rules pan out between the two jurisdictions.

"If all this were to go live without any equivalence framework, we're ▶

potentially in a conflict of laws framework. If you trade between the US and the EU, which framework do you apply and are you confident that it is respecting both?" he said.

Though there are still some concerns around issues such as product identification and trade transparency, the broad framework on trade execution as articulated in level one in the primary legislation is broadly where it would be expected to be, Mr Litvack said.

One area where there has been divergence in opinion is between the EU and the Basel Committee on Banking Supervision over Basel III.

"I have a huge sympathy in the way in which the EU has effectively been forced to take a slightly different path to that which has been argued in Basel," said Kay Swinburne, vice chairwoman of the economic and monetary affairs committee at the European Parliament. "I think the Basel Committee has demonstrated an extreme reluctance to really grab the issue, particularly on capital and margin, correctly."

She said if capital issues were incorrectly aligned, it would undermine clearing and create competing objectives to those agreed at the G20 regarding financial stability and capital and clearing requirements.

"The Basel Committee has to be a lot more aware of these conflicts and be prepared to change the rules with regard, in particular, to the customers' margin that is posted, and therefore make those capital allowances for clearing members in order not to disincentivise them for doing the right thing, staying in the market and providing that service for customers," she said.

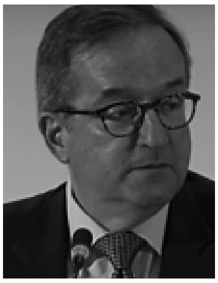
At the time of the conference there were reports that there had been some movement within the Basel Committee towards finalising the Basel III framework, which had hit a snag over disagreements between Europe and the US over areas such as output floors on internal models. In a likely reference to the US, Ms Swinburne said it had been down to one large country that had been dragging its heels on resolving these regulatory conflicts.

Globalisation on pause

Among the other issues discussed by the panel was that the trend in the globalisation of financial markets, and of derivatives in particular, was more likely to have paused rather than being in the process of reversing, despite Brexit and the election of Mr Trump.

That was the view picked up by a snapshot survey of conference delegates. Indeed, Steven Kennedy, head of global public policy at ISDA, said at the beginning of the roundtable, which he moderated, that discussions with the Trump White House were much more "constructive" than those with the previous Obama administration, where it was more about "listening" to them.

"Clearly winds of change are blowing in Washington, Brussels and London," he said.



Steven Kennedy
"Clearly winds of change are blowing in Washington, Brussels and London"

The roundtable participants noted that the priorities of policymakers were shifting more towards growth while others said globalisation was probably irreversible. The somewhat lower emphasis on cooking up new rules was attributed by the panel to the success in the implementation of the G20 regulatory agenda.

And while some politicians have been talking up nationalist agendas and many global banks have been retrenching their international operations, the opposite has been true of regulators.

"I think we have now seen regulators and supervisors around the world realise that global markets need the global cooperation that they didn't have pre-crisis," said Ms Swinburne, adding that since 2009, there had been a significant standardisation of rules, particularly for derivatives.

"I'm a lot more confident now that if a clearing member goes down tomorrow – one of the very large players – we will have a very different level of cooperation among those supervisors across the globe," she said.

She felt confident that regardless of whether financial globalisation is peaking or not, regulators will continue to cooperate internationally and drive rule standardisation so capital can flow safely across borders.

Euro-clearing squabble

While acknowledging that some politicians may want to fragment markets around Brexit or Mr Trump, Ms Swinburne believes markets will find ways around attempts to mandate that through national rules.

"So, if continental Europe, in particular post-Brexit, wants to put in place the location policy for euro clearing then why on earth wouldn't you think the markets aren't going to find a way around it?" she said (see March issue of GRR: Stakes rise in the battle for Euroclearing).

It is probable markets would avoid fragmentation costs by converging towards the most efficient venues, which are likely to be outside Europe altogether, or participants would find innovative ways of avoiding rules through innovative back-to-back type trade schemes, she said. New York is usually cited as the most likely beneficiary over any UK-EU turf wars for euro clearing.

She said rhetoric coming out of the EU regarding the location of euro clearing is worrying, noting that if such as policy were successful, the biggest losers would be local customers in the EU.

"Euro clearing has never had a destination, it's always been done on a global basis," she said. "The euro is a modern currency. It's never been subject to a location policy in the past, so it's not about repatriating, it's about patriating – and that is completely flying in the face of what the euro was designed to be in terms of being rival currency to US dollar."

CEPS' Mr Lannoo said the EU has seen players specialise, and reversing that trend would create inefficiencies. "We did a cost and benefit analysis on Brexit, and it is a cost for all the EU countries. It is because we are creating more fragmentation," he said, noting that the countries most impacted would be the ones closest to the UK.

"It would be the same at a global level if we created more trade barriers," he added.

ISDA's Mr Litvack said that as long as there was a trade in goods and services, capital flows would still occur and global markets would persist. GRR

Fragile repurchase agreement markets are skating on thin ice

The world's biggest pawn shop – a.k.a. the repo market – is treading on thin ice, admits the influential Bank for International Settlements in a landmark paper. A follow-up study is in the pipeline, but will this multi-trillion dollar market blow up before then? *By Farah Khalique.*

The repurchase agreement (repo) market is the bedrock for short-term financing for financial institutions including banks, hedge funds, pension funds and many more. In a similar fashion to a pawn shop, one party sells an asset like a bond to another party in return for cash, and commits to repurchase it at a later date for a fixed price.

A simple enough concept, but the market has been mired in controversy since the financial crisis and has wholly changed in the last few years and not for the better, say market participants. Now the industry focus is on devising workable solutions to ease tensions in the repo market and to help financial institutions borrow.

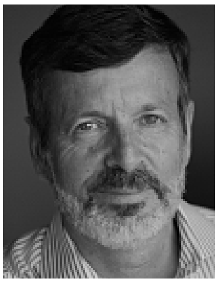
The ruin of repo

The collapse of US investment banks Bear Stearns and Lehman Brothers in 2008 was largely attributed to their over-reliance on the repo market for short-term funding, which dried up dramatically when banks stopped trusting one another. The cost of short-term borrowing rocketed, prompting their demise and triggered the global financial crisis.

The ensuing regulatory response was a combination of unconventional monetary policy – pumping trillions into the monetary system – and regulatory reforms to tighten up the financial system. But this has had unintended consequences, admits William Dudley, the chair of the Bank for International Settlements' Committee on the Global Financial System (CGFS) and president of the Federal Reserve Bank of New York, in a report published in April on the functioning of repo markets.

"The key takeaway from this work is that repo markets are not settled yet," he said. "The effects of unconventional monetary policy and regulatory reforms work in opposite directions in many cases, and they are not the same in all markets. We need to keep an eye on this market because it is critical for the smooth functioning of the system."

The BIS plans to carry out a follow-up study in the next two years, but urgent action is needed, says Godfried De Vidts, chair of the European Repo and Collateral Council at the International Capital Market Association (ICMA).



