Overview

The Institute of International Bankers (IIB) represents internationally headquartered financial institutions from over 35 countries in connection with U.S. legislative, regulatory, compliance, and tax issues that affect their banking, securities, and other financial activities in the United States. In the aggregate, IIB members’ U.S. operations hold approximately $5 trillion in banking and non-banking assets, fund 25% of all commercial and industrial bank loans made in the United States, and contribute to the depth and liquidity of U.S. financial markets. IIB members contribute to the employment of hundreds of thousands of employees in the United States, both in the financial sector and related service sectors. As providers of credit and other financial services in the United States, the U.S. operations of foreign banks add diversity and competitiveness to the U.S. financial services markets, help U.S. businesses grow, and promote U.S. and international financial stability.

This 33rd annual Global Survey of Regulatory and Market Developments in Banking, Securities, and Insurance is part of the IIB’s ongoing efforts to contribute to the understanding of global trends in financial regulation and markets. This year’s Global Survey covers developments during the period from July 2019 to September 2020 in 18 countries and the European Union. We are very grateful to the banking associations and financial services supervisory authorities that have contributed to this year’s Survey. Without their participation this publication would not be possible.

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Australia

Overview

The COVID-19 pandemic has had a significant adverse impact on Australia and the world more broadly. The virus outbreak is first and foremost a public health issue but has expanded to become a major problem for the Australian economy. The Australian Government and the Reserve Bank of Australia (RBA) responded rapidly to the economic impact of the virus by announcing fiscal and monetary policy measures designed to support consumers, businesses and financial markets.

In addition to this support, the Australian banking industry, via the Australian Banking Association (ABA) launched a comprehensive and swift response to the COVID-19 crisis. The response incorporated initiatives on loan deferrals and lending, banking accessibility, and electronic conveyancing and electronic mortgages. These measures were designed to support consumers and businesses through this difficult time and intended to mitigate the impacts of COVID-19 on bank customers.

Overall, the Australian financial system was well positioned to withstand the COVID-19 shock. Australian banks had built up very large capital (DSIBS in top quartile on an international comparable basis) and liquidity buffers and had made significant investments in operational resilience since the GFC allowing them to absorb the impacts of the pandemic.

Economy

The Australian economy is expected to record its first recession in 29 years as a result of the COVID-19 pandemic. The March 2020 quarter saw the Australian economy contract by 0.3% and it is expected to have a more severe contraction of 7 per cent in the June 2020 quarter. The contraction in the March quarter marked the first contraction in economic activity in Australia since 2011. The main driver of this contraction was weak private demand through consumption, business investment and dwelling investment. Over the March quarter, business investment was down 0.9 per cent, consumption declined 1.1 per cent and dwelling investment was down 1.7 per cent.

The unemployment rate has continued its rise in the month of July and is now at 7.5 per cent. Over the months of June and July, labour force participation has risen and is now at 64.7 per cent, as more individuals entered the labour market as the Australian Government eased restrictions. The rate of unemployment would be much higher if not for the JobKeeper wage subsidy program implemented by the Australian Government as part of its response to COVID-19. The JobKeeper program was designed to support eligible employers in keeping staff employed by providing a wage subsidy to businesses that have been financially impacted due to necessary closures and falling demand.
The Australian economy has also seen a decline in the price of goods and services by 2 per cent over the June 2020 quarter. Through the year, inflation has fallen by 0.3 per cent.

**Monetary policy support during COVID-19**

In March 2020, the RBA announced a suite of monetary policy measures to support the Australian economy. The RBA cut the cash rate to 25 basis points, announced a target yield of 0.25 per cent on 3-year Australian Government bonds, and also established a Term Funding Facility to support the flow of competitively priced credit to small and medium-sized businesses. This package of monetary policy measures has contributed to the reduction in bank funding costs and the decline in home and business loan interest rates to record lows.

**Term Funding Facility**

The Term Funding Facility provides Authorised Deposit-Taking Institutions (ADIs) with funding on a term of three years at a fixed rate of 0.25 per cent. The purpose of the facility was to reduce funding costs for ADIs and in turn help to reduce interest rates for borrowers and to encourage ADIs to support businesses during the pandemic. ADIs are able to obtain initial funding of up to 3 per cent of their existing outstanding credit. Additional funding could be accessed as ADIs increased lending to businesses. ADIs have drawn down on around $30 billion of the $154 billion currently available.

**Yield Curve Control**

As part of its measures to support the Australian economy and maintain low interest rates, the RBA announced a target of 0.25 per cent on three-year Australian Government bonds. This target has been achieved through the purchase of Government bonds in the secondary market. The RBA has purchased over $50 billion worth of bonds thus far.

**Government’s support of credit to the economy**

Since March 2020, the Australian Government announced three substantial packages designed at supporting the Australian economy. The response was focused on individuals, households, businesses and employers, and the flow of credit.

**SME Loan Guarantee Scheme**

To provide support to small and medium enterprises during the pandemic, the Australian Government announced the Coronavirus SME Loan Guarantee Scheme. The Scheme provides a 50 per cent government guarantee to SME lenders to support new short-term unsecured loans to SMEs.
Structured Finance Support Fund
The Government also established the Structured Finance Support Fund to support lending to SMEs. The Fund administered by the Australian Office of Financial Management invests in structured finance markets used by small lenders, including non-bank lenders. The support is provided through direct investments in term and warehouse securitisations used by these lenders.

