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Banking Law Update

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REGULATORY DEVELOPMENTS

Financial Conduct Authority (FCA)

AIFM Remuneration Code

The FCA has finalised its guidance on the Alternative Investment Fund Managers' (AIFM) Remuneration Code contained in SYSC 19B. This includes specific provisions on introduction and interpretation, application, proportionality, delegation and remuneration committees, treatment of partners or members, units, shares or other instruments and minimum retention periods. The FSA's Remuneration Code adopted following the global financial crisis was incorporated under SYSC 19A with the specific BIPRU Remuneration Code since being added within SYSC 19C.

FCA, 31.1.2014

Annuities

The FCA has published the results of its *Thematic Review of Annuities* (February 2014) TR14/2. The review had been conducted to assess whether would be better off purchasing an annuity from the open market rather than existing pension providers, examine provider behaviour and review existing research on consumer behaviour and engagement. The results confirmed that parts of the annuities market were not working well for consumers with eight out of ten consumers being able to obtain a better deal than from their existing provider. The FCA would conduct a competition market study into retirement income to determine whether competition in the market was working well for consumers. The review would examine annuities, income drawdown and alternative products. £14 billion was paid in premia for new annuity purchases in 2012.

FCA, 14.2.2014

Arch cru Redress

The FCA has confirmed that £31.47 million will be paid under the CF Arch cru consumer redress scheme following failure of the CF Arch cru Investment and Diversified funds. The consumer redress scheme is separate from the £54 million CF Arch cru payment scheme announced in June 2011 using voluntary contributions from firms involved in the administration of the funds, Capita Financial Managers Ltd, BNY Mellon Trust & Depository (UK) Ltd and HSBC Bank Plc. Arch cru funds were high-risk products invested in non-mainstream assets such as private equity or private finance with many unsuitable sales having been made. 353 firms confirmed that 7,124 investors may be eligible to claim under the scheme.

FCA, 27.1.2014

Arrears Administration Fees

The Yorkshire Building Society Group (YBS) had agreed to refund £8.4 million in arrears administration fees. This included the Yorkshire Building Society, Chelsea Building Society, Barnsley Building Society and Accord

Mortgages. The firms were entitled to charge arrears administration fees where mortgage accounts had fallen into arrears by two months or more although a number of fees had been charged incorrectly since January 2009. Customers were expected to receive around £247.

FCA, 17.2.2014

Bernard Madoff

The Financial Conduct Authority (FCA) has confirmed that investors with Bernard Madoff may have the opportunity to claim compensation. Manhattan United States Attorney Preet Bharara announced that the deadline for petitions to the Madoff Victim Fund (MVF) had been extended to 30 April 2014. Eligibility criteria has been published by the US Department. Nine thousand claims from individuals in 75 countries have been received under the MVF. Many potential claimants had not been aware of the existence of the fund.

FCA, 21.2.2014

Financial Services Compensation Scheme

The FCA and PRA have issued a joint consultation paper on the proposed management expenses levy limit (MELL) for the Financial Services Compensation Scheme (FSCS) for 2014/15 (CP14/1). The MELL is to be set provide the FSCS with adequate resources to perform its functions efficiently and economically and provide a responsive and well understood compensation service for financial services consumers. The proposed MELL is to be set at £80 million.

FCA and PRA, 20.1.2014

Imprisonment for Fraud

Benjamin Wilson, Bournemouth, Dorset, has been sentenced to seven years imprisonment at Southwark Crown Court having defrauded investors of over £21 million. Wilson had pled guilty to fraud, forgery and operating a collective investment scheme without authorisation. The sentence included seven years for fraud, eighteen months for not being authorised and two and four years for forgery. Wilson's firm, SureInvestment, had been an unauthorised sham which received £21.8 million from over 300 investors with £17.54 million being owed and the FCA estimating that it would only recover £5.39 million in total.

FCA, 14.2.2014

Insurance Fine

Insurance intermediary, HomeServe Membership Ltd, has been fined £30,647,400 for a series of compliance failures including breach of PRIN 3, 6 and 7. The firm had mis-sold insurance policies between January 2005 and October 2011 and failed to investigate complaints adequately with its board

being insufficiently engaged and senior management reluctant to address risks. £12.9 million had been paid to customers with £16.8 million expected to be paid in total.

FCA, 13.2.2014

Listing Rules

The FCA has issued a consultation paper on proposed amendments to the Listing Rules in relation to sponsor competence and other amendments to the *Listing Rules and Prospectus Rules* (CP14/2). The paper considers redefining competence with regard to sponsor approval and joint sponsor arrangements. Sponsors must have recent previous experience, retain sufficient skilled resource to carry out the role to a high standard, contact personnel must maintain minimum levels of expertise with sponsors being able to act only in specialist sectors. This also removing the requirement for premium listed issuers to prepare a 28 day circular and introduce new prospectus rules requiring that applicants submit a compliant and factually accurate prospectus.

FCA, 30.1.2014

Mortgage Market Review

The FCA second Mortgage Market Review (MMR) confirmed that all firms intending to conduct mortgage business would implement the MMR on time and that 85% had plans in place that were either complete or partially complete. All firms were invited to formalise their plans with changes having to be adopted by 26 April 2014.

FCA, 20.2.2014

Price Formation

FCA Director of Markets, David Lawton, has spoken on 'Price: the cornerstone of markets' at the International Capital Market Association (ICMA) Capital Market Lecture Series 2014 in February 2014. David Lawton referred to the integrity of the price formation process. IOSCO required that markets were fair, efficient and transparent which applied to price formation. Effective price formation reduced transaction and research cost, built investor confidence and assisted deep and liquid markets raise funds, invest or manage risk. Authorities had to monitor the price formation within domestic jurisdictions and across borders at the same time as take into account new technologies and new strategies, market counterparties and risks. The FCA would continue to attempt to maintain the integrity of the price formation process through its market agenda, in particular, in strengthening public markets (including in high frequency trading (HFT) areas and through multilateral trading facilities (MTF) and organised trading facilities (OTF)), decentralised and OTC markets (including through central counterparties (CCPs) and trade repositories (TRs) and in examining the relationship between physical and derivatives commodity markets) and in non-market areas including through price reporting agencies (PRAs), benchmarks and mark to market

valuations. David Lawton concluded that achieving an optimal price formation process was vital for the UK to continue to provide deep and liquid markets to investors with regulatory attention shifting from traditional core public markets to off exchange activities.

FCA, 3.2.2014

Primary Information Providers

The FCA has issued a policy statement on *Incoming Statutory Regime for Primary Information Providers* (January 2014) PS14/2. This contains rules on the new statutory regime for PIPs with feedback on CP13/8. The policy statement is intended for use by issuers, Regulatory Information Services (RIS) and potential PIPs with the new rules coming into effect on 31 January 2014 subject to a six month transitional period for existing RIS. A PIP is a service provider that receives announcements and disseminates it through a wider range of newswire outlets which are referred to as secondary information providers (SIPs). An RIS provides information required under the Disclosure and Transparency Rules (DTR) or Listing Rules.

FCA, 31.1.2014

RBS

The FCA has confirmed that it has appointed Promontory Financial Group and Mazars to conduct an independent skilled persons report under s166 FSMA 2000. This will examine the treatment of business customers in financial difficulty and the allegations of poor practice set out in the report by Lawrence Tomlinson and referenced in the separate report by Sir Andrew Large. A sample of customers referred to the Global Restructuring Group will initially be reviewed including cases referred to by Tomlinson. The review will separately consider whether poor practices identified were widespread and systemic with the root causes of these issues being considered during the second stage of the report. This will include recommendations to deal with any shortcomings identified. The FCA has stated that while commercial lending is not a regulated activity under FSMA, it will consider any further regulatory measures depending upon the results of the review.

FCA, 17.1.2014

Regulatory Decisions Committee

The FCA has appointed three new members to the Regulatory Decisions Committee (RDC) to represent business, consumer and industry experience. These consist of Dame Elizabeth Neville, former police officer and chief constable of Wiltshire Police, Pauline Wallace, former senior partner at PwC, and Peter Craddock, Group Operations Director at Perspective Financial Group Ltd. The RDC is responsible for determining whether to grant contested applications in regulatory cases and to issue warning and decision notices on certain FCA enforcement actions. The RDC reviews evidence prepared by the FCA and generally asks for responses from firms or individuals before determining whether an action should proceed.