Godfried De Vidts
"In the US and UK there is no significant end of quarter distortion as there is effectively a daily regime"

"We have worked with the Committee on the Global Financial System intensively since November. They acknowledge there is a problem but offer no solution other than 'let's see in two years'. I think we have to act much quicker," says Mr De Vidts.

Indeed, at the end of 2016 the euro repo market experienced extreme volatility and market dislocation which ICMA described as "unprecedented". The cost of short-term borrowing shot up. The industry association voiced concerns as to whether this was a one-off event or an indication that the market is broken.

Stress fractures

On a day-to-day basis, the market has improved somewhat since the end of March, say market experts, but the underlying strains remain. Since the beginning of 2016, more banks have implemented new post-financial crisis regulatory requirements, such as Basel III's net stable funding ratio (NSFR) and a minimum leverage ratio.

Both aim to make banks' balance sheets more stable, but drive up the cost of short-term borrowing. The downside of complying with such regulation is that repo is becoming an unattractive product offering for banks unless clients are willing to pay far more for it than before.

"The NSFR under Basel means that if a bank wants to issue a one-week loan in the repo market it needs to take out a portion of over one-year funding against that. ICMA believes that we need to isolate repo funding from the NSFR so people can borrow short-term, in line with their fluctuating real-world needs," says Mr De Vidts.

The NSFR is defined as the amount of available stable funding relative to the amount of required stable funding (RSF). The Association for Financial Markets in Europe (AFME) that represents banks is also critical of NSFR, in a paper on the topic that was published in April.

'The 5-10% RSF on reverse repo transactions imposes a levy which will undoubtedly restrict the ability of banks to provide market liquidity for sovereign and other securities," says the paper.

AFME therefore recommends that regulators adopt a 0% RSF factor for reverse repo transactions that are collateralised by high quality liquid assets.

A raft of new capital charges for banks, such as the Basel Committee on Banking Supervision's (BCBS) surcharge for global systemically important banks (G-SIBs) are pushing banks further away from the repo market. The BIS acknowledges in its paper that the surcharge may incentivise G-SIBs that are very close to the top of the capital surcharge bucket range to avoid additional repo trades altogether instead of charging a higher price, so as to avoid moving to a higher G-SIB bucket.

The 'central bank to central banks' concludes that repo markets differ "substantially in structure and functionality ▶

across jurisdictions" and even across market segments within the same jurisdiction. Overall stability in headline volume statistics is misleading – repo markets are currently in transition. The BIS has concluded that it is therefore too soon to establish strong links between the different drivers and the observed changes in markets, or to reach clear-cut conclusions on the need for policy measures.

The collateral conundrum

Just like pawn shops, the repo market has a shady reputation. But it has a genuinely useful function that profits everyone – it brings collateral and cash to key players that impact the real economy. The simple swap of collateral for cash – and vice versa – is becoming increasingly important to everyone from banks to pension funds and even large businesses.

The G20 has decreed that institutions – both financial and some non-financial – must funnel their derivatives transactions through clearing houses, so that regulators can better monitor risks in financial markets. Clearing houses demand collateral in return for this service, meaning that the whole set up of the new regulatory framework is built on collateral, which comes from the repo market.

Paul van de Moosdijk has worked for six years at PGGM – an asset manager for pension funds in the Netherlands – where he is a senior treasury manager overseeing the liquidity and collateral management process.

"We managed to survive the year-end,"he says. "Repo rates were more expensive, but we could meet our liquidity requirements. [But] we need to be able to borrow cash in any amount at any given amount of time to be able to meet collateral calls, this is a key liquidity risk for pension funds."

Under the European Market Infrastructure Regulation (EMIR), central clearing is required for interest rate derivatives, with pension funds consequently required to post initial and variation margin once they channel a derivative into a clearing house.

Initial margin is a new collateral requirement that can range between 5% and 15% of the nominal amount of the derivative contract. In addition, variation margin is required in cash by clearing houses, or pushed for by banks under bilateral credit support annex agreements that have been renegotiated from March this year.

Pension funds therefore need to be able to access cash to meet collateral requirements from clearing houses so they either need to hold large amounts of cash which costs money, or retrieve cash out of the markets. They are very much reliant on short-term funding options like the repo market to do this, says Mr Van de Moosdijk.

But while firms like PGGM need more collateral – and the repo market – than ever before, banks have simultaneously pulled back from this market.

"Three years ago we had 12 counterparties, by the end of 2016 we have four left that we actively trade with. Before you could easily do maybe €1.5-2bn in a repo transaction with a counterparty, now it is probably a maximum of €500m to a billion," says Mr Van de Moosdijk.

Amish Doshi
"The paper is essentially reflecting some of symptoms of the challenges in market liquidity"

The pullback from bigger banks has pushed Tier II and smaller banks to enter the repo market as new counterparties for PGGM, which traditionally dealt with Tier I banks. But even those newer banks are still dependent on the bigger well-known banks, ponders Mr Van de Moosdijk.

The alternatives to the repo market for short-term funding are few and far between. Unsecured lending is frowned upon, while the short-term government bond market is shrinking. Banks have fewer government bonds on their books as they trim their balance sheets, and governments choose to issue less short-term debt, making it increasingly difficult to do large sizes in those bond markets as well.

Money market funds now come with a caveat – liquidity gating. Once an investor parks their money, it can be locked away indefinitely especially when conditions are volatile.

Amish Doshi, principal at The Boston Consulting Group, says the troubles in the repo market are merely one piece of a much bigger, more troubling problem: "Whilst the paper is focused on repos there is a bigger question about market liquidity as such. The paper is essentially reflecting some of symptoms of the challenges in market liquidity that have been witnessed since [around] 2013."

Repo remedies

The BIS has put forward some remedies; market players also have their own ideas. Some central banks may want "to engage more actively in securities lending" to offset volatility in the $12tn global repo market, says the BIS.

Securities lending would be especially helpful at quarter-ends, when banks typically pull out of the repo market to tart up their balance sheets in time for quarterly reporting obligations. The Bank of England already lends out its stock of government securities via the UK Debt Management Office.

But there are practical problems – the eurozone has 19 central banks and around 5,000 banking institutions. Each central bank wants to retain control of its own national bond market, so ICMA has suggested an ECB-level mechanism backed by agreements with each central bank. The response, however, has been lukewarm.

The aforementioned quarter-end squeeze when banks reduce their repo activity could be eliminated, says ICMA's Mr De Vidts.

"This feature [quarterly reporting] in Europe should be corrected eventually. Adherence to regulation should be every day; in the US and UK there is no significant end of quarter distortion as there is effectively a daily regime," he says.

Alternatively, pension fund access to central bank funds might help, says PGGM's Mr Van de Moosdijk. Currently, they are wholly reliant on banks and the market to mitigate potential liquidity risks during times of stress. In addition, allowing pension funds to post variation margin in bonds instead of cash with clearing houses would help reduce their reliance on the beleaguered repo market.

For now, the conclusion from the BIS is at odds with the market. Rather than initiating policy action straight away to rescue a repo market that is stuck in limbo, the BIS recommends "close monitoring by policymakers". GRR

US regulatory round-up

Ending Dodd-Frank could save $35bn over 10 years says White House

The White House believes the Federal government could save $35bn over the next 10 years by abolishing the Dodd-Frank Act.