Banking industry support during COVID-19

Mortgage deferrals
To relieve some of the financial pressure felt by households, Australian banks, via the ABA announced support by providing those households impacted by COVID-19 with the opportunity to defer their home loan repayments for up to six months. It was later announced, that this could further be extended by four months in certain circumstances. The interest accumulated over the period of the loan deferral will be capitalised over the life of the loan, with bank customers given the choice of extending the term of their loan or increasing their monthly payments upon the conclusion of the deferral period.

As a requirement of the regulatory relief provided by the Australian Prudential Regulation Authority (APRA) in relation to the capital treatment of these deferred loans, banks are required to check in with the customer at the three month mark of the deferral period to assess the customer’s position.

In July 2020, APRA announced an extension of its temporary capital treatment for bank loans with repayment deferrals, as well as temporarily adjusting the capital treatment of loans where terms are modified or renegotiated ('restructured').

APRA advised ADIs that this regulatory approach will be extended to cover a maximum period of 10 months from the start of a repayment deferral, or until 31 March 2021, whichever comes first.

APRA’s expectation is that ADIs grant new or extended loan repayment deferral arrangements after undertaking an appropriate credit assessment to ascertain if an extension or new deferral is appropriate for the particular borrower given their circumstances. APRA also provided an adjustment to the normal regulatory treatment of loans that are restructured. Where an ADI restructures an affected borrower’s facilities before 31 March 2021 with a view to putting the borrower on a sustainable financial footing, the loan may continue to be regarded as a performing loan for capital and regulatory reporting purposes.

Business loans deferrals
To assist businesses to remain viable and continue to contribute to the Australian economy, the banking industry also announced a package that would allow small businesses impacted by
COVID-19 to defer loan repayments for six months. It was later announced that this could be extended for a further four months in particular circumstances. For these business loan deferrals, the interest accumulated over the period of deferral will be capitalised over the life of the loan, with the business customer given the choice of extending the term of their loan or increasing their monthly payments upon the conclusion of the deferral period.

As a condition of the approval of the loan repayment deferral of commercial property landlords, they were required to provide an undertaking to the bank that for the six month deferral period, they would not terminate leases or evict current tenants impacted by COVID-19.

**Personal loans, credit cards and bank fees**

The deferral of loan repayment relief was further expanded to encompass personal loans and credit cards by individual banks.

In addition to this, the banking industry has provided support to customers by waiving credit card fees and restructuring loans to the benefit of impacted customers.

**Vulnerable and isolated customers**

To ensure continued accessibility of banking services to all in the Australian community during COVID-19, the banking industry sought relief from the Australian Securities and Investments Commission (ASIC) to allow banks to fast track the issuance of scheme or dual network debit cards to customers who do not have a debit card. This relief would allow bank customers to transact online during periods of self-isolation. The relief application was approved by ASIC with relief commencing from 25 April 2020 and valid till 30 September 2020.

In addition to this support, the ABA also implemented a communication strategy designed to raise awareness of scams and e-safety, culminating in the release of a scam fact sheet in twelve community languages. The ABA also fast tracked the implementation of the new financial counselling authorisation form to enable financial counsellors to act on behalf of their clients more swiftly.

**Royal Commission**

In December 2017, the Australian Government established a Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. Hearings commenced in March 2018, with the Royal Commission undertaking seven rounds of hearings broadly dealing with lending practices to consumers and small and medium-sized enterprises, financial advice, farming finance, superannuation and insurance.

The final report was released on 4 February 2019 and made 76 recommendations of which 29 were directly related to the Australian banking industry. The recommendations advance the
interests of consumers in four key ways, by strengthening and expanding protections for consumers, small businesses, rural and remote communities; raise accountability and governance standards; enhance the effectiveness of regulators; and provide for remediation of those harmed by misconduct.

The Government released its response to the final report on 4 February 2019, agreeing to act on all 76 recommendations. Some recommendations have been implemented, while for others, as a result of COVID-19, has seen the Government announce a six-month delay to their implementation.

**Banking Code of Practice**

The ABA’s Banking Code of Practice (the Code) sets out the banking industry's key commitments and obligations to customers on standards of practice, disclosure and principles of conduct for their banking services. The Code applies to personal and small business bank customers.

An independent review of the Code commenced in July 2016. The independent review resulted in 99 recommendations; the ABA then commenced the process of redrafting the Code which included implementing the vast majority of those recommendations.

The new version of the Code makes changes including: improvements for small business, changing the way credit cards are offered, better protections for guarantors, greater transparency around fees and giving customers the ability to cancel a credit card online. The new Code was approved by the ASIC in 2018 and came into effect on 1 July 2019. A new edition was released in March 2020 to implement some recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

**Remuneration**

APRA consulted on a draft remuneration prudential standard CPS511. The objective of the standard is to align remuneration structures so that they support the management of both financial and non-financial risks through a focus on long-term value creation. The draft standard seeks to impose obligations on Boards to have oversight of responsible remuneration frameworks. The consultation process was interrupted by the COVID-19 pandemic. APRA has announced that it will resume work on this standard in quarter 3 2020.

**Conduct and Culture**

APRA’s Governance, Culture, Remuneration and Accountability policy work has been extended since the finalisation of the Royal Commission Report. APRA has undertaken governance and culture reviews of select regulated entities, which has included a self-assessment followed by ‘deep dive’ investigations into the entity’s governance processes. APRA is currently preparing a
pilot survey to assess the health of risk culture in select entities. Subject to the outcomes of the pilot, it may seek to extend the survey to all regulated entities.

ASIC undertook a program in 2019 which involved an organisational psychologist attending the board meetings of regulated entities as an observer. The purpose was to understand the dynamic of board culture.