FCA, 14.1.2014

Short Selling

The FCA has notified that it has temporarily restricted short selling under EU Regulation 236/2012 in shares in Banco Popolare on all UK trading venues by any person irrespective of their country of residence. The prohibition was for one day and followed a significant price movement with the FCA considering it necessary to prevent a disorderly decline in the price of the company's shares.

FCA, 27.1.2014

Standard Bank Fine

Standard Bank Plc has been fined £7,640,400 for failings in relation to its anti-money laundering (AML) policies and procedures in relation to corporate customers connected with politically exposed persons (PEPs). Standard Bank is the UK subsidiary of South Africa's largest banking group. The FCA considered that the bank had failed to comply with Regulation 20(1) of the Money Laundering Regulations between December 2007 and July 2011 in failing to take reasonable care to ensure that all aspects of its policies were applied appropriately and consistently to corporate customers connected to PEPs. Corporate customers linked to PEPs, including through directorship or shareholdings, were subject to enhanced due diligence (EDD) under the Joint Money Laundering Steering Group (JMLSG) guidance. This follows an earlier FSA thematic review of money laundering risks in higher risk situations in June 2011 and policy statement in December 2011 (PS11/15). This represents the first AML fine for the FCA and AML first case under its enhanced penalty regime which applies to breaches committed after 6 March 2010.

FCA, 23.1.2014

Transition Management

The FCA has published the results of its *Transition Management Review* (February 2014) TR14/1. The FCA had examined how firms move investment portfolios between different managers and markets for asset owners including pension funds. The size of the market was studied and relevant business models with oversight, governance and control arrangements. The review confirmed that over £165 billion of assets were moved annually through around 700 mandates. The market was highly complex with possible insufficient oversight within firms and a lack of transparency. The FCA nevertheless concluded that its existing rules and guidance (including SYSC 10 and COBS 2) provided a high standard with no express regulatory changes being required. State Street UK was fined £22,885,000 after its Transitions Management (TM) business had executed a deliberate strategy to overcharge clients on mark-ups on transitions in addition to agreed management fees and commission.

FCA, 10.2.2014

Prudential Regulation Authority (PRA)

Cooperative Bank

The PRA has confirmed that it is to undertake an enforcement investigation with regard to the activities of the Cooperative Bank which will specifically examine the role of former senior managers. A separate independent review is to be conducted by the Treasury although this is not to prejudice the enforcement investigation with the PRA and Treasury coordinating their activities as necessary. The PRA announced with the Financial Conduct Authority (FCA) on the 22 November 2013 that they would consider whether a formal enforcement investigation was necessary. The Treasury also confirmed on 22 November 2013 that an independent investigation would be carried out under the new powers conferred under the Financial Services Act 2012.

PRA, 6.1.2014

PRA Board Appointment

Charles Randell has been reappointed an independent director to the Board of the Prudential Regulation Authority (PRA) by the Court of the Bank of England for three years from February 2014. Charles Randell was a Partner at Slaughter and May specialising in corporate finance law including financial stability and bank restructuring. It was specifically involved with the resolution of Northern Rock, Bradford & Bingley and Icelandic Banks as well as the Government's investments in RBS and Lloyds HBOS.

PRA, 19.2.2014

PRA Rulebook

The Prudential Regulation Authority (PRA) has issued a consultation paper on *The PRA Rulebook* (January 2014) CP2/14. This follows statements made in its earlier approach documents that it would produce a dedicated Rulebook. The outline content of the Rulebook was set out in PRA, *Occasional Consultation Paper* (October 2013) CP8/13 chapter 10. The Rulebook would be divided into two sectors covering deposit takers and investment firms (referred to as 'banking') and insurance which would be internally divided into directive firms (CRD IV and solvency II) and non-directive firms. The provisions would principally be based on rules with guidance being removed and set out in separate supervisory statements. A new online site would be made available from 2015. The revised Rulebook would inter alia include revised parts on Overview, Online Rulebook, Fundamental Rules (replacing PRIN), Information Gathering (replacing SUP 2), Auditors (SUP 3), Use of Skilled Persons (SUP 5), Permissions and Waivers (SUP 6 and 8), Notifications (SUP 15) and Statement of Policy on the exercise of PRA's financial stability information power (contained in FIN MAR). The PRA has stated that it has examined its handbook material for clarity, necessity and alignment in light of its new approach. Proposed rules are set out in Rulebook instruments included within CP2/14. The existing PRIN applied by the PRA on integrity (1), skill, care and diligence (2), management and control (3),

financial prudence (4), conflicts of interest (8) and relations with regulators (11) would be replaced by Fundamental Rules (FRs) which would apply to all firms. Additional provisions would be included on adequate financial resources, controls, resolution and false and misleading information. These would implement the recommendation by the Parliamentary Commission on Banking Standards (PCBS) that the principles that banks operate in accordance with the safety and soundness of the firm and that directors' responsibilities to shareholders are interpreted in light of this. Further specific amendments would be made to the PRA's own initiative information gathering powers, skilled persons reports, financial stability information power with provisions on incoming EEA firms (SUP 13 Annex 1) being moved to the PRA website.

PRA, 1.2014

Bank for International Settlements (BIS)

Basel Committee Completion

The chairman of the Basel Committee, Stefan Ingves, has given an address on 'Finishing the job: next steps for the Basel Committee' before the Ninth Basel Committee – Financial Stability Institute High Level Meeting on 'Strengthening financial sector supervision and current regulatory priorities' in Cape Town, South Africa, 30–31 January 2014. Stefan Ingves summarised the Committee's workflow in terms of the four key themes of progress in issuing consultation papers on the construction of the post-crisis reform agenda, implementation focus, need to balance simplicity, comparability and risk sensitivity as well as enhance supervisory effectiveness especially in the areas of data aggregation and the issuance of guidance on foreign exchange settlement exposures. The Committee would undertake to complete its reform agenda over the next few years. It would continue to monitor and evaluate implementation reform across the 27 Committee member jurisdictions which represented 90% of global banking assets. It would correct inconsistencies in risk-weighted asset calculations with three studies already having been produced on variability in the trading book and banking book. The Committee would also continue to focus on promoting effective supervision which reflects its original purpose and mandate. A number of initiatives have been undertaken in this area including on the conduct of college supervision, capital planning, corporate governance and supervision impact and accountability.

BIS, 31.1.2014

Basel Committee Reform

The oversight body of the Basel Committee, the Group of Governors and Heads of Supervision (GHOS), have endorsed a number of proposals on completion of the Committee's post-crisis reform agenda. They have approved the common definition of the leverage ratio with the final documents being published by the Committee on the same day. This provides a non-risk based backstop requirement to reinforce the risk-based capital rules.

Final calibration will be confirmed in 2017 to be implemented beginning 2018. The changes to the one year Net Stable Funding Ratio (NSFR) have been agreed following agreement on the short-term Liquidity Coverage Ratio (LCR). The Committee was asked to undertake further work on LCR disclosure, use of market-based indicators and the relationship between the LCR and provision of central bank facilities. The GHOS supported the Committee's proposals on liquidity related disclosures with further guidance to be provided on the utilisation of market-based indicators of liquidity to determine whether assets constituted High Quality Liquid Assets (HQLA) within the LCR. The GHOS agreed to include central bank Committed Liquidity Facilities within the LCR, in particular, in countries where insufficient HQLA were otherwise available. This reflected the need for banks to plan for their own liquidity resilience as well the importance of central bank lender of last resort liquidity provision. The Committee's strategic objective for the following two years was also approved as outlined by its Chairman, Stefan Ingves, above.

BIS, 12.1.2014

Capital Planning

The Basel Committee has identified four fundamental components within sound capital planning processes (Basel Committee, *A Sound Capital Planning Process: Fundamental Elements* (January 2014)). The sound practices are concerned with establishing effective internal control and governance, managing capital policy and risk capture, adopting a forward-looking perspective and having a proper management framework that preserves capital. A formalised capital planning process has to be administered through an effective governance structure. Capital policy has to be used to prepare guidelines that senior management can rely on in taking decisions on capital deployment or preservation. Forward-looking measures have to be incorporated covering potential capital needs in banks' capital planning processes. Formal management procedures must also be in place to consider and prioritise actions necessary to preserve capital. The objective is not to set out any new planning guidance but improve capital planning processes within banks implementing Basel III. The absence of effective planning processes during the crisis have meant that management teams had underestimated the risks inherent in their business strategies and failed adequately to cover their capital needs.