Without going into detail as to how the savings would be achieved, the administration says they would nonetheless be significant. They are greater than the potential savings of $24bn envisaged by the Congressional Budget Office (CBO) if the Bill in the House of Representatives to reform Dodd-Frank was implemented.

Most of the savings highlighted by the CBO derive from removing provisions that would see the government helping to wind down failing financial institutions. The other big saving would be due to more controls over the way the Consumer Financial Protection Bureau (CFPB) is funded.

The administration of President Donald Trump, which believes the CFPB is far too powerful, would bring its funding under congressional control instead of the Federal Reserve financing it. That measure alone is anticipated to save the Federal government $6.8bn over the next decade.

Another Dodd-Frank inspired institution, the Office of Financial Research, which produces analysis on financial markets, faces a 28% reduction in its budget under the administration's plans.

The Commodity Futures Trading Commission (CFTC) and the US Securities and Exchange Commission would see their budgets remain similar at $250m and $1.6bn, respectively. However, the CFTC is seeking an extra $31m for its budget.

However, the proposed cuts and some of the more radical reforms laid out in the administration's fiscal 2018 plans are not expected to be passed by Congress in their current form. Also, the Democrats are likely to fight to preserve much of the Dodd-Frank framework which they see as crucial for preventing another financial crisis.

Meanwhile, US Treasury secretary Steven Mnuchin is reviewing Dodd-Frank and its impact on financial institutions and the economy with a report containing recommendations due at the start of June.

Any big changes to Dodd-Frank unlikely for a year, says analyst

Big changes to Dodd-Frank are unlikely to materialise for at least a year, says Edwin Groshans, an analyst with Height Securities, adding that the Republicans will not get all the amendments they have asked for.

According to Mr Groshans, many of the changes will come down to interpretations of current rules by heads of the regulatory agencies, at least in the short term, because the administration of President Donald Trump will struggle to get much of its reform package passed the Senate.

As Groshans explained, the Republicans, despite their safe majority, do not have enough votes to repeal Dodd-Frank or to make significant amendments, which Democrats are opposed to.

The Volcker rule, which limits bank proprietary trading, the Consumer Financial Protection Bureau (CFPB), stress testing and thresholds for systemically important financial institutions are all components of Dodd-Frank that are likely to be vigorously defended by the Democrats.

Nonetheless, there is scope for agency chiefs to interpret the Volcker rule to make it easier to apply and to simplify it. Many bankers and analysts say it is unnecessarily complex and imposes needless costs on banks.

Mr Groshans says other changes agency chiefs could make without needing Congressional approval include the Comprehensive Capital and Analysis Review stress tests, interpreting Basel III capital requirements and designating non-banks as systemically important financial institution (SIFIs).

However, it is possible that the Democrats might compromise with the administration on some aspects of the role of the CFPB, which could reduce the industry's compliance burden and the $50bn asset threshold that qualifies banks as SIFIs could be raised. Taking banks out of SIFI status would lower their compliance costs significantly.

The Financial Stability Oversight Council (FSOC), a Dodd-Frank creation that monitors emerging threats to the financial system, could also be used as a vehicle for the administration's reform ambitions, according to industry sources.

The body is made up of representatives of the other main regulatory agencies and can be used by Steven Mnuchin, US Treasury secretary, and the FSOC chairman to drive the reform agenda forward.

CFTC moves into the fintech age

The Commodity Futures Trading Commission (CFTC) is looking to bring its rule book into the digital age to more effectively match the industry that it oversees.

The project called LabCFTC, launched by acting CFTC chairman J. Christopher Giancarlo, will make it easier for the agency to work with fintechs and help it keep up with the rapidly evolving electronic trading sector it regulates.

The project mirrors other efforts to become more digitally driven. Its GuidePoint programme engages with fintechs that will have a dedicated office in New York. Meanwhile, CFTC 2.0 aims to keep the agency in the loop on emerging technology developments.

Mnuchin rules out breaking up largest banks

US Treasury secretary Steven Mnuchin called breaking up the biggest banks a "huge mistake", saying that such ▶

measures are not on the administration's agenda.

Speaking at a Senate Banking Committee hearing, Mr Mnuchin said the administration does not support separating out the investment banking units from banks despite comments from President Donald Trump suggesting he would back such reforms.

Mr Mnuchin said breaking up banks would have a big impact on financial markets and the economy.

Bankers will be hoping that his remarks mark the end of speculation that the administration is looking to revive the Depression-era Glass-Steagall Act, which split commercial and investment banking.

Academics warn over unwinding resolution mechanisms

Two academics have warned over removing US resolution mechanisms for failing banks as it could sow confusion and undermine confidence in the US financial system.

"Ultimately, however, neither investors nor foreign regulators will be confident in a resolution regime that lacks an OLF (orderly liquidation fund)-like provision for temporary government funding," said Stephen Cecchetti, professor of international economics at the Brandeis International Business School, and Kermit Schoenholtz, professor of management practice at the Leonard N. Stern School of Business.

On their money and banking blog, the duo wrote that foreign regulators and investors would expect the US authorities to resort to ad hoc bailout mechanisms in the event of a large financial failure.

In effect, this would escalate concerns and market volatility in the event of a failure but in the interim, foreign jurisdictions could take protective measures against US institutions, which EU authorities have threatened to do if US deregulation goes too far.

Under Dodd-Frank, the Federal Deposit Insurance Corp (FDIC) would use a bankruptcy code and if necessary could gain funding from the government to aid the orderly resolution or restructuring of a failing bank. This would be achieved through the Orderly Liquidation Authority (OLA) and the OLF.

In April, the US House of Representatives passed a revision to the Financial Institutions Bankruptcy Act (FIBA) to expedite the resolution of adequately structured intermediaries. FIBA is tailored specifically to wind-down failing banks by giving authorities the power to act quickly and with a degree of flexibility.

Additionally, president Donald Trump told the US Department of the Treasury to review OLA because the OLF's government backing could encourage excessive risk taking in the financial sector.

Mr Cecchetti and Mr Schoenholtz believe the credibility of the US financial system not only depends on maintaining an effective resolution regime, but also living wills and holding adequate amounts of total loss absorbing capital.

Some senior Republicans are calling for the removal of implied government support, want to relax some bank regulation and make failing banks subject to standard bankruptcy processes, which are lengthy and would be potentially disruptive to the financial system.

Mnuchin orders regulators to examine Volcker rule

Steven Mnuchin, the secretary of the US Department of the Treasury has ordered the agencies making up the Financial Stability Oversight Council to review the Volcker rule, according to media reports.

The Volcker rule restricts bank proprietary trading activities and dealings with hedge funds. The five main agencies involved in the review are the Federal Reserve, the Securities and Exchange Commission, the Federal Deposit Insurance Corp, the Commodity Futures Trading Commission and the Office of the Comptroller of the Currency.