Much of the progress of this work has been slowed due to the need to respond to the COVID-19 pandemic.

**Open Banking**

The Australian Government announced the introduction of an open banking regime in Australia in May 2017. The implementation of Open Banking will occur in a number of stages due to the complexity and scope of the functionality. Unlike other jurisdictions, the Australian implementation imposes an obligation on all approved deposit taking institutions to comply with Open Banking. Additionally, the Australian Open Banking implementation will launch all retail banking products (deposits, lending, off-set accounts, margin lending accounts) within an 8-month period from 1 July 2020 to 1 February 2021. The four major Australian banks went live with consumer deposit and card products on 1 July 2020.

**Comprehensive Credit Reporting (CCR)**

In 2017, the Federal Government announced the major banks would be required to comply with Comprehensive Credit Reporting.

The credit reporting regime is not yet a legislative requirement due to concerns from some MPs about how customers in hardship will be treated. Despite the absence of a legislative framework, ABA members considered it was important to agree on a consistent and fair approach to credit reporting for customers experiencing hardship. The ABA has developed this approach in consultation with government regulators and consumer groups.

Any Australian who is granted a deferral on loan repayments due to COVID-19 on their mortgage or other credit products, such as a credit card, will not have their credit rating adversely impacted because of COVID-19.

**Responsible lending regulatory framework (Consumer Credit)**

In December 2019, ASIC released its updated guidance in RG 209 setting out its views on what the responsible lending obligations in Chapter 3 of the *National Consumer Credit Protection Act 2009* (NCCP Act) require, and steps credit licensees can take to minimise the risk of non-compliance with these obligations. The updated RG 209 continues the existing principles-based approach to responsible lending but includes changes to ASIC’s guidance to more clearly articulate the principles that it considers credit licensees should apply when determining how
to comply with their obligations, and provide more illustrative examples of how those should be applied in individual circumstances.

In June 2020, the full Federal Court handed down an important judgment in *Australian Securities and Investments Commission v Westpac Banking Corporation [2020] FCAFC 111* that has provided further clarity for credit providers in relation to the responsible lending requirements of the NCCP Act. The Court held that the NCCP Act provides flexibility for credit licensees to determine how they should perform the assessments of unsuitability required by law before entering into credit contracts.

**Banking Executive Accountability Regime (BEAR)**

The BEAR regime which draws on the Senior Manager Regime in place in the United Kingdom commenced for the four largest ADIs on 1 July 2018 and for all other ADIs on 1 July 2019. The BEAR is an enhanced accountability framework for ADIs and their directors and senior executives. It strengthens their accountability obligations and imposes additional consequences for breaching those obligations.

The BEAR will be expanded to all financial entities including insurers and superannuation trustees as a result of the Royal Commission. Further, APRA will be expanding the BEAR to include all steps in the design, delivery and maintenance of all products offered to customers by an ADI. Government consultation on this reform is expected in the second half of 2020.

**Financial Product - Design and Distribution Obligations**

The Australian Government has introduced major consumer protection reform in the form of the Design and Distribution Obligations for financial products. This regime is akin to product governance regimes introduced in the UK.

The Design and Distribution Obligations impose requirements on banks to ensure financial products are targeted and sold to the right customers. The reforms have been developed as a result of recommendations of the Financial System Inquiry in December 2014. The Design and Distribution Obligations do not take effect until 1 October 2021.

**Modern Slavery**

Australian Banks are now subject to the requirements of the *Modern Slavery Act 2018*. Banks are required to submit Modern Slavery statements which will be published on a public register by the Department of Home Affairs. Entities whose reports were due in 2020 have been granted a brief extension due to COVID-19.
Climate change risk

In early 2020 APRA issued advice that it would be consulting with the banking sector for the purposes of undertaking vulnerability testing in respect to climate risk. This work has been deferred during the pandemic. APRA has encouraged the finance sector, where possible, to continue to collaborate in order to prepare for when it will resume this work.

Capital framework for authorised deposit-taking institutions

APRA originally released a policy program for calendar year 2020 in January 2020. However, due to COVID 19, this policy program is deferred until 30 September 2020. APRA will only consider those policy changes related to remuneration and the final consultation and release of final standards on the capital framework later in 2020.

Issue of guidance on bank dividends and capital management

APRA issued guidance on the payment of bank dividends as part of its response to the COVID 19 economic crisis. In April 2020, APRA provided guidance to all ADIS on capital management. This included an expectation that Boards would seriously consider deferring decisions on dividends given the uncertainty in the economic outlook and would offset any distributions to the extent possible through other capital actions.

This guidance has been updated recently, APRA now considers that, ADIs should continue to take a measured approach to capital distributions¹. For 2020, APRA expects ADIs will retain at least half of their earnings, and actively use dividend reinvestment plans (DRPs) and/or other capital management initiatives to at least partially offset the diminution in capital from distributions.

Further, APRA have provided reassurance to industry regarding the use of capital buffers and that any rebuilding of capital buffers in the future. APRA does not expect ADIs to meet the unquestionably strong capital benchmarks in the period ahead. ADIs are free to, and should, make use of management buffers held above minimum regulatory requirements to absorb the impacts of stress if needed, and continue to lend to support households and businesses.

APRA have also advised that ADIs should plan on the basis of an orderly rebuild in capital levels, where needed. APRA is committed to ensuring any rebuild of capital buffers, if required, will be conducted in a gradual manner.