BIS, 23.1.2014

Central bank function

The BIS has published a paper on *The role of central banks in macroeconomic and financial stability* (February 2014) No 76. This contains papers presented at a meeting of governors from major central banks in Basel in May 2013 which included specific discussion of the impact of major trends on African banking. Four specific challenges were identified in terms of the recent increase in pan-African banking in supporting financial integration, the importance of central banks in developing local debt markets, the need to

strengthen financial stability frameworks and the importance of macroprudential policy allowing for the impact of extended periods of high commodity prices which attracted large capital inflows with potential stability issues.

BIS, 7.2.2014

Committed Liquidity Facilities

The BIS has issued a working paper by Morten Bech and Todd Keister on 'On the economics of committed liquidity facilities' (January 2014) No 439. This examines the effect of the new Basel III liquidity requirements in countries with limited available high-quality liquid assets. Introducing the liquidity coverage ratio can result in a significant liquidity premium and push short-term interest rates to the central bank rate corridor floor. These effects can be reduced through the provision of a Committed Liquidity Facility by the central bank. The central bank can determine the most appropriate equilibrium liquidity premium or quantity of liquid assets held by banks but not both with optimal pricing arrangements being dependent on local market conditions.

BIS, 10.1.2014

Exchange Rate Indices

The Bank for International Settlements (BIS) has extended its effective exchange rate (EER) indices to include 61 economies (including the Euro area and separate Euro countries) with the most recent weights being based on 2008–10 trade and with a 2010 base year. Two sets of compositions are made available include broad indices and narrow indices. Nominal EERs are based on the geometric weighted averages of bilateral exchange rates with real EERs being adjusted by relative consumer prices. Relevant methodologies are set out in the BIS Quarterly Review and BIS Economic Paper No 39.

BIS, 18.2.2014

Global Long-Term Interest Rates

The BIS has issued a working paper by Philip Turner on 'The global long-term interest rate, financial risks and policy choices in EMEs' (February 2014) No 441. The paper confirms the increased importance of global long-term interest rate movements for monetary policy management in emerging market economies over the last ten years. Low or negative term premium in advanced economies from mid-2010 pushed international investors into local bond markets in emerging economies which eased monetary conditions and encouraged foreign currency borrowing by emerging market corporations. This has strengthened the links between bond and foreign exchange markets with significant effects on local banking systems over time.

BIS, 4.2.2014

International Banking Statistics

The BIS has published its latest *Preliminary international banking statistics* (January 14) for the period to end-September 2013. A significant contraction

in international banking activity occurred during the third quarter with cross-border claims of BIS reporting banks falling by $508 billion (1.8%) to $28.5 trillion. Most of the fall was in interoffice positions. The earlier increase in cross-border lending was reversed although claims in emerging markets increase, in particular, in China.

BIS, 23.1.2014

Long-Term Finance

The BIS has published a collection of papers following a high level seminar organised by the Bank of Russia and BIS in Moscow in July 2013 during the G20 meetings. Governors and deputy governors from 30 BIS shareholder banks participated with academic speakers and economists. The papers have been published in a collective volume on *Long-Term Finance: can emerging capital markets help?* (January 2014) No 75. Specific issues covered include managing the volatility of capital flows and exchange rates, the role of the financial system and its interaction with the real economy and the infrastructure of local financial markets.

BIS, 30.1.2014

Monetary Policy and Financial Stability

The BIS has issued a working paper by Claudio Borio on 'Monetary policy and financial stability: what role in prevention and recovery?' (January 2014) No 440. The paper identifies the goals of central banking and attempts to assess their attainment. Central functions have generally included a mix of financial and monetary stability goals with the achievement of simultaneous monetary and financial stability being difficult to achieve. Financial cycles with systematically long duration and disruptive financial booms and busts have to be properly incorporated within policy frameworks. Monetary policy has to contain booms and support busts. The credibility of central banking and the retention of trust and legitimacy in its function are dependent on achieving an appropriate balance.

BIS, 21.1.2014

Money Laundering

The Basel Committee has published a paper on *Sound management of risks related to money laundering and financing of terrorism* (January 2014). This consists of a set of guidelines on how banks should include money laundering and terrorist financing risks within their overall risk management framework. This follows a consultation document in June 2013 and replaces two earlier publications on *Customer due diligence for banks* (October 2001) and *Consolidated KYC management* (October 2004). The guidelines consist of an identification of essential elements of sound internal risk management, group-wide in cross-border operations and supervisory role. The sound risk management elements cover specifically assessment, understanding, management and mitigation of risks, customer acceptance policy, customer and

beneficial owner identification, verification and risk profiling, ongoing monitoring, information management and the reporting of suspicious transactions and asset freezing. Group-wide and cross-border issues include global processes, risk assessment and management, consolidated money laundering and terrorist financing policies and procedures, group-wide information sharing and mixed financial group compliance. Additional provisions are included on the outsourcing of customer due diligence and on correspondent banking. The guidelines are stated to be consistent with the Financial Action Task Force *International standards on combating money laundering and the financing of terrorism and proliferation* (2012) with relevant FATF papers being set out in the third annex.

BIS, 15.1.2014

Supervisory Colleges

The Basel Committee has published a paper on *Revised good practice principles for supervisory colleges* (January 2014) following its earlier statement on colleges in October 2010. The Committee has issued seven principles on college objectives, structures, information sharing, communication channels, collaborative work, institutional interaction and crisis preparedness with additional information being provided in appendices on EU colleges and the essential elements within cooperation statements between banking supervisors. A number of revisions have been made with principle 1 stressing collaboration and sharing on an ongoing basis. Increased clarity is provided on the balance between core college effectiveness and host involvement in principle 2. Home and host authorities must have in place appropriate mechanisms and sufficient resources to allow for the effective and timely exchange of information under principle 3. Home and host authorities are to agree on the types of bank feedback to be required under principle 6. Additional guidance is provided on banks with established crisis management groups (CMGs) and college and CMG relations. The improved use of macroprudential information is also considered across their principles.

BIS, 23.1.2014

Trade Finance

The Committee on the Global Financial System (CGFS) has published a report on *Trade finance: developments and issues* (January 2014) No 50. The paper was prepared by a Working Group under John Clark, Federal Reserve Bank of New York. This examines the structure and recent development of global trade finance markets and the relationship between trade finance and international finance. The paper notes that losses on trade finance portfolios have been low historically with banks being able to reduce their exposures in times of stress due to their short-term nature. This can nevertheless allow trade finance to transmit stress from their financial sector to the real economy with trade finance books being shortened in response to funding and liquidity constraints. Attempts to strengthen capital and liquidity cover and promote competition should assist.

BIS, 31.1.2014

Financial Stability Board (FSB)

Foreign Exchange Benchmarks

The FSB is to promote the adoption and implementation of principles and good practices on benchmark setting processes under its G20 mandate in 2013. A high level Official Sector Steering Group (OSSG) of regulators and central banks had been set up to carry this out. An assessment of foreign exchange benchmarks would specifically be incorporated following recent concerns with a specific FX Benchmarks Group to review benchmarks and market practices. Conclusions and recommendations would be provided before the Brisbane Summit.