Mr Mnuchin appears to be looking for ways to give banks more leeway to trade on their account without breaking the rules, as a full repeal could be too complex and time-consuming and might anyway be impossible due to Democrat opposition.

One possible loophole is around the rule's vague wording, which allows banks to buy and sell securities on behalf of customers. The fact that it is confusing leaves open the prospect that the regulatory agencies could allow banks a wider interpretation.

The rule, which was designed to stop federally insured banks from engaging in risky activities, has been blamed for a drain in liquidity in secondary markets as banks were forced to retrench.

Nonetheless, Mr Mnuchin does not believe federally insured banks should engage in the full gamut of proprietary trading, but does think they should be allowed to carry out some forms of trading to support their clients. Also, high-frequency trading firms have filled some of the void left by banks pulling back from the market.

CFTC moves to better protect whistleblowers from employers

Individuals who inform on wrongdoing within their firms are to receive greater protection from the US Commodity Futures Trading Commission (CFTC).

In particular, the commission is seeking to protect whistleblowers from retaliation from their employers. For instance, companies cannot stop individuals communicating with the CFTC over possible violations of derivatives laws or force them to sign gagging orders.

The CFTC can also initiate anti-retaliation actions against companies and individuals who act against the rules. And whistleblowers who believe they have been subject to retaliation can bring private lawsuits against their employers.

UK's Great Repeal Bill faces tight deadline as Brexit looms

The UK faces the monumental task of turning EU laws into domestic ones as it leaves the EU. However, plenty of other countries have trodden this path, not least countries formerly part of the British empire. *By Farah Khalique*.

The UK is facing up to the daunting challenge of transcribing a mountain of EU financial regulation into UK law ahead of Brexit, but it can take heart from other countries' successful bids for sovereignty.

The two-year countdown to the UK's historic departure from the EU began on March 29, when Prime Minister Theresa May triggered Article 50, the formal process for leaving the union. The UK government will introduce the Great Repeal Bill in the next parliamentary session – due to begin in June – which will come into force on the day the UK leaves the EU, scheduled for March 29, 2019.

The Great Repeal Bill will do three things: it will repeal the European Communities Act 1972 which gives legal authority for EU law to take effect as national UK law; bring all EU laws onto the UK books; and create so-called 'Henry VIII' powers for ministers to make fast-track changes via secondary legislation where technical difficulties arise.

The pressure is now on to ensure that EU regulation, including decades of financial regulation, is accurately copied into UK law, and any kinks are ironed out using Henry VIII powers.

"This is all going to happen over an enormously compressed timeframe, so we won't have the normal time in which to respond to consultations or suggest tweaks," says Ronald Kent, managing director, wholesale and financial policy at the British Bankers' Association. "It is therefore really important to bring everything across from the EU seamlessly without making changes. Then, after Brexit, amendments can be made following a proper consultation period."

EU law 101

There are currently more than 12,000 EU regulations in force, according to the EU's legal database EUR-Lex, but there is no single proportion for how much EU law already forms part of UK law. Key pieces of EU financial regulation include: the European Market Infrastructure Regulation (EMIR); Capital Requirements Regulation; Market Abuse Regulation; as well as Markets in Financial Instruments Directive II (MiFID II) and the accompanying Markets in Financial Instruments Regulation (MiFIR), which come into force in January 2018.

Lawyers stress that it is important to distinguish between the different forms of EU regulation, which largely fall into two categories, regulations and directives, but also include treaties, European Commission decisions and case law. Directives have to be implemented in member states by local legislation, so those are already written into UK law.

However, regulations are 'directly applicable', meaning that they automatically apply in member states without any need to be written into individual country law. Regulations that the UK has abided by for years will therefore need to be formally adopted, says John Ahern, partner at law firm Jones Day.

"How that process is going to work will be a function of what methods the legislature decides to use," he says. There are "hundreds and hundreds" of different regulations, he explains, but fewer directives since the financial crisis. "There has been greater emphasis on harmonisation – the best way to achieve that is through regulations, not directives – so there is no imbalance between different member states."

Tight deadlines

The vast scale of the project, coupled with such a tight deadline, throws up big challenges. It is inevitable that things will get missed, says Karen Birch, counsel in the litigation practice at law firm Allen & Overy and a key member of the law firm's Brexit team. Once legislation is in force and binding, any mistakes can be highly problematic.

"We hope to see the government publish draft legislation early enough so that lawyers and trade bodies can pick up problems before they come onto the statute book," says Ms Birch.

Businesses also need a firm transitional period after the two-year negotiating period is up to get their houses in order. The European Parliament has suggested a maximum three-year period.

"It's incredibly important either that there's a transitional period or for the UK position [to be] sufficiently far ahead for our clients to put in place any internal changes, and for them to identify and advocate where they see things that aren't going to work," says Ms Birch.

The upfront cost for the financial services industry is the time and effort spent in partnership with the government to pore over millions of words that need to be brought across. Co-ordination among players in the financial services is key, according to Mr Kent at the BBA.

"Given the volume of work to be done and the amount of voices the government will hear during this process, it would be helpful to co-ordinate a common view across the financial services industry," he says.

Mounting challenges

Transcribing EU law into UK law is more than just a copy and paste exercise, as acknowledged by the UK government in its Great Repeal Bill white paper. It can preserve existing rules such as adhering to those relating to the free movement of goods, but this could mean little in practice if EU member states do not give reciprocal confirmation. That comes down to what Ms May can negotiate with the EU over the next two years.

In addition, it is more complicated where something that works in an EU context needs further thoughts and refinement in a UK context.

Sarah Garvey, counsel in the litigation practice at Allen & Overy and a key member of the law firm's Brexit team, says problems might crop up with respect to definitions of bodies, entities and products. ▶

"If definitions don't work in an EU context and you introduce new definitions, but those same topics crop up in other bits of legislation, are you going to have uniform definitions across, say, the financial leg or all legislation?" she asks.

Take a provision that refers to a determination by an EU institution such as the European Commission or the European Court of Justice, that EU institution will no longer have sovereign rights over the UK after 'B-Day'. A UK body will need to be found to take on that responsibility. There is an assumption that existing UK bodies, with a bit of fine-tuning, can step into that gap, say market practitioners: for example, the Supreme Court will replace the European Court of Justice as the highest court in the land.

The Bank of England's Prudential Regulation Authority may well have to supervise foreign bank branches in London, says Lindsey Naylor, partner at consultancy firm Oliver Wyman. "[This] would increase the scope of the PRA's supervision and might also require an increase in headcount," she says.

Act needed

But there are areas of EU regulation that require more than fine-tuning. Credit rating agencies in the EU are regulated by the European Securities and Markets Authority (Esma), but there is no equivalent set-up in the UK. Setting up a new regulator could fall beyond the scope of the Henry VIII, which require an Act of Parliament.

"Industry input is necessary to ensure the parliamentary process, when invoked, is completed with speed and accuracy so things don't fall through the cracks," says Mr Kent.

The UK will need to fine-tune some smaller details that could potentially have a significant impact on financial markets. MiFID II, EMIR and MiFIR rules are largely based on European-wide thresholds: they are based on current EU-wide trading and liquidity, though much of those volumes are in London.