Customer Dispute Resolution

In July 2020, ASIC released updated guidance on complaints handling by financial firms in the newly created RG 271. This was the culmination of a 12-month review of the existing guidance contained in RG 165. The guidance adopts a new broader definition of complaints to include

those made via social media and amends the definition of small business. ASIC has also reduced
the timeframe to finalise consideration of standard complaints from 45 to 30 days and now
requires Customer Advocate review to fall within these time limits. It also outlines
requirements for the content of complaint responses as well as providing clear expectations
around the identification and management of systemic issues (including the role of senior
executives and Boards). RG 271 will apply to complaints received by financial firms on or after 5
October 2021. Until that date, RG 165 will continue to apply.

**Domestic violence**

On 28 May 2020, the Australian Transaction Reports and Analysis Centre (AUSTRAC) announced
a change to the AML/CTF customer ID and verification Rule to help people experiencing family
and domestic violence. Under the rule, if a customer cannot produce their driver’s license or
birth certificate, or show a different address, banks and other regulated businesses can use
alternative ways to verify their customer’s identity. For example, using a reference (from say a
doctor or from a manager of a refuge of shelter).

Opening a bank account separate from an abuser is an important step in escaping domestic
violence so government benefits, grants, and/or wages can be received. However, when
fleeing a violent situation, it is often not possible to collect identification documents, or they
are sometimes deliberately withheld by a perpetrator, or they do not show a new address. This
can make proving an identity to usual bank standards very difficult.

The change gives banks the flexibility to use alternative methods for verifying a customer’s
identity for those experiencing family domestic violence while still maintaining due diligence
processes to confirm a customer’s identity.

**Vulnerable Customers**

The Australian Banking industry has increased its focus on customers experiencing vulnerability
with changes to the new ABA Banking Code of Practice (commencing 1 July 2019) and the
development of a new Industry Guideline to support customers experiencing vulnerability. This
new guideline will be finalised in late 2020 and commence in mid-2021.

The guideline line will focus on the capture and use of vulnerability information and takes into
account similar initiatives in the UK.

**Electronic transactions and electronic mortgages**

To help consumers and businesses during Covid-19 restrictions, the Australian Commonwealth
government and some state governments have passed emergency regulations that remove
some requirements for documents to be signed on paper and/or witnessed in person. Key
temporary regulations are:
- Commonwealth: allowing companies to sign documents including deeds electronically and use split execution.
- Commonwealth: allow companies to hold virtual AGMs (or have a mix of in person and virtual attendance)
- States: one state has introduced temporary regulations that enable mortgages to be processed electronically; two states have introduced temporary regulations to enable deeds to be created and signed electronically and remove the requirement for deeds to be witnessed (where required), these temporary regulations also allow witnessing of documents by audio-visual link; one state has introduced temporary regulations enabling witnessing of documents by audio-visual link.

These temporary regulations are due to expire from October 2020 and governments have been asked by industry to consider extending the temporary regulations or making the regulatory changes permanent.
Bermuda

Bermuda Jurisdictional Overview

Less than a two-hour flight from New York sits Bermuda (a British Overseas Territory), a very business-focused jurisdiction that fosters a collaborative business culture that sees government, industry, and regulators working together for the jurisdiction’s commercial success. That collaboration has created a highly respected and successful financial centre recognized for worldwide standards of risk management, compliance, regulation, transparency, legal certainty and support infrastructure. With over 100 tax-treaty partners around the world, Bermuda is rated a first-class domicile by the Organisation for Economic Cooperation and Development (OECD).

Top global service-providers have created a workforce of experienced, internationally trained, and technically qualified professionals. Notably, the island is the world’s largest captive reinsurance domicile, one of the top three reinsurance centres, and the leading market for property catastrophe insurance and insurance-linked securities.

Bermuda is globally respected for its leadership and proven record in compliance and corporate transparency. The jurisdiction has more than 90 treaty partnerships with nations around the world. In 2016, the European Union awarded Bermuda full equivalence with Europe’s Solvency II insurance regulatory regime. Bermuda’s banks are the only banks in the Caribbean region to have adopted Basel III capital and liquidity requirements.

Bermuda is also a centre for funds, trusts, HNWI² offices, shipping, aviation, and digital asset ventures. Asset management, trust and private client business, family-office structures, shipping and aviation companies, and related registries (plus new ventures such as tech startups and biomed companies) contribute to its economy.

Regulatory & Supervisory Developments

In the second half of 2019, and the first six months of 2020, the Bermuda regulatory focus was centered in three areas: 1. the implementation of recommendations from the Financial Action Task Force (FATF) review of Bermuda’s AML/ATF program (which was graded favorably); 2. the hiring of a Privacy Commissioner to oversee the government’s implementation of the Personal Information Protection Act (PIPA) regulatory regime; and 3. the introduction of legalized cannabis as a legal business subject to licensing, import restrictions and the ability to perform AML/ATF screening and comply with international payments system requirements. The AML/ATF recommendations largely focused on addressing legislative amendments to strengthen Bermuda’s Sanctions Regime and to address the future separation of the UK from the EU, given Bermuda’s status as a British Overseas Territory.

² High Net Worth Individuals
Since 2017, Bermuda sought a qualified privacy expert to oversee its implementation of PIPA and to provide guidance notes to the various business sectors operating in Bermuda. In early 2020, the Bermuda government announced the appointment of Alexander White to fill the position of Privacy Commissioner (www.privacy.bm). The BBA will be working closely with Mr. White to ensure that the Privacy regime adopted for Bermuda’s financial sector is appropriate to a jurisdiction that serves both a European and American client base.