FSB, 14.2.2014

G20 Communication

The chairman of the Financial Stability Board (FSB), Mark Carney, has written to the G20 Finance Ministers and Central Bank Governors on 'Financial Reforms – Progress and Challenges' (17 February 2014). The statement outlines the work required to complete the fundamental reform of the global financial system to which the G20 committed at the Washington summit in 2008 with the nature or characteristics of financial supervision and regulation required to realise fully the benefits of an open, integrated global financial system. The remaining core reform elements can be completed during the Australian G20 Presidency if member governments remained focused and ambitious. The G20 identified the four completion elements at the St Petersburg Summit as building resilience of financial institutions, ending too-big-to-fail, transforming shadow banking to transparent and resilient market based financing and making derivatives markets safer. It was noted that large internationally active banks would implement Basel III five years ahead of the 2018 deadline. Global systemically important banks and insurance companies have been indentified and would be subject to resolution planning and resolvability assessments, higher capital and more intense supervision with appropriate methodologies for other global systemically important institutions being issued. The FSB had published its latest annual monitoring report on shadow banking although national implementation on OTC derivatives reform was overdue. Specific recommendations for completing each of these objectives at the Brisbane Summit were made. Four further specific proposals were outlined to improve the collective regulation and supervision of the global financial system in a way that would build mutual confidence and trust and realise the benefits of an open and integrated marketplace. Countries had to commit to apply global standards with regard to the supervision and resolution of globally systemic institutions in a fair, predictable and smooth manner. An outcomes based approach should be adopted to resolving cross-border issues with countries being prepared to defer to each other's regimes in a non-discriminatory manner where appropriate. Work had to continue with conducting necessary peer reviews and impact assessments to catalyse action. There also had to be enhanced

cooperation and avoidance of fragmentary domestic measures through strengthened cross-border cooperation and information sharing to support the new common global standards adopted.

FSB, 17.2.2014

OTC Derivatives Data

The FSB has issued a consultation paper on *Feasibility study on approaches to aggregate OTC derivatives data* (February 2014). The FSB is required to assess whether implementation of OTC derivatives reforms will be sufficient to improve transparency in the market, mitigate systemic risk and protect against market abuse. While work had been undertaken on the establishment of necessary infrastructure to ensure that all contracts be reported to Trade Repositories (TRs), the FSB had been examining whether TR reported data could effectively be used by authorities specifically in an aggregated form to identify and mitigate systemic risk. The FSB has been working with the Committee on Payment and Settlement Systems (CPSS) and the International Organisation of Securities Commissions (IOSCO). The consultation paper sets out proposed requirements and challenges in TR data aggregation and criteria to assess different aggregation models including through the use of physically centralised models, logically centralised models and the separate collection and aggregation of raw TR data.

FSB, 4.2.2014

Systemically Important Financial Institutions

The FSB and IOSCO have issued a consultation document on Assessment Methodologies for Identifying Non-bank Non-insurer Global Systemically Important Financial Institutions (NBNI G-SIFIs) (January 2014). The G20 endorsed at the Seoul Summit the FSB framework for reducing the systemic and moral hazard risks created by systemically important financial institutions (SIFIs). Work has been undertaken on identifying relevant global systemically important banks (G-SIBs) and insurance companies (G-SIIs) with the new methodology to attempt to identify NBNI G-SIFI). The FSB had separately confirmed that policy measures would be developed once relevant methodologies had been finalised in FSB, Progress and Next Steps Towards Ending ‘Too-Big-To-Fail’ (September 2013). The objective of the methodology is to identify NBNI entities whose distress or disorderly failure would cause significant disruption to the global financial system and economic activity across jurisdictions due to their size, complexity and systemic interconnectedness with a consistent approach being adopted insofar as possible to NBNI G-SIFIs, G-SIBs and G-SIIs. The consultation paper contains sector specific methodologies for finance companies, market intermediaries (including securities broker-dealers) and investment funds and supporting methodologies for all other NBNI financial entities. Proposed indicators for assessing the systemic importance of a NBNI financial entity are set out in attachment 1 with procedural steps in the table in attachment 2.

The proposed indicators specifically refer to size, interconnectedness, substitutability, complexity and cross-jurisdictional presence. With separate financial (materiality criteria), generally set at $100 billion dollars in balance sheet total assets.

FSB, 8.1.2014

International Organisation of Securities Commissions (IOSCO)

Client Assets

IOSCO has published a final report on *Recommendations Regarding the Protection of Client Assets* (January 2014). This contains eight principles to assist regulators enhance their supervision of intermediaries holding client assets and clarifying the roles of the intermediary and authorities in protecting assets. This follows difficulties with investors realising assets at such institutions as Lehman Brothers and MF Global. Specific difficulties had arisen where clients had, knowingly or unknowingly, waived or modified client asset protection or opted out of protection regimes where permitted by law or where assets had been placed in foreign jurisdictions. The report contains eight principles on records and client asset amounts, client statements, safeguarding arrangements and minimising the risk of loss or misuse, foreign placements, disclosure, waiver or modification and consent, compliance and the regulatory treatment of assets held in foreign jurisdictions.

IOSCO, 29.1.2014

Credit Rating Agencies

IOSCO has published a consultation report on *Code of Conduct Fundamentals for Credit Rating Agencies* (February 2014). This updates its earlier CRA Code originally published in 2004 and revised in 2008. The Code is specifically being revised to recognise the regional and national oversight of CRAs with CRAs still being subject to effective self-governance. The revisions specifically enhance provisions on protecting the integrity of the credit rating process, managing conflicts of interest, ensuring transparency and safeguarding non-public information. Additional measures are including on governance, training and risk management with the clarity of the Code also being improved. The code is based on five objectives or principles of ensuring the quality and integrity of the rating process, independence and conflicts of interest, transparency and timeliness of ratings disclosure and confidential information. The Code contains five sections on quality and integrity, independence and conflicts, CRA responsibilities to the investing public, rated entities, obligors, originators and arrangers, governance, risk management and employee training and disclosure and communication with market participants.

IOSCO, 10.2.2014

Crowd Funding

The Research Department of IOSCO has published a Staff Working Paper on *Crowd-funding: An Infant Industry Growing Fast* (February 2014). Crowd-funding refers to the provision of small amounts of funds through online web based platforms to fund business or personal projects. Financial return (FR) crowd-funding specifically refers to peer-to-peer lending and equity crowd-funding. This provides a global overview of the crowd-funding industry with a mapping exercise of current regulatory treatment. FR crowd-funding had doubled each year for the last five years to $6.4 billion in 2013 with 90% in peer-to-peer lending. Crowd-funding supports economic growth, fills the credit gap left by banks, provides lower cost of capital and higher returns and lower cost leveraging with new product portfolio diversification. A number of risks nevertheless arose with regard to default, platform risk, fraud, illiquidity and investor inexperience. No specific systemic risk issues were identified although the benefits and disadvantages of crowd-funding had to be balanced over time.

IOSCO, 5.2.2014

Key Global Issues

The IOSCO Board met in Kuala Lumpur in February 2014 to discuss key issues facing global financial markets and securities regulators. The meeting confirmed IOSCO's commitment to build resilient capital markets to withstand volatility in global markets while supporting sustained economic growth. IOSCO would deliver on the G20 reform agenda, deepen capacity building in growth and emerging markets, define regulatory priorities and develop standards and principles to support the growing role that market based finance would play in supporting economic growth on an ongoing basis. Work would specifically focus on growth and emerging markets, ongoing policy work streams and cooperation and engagement.

IOSCO, 21.2.2014

Memorandum of Understanding

IOSCO has confirmed that the Indonesian Financial Services Authority has become the 100th signatory to its Multilateral Memorandum of Understanding on cooperation and exchange of information (MMoU). IOSCO has 125 eligible members with 100 now being signatory to the MMoU with a list of non-signatory members being published in 2013. IOSCO also confirmed that it would gradually restrict the opportunities for non-signatory members to influence its decisions. Request for assistance under the MMoU had increased from 520 in 2006 to 2,374 in 2012.

IOSCO, 24.1.2014

International Association of Insurance Supervisors (IAIS)

Information Exchange Agreement

Mauritius and Israel have become signatories to the International Association of Insurance Supervisors (IAIS) Multilateral Memorandum of Understanding (MMoU) on international supervisory cooperation and information exchange. Thirty seven countries had become signatories to the MMoU which represented over 54% of worldwide insurance premium volume. The MMoU sets minimum standards for adherence with applicants being subject to prior review and approval by an independent team of IAIS members. This provides for the exchange of supervisory information and the provision of assistance on cross-border investigations and enforcement.