"If Europe's financial markets are split in two, what happens to those thresholds? Post-Brexit, Esma may need to change those EU thresholds," says Ms Naylor.

There is a question of what thresholds the UK will set for itself – will they be higher or lower or continue on the current basis? It is an open question with potentially big implications for the way liquidity is traded in the UK and Europe, says Ms Naylor.


Getty

The UK parliament will soon consider the Great Repeal Bill

The UK is set to enter unchartered territory, but it is far from the first time a country has split from an economic bloc or an empire. Hong Kong was returned to China in 1997 after 156 years under British rule; India obtained independence from the UK leading to the Indian Independence Act 1947; and the fall of the USSR in 1991 led to independent countries like Estonia and Kazakhstan.

History lessons

Law firm Norton Rose Fulbright has been cinsidering the lessons of those experiences. It has generally been the approach of the seceding state to preserve the status quo at the point of secession, which is what the UK also plans to do, says Matthew Hodkin, partner at Norton Rose Fulbright.

"This can thus provide businesses with comfort that the day-to-day legal framework for operating as a business in the UK will not undergo wholesale change overnight and that existing systems and procedures are likely to remain relevant in the short to medium term," says Mr Hodkin.

Countries like India that sought sovereignty preserved British legislation, but asserted the sovereign right to make changes to the rules in future.

"They also show the general tendency to allow for gradual rather than overnight change," Mr Hodkin says.

The direction the country takes on these domestic matters will then become a question for the government of the day.

But for those rules that go to the heart of the relationship between EU member states themselves, there is clearly a different approach to be taken as they will form the basis on which any exit deal will be based.

If the EU – or some of its member states – do not give reciprocal confirmation in relation to certain EU rules then the UK will have to take a more proactive approach.

"It will, therefore, be necessary for the UK to identify those areas of law which fall into this category and ensure that they, to the extent possible, form part of the exit deal with the remainder of the EU," says Mr Hodkin.

An area where one can see English courts begin to diverge from the EU Court of Justice more quickly is in the application of wider concepts of jurisprudence such as the doctrine of abuse of law. This is a concept which appears in civil law and is applied in a number of EU law areas, such as in relation to sales tax avoidance, where it enables the courts to find that abusive avoidance schemes do not have the desired fiscal effect despite complying with the strict legislative provisions.

This contrasts to some extent with the English law approach to tax avoidance cases, where the Supreme Court has recently affirmed that this is a question of interpreting the facts of the case realistically, while bearing in mind the purpose of the relevant statute.

"Given that these approaches often provide different routes to achieving the same result (and sometimes different routes to different results), it is possible to see a post-Brexit Supreme Court deciding that there should only be one doctrine that should be applied in these cases, leading to EU concepts in relation to EU matters (such as value-added tax) being sidelined as UK judicial decisions progress," says Mr Hodkin. GRR

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FX working group unveils complete version of FX code of conduct

The guidelines drawn up between 16 central banks and industry sets out 55 principles dealing with ethics, transparency, governance and information-sharing. Also, they are an update on last year's publication (See July 2016 issue of GRR: Regulatory threat looms over FX markets). The code is a response to various scandals in the FX market involving market rigging and client abuse.

"From the outset, we sought to develop the code in a collaborative manner. This has been a defining factor in ensuring that it reflects good market practice and is embraced by the broadest number of market participants," said David Puth, CEO of CLS and chairman of the BIS's market participants group.

During a press conference on May 25, members of the Foreign Exchange Working Group (FXWG) stressed the need for the buy side to ensure the banks and brokers they deal with are treating them fairly and are applying the code. Leading central banks have given the code a boost by refusing to deal with commercial banks that do not sign-up to it.

"If you don't sign-up to the code clients and counterparties will wonder why," said a banker talking on the side lines of the press conference. "I would certainly expect all the big FX banks to apply it." A broker who had some doubts due to the voluntary nature of the code, thought peer pressure should win out.

Given the much stricter regulatory climate, banks have become very cautious in dealing with counterparties, which is hindering the functioning of the FX market. The FXWG hopes the code will sooth nerves by giving participants guidelines on interacting with each other. For instance, it covers what is appropriate and inappropriate in terms of counterparty communications. The FXWG believes the code will take banks six to 12 months to implement.

A controversial practice in the FX markets is called 'last look', whereby market makers can retreat from a trade after finding out their counterparties' intentions. The code leaves the practice in place following strong lobbying from banks, but seeks to minimise potential abuses. The FXWG is still working refining this aspect of the code.

The code also looks at how electronic and algorithmic trading should be conducted with the provision of adequate disclosures.

"We welcome the final version of the global code of conduct and the increased transparency that it will bring to market practices in our industry," said David Newns, global head of Currenex and SwapEx, and EMEA head of GlobalLink at State Street Global Markets. He added that the code is the start of the ongoing process to rebuild industry trust.

"We strongly support adherence across the industry and fully intend to commit to the Code, as it aligns closely with our key principles of fairness, equality and transparency," said Dan Marcus, CEO at ParFX, adding that the firm would promote the code to its customers.

"We believe the Code will provide a solid framework for a wide range of best practices, and includes specific guidance on algorithmic trading," said Curtis Pfeiffer, CEO at Pragma Securities. Meanwhile, the Financial Markets Association (ACI) has launched an ACI FX global code certificate and a mobile phone app with code updates. The July issue of GRR will take a deeper look at the FX code of conduct.

Basel III framework edging closer to finalisation

Bill Coen, secretary general of the BCBS, said in a speech at the Financial Services Forum in London that the rules will be finalised "in the near future" and that the debate over technical issues is narrowing.

The main hold-up has been over output floors on internal models designed to stop banks being too aggressive in their capital allocations against exposures and to stop capital differences with the standardised approach being too wide. This has led to confrontation between European regulators versus their US counterparts, who tend to be sceptical about internal models.

Mr Coen explained that output floors applied to internal models in aggregate should be no lower than 70-75% of risk weighted assets when compared with the result that would be obtained from using the standardised approach. He mentioned that there had been discussions for floors of 60-90% with the focus on 70-75% though 70% and 80% are not off the table. (See January issue of *GRR*: Basel III delay signals growing risk of regulatory divergence).

Mr Coen cited the introduction of a transition period, which could run to 2025. Some industry sources have speculated that the floor could start at 55-60% before rising to 70-75%.

Some industry sources believe an aggregated approach should give individual banks more flexibility in calibrating their models, though the actual calibration is still being debated. Nonetheless, the Committee is seeking consistency in the way banks calculate their risks and also wants to minimise wide deviations with the standardised approach.

The Committee rejected other types of floors, such as those base on exposure classes, which looks at types of exposures along with credit and market risk

Mr Cohen said estimating regulatory capital for unexpected losses is not precise and that a floor guards against excessively optimistic assessments of risk. He mentioned that the improved standardised approach has been made more risk sensitive for calculating credit risk.

Apart from reducing systemic risk, the Committee wants to create a more level playing field between banks using the standardised approach, which is the majority, and those with internal models usually the bigger players.