Lastly in mid 2020, and partly in response to the economic stress caused by the COVID-19 lockdown, the Bermuda government published draft legislation to legalize the possession of and commercial importation/sale of cannabis, subject to comprehensive regulation, licensing and strict limits on amounts allowed to be possessed. The BBA provided input as to how this activity needs to be carefully regulated (through licensing & inspection) to ensure continued local access to international payment networks (via U.S. correspondent banks) and to avoid the known risks of some cannabis merchants using that business as a front for money laundering.

Other Financial Sector Developments

In addition to the proposed cannabis legalization discussed above, the other areas of developing adoption or implementation focus on Bermuda’s continued efforts to demonstrate Economic Substance (ES) to the European Union, the decision to open up Bermuda’s register of Beneficial Ownership (BO) to the public, and the impact of a dramatic shift to remote work arrangements in a country long known for its “person to person” approach to business. Additional discussion of these items follows:

1. **ES** – in Bermuda, the responsibility for ensuring that locally incorporated firms (not exempt companies) operate with sufficient local resources, managerial control and oversight of key revenue generating activities rests with the Registrar of Companies (ROC). The ROC has taken a balanced approach to focus on complying with the intent of ES (local jobs and commerce) and not publishing a technical framework that can be exploited by entities that are not committed to investing in Bermuda. The ROC recently updated its Guidance Notes to provide the criteria it will use to assess compliance under the ES Act.

2. **BO** – in July of 2020, Bermuda’s Minister of Finance announced that he would open the jurisdiction’s listing of beneficial owners for all companies (local and exempt) that are registered in Bermuda effective on 1 January 2022. This listing has historically been kept private but was provided to jurisdictions granting Bermuda reciprocal access. However, the U.K. has been pressing Bermuda to open this registry and in the interest of international cooperation, the promotion of international business and fundamental principles of transparency and ethical conduct, the decision was made to make the BO registry public.
3. **COVID-19 and Remote Work** – in mid-March 2020, the government of Bermuda started addressing the COVID-19 pandemic through emergency actions culminating in a Shelter in Place order issued effective 4 April 2020. The impact on Bermuda’s local work force was significant as many employers had to scramble to accommodate remote work arrangements. However, the positive example of the international business community\(^3\) was helpful and instructive as many of these firms had been utilizing remote work for their largely distributed workforces. As Bermuda has gradually re-opened, most employers and the government have retained a high percentage of their personnel on remote work status and it is believed that remote work will now form a material part of Bermuda’s employment landscape into the foreseeable future. In fact, Bermuda is now offering one-year work permits to enable nonresidents to reside in and work remotely from Bermuda.

In many ways Bermuda is at a crossroads as international business re-assesses its global footprint (which may work to our benefit given the isolated physical nature of an island with global connectivity) while tourism engages in what appears to be a slow and difficult recovery from the COVID-19 impact on international travel.

\(^3\) Bermuda is home to global re-insurers, banks, asset managers, law firms and trust companies.
Canada

Executive Summary

Canada’s banking system continues to be widely considered one of the safest in the world. Policy-making authority and regulatory oversight for Canada’s banks are undertaken by a number of federal bodies. Prudential regulation is conducted by the Office of the Superintendent of Financial Institutions (OSFI), while consumer-facing market conduct is regulated by the Financial Consumer Agency of Canada (FCAC). Deposit insurance is provided by the Canada Deposit Insurance Corporation (CDIC). The Bank of Canada (BoC) and OSFI are active members of the Basel Committee on Banking Supervision. Canadian regulators have been active in adopting new and revised global regulatory standards.

Federal financial services legislation, including the Bank Act that governs the activities of banks in Canada, is required to be reviewed every five years. The current review was scheduled to conclude in 2017, but the 2016 federal budget postponed the conclusion of the review until 2019. The formal review process did commence in 2016, and the Canadian banks provided feedback to the federal government on what modifications to the bank legislative and regulatory regime should take place in the context of the 2019 review, with particular emphasis on measures that will facilitate the policy objectives of modernization and innovation. The federal government’s first budget implementation bill for 2018 introduced changes to the Bank Act intended to facilitate innovation by easing current restrictions on banks’ ability to engage in financial technology (‘fintech’) activities and invest in fintech companies. The budget implementation bill also extended the review process to 2023 to allow the government to make further changes to the Bank Act as they deem appropriate. The second budget implementation bill for 2018 introduced a comprehensive federal financial consumer protection framework. The 2019 federal budget announced measures related to cyber, payments, AML, employment and housing. The introduction of the 2020 federal budget (originally scheduled for March 30, 2020) and other proposed legislative and regulatory measures were delayed due to concerns related to COVID–19. In addition, the federal government introduced a number of temporary regulatory relief measures for Canadian banks due to the pandemic.

In response to COVID–19, the federal government introduced a number of emergency benefits to provide income support (e.g., Canada Emergency Response Benefit) to impacted Canadians. Many banks assisted with the roll out of these benefits by facilitating online enrollment for the direct deposit of funds. Many banks also offered mortgage payment deferrals and other relief measures (e.g., credit card payment deferrals) on a temporary basis.
Federal Financial Legislation and Regulations

2019 Federal Budget Measures

The Canadian government’s 2019 budget made a number of announcements relevant to the banking industry. The government announced measures related to strengthening oversight of cybersecurity, introducing a new framework for the oversight of retail payments, and proposing significant investments in the anti-money laundering regime. The budget also confirmed that the government will introduce pay transparency measures for federally regulated employees in order to reduce wage gaps and legislative amendments to better protect workplace pensions in the event of corporate insolvency. The budget also contained a number of housing initiatives.