IAIS, 13 and 8.1.2014

International Swap Derivatives Association (ISDA)

The International Swaps and Derivatives Association (ISDA) has published an invitation to tender for the role of benchmark administrator for its ISDAFIX rates with ISDA to align ISDAFIX with evolving best practices in the setting of benchmark rates through the establishment of a fully automated rate setting process. The successful bidder will act as the administrator and calculation agent for ISDAFIX benchmark rates including overseeing governance of administrative processes, daily operations and conduction ex ante and ex post checks on submissions to ensure integrity. ISDA has published revised 2014 ISDA *Credit Derivatives Definitions* which include new terms on bail-in/financial terms for credit default swaps (CDS), sovereign CDS asset package delivery and standard reference obligation. The 2014 Definitions will come into operation in September 2014. A SwapsInfo website has been launched (http://www.swapsinfo.org) to enhance transparency in the OTC derivatives area by drawing together publically available data on interest rate derivatives and credit default swaps. A progress report has been published on clearing and compression which includes data on clearing and non-cleared market segments. ISDA has published a consolidated response document with the Global Financial Markets Association (GFMA) and Institute of International Finance (IIF) to the Basel Committee's second consultative document on *Fundamental Review of the Trading Book* (October 2013). While the authorities generally supported the initiative, they recommended that the consultation period was extended to allow further discussion in light of the importance of the changes proposed especially on the standardised approach (SA) and inclusion of liquidity horizon within the internal models approach (IMA). Further comments were made on the treatment of credit, model independent approval process, the trading book and banking book boundary, disclosures and floors, and treatment of securitisation and CVA. A research note on the adverse liquidity effects of the EU uncovered sovereign CDS ban has been published following the coming into effect of the EU Regulation 236/2012 on short selling and credit default swaps. ISDA's *derivatiViews* refers to the fragmentation of OTC

markets with the coming into effect of the US swap execution facility (SEF) regime and extraterritorial application of the US rules with specific separate pools of liquidity being created for US and non-US persons. The trading of Euro-denominated interest rate swaps with other European counterparties had increased from 75% to 90% with 68% of firms reporting reduced or a cessation of trading with US persons and 60% referring to a fragmentation of liquidity. This is attributed to the late inclusion of footnote 88 within the final SEF rules agreed by the Commodity Futures Trading Commission (CFTC) last May which required that all multiple-to-multiple trading platforms register as SEFs even if products are not subject to a trade execution mandate. This led to non-US platforms asking US participants to cease trading or the division of business between US and non-US liquidity pools. ISDA published a separate research note on the survey conducted on 'Footnote 88 and Market Fragmentation: An ISDA Survey' in December 2013. ISDA has published a Reporting Delegation Agreement with the Futures and Options Association (FOA) under the European Market Infrastructure Regulation 648/2012.

ISDA, 1.2014

EUROPEAN DEVELOPMENTS

Challenge to the Short Selling Regulation

On 22 January 2014 the ECJ dismissed the UK's challenge to the Short Selling Regulation in its entirety (case C-270/12). In May 2012, the United Kingdom brought an action before the Court of Justice seeking annulment of Article 28 of the regulation. The United Kingdom contended that ESMA has been given a very large measure of discretion of a political nature and that this was at odds with EU principles relating to the delegation of powers. The United Kingdom also submitted that Article 114 TFEU is not the correct legal basis for the adoption of the rules laid down in Article 28 of the regulation, which permits ESMA to make various interventions, including prohibiting or imposing conditions on persons entering into short selling transactions.The ECJ held that the powers available to ESMA under the regulation are precisely delineated and amenable to judicial review in the light of the objectives established by the authority which delegated those powers to it. The Court concludes that those powers are compatible with the TFEU. It further concluded that Art 114 TFEU was an appropriate legal basis for Art 28 of the Short Selling Regulation.

The judgment has not yet been reported, but can be accessed through the ECJ website.

Deposit Guarantee Directive

On 18 February 2014 the Council approved an agreement reached with the European Parliament in relation to the proposed Deposit Guarantee Directive. The main changes to the previous draft of the directive involve:

- Simplification and harmonisation, in particular relating to coverage and pay-out arrangements;
- Further (phased) reduction of the time limit for paying out depositors from the current 20 working days to seven working days by 2024;
- Introduction of ex-ante financing arrangements, with a minimum target level for ex ante funds set, in principle, at 0.8% of covered deposits to be reached within a 10-year period, collected from banks' contributions;
- Better access for depositors to information about the protection of their deposits, and for Deposit Guarantee Schemes about their members (i.e. banks);
- Borrowing between Deposit Guarantee Schemes on a voluntary basis.

The Council is expected to adopt its position at first reading on the directive in early March without further discussion, once the text has been finalised in all EU languages. The European Parliament is expected to acknowledge the Council's position in March and to adopt the directive at second reading at its plenary session in April.

The directive will enter into force once it has been signed by both institutions and published in the Official Journal in the weeks following the April EP plenary session. The member states will have one year after entry into force to transpose it into national law.

Proposed Regulation on structural measures to improve the resilience of EU credit institutions

On 29 January 2014 the European Commission proposed a new regulation that would seek to stop the largest European banks from engaging in proprietary trading. The proposal would also give supervisors the power to require those banks to separate certain potentially risky trading activities from their deposit-taking business if the pursuit of such activities compromises financial stability. Alongside this proposal, the Commission has proposed further regulation aimed at increasing transparency of certain transactions in the shadow banking sector.

In drafting its proposals, the Commission has taken into account the report by the High Level Group chaired by the Governor of the Bank of Finland, Erkki Liikanen (which can be read at http://goo.gl/FQG5Xm), as well as existing national rules in some Member States, global thinking on the issue (Financial Stability Board principles) and developments in other jurisdictions.

In summary, the proposed regulation would apply only to the largest and most complex EU banks (global systemically important institutions and any institutions with: (a) total assets of at least €30 billion; and (b) trading activities exceeding €70 billion or 10 percent of their total assets). It would:

1. Ban proprietary trading in financial instruments and commodities, i.e. trading on own account for the sole purpose of making profit for the bank.
2. Grant supervisors the power and, in certain instances, the obligation to require the transfer of other high-risk trading activities (such as market-making, complex derivatives and securitisation operations) to separate legal trading entities within the group (“subsidiarisation”). Banks would also have the possibility of not separating activities if they can show to the satisfaction of their supervisor that the risks generated are mitigated by other means.
3. Provide rules on the economic, legal, governance, and operational links between the separated trading entity and the rest of the banking group.

In order to prevent the circumvention of these rules by the shifting of activities to the shadow banking sector, the Commission proposed an accompanying regulation seeking to improve the transparency of that sector.

The text of the proposed directive, and accompanying memoranda can be read at: http://goo.gl/DeJAln

The provisional text of the accompanying proposed regulation on shadow banking can be read at: http://goo.gl/TxxgHn

MiFID 2 and MiFIR

On 14 February 2014 the Permanent Representatives Committee approved, on behalf of the Council, a compromise agreement with the European Parliament on the text of MiFID 2 and MiFIR. The regulation and the directive will now have to be approved by the parliament, so as to allow final adoption by the Council once the texts have been finalised in all languages. Key elements of the agreement were summarised in a press release from Commissioner Barnier, which can be read at: http://goo.gl/poYXpw.

Mortgage credit directive

On 28 January 2014 the Council adopted, by qualified majority, the proposed mortgage credit directive. This was in accordance with the agreement reached with the European Parliament set out in the previous bulletin. Member states now have two years in which to transpose the directive into national law.

SEPA

On 9 January 2014 the Commission adopted a proposal to give an extra transition period of six months during payments which payments that differ from the SEPA format can still be accepted. This aims to minimise any possible risk of disruption to payments for consumers and businesses. The proposal does not change the formal deadline for migration of 1 February 2014.

This proposal was also approved by the European Parliament on 4 February 2014.

Single Supervisory mechanism

The ECB has continued to publish documents providing more detail on the single supervisory mechanism. In January and February these included:

- A decision on the close cooperation with national competent authorities of participating Member States whose currency is not the euro. This can be viewed at: http://goo.gl/YhHKEa
- A list of the credit institutions that will be subject to the comprehensive assessment. The list can be viewed at: http://goo.gl/oZWNIO.

ISLAMIC FINANCE DEVELOPMENTS

Help to Buy extended to include 'Islamic Mortgages'

The government's Help to Buy mortgage guarantee scheme can now also be used by providers of Home Purchase Plans, the Financial Secretary to the Treasury, Sajid Javid, announced on 11 February 2014. Home Purchase Plans (HPPs) are a Sharia law compliant alternative to mortgages and are often known as 'Islamic Mortgages'.

The Help to Buy scheme has already helped thousands get on or move up the housing ladder, and the government remains committed to making the aspiration of home ownership a reality for as many households as possible.