The other issue delaying sign-off is that no replacement has yet been named for Dan Tarullo who took charge of bank regulation at the Federal Reserve Board and was a key participant in the negotiations. According to the Financial Times, Fed chair Janet Yellen and US Treasury secretary Steven Mnuchin have helped move discussions along. Also, industry sources said governments, national regulators and banks are keen to see the reforms finalised ahead of the July G20

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meetings. Agreement could come as early as June 14-15, the BCBS's next meeting.

Yet bankers remain deeply concerned that the finalised Basel III will result in more capital requirements, leading them to dub it Basel IV.

With the Basel framework looking close to completion the workload for the Committee should start to tail-off. However, Mr Coen did mention that a project focused on reducing regulatory arbitrage will be launched within the next two years. He homed in on banks window dressing their balance sheets ahead of reporting their regulatory capital, which traditionally shows up in volatility in the repo markets. He said an appropriate response, whether regulatory or supervisory, will be considered.

IOSCO annual conference focused on market resilience and conduct issues

Among the issues discussed at the organisation's annual meeting were the importance of increasing the independence of standard setting bodies to help ensure high-quality global auditing and ethics standards.

In the area of asset management, IOSCO made progress around its initiatives on liquidity risk management of collective investment schemes aimed at reinforcing their resilience.

Meanwhile, IOSCO's board agreed that it should examine whether regulatory reforms of derivatives markets may have had negative unintended consequences. Certainly, there are numerous issues around pushing uncleared over-the-counter derivatives through clearing houses and the margin requirements hitting those that are deemed unclearable due to their specialist nature.

"IOSCO members have taken important steps this week to address the key challenges facing securities markets – including the risks around cyber security, changing market structure, and financial technology – while also preparing markets to play a bigger role in financing the global economy," said Ashley Alder, Chair of the IOSCO Board.

Meanwhile, IOSCO formally recognised a number of members who became new signatories to its multilateral memorandum of understanding on cooperation and the exchange of information, taking the total number to 114 out of 142 eligible IOSCO members.

The new signatories were the Superintendencia del Mercado de Valores in Panama, the Capital Markets Authority in Kuwait, the Qatar Financial Centre Regulatory Authority, the Financial Services Regulatory Authority in Abu Dhabi and Uganda's Capital Markets Authority. Angola's Comissão do Mercado de Capitais is expected to sign up in June.

EU bankers struggle with investor allocation rules

Bankers involved in the primary issuance of corporate and government bonds in the EU are struggling to come to terms with measures stipulating that they must justify their investor allocation decisions.

The rules are part of the markets in financial instruments directive (Mifid) II. The European Securities and Markets Authority states that bond syndicates "must provide a justification for the final allocation made to each investment client".

The new measures will be introduced on January 3, 2018 but banks are already snowed under by other requirements. They are also at different levels of preparedness for the new rules, with some looking to automate investor selection as much as possible to speed up the process.

Industry sources believe there is scope to automate much of the work done by banks as the process is currently highly manual and involves a lot of phoning around.

Banks also hope that regulators will agree to a more standardised approach to investor selection. Bankers argue that it would otherwise be very challenging to go through a slow and cumbersome selection process every time new bonds are issued.

There are fears this could create uncertainty around launching new bonds and potentially cause issuers to shun the bond market. Banks will also have to disclose their fees, which could spark potential pricing pressures going forward.

Financial transaction tax could plug EU budget holes

An EU transaction tax could help fund the European budget and in the process alleviate contributions from members states, says Austria's finance minister Hans Jörg Schelling.

The issue of member state budget contributions has been given greater currency with the UK's pending departure from the EU from March 2019. It contributes around 12% to the EU's €1tn budget, which runs from 2014-2020.

Mr Schelling told the Austrian parliament that the UK's departure is a good opportunity to discuss European revenue, but warned that a transaction tax would only work if all 27 EU states participated.

This is not a new idea and was championed by former European Commissioner Mario Monti, who even saw scope for extending it to electricity and petrol.

Nonetheless, imposing an EU-wide transaction tax would clash with the desire of most member states to maintain supervision of domestic taxation.

The proposed tax on capital market transactions never gained much traction within the EU due to stiff opposition from the UK, which hosts most of the continent's trading activity.

European Council approves EU prospectus rules

Prospectus rules designed to reduce red tape for issuers of debt and equity have been given the go-ahead by the European Council.

The rules are seen as a key part of kick-starting the capital markets union (CMU) and are now waiting to be entered into the Official Journal of the European Union, which is expected sometime in June. The rules will then come into force soon after.

The rules will help bolster CMU, which the European Commission aims to have in place by 2019, and will enable firms to tap capital markets for funding rather than having to rely on banks (See

January issue of GRR: EU prospectus rules to be simplified).

Some industry sources see the rules as an important boost for CMU, whilst others think its importance is relatively marginal given the still-fragmented nature of the continent's markets.

JPMorgan warns clearing houses not well enough capitalised

Central counterparty clearing houses (CCP) should be subject to tougher rules and carry higher financial buffers, according to a white paper from JPMorgan. There should also be curbs on the amount of losses CCPs can pass on to their customers says the US investment bank, which is one of the biggest players in the over-the-counter (OTC) derivatives market and a member of more than 60 CCPs.

JPMorgan says CCPs are conflicted because they're supposed to provide security to their users while maximising returns to shareholders – making it more likely they would try to mutualise any losses with their customers if they ran into problems.

The US bank also thinks CCPs should contribute more to guarantee funds and be well capitalised enough to cope with cyber-attacks. There should be limits on how much they can ask members for, and any emergency cash calls should be a one-off.

The bank supports the concept of CCPs holding enough capital to withstand the default of its two largest members, but bemoans that this requirement is not universal across all jurisdictions. The white paper acknowledges the progress made by regulators to date, but says it has not gone far enough.

Regulators placed CCPs as an intermediary between over-the-counter derivatives transactions as an extra safeguard to the financial system and as a firebreak against contagion if a major bank failed. The growing importance of CCPs has made them subject to more regulation and increasingly, supervisors are looking for ways to better coordinate global oversight of these fast growing institutions.

JPMorgan started making a case for more regulation and higher capital requirements for CCPs in 2014.

China's shadow banking products come under more scrutiny

The China Banking Regulatory Commission (CBRC) is gearing up to unleash 46 new and revised rules in 2017 alone as it pursues its clampdown on shadow banking.

China's regulators have been growing increasingly concerned over the systemic risk of the booming wealth management products (WMPs) industry, estimated to be worth 30tn yuan ($4.3bn) and a key part of the country's shadow banking system.

In its latest move, the CBRC wants banks to report weekly the composition of their WMPs and the assets and liabilities that sit behind these products. The previous requirements were for monthly reporting with less detailed data.

When Guo Shuqing took over at the CBRC in March, he promised that the regulator would get on top of China's banking system and promised a full regulatory agenda.

Over the course of 2017, the CBRC is expected to launch new rules pertaining to risk management, bankruptcy provisions for commercial lenders and trust companies, and greater scrutiny of the way banks manage debt-for-equity swaps and microfinance.