AML/ATF Measures

Amendments to the PCMLTFA Regulations

On February 15, 2020, the Department of Finance published further proposed amendments to the amended regulations (Regulations) under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). These amendments further amend the Regulations that were contained in the package of amendments released on June 19, 2020 and are proposed to come into force on June 1, 2021. The amendments are meant to address the following areas:

- The 32 recommendations made by the House of Commons Standing Committee on Finance in November 2018 to strengthen the regime as part of the five-year parliamentary review of the PCMLTFA;
- The recommendations made in the series of reports commissioned by the Government of British Columbia in respect to heightened vulnerabilities of the casino and real estate sector to money laundering; and
- The June 2019 Financial Action Task Force (FATF) finalized standards that address the travel rule for virtual currency transfers.

On May 18, 2020, the final version of the amendments to the Regulations under the PCMLTFA were published. The amendments align Canada’s anti-money laundering and anti-terrorist regime with the FATF standards and level the playing field across reporting entities (REs) by applying stronger customer due diligence requirements and beneficial ownership requirements to designated non-financial businesses and professions (e.g., accountants and accounting firms, British Columbia notaries, casinos, dealers in precious metals, sales representatives and developers), including alignment of virtual currency record-keeping obligations.
Regulations of June 19, 2019 Coming into Force

On June 1, 2020, certain provisions of the amending Regulations of June 19, 2019 came into force.

- Most notably, effective, June 1, 2020 REs under the PCMLTFA are now required to file suspicious transaction reports (STRs) with the Financial Transactions Reports Analysis Centre of Canada (FINTRAC) “as soon as practicable”. Previously, REs were provided with a 30-day period within which to file these reports. In light of the changes to the reporting requirements, FINTRAC updated its guidance in respect to submitting STRs to FINTRAC.
- In addition, the Regulations introduce a new category of money services businesses (MSB): foreign MSBs. Foreign MSBs are required to be registered with FINTRAC. Moreover, under the PCMLTFA financial institutions are prohibited from opening or maintaining an account for a foreign MSB, unless they are registered with FINTRAC.

Methods to Identify Individuals and Confirm the Existence of Corporations and other Entities

In October 2019, FINTRAC published updates to its *Methods to Identify Individuals and Confirm the Existence of Corporations and Other Entities Guidance* to align with modifications to the Regulations of June 2019.

Ministerial Directive on Financial Transactions Associated with the Islamic Republic of Iran

On July 25, 2020, in response to a call by the FATF to take measures in relation to the Islamic Republic of Iran on the grounds that state’s anti-money laundering or anti-terrorist financing measures are ineffective or insufficient, the Minister of Finance, in order to safeguard the integrity of Canada’s financial system, published a Ministerial Directive on Financial Transactions Associated with the Islamic Republic of Iran (MD). In light of the MD, FINTRAC released guidance related to the application and compliance with the MD.

Improving Beneficial Ownership Transparency in Canada

Further to the 2018 review of Canada’s anti-money laundering regime, the House of Commons Standing Committee on Finance recommended, among other things, that the Government of Canada work with the provinces and territories to create a pan-Canadian beneficial ownership registry for all legal persons and entities, accessible to competent authorities and REs with customer due diligence obligations. To this end, in 2020 the Federal government released a consultation paper to seek feedback on potential measures to further increase beneficial ownership transparency via a public registry (or public registries). The Government of British Columbia also released a similar consultation paper in 2020.
Economic Sanctions

Throughout 2019 – 2020, the federal government made the following changes to Canada’s economic sanctions:

• On June 21, 2019, in response to gross and systematic human rights violations have been committed in Nicaragua, the Government of Canada published regulations under the *Special Economics Measures Act* (SEMA) in respect of Nicaragua. The regulations impose asset-freezing and dealing prohibitions in respect of designated individuals;

• On January 29, 2020, the Government of Canada imposed additional sanctions under SEMA to target specified individuals in connection with recent elections held in the Crimea region. These individuals are targeted, according to Global Affairs Canada, for their role in organizing and facilitating the elections, which Canada does not recognize as legitimate; and

• On June 1, 2020, the Government of Canada introduced amendments to several regulations made under the *United Nations Act* (Canada) (UN Act). The amendments implement recent resolutions of the Security Council and address certain miscellaneous comments raised by the Standing Joint Committee for the Scrutiny of Regulations. The bulk of the amendments relate to arms and related materials, military activities and transport restrictions. A number of changes are made to harmonize the language used across regulations. In addition, the amendments introduce a prohibition on acquiring any financial or related services from a designated person, a person acting on behalf of or at the direction of a designated person, or an entity that is owned, held or controlled by a designated person. This prohibition also applies to a dealing of any property in Canada that is owned, held or controlled by a designated person or by a person acting on behalf of, or at the direction of, a designated person. These prohibitions are worded slightly differently across regulations and are reflected as extensions to the existing prohibitions against providing financial or related services to a designated person.

Cybersecurity Threats to Financial Institutions Operating in Canada

Building on Canada’s National Cyber Security Strategy released in 2018, $145 million was announced in the 2019 federal budget to help protect Canada’s critical cyber systems in the finance and other sectors.

In the National Cyber Security Action Plan (2019-2024), the Government of Canada committed to expanding advice and guidance to the finance sector and to work cooperatively to improve its cyber security posture.
Housing

COVID-19 response measures

In order to alleviate financial stresses created by the COVID-19 shock, in consultation with the Department of Finance, Canada’s banks and mortgage insurers began offering mortgage deferrals of up to six months for borrowers impacted by COVID-19 starting in March 2020. OSFI also confirmed that deferred mortgages would continue to be treated as performing loans for the duration of the deferral under the Capital Adequacy Requirements (CAR) Guideline. As of June 30, 2020, 13 Canadian banks have provided mortgage deferrals or skip a payment to more than 760,000 Canadians, representing about 16% of bank mortgages.