In line with this, the government has been looking at how to open up access to the Help to Buy mortgage guarantee scheme, so that providers of HPPs can also benefit. From now the rules have been amended to enable banks that sell HPPs to purchase a government guarantee for them. Additionally, the Islamic Bank of Britain have stated their intention of participating to offer Home Purchase Plans under the scheme.

This will be particularly supportive to some Muslim homebuyers who have been unwilling to use a traditional Help to Buy mortgage because of their religious beliefs. However, the inclusion of HPPs in the Help to Buy scheme introduces more choice for all consumers and perspective homebuyers.

Sajid Javid said,

> 'I am delighted Home Purchase Plans will now be available under the Help to Buy scheme. This gives even more choice to hardworking families across the UK trying to fulfil their home owning aspirations.'

Under an HPP, a property's ownership is split between the customer and the bank. After buying a portion of the property with their initial deposit, the purchaser of the property pays regular instalments to the bank, covering rent for the portion they do not own and an acquisition payment. In this way, a customer gradually buys the property from the bank and eventually becomes the sole owner.

In order to purchase the government guarantee, banks will have to satisfy the same stringent criteria for an HPP as for a normal mortgage. HPPs sold in

the UK are also subject to regulation by the Financial Conduct Authority (FCA), in much the same way as mortgages.

HM Treasury 14.02.14

https://www.gov.uk/government/news/help-to-buy-extended-to-include-islamic-mortgages

Appointment of external advisors for UK government Sukuk

HM Treasury has appointed HSBC and Linklaters LLP as external advisors to assist it in its work to develop a government Sukuk, or Islamic bond.

HSBC will provide expert financial advice on structuring the Sukuk to ensure that it conforms with principles of Islamic finance. It will also assist HM Treasury and the UK Debt Management Office in making the necessary preparations for issuance.

Linklaters LLP will provide commercial legal advice in relation to the capital markets, tax, regulatory and real estate implications of issuing a sovereign Sukuk for the first time.

It is anticipated that issuance will take place during 2014–15 by way of a syndicated offering. The government anticipates recruiting additional syndicate members closer to the time.

The appointment of these advisors is related to the Prime Minister's announcement at the World Islamic Economic Forum on 29 October 2013 that HM Treasury was working on the practicalities of issuing a bond-like Sukuk worth around £200 million.

The appointment of advisors follows an open competition launched in December 2013, the details of which are contained on the government's Contracts Finder website.

The firms appointed are market leaders in the area of Islamic finance and have significant expertise in Sukuk issuance. The government believes that their appointment represents value for money for the taxpayer. In line with the government's transparency agenda the Treasury will publish the contracts.

HM Treasury 31.01.14

https://www.gov.uk/government/news/appointment-of-external-advisors-for-uk-government-sukuk

The Islamic Financial Services Board Announced the Theme of its 11th Summit

The Islamic Financial Services Board (IFSB) announced that the theme of its 11th Summit will be 'New Markets and Frontiers for Islamic Finance:

Innovation and the Regulatory Perimeter'. The Summit will be held on 19 to 22 May 2014 in Port Louis, Mauritius. Bank of Mauritius is hosting this IFSB's annual landmark event.

In emerging markets in Africa and Asia, the approaching deadline for attaining the Millennium Development Goals (MDGs) in 2015, and the challenging prospects for financing economic development post-2015 have spurred the search for additional sources of financing and raised interest in Islamic finance amongst both policy makers at national and international level as well as multilateral development banks. Amongst developed economies, there is greater recognition of Islamic finance as offering prospects for raising investment funds by accessing the deepening global pools of *Sharia*-compliant savings. More broadly, there is greater awareness of the potential to attain wider applicability of Islamic finance in meeting global challenges such as climate change and social development and equity through such innovative proposals as 'Social *Sukūk*' and 'Green *Sukūk*'.

Underlying these developments is the challenge of striking the appropriate balance between encouraging financial innovation and widening the regulatory perimeter. Against this backdrop, the Summit will provide an overview of global financial and regulatory developments from the perspective of Islamic finance. It will also explore some recent innovations that are driving inclusive growth while examining different policy and regulatory approaches to manage risks.

Among the topics that will be discussed during the Summit are:

- Global Overview of the Islamic Financial Services Industry (IFSI): Outlook and Policy Developments
- Legal and Regulatory Environment of Islamic Finance
- *Sukūk*, Market Development and Regulation
- The Role of Islamic Finance in Economic Development: Promoting Financial Inclusion, Sustaining Innovation, Expanding the Regulatory Perimeter – Striking a Balance
- Panel Discussion on 'New and Emerging Islamic Finance Jurisdictions: Opportunities and Challenges Ahead'

This 11th IFSB Summit, the first time to be held in Africa, aims to bring together experienced international chairpersons and speakers to discuss pertinent issues in the Islamic financial services industry attracting participants from all sectors of the financial services industry across the globe. Participants of the previous Summits have included key players of the global industry especially members of the IFSB from among regulatory and supervisory authorities, international inter-governmental organisations, market players and distinguished thought leaders.

The Islamic Financial Services Board 14.01.14

http://www.ifsb.org/preess_full.php?id=245&submit=more

London Lord Mayor Lauds IDB's Global Role in Islamic Finance

The President of the Islamic Development Bank (IDB), Dr. Ahmad Mohamed Ali, and the Lord Mayor of the City of London, Fiona Woolf, agreed to join forces to support the growing role of Islamic finance in international finance and business.

The Islamic financial services industry is estimated to be worth around $1.8 trillion globally, with growth rates of up to 15 per cent each year. The UK is becoming an increasingly important global player in Islamic finance, and London is home to a growing number of banks, law firms and other service providers with expertise in Islamic finance.

During her visit to the IDB headquarters in Jeddah, the Lord Mayor said the UK was determined to play its part in the development of the Islamic finance market, which is why the UK Prime Minister David Cameron announced that the UK will be the first country outside the Islamic world to issue sovereign Sukuk (Islamic bond).

Dr. Ali, for his part, commended the UK's trail-blazing role in the development of Islamic finance in the West. "The UK's legal system, regulatory framework and track record of innovation make the UK a partner of choice and an important financial market for IDB's own Sukuk issues, which are listed in London", said Dr. Ali.

The President of IDB and the Lord Mayor agreed to organize a roundtable meeting in London this year to discuss the development of the Sukuk market (and the growing role of Sukuk in project finance) under the new Basel III rules, which set out new regulations on bank capital adequacy, stress testing and market liquidity risk.

The Islamic Development Bank 25.02.14

http://www.isdb.org/irj/portal/anonymous/idb_news_en

Malaysia's EXIM Bank's Issuance Marks The World's First EXIM Bank To Price A USD Sukuk

Export-Import Bank of Malaysia Berhad ("MEXIM") announced the successful pricing of its USD300.0 million, 5-year Reg-S Sukuk ("Sukuk") issuance via EXIM Sukuk Malaysia Berhad, pursuant to its USD1.0 billion Multicurrency Sukuk Issuance Programme (the "Programme"). The inaugural Sukuk offering was priced at 140 basis points over US Treasuries ("UST"), which is equivalent to an all-in yield of 2.874% per annum, which was tightened from the initial price guidance of 165 basis points over UST.

The Sukuk was executed intra-day following strong investor demand. The Sukuk was oversubscribed by approximately 10x attracting more than USD3.0 billion orders and was fully distributed to over 185 Islamic and conventional investors. The allocation was well-spread out globally with over 19% of the issue distributed to the Middle East investors, 65% to Asian

investors and the remaining 16% to European investors. Proceeds from the Sukuk will be used for MEXIM's Shariah-compliant working capital, general banking and financing activities.

MEXIM's Sukuk is structured under the Sharia principle of Wakala comprising of a tangible asset component; and a Murabaha receivable component arising from a sale of Sharia-compliant commodities. The issue was accorded credit ratings of A- by Fitch Ratings and A3 by Moody's, which are on par with the Malaysian sovereign ratings. The Sukuk will be listed on Labuan International Financial Exchange Inc. and Singapore Exchange Securities Trading Limited.