IMF calls on New Zealand to strengthen supervision

While the IMF believes New Zealand's banking system to be strong, it is concerned over its exposure to housing and the dairy industry and reliance on overseas wholesale funding.

The IMF estimates that the country's banks can withstand severe shocks, but sees scope for a strengthening for the country's macro-prudential framework.

A possible weakness is the dominance of four banks, which have similar exposures and business models. The IMF says the Reserve Bank of New Zealand should beef up its supervisory capabilities and take a more proactive approach towards regulatory discipline and should be given more resources to execute its mandate.

"The regulation of New Zealand's financial markets has been significantly enhanced over the last decade and this has required significant work from the industry, the FMA [Financial Markets Authority] and MBIE [Ministry of Business, Innovation and Employment]. It is good to see the IMF's assessment clearly reflects that," said FMA chief executive Rob Everett.

ICAEW: investors rely too much on regulatory ratios

Investors are placing too much faith in regulatory ratios designed to measure bank resilience, warns the Institute of Chartered Accountants in England and Wales (ICAEW) in its new auditing guidelines for the sector.

"Capital ratios are one of the most important ways to assess a bank's stability, but they are not audited," said Iain Coke, head of ICAEW's financial services faculty.

He explained that in 2014, the UK's Prudential Regulatory Authority (PRA) asked the Institute to look into how independent assurance could boost confidence in banks. "Today's publication represents culmination of that project. Using this framework would mean the public, regulators and banks themselves can have more trust in these numbers," Mr Coke added.

The PRA has been concerned about banks making mistakes in their accounts and are not properly measuring risks on their balance sheets. Also, it wants to address the fact that banks which reported strong profits ahead of the 2007-9 financial crisis ended up in dire straits once it struck.

In a statement the ICAEW explained that the framework has a modular design allowing users to tailor the scope of assurance work to meet their particular needs. It can be used by internal and external auditors and encourages stronger auditing. The guidance covers testing, IT, ▶

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governance standards, internal controls and reporting processes

Under pressure from the banks, the institute veered away from recommending a standardised approach. Some countries such as Germany and Switzerland require regulatory ratios and risk-weighted assets reports to be audited, unlike the UK.

G7 calls for stronger co-operation against cyber-crime

G7 leaders agreed to co-operate more closely in the fight against cyber-crime and terrorist financing and encouraged fair taxation at their meeting held in Bari, Italy on May 11-13.

The group of the seven wealthiest nations by GDP want to create common practices to quickly detect vulnerabilities in the global financial system and emphasised using effective measures to boost cyber-security within individual financial firms. They said this was particularly important given the increasing digitisation of financial services.

The group added that there should be regular cyber-exercises and simulations. "We mandate the G7 Cyber Expert Group to develop a set of high-level and non-binding fundamental elements for effective assessment of cyber-security by October 2017," the G7 said in its communiqué.

The call for greater cyber-security co-operation was particularly pertinent given the havoc wreaked around the world by the WannaCry ransomeware computer virus. This is likely to see regulators pay even more attention to cyber-security at a national and international level.

Commenting on counter-terrorism financing (CTF), the Communiqué said: "We are committed to enhance information sharing, domestically and internationally." It also discussed sharing best practices, identifying areas to improve international cooperation and also looking at improving domestic regulation and practices.

The G7 strongly endorsed the work of the Financial Action Task Force (FATF) and the Egmont Group of Financial Intelligence Units.

"We should also collaborate to strengthen the effective implementation of the AML (anti-money laundering)/CTF regime in the FATF global network," the communiqué said. The G7 explained that it will consult with the IMF, World Bank and the United Nations Office on Drugs and Crime to improve the delivery of technical assistance and will seek a report on the matter at its next meeting.

On taxation, the G7 said the implementation of the Base Erosion and Profit Shifting package, drafted by the G20 and OECD, is crucial.

The group also encouraged the global implementation of the Common Reporting Standard (CRS) on automatic exchange of financial account information starting in September 2017. It noted that all financial centres should implement CRS.

"We expect sufficient progress from jurisdictions that do not have yet a satisfactory level of implementation of the agreed international standards on tax transparency," the communiqué said.

Though a big part of the communiqué was dedicated to cyber-crime, CTF, AML and taxation issues, it also supported the use of countries using monetary, fiscal and structural tools to support growth and for exchange rates to be determined by the market. However, like with recent G20 communiqués, the G7 were unable to sound a strong defence for free trade, given the lukewarm attitude of the current US administration.

Industry giving mixed messages over Brexit

Lord Norman Blackwell, chairman of Lloyds Banking Group, a predominantly UK-focused bank, said that while markets will fragment post-Brexit no other EU capital will copy London's success in financial markets, particularly at a global level. He believes the City will even be able to handle a 'no deal' situation between the UK and EU, though that is far from an ideal outcome, he said.

He added that there would be no "Jenga tower" situation – a reference made in January by HSBC chairman Douglas Flint on the risks of certain activities such as euro-clearing moving from London to the EU, which could undermine other capital markets sectors (See Jan issue of GRR: Potential hard Brexit sparks passport alternatives search).

Meanwhile, London Stock Exchange CEO Xavier Rolet has continued to sound warnings over any EU attempts at mandating the move of euro-clearing from London to the continent. He said this would fragment markets, drive up costs for end users and that the eurozone is simply not competitive in this activity. He added that it could threaten the role of the euro as a global reserve currency. EU policymakers have long dreamt that the euro would one day supplant the US dollar as the world's leading reserve currency.

However, Stephan Boujnah, CEO of rival Euronext, thinks it is inevitable that the UK will lose a significant chunk of euro-clearing business to the EU.

Nonetheless, Mr Rolet expressed hope in that the European Commission seems to understand the issue though politicians particularly in France and Germany are calling for the activity to be moved out of London.

The European Commission is considering several options on euro-clearing ranging from mandating it to be done in the union through to greater EU supervision of London's activities similarly to what the US does with London-based US dollar clearing. Also, Mr Rolet believes that in the longer term bigger opportunities for London likely lie in China, India and the US.

Martin Gilbert, CEO of asset manager Aberdeen Asset Management, said his firm would need to move a handful of positions out of London if euro-clearing was to leave London. In terms of asset management, he thinks it unlikely that the EU will specifically target UK located funds for special regulatory treatment given that it excepts outsourced management of them to countries such as the US, Singapore and Australia. Aberdeen Asset Management has a number of Luxembourg funds managed from outside the EU.

Libor alternatives start to take shape

After many delays and difficulties, industry and regulators are inching towards choosing alternatives to the London interbank offered rate, with the UK close to selecting one for sterling rates. *By Justin Pugsley.*

This year should see greater clarity over the form that all important interest rate benchmarks will take, with the UK moving towards a key reference rate for sterling.

In 2014, the Financial Stability Board (FSB) recommended that regulators find alternatives to the still widely referenced London interbank offered rate (Libor), which has been subject to manipulation.

The challenge is to find a robust way to measure the 'near risk-free' cost of money without it being vulnerable to manipulation (see January issue of GRR: Quest for Libor alternatives grows more urgent).