In addition, the federal government announced liquidity support through the Canada Mortgage and Housing Corporation (CMHC) Insured Mortgage Purchase Program (IMPP) to provide long-term stable funding to banks and mortgage lenders, help facilitate continued lending to Canadian consumers and businesses, and add liquidity to Canada’s mortgage market in light of the COVID-19 shock. Specifically, the government announced that CMHC would purchase up to $150 billion in insured mortgage pools. As of June 30, 2020, $5.8 billion of insured mortgages have been purchased.

OSFI also permitted banks to temporarily allocate up to 10% of a bank’s total assets for covered bonds for the purposes of pledging as collateral to the BoC. The maximum amount of pool assets relating to market instruments remains limited to 5.5%. This temporary relief will be provided for at least a year and could be extended, if needed.

Other regulatory developments

In June 2020, CMHC announced the following changes (effective July 2020) for all new homeowner transactional and portfolio insured mortgages:

- Limiting the Gross/Total Debt Servicing (GDS/TDS) ratios to the standard requirements of 35/42;
- Establishing minimum credit score of 680 for at least one borrower; and
- Restricting non-traditional sources of down payment from being treated as equity for insurance purposes.

The private mortgage insurers confirmed that they would not follow CMHC’s changes. CMHC also suspended refinancing for multi-unit mortgage insurance except when the funds are used for repairs or reinvestment in housing.

In February 2020, the federal government announced changes to the qualifying rate used for stress testing insured mortgages. The changes, which were slated to take effect April 6, 2020, would have meant insured mortgage borrowers would have had to prove they could afford monthly mortgage payments based on a rate equal to the weekly median 5-year fixed insured
mortgage rate, plus 2%. The weekly median 5-year fixed insured mortgage rate would be calculated by the BoC based on federally-backed mortgage insurance applications adjudicated by mortgage insurers. At the same time as the changes to the insured benchmark rate were announced, OSFI announced a consultation on a proposed change to the uninsured benchmark rate, namely to adopt the new insured benchmark rate in the calculation of the minimum qualifying rate for uninsured mortgages. However, both the implementation of the new insured benchmark rate and the proposed change to the minimum qualifying rate for uninsured mortgages were suspended by the Department of Finance to provide regulatory relief in light of the escalating COVID-19 crisis.

The First Time Home Buyers Incentive (FTHBI) - first announced in the 2019 federal budget - was introduced in September 2019. Administered by the CMHC, the FTHBI allows qualifying first-time home buyers taking an insured mortgage to receive a shared-equity mortgage from CMHC of either 5% or 10% of the home value. Eligibility requirements include that the home be owner-occupied, that the buyer have an annual household income of less than $120,000, and that the mortgage plus the incentive amount be no more than 4 times the buyer’s annual household income. The program is capped at $1.25 billion over 3 years and was expected to assist 100,000 first-time home buyers. Data released for the first four months of the program states that 2,730 mortgages have been approved.

**Payments System Reforms**

Canada is in the process of modernizing its payments infrastructure and rolling out a new high-value system as well as real-time payments platform, which supports the government’s objective of promoting innovation and increasing competition in payments and financial services. Banks have been working with the BoC and Canada’s payment system operator, Payments Canada, on the conceptual design of these systems with the goal of ensuring they meet international standards for risk management.

Further to the federal government’s review of the *Canadian Payments Act* in 2018 and support received to expand the types of entities that can be members of Payments Canada and participate in its systems, additional consultations are being carried out in 2020 on the policy elements of a new membership structure and the rights and obligations that correspond with membership. The banking industry in Canada has consistently supported broadening access to the payments system to promote greater innovation, subject to non-traditional payment service providers being governed by a regulatory framework that sets basic standards of protection for end-users and other measures to promote the safety and stability of the financial system.

The banking industry continues to await the introduction of legislation that establishes a retail payments oversight framework, and the government has announced its commitment to doing
so. It is anticipated that legislation could be introduced towards the end of 2020, with review of the legislation and enactment to follow in 2021.

**Basel III in Canada**

Basel III adoption in Canada is progressing well with Canada ranked category 4 (i.e. final rules in force) on many Basel standards. Recently confirmed measures include Interest Rate Risk in the Banking Book (IRRBB), Net Stable Funding Ratio (NSFR), and supervisory framework for measuring and controlling large exposures.

On November 22, 2019, the Toronto-Dominion Bank was added to the list of global systemically important banks (G-SIBs), joining the Royal Bank of Canada, which was added in November 2017.

**COVID-19 Regulatory Relief Efforts and the Impact on Basel III Reforms**

Given the March 2020 international announcement deferring implementation of the Basel III reforms to increase the operational capacity of banks and supervisors to respond to COVID-19, OSFI has similarly delayed implementation in Canada to Q1 2023, with an additional 1-year deferral for the Fundamental Review of the Trading Book (FRTB) to Q1 2024. Moreover, OSFI introduced other regulatory relief measures for Canadian banks due to COVID-19 with some examples noted below:

- Reduced the Domestic Stability Buffer (DSB) for Canadian D-SIBs from 2.25% to 1.00% of total risk-weighted assets;
- Permitted banks to continue treating loans as “performing” for the calculation of risk weighted average or the duration of the period of loan payment deferrals, up to a maximum of six months;
- Excluded central bank reserves and sovereign-issued securities that qualify as high-quality liquid assets from the Leverage Ratio exposure measure;
- Lowered the capital floor from 75% to 70% for institutions using the internal ratings-based approach to credit risk;
- Increased the covered bond limit from 5.5% to 10% of total assets;
- Deferred all enhancements for the 2021 regulatory stress test, with the exception of the approach to market risk, which is close to finalization;
- Encouraged banks to use their liquidity buffers (i.e. the Liquidity Coverage Ratio can go below 100% since banks’ pools of liquid assets should be used during a period of financial stress);
- Modified the liquidity framework to accommodate the new/revised BoC liquidity facilities and federal agencies’ temporary lending programs; and
- Deferred some regulatory reporting requirements.