Securities Commission Malaysia 11.02.14

http://www.mifc.com/index.php?ch=ch_contents_media_centre&pg=pg_media_centre&ac=2649

INTERNATIONAL DEVELOPMENTS

IMF Executive Board Reviews Mandatory Financial Stability Assessments under the Financial Sector Assessment Program

On December 6, 2013, the Executive Board of the International Monetary Fund (IMF) reviewed experience with the implementation of the decision adopted in 2010 to integrate financial stability assessments under the Financial Sector Assessment Program (FSAP) into Article IV Surveillance on a mandatory basis for member countries with systemically important financial sectors.

In September 2010, the Executive Board made stability assessments under the Financial Sector Assessment program (FSAP) a mandatory part of bilateral surveillance under the Article IV for 25 jurisdictions with systemically important financial sectors. That decision resulted in a more risk-based approach to financial sector surveillance and better integration of FSAPs into Article IV consultations in these jurisdictions.

The current review is based on the experience with the implementation of the first cycle of mandatory assessments and the lessons learned from the financial crisis. In particular, the Executive Board revisited the original approach for determining jurisdictions with systemically important financial sectors and adopted a new methodology for determining jurisdictions with systemically important financial sectors.

The new methodology places greater emphasis on interconnectedness; expands the range of covered exposures; takes into consideration the potential for price contagion across financial sectors; and uses the most recent available data, while adhering to the principles of relevance, transparency, and even-handedness established by the 2010 Executive Board decision. Based on the new methodology, four additional jurisdictions—Denmark, Norway, Poland, and Finland—were added to the list of jurisdictions whose financial sectors are deemed to be systemically important. Since systemic

importance is a dynamic concept, both the list of jurisdictions and the methodology for assessing systemic importance will continue to be reviewed periodically.

The Executive Board also updated the legal framework governing mandatory financial stability assessments to reflect the Integrated Surveillance Decision adopted in July 2012, and to allow a more comprehensive analysis of spillovers arising from members' financial sector policies.

The International Monetary Fund 13.01.14

http://www.imf.org/external/np/sec/pr/2014/pr1408.htm

The People's Bank of China Signed an Agency Agreement on Bond Investment with the International Financial Corporation

The People's Bank of China (PBC) signed the Agency Agreement with the International Financial Corporation (IFC) in Beijing for PBC to act as the IFC's agent to invest in China's interbank bond market.

The IFC is a member of the World Bank Group. The signing of the Agency Agreement reflects the IFC's confidence in the Chinese economy and financial market development. The investment in China's bond market will help the IFC diversify investment portfolio and strengthen liquidity management, and further strengthen the cooperation between China and the World Bank Group.

The People's Bank of China 09.01.14

http://www.pbc.gov.cn:8080/publish/english/955/2014/
20140109090322039789022/20140109090322039789022_.html

Slow Growth in the Middle East and North Africa Region Calls for Bold Approach to Economic Reform

The World Bank Group's latest Quarterly Economic Brief argues that countries of the Middle East and North Africa (MENA) should seize the opportunity to advance structural reforms needed to break the vicious circle of slow growth and political instability.

The report, entitled 'Middle East and North Africa: Growth slowdown heightens the need for reforms', assesses the macroeconomic situation in seven of the region's most vulnerable economies – Egypt, Tunisia, Iran, Lebanon, Jordan, Yemen and Libya – post Arab Spring and emphasizes the urgency of the reforms needed to reverse the downward spiral of these economies. The report outlines reform priorities and challenges for these countries. It cautions that raising general subsidies and public sector wages will impose fiscal pressures on the government and reduce the fiscal space available for spending priorities on health, education and investment in infrastructure.

The World Bank 07.02.14

http://www.worldbank.org/en/news/press-release/2014/02/07/slow-growth-middle-east-north-africa-economic-reform

DIFC Authority issues Consultation Paper on proposed amendments to DIFC Real Property Regulations

Dubai International Financial Centre (DIFC) Authority has announced proposed amendments to the DIFC Real Property Regulations, for public consultation.

The proposed amendments to the Real Property Regulations will impact the freehold transfer fee, increasing it from 3.5 per cent to 6 per cent. This proposed change is in line with international benchmarking and addresses the International Monetary Fund's (IMF) concerns about overinflated markets and endeavours to secure the long term stability of the DIFC property market.

The proposed DIFC Real Property Regulations have been posted for a period of 30 days public consultation with the deadline for providing comments ending on 22 February 2014. The DIFC Authority aims to incorporate relevant comments from organisations to further refine the legislative proposal and eventually proceed to adopt the changes to the DIFC Real Property Regulations.

Dubai International Financial Centre 23.01.14

http://www.difc.ae/news/difc-authority-issues-consultation-paper-proposed-amendments-difc-real-property-regulations

SEHK publishes amended Listing Rules regarding annual listing fees in relation to the implementation of the New Companies Ordinance

The Stock Exchange of Hong Kong Limited (SEHK or the Exchange), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (HKEx), published amendments to its Listing Rules to set out the method by which its annual listing fees for Hong Kong incorporated issuers will be calculated when Hong Kong's new Companies Ordinance (New Companies Ordinance) comes into effect on 3 March 2014.

SEHK's annual listing fees are currently calculated by reference to the nominal value of an issuer's securities which are or are to be listed on the Exchange. However, the concept of nominal (par) value will be abolished under the New Companies Ordinance, which will affect Hong Kong incorporated issuers. As a result, Appendix 8 of the Main Board Listing Rules will be amended to provide that:

- for issuers whose shares cease to have a nominal value subsequent to their date of listing (the No-par Event), the nominal value per share that was used to calculate the annual listing fees immediately before the No-par Event (the Notional Nominal Value Per Share) will be used to calculate the annual listing fees from the No-par Event. If an issuer

conducts a subdivision of shares after the No-par Event, the Notional Nominal Value Per Share will be adjusted accordingly for calculation of the annual listing fees following the subdivision, subject to a minimum of $0.25; and

- for issuers whose shares have no nominal value on their date of listing, the nominal value per share shall be deemed to be $0.25 for calculation of the annual listing fees. This is in line with the existing Listing Rules and their application to issuers with no nominal value per share or a nominal value per share less than $0.25.

These Listing Rule amendments will take effect on 3 March 2014, the commencement date of the New Companies Ordinance.

Frequently Asked Questions (FAQs) published by SEHK (FAQs relating to the New Companies Ordinance and its impact on issuers (Series 26)) provide further explanation of the operation of the amended Listing Rules on annual listing fees. The FAQs also address the impact of the abolition of nominal (par) value on other areas of the Listing Rules and provide guidance on those Listing Rules that may be affected by other provisions of the New Companies Ordinance. These include provisions relating to:

- disclosure requirements for financial statements;
- loans to directors and connected entities;
- provision of financial assistance by a company;
- common and official company seal;
- general meetings; and
- abolition of the memorandum of association.

As the Listing Rules apply to both Hong Kong and non-Hong Kong incorporated issuers, SEHK conducted a comprehensive review of the impact that the New Companies Ordinance may have on the Listing Rules and identified additional areas which may require further amendments. As noted in the FAQs, SEHK intends to consult the market on amendments to the Listing Rules relating to notice periods for general meetings and disclosure of financial information, and to update cross-references to the existing Companies Ordinance so that they align with the New Companies Ordinance.

The Stock Exchange of Hong Kong Limited 21.02.14

https://www.hkex.com.hk/eng/newsconsul/hkexnews/2014/1402212news.htm

DFSA Obtains Court Orders against Deutsche Bank AG

The Dubai International Financial Centre (DIFC) Courts have declared that Deutsche Bank AG (Dubai International Financial Centre branch), was in material non-compliance with requirements to produce information and documents to the Dubai Financial Services Authority (DFSA).

The Dubai Financial Services Authority (DFSA) filed proceedings in the DIFC Courts on 31 October 2013 seeking orders that Deutsche Bank AG deliver information and documents, relating to a DFSA investigation into the conduct of Deutsche Bank AG.

The DFSA brought the Court proceedings for the purpose of enforcing compliance with two investigative Notices served on Deutsche Bank AG requiring information and documents to be delivered to the DFSA. An investigative Notice is a tool used by many regulators to assist them to obtain information and documents that relate to their investigations.