Regulators believe rates based on actual transactions to be more dependenable than the old approach to setting Libor, which relied on traders' opinions of where rates stood. However, even using transaction data requires strong governance, as some years ago oil price benchmarks were manipulated with the use of trades executed with the sole intention of influencing market prices.

Vote for Sonia

Progress is, however, being made. In late April 2017, the Bank of England announced that the working group on sterling risk-free reference rates made up of swaps dealers had voted for sterling over night index average (Sonia) to be the main sterling reference rate.

Sonia, which reflects bank and building societies' overnight funding rates in the sterling unsecured market, was chosen over two alternative near risk-free interest rate benchmarks, the sterling secured overnight executed transactions (£Sonet) and the sterling repo index rate (£Rir). The Bank of England and the industry consider all three to be underpinned by robust pricing methodologies.

£Sonet covers cleared and uncleared repo activity accounting for around two thirds of the overnight government debt (gilts) repo market, with about £99bn ($128bn) in daily transaction volumes.

The narrower £Rir is a daily secured sterling repo index calculated from centrally cleared repo trades on UK sovereign government bonds on the BrokerTec electronic trading platform, a multilateral trading facility. Daily volumes are around £20bn a day, while Sonia's are about £40bn.

Easy to understand

Minutes from the April 7 meeting of the interest rate working group revealed broad agreement that a reformed Sonia would be robust and easy to understand with rate movements easier to explain. As the Bank of England is Sonia's administrator, this was considered advantageous, as it would be less affected by conflicts of interest than a commercial firm.

There is also a detailed process for Sonia's evolution, making the benchmark more durable because it could adapt to any structural changes in the unsecured market.

"This is an important milestone in the benchmark reform process outlined by the FSB," says Chris Salmon, Bank of England executive director for markets, adding that it is now a case of promoting the widespread adoption of Sonia.

"This will lead to more effective interest rate hedging markets for end-users, while minimising opportunities for misconduct."

An industry consultation is due around the middle of this year.

According to the Office of Financial Research, in the US the debate over finding a Libor alternative is continuing, with a decision expected some time this year.

The choice appears to be between using a secured repo rate or the overnight bank funding rate. The repo rate is widely used and is a key source of short-term funding in the financial system. The other contender is also widely used and measures the cost of funds for US banks based on the federal funds rate and overnight eurodollar deposits.

Reforming pricing methodologies is difficult enough, but weaning the industry off Libor and on to alternative benchmarks will prove challenging.

As a measure of how difficult it is to change methodologies, the administrators of the euro interbank offered rate (Euribor) decided for the time being to stick with the current system of calculating the rate using banks' best estimates rather than actual transactions.

The European Money Markets Institute, which administers Euribor, found that after conducting a six-month exercise involving 31 banks that such a move was not feasible due to current market conditions. Part of the problem is down to falls in market liquidity.

The institute now plans to use a hybrid approach instead, by combining quotes, transaction data and other pricing information where possible to calculate euro rates with more details expected in the coming months.

In the UK, the intercontinental exchange, which oversees Libor, is placing greater emphasis on actual transactions rather than individual opinions.

Combating corruption

The impetus to find alternatives to Libor were triggered by revelations after the 2007-09 financial crisis that these benchmark rates had been manipulated by traders to boost their bonuses. What followed was a series of scandals and high profile prosecutions of individuals, and banks were slapped with hefty fines (See May issue of GRR: Libor scandal threatens to resurface around Bank of England).

Regulators responded by working on finding more robust and transparent alternatives that can't be manipulated. Previously, the industry itself compiled the rates based on traders' opinions, making them easier to abuse. Rate submissions from banks are now subject to greater scrutiny and tougher criteria.

These reference rates are used to price trillions of dollars worth of derivatives, and influence the cost of consumer and corporate debt, and are hugely important to the global economy.

Once established, benchmarks become remarkably durable – even after they become discredited, as Libor did. Embedding new reference rates into the financial system will require strong industry buy-in and will take considerable effort and time to establish, with no guarantee of success. GRR

Diary: conferences, meetings and deadlines

June 2017

June 6 Consultation closes on substituted compliance for margin requirements for non-centrally cleared derivatives, the Australian Prudential Regulation Authority

June 12 Consultation closes on proposed amendments to requirements in credit loss provisioning, Monetary Authority of Singapore

June 13 Prudential bank regulation conference, Securities Industry and Financial Markets Association, Washington, DC

June 14 7th China Capital Markets Conference, the Asia Securities Industry and Financial Markets Association, Hong Kong

June 14-15 Basel Committee on Banking Supervision meeting, Sweden

June 15 Liquidity risk management forum, Centre for Financial Professionals, London

June 20 Consultation closes on exemption in respect of debt instruments issued or guaranteed by a South African bank, Financial Services Board, South Africa

June 22 5th Annual QED conference on cybersecurity, QED Conference, Brussels

June 22 Conference on the extension of the senior managers and certification regime, City & Financial Global, London

June 23 Consultation closes on draft regulations pursuant to the securities and futures act paper II, Monetary Authority of Singapore

June 26 Consultation closes on the scope of the draft guidelines on connected clients, European Banking Authority

June 27 EU prospectus regulation - level 2, QED Conference, Brussels

June 28 Conduct measurement: How to report robustly to the regulator, British Bankers Association, London

June 28 ICMA Workshop: repo and securities lending under the GMRA and GMSLA, International Capital Markets Association, London

June 30 Consultation closes on the user requirements for the future RTGS service in the context of the T2-T2S consolidation, European Central Bank

June 30 Consultation closes on global systemically important banks – revised assessment framework, Basel Committee on Banking Supervision

July 2017

July 3 Consultation closes on update of the guidelines on the application of the endorsement regime. credit rating agencies, European Securities and Markets Authority

July 5 Consultation closes on revisions to large exposures, the Australian Prudential Regulation Authority

July 6 Markets in Financial Instruments Directive II/regulation implementing the new regime, conference, International Swaps and Derivatives Association, Singapore

July 7 Understanding the margin requirements and new ISDA credit support documents for uncleared swaps including the AEJ bilateral CSA templates and disclosure letters, International Swaps and Derivatives Association, Singapore

July 7 Consultation closes on proposals to reduce and mitigate hacking risks associated with internet trading

July 12 4th annual financial services cyber security summit, City & Financial Global, London

July 12 Financial benchmarks: An entirely new framework which affects administrators, contributors and users, International Swaps and Derivatives Association, New York

July 15-17 Towards an integrated view of financial regulation: key lessons from the crisis and future challenges, International Finance & Banking Society, Saïd Business School, University of Oxford, UK

July 20 An update on CCP resilience, recovery and resolution, International Swaps and Derivatives Association, New York

July 22 Completion of review of the application and scope of the alternative investment fund managers' directive 2011, European Commission

July 27 National compliance outreach program, US Securities & Exchange Commission & Financial Industry Regulatory Authority, Washington

August 2017

Aug 4 Consultation closes on the proposed guidelines on online distribution and advisory platforms, Hong Kong Securities & Futures Commission