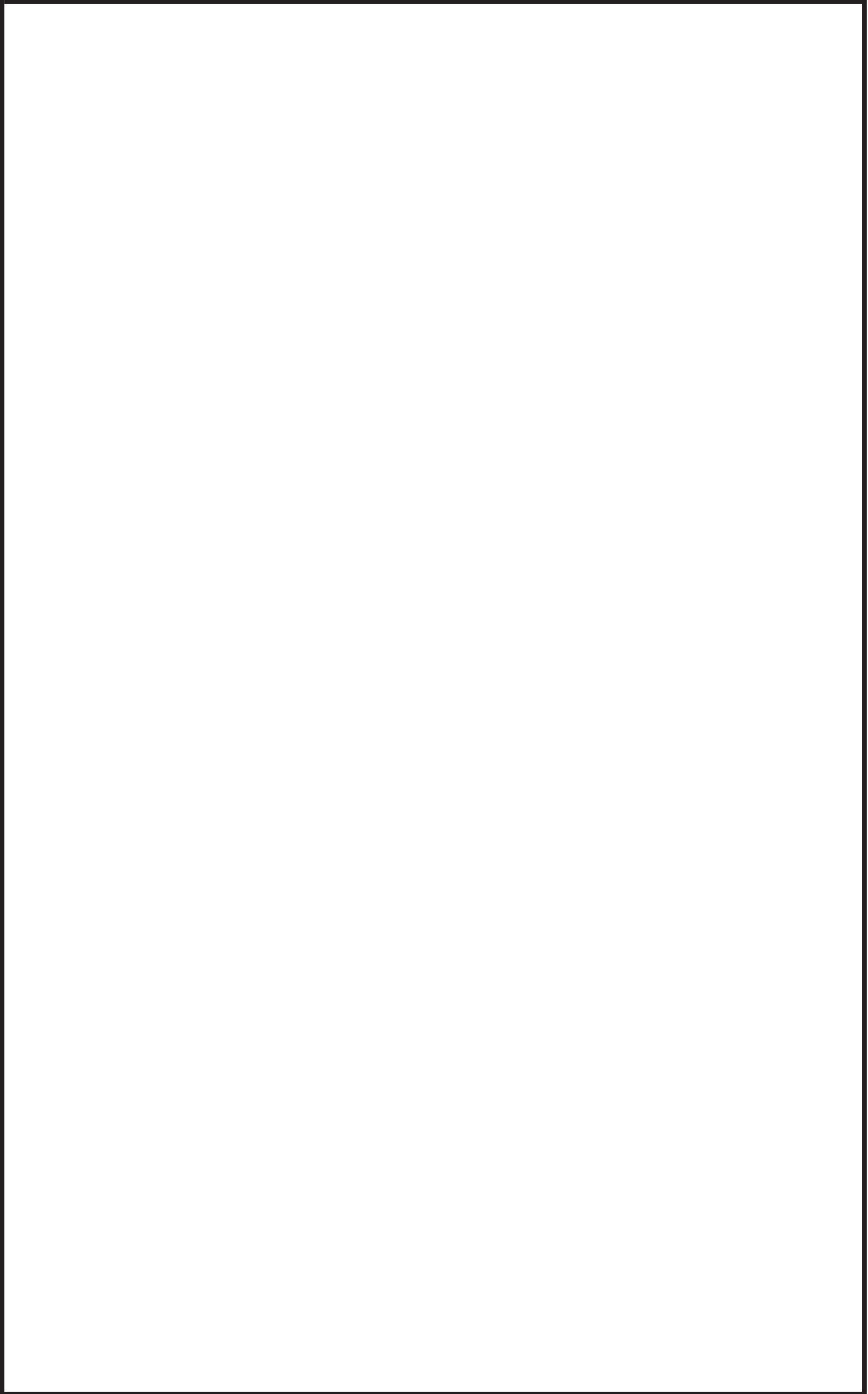
Deutsche Bank AG consented to the Court Orders and agreed to produce specified information and documents to the DFSA within 28 days and ensure that any consolidated response is verified by a statement of truth. Deutsche Bank AG also agreed to pay the DFSA's costs in respect of the proceedings.

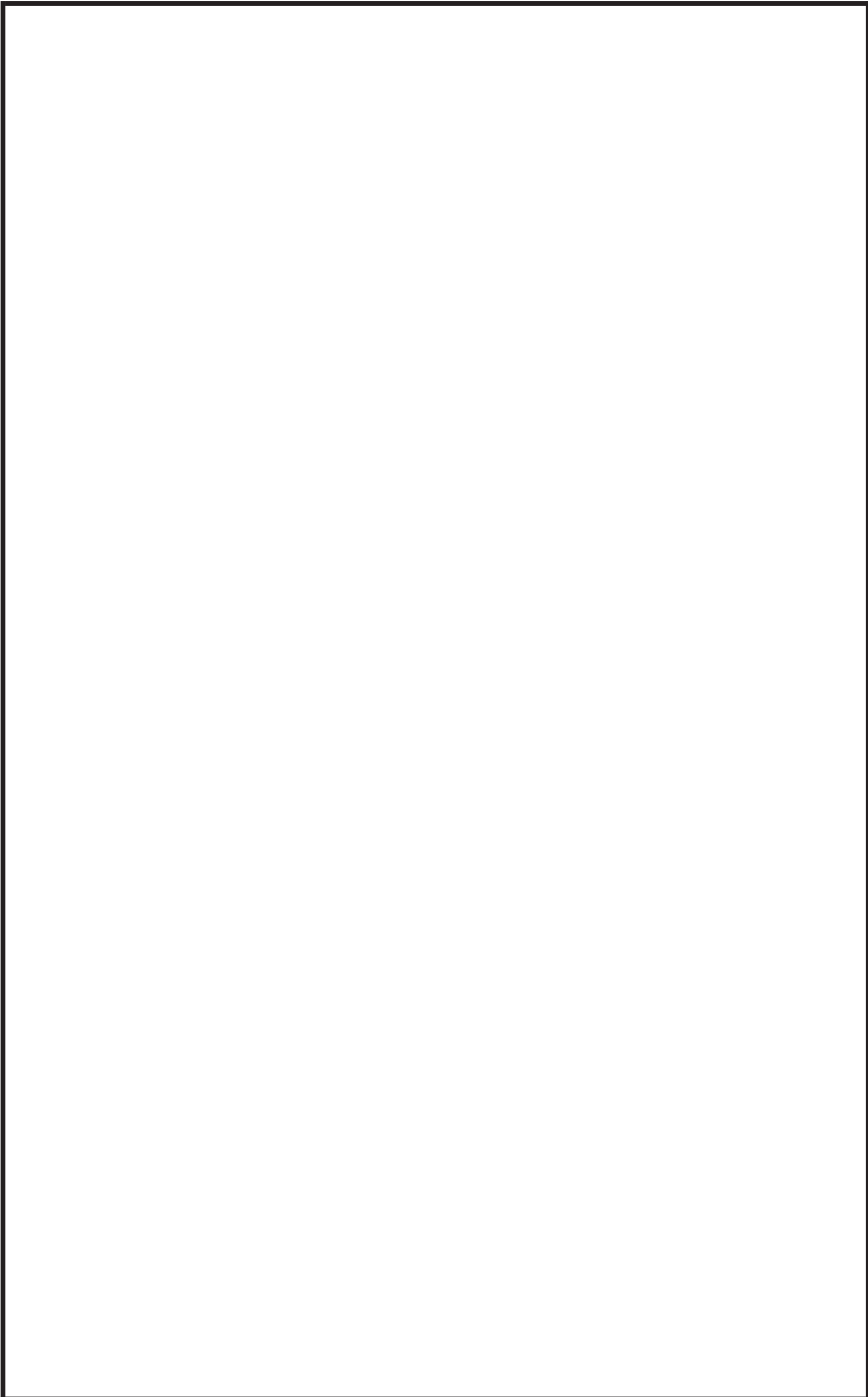
Mr Ian Johnston, Chief Executive of the DFSA said:

> 'The DFSA's powers to request information and documents are important regulatory tools that assist the DFSA in conducting supervisory and enforcement activities. Where a person, without reasonable excuse, fails to comply with a DFSA Notice requiring it to deliver information and documents, the DFSA will enforce compliance with such a Notice by seeking orders in the DIFC Courts.'

The Dubai Financial Services Authority 09.02.14

http://www.dfsa.ae/WhatsNew/DispForm.aspx?Id=279





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