Note that the above regulatory relief measures are temporary in nature.
**Proportionality**

OSFI is developing a framework for the small and medium-sized bank (SMSB) Capital and Liquidity requirements (including Pillar 2 and Pillar 3 requirements), implementation of which has been delayed to the beginning of Q1 2023 in line with the delay in the domestic implementation of Basel III. Industry consultation is expected to resume in early 2021. The proportionality work is not focused on providing capital or liquidity relief to institutions, it is about ensuring that the requirements are more "fit for purpose" in the sense that risk sensitivity is improved and, where possible, complexity is reduced.

**Financial Market Infrastructure (FMI) Resolution**

The final Canadian FMI Resolution Regulations (Regulations) developed by the Department of Finance were published in the Canada Gazette in July 2019. The Canadian Bankers Association’s (CBA) FMI Resolution Working Group, jointly with the International Swaps and Derivatives Association, had provided feedback on the proposed regulations, focusing on central counterparty (CCP) risk resulting from the Canadian Derivatives Clearing Service (CDCS).

In Canada, the BoC is the resolution authority for FMIs and is responsible for providing details on implementation of the Regulations in the form of a Guideline. The BoC issued the final Guideline in June 2020. Throughout the consultation process, the CBA had stressed the importance of harmonizing Canadian regulations and guidelines with evolving international standards.

**Task Force on Climate-related Financial Disclosures (TCFD)**

The Canadian domestic systemically important banks (D-SIBs) have made a commitment to align with the disclosure recommendations set out by the Task Force on Climate-related Financial Disclosures (TCFD), have initiated project plans and are continuing to monitor developments globally as they work on implementing the disclosure recommendations.

**Liquidity Risk Framework**

The Net Stable Funding Ratio (NSFR) came into force in January 2020 in Canada for D-SIBs, and OSFI will require D-SIBs to disclose their NSFR results by 2021.

In December 2019, OSFI released the final version of *Guideline B-6: Liquidity Principles*. Through its supervisory work and assessments of liquidity risk practices, OSFI identified areas of the guideline that required revisions (e.g. clarified expectations on banks’ liquidity risk management practices, introduced reference of the liquidity metrics). The final guideline came into force on January 1, 2020.
Central Bank Liquidity Facilities

In November 2019 the BoC consulted on a new liquidity facility – the Standing Term Liquidity Facility (STLF). The STLF is designed to complement the BoC’s existing liquidity tools and allows it to provide loans to banks experiencing idiosyncratic stress, where there are no concerns about the institution’s financial soundness. Some examples of the type of liquidity shock the BoC intends the STLF to cover include operational incidents such as cyber-attacks, system failures and natural disasters. In March 2020 the BoC announced the launch of the STLF, which requires banks to have associated loan agreements and related security agreements in place.

At the same time under the existing Emergency Lending Assistance (ELA) program, the BoC introduced a new form of loan agreement. As a result, the BoC amended and consolidated the security agreements that apply to all security arrangements in place with financial institutions. For both STLF and ELA, these agreements allow the BoC to accept the assignment or hypothecation of individual mortgage loans as security.

IBOR Transition to Risk-Free Reference Rates (RFRs)

The BoC’s Canadian Alternative Reference Rate Working Group (CARR) is leading discussions on enhancing the existing Canadian overnight risk-free rate, the Canadian Overnight Repo Rate Average (CORRA). It is also assessing a proposed Canadian term risk-free rate benchmark, which would act as a complementary reference rate for the Canadian market and would operate alongside the Canadian Dollar Offered Rate (CDOR).

Regulation of Over-the-Counter Derivatives

In April 2018, the Canadian Securities Administrators (CSA), an umbrella organization comprised of Canada’s 13 provincial and territorial securities regulators, issued a proposed derivatives registration regime, which would require banks to register and demonstrate compliance with the CSA requirements around the banks’ derivatives businesses. In June 2018, the CSA issued proposed rules relating to business conduct in derivatives transactions. In the fall of 2018, the Canadian banks provided comments on both proposals, including their potential impacts on the banking industry. The CSA is continuing to assess the proposals against the existing regimes to ensure any potential regulatory gaps and burdens are addressed.

The Quebec Court of Appeal issued its decision on the constitutionality of the Cooperative Capital Markets Regulatory System (CCMR), a proposed joint federal-provincial securities and systemic risk regulatory body, in May 2017. The Quebec Court found both the draft provincial and the federal statutes underpinning the CCMR to be unconstitutional. The Quebec Court’s decision was appealed to the Supreme Court of Canada, which rendered its decision in November 2018. The Supreme Court ruled that the Constitution permits the implementation of pan-Canadian securities regulation under the authority of a single regulator according to the model established by the CCMR.
**Consumer-Directed Finance (i.e. Open Banking)**

The government of Canada indicated its intent to explore the merits of open banking in its federal budget in Spring of 2018. The Department of Finance subsequently appointed an Advisory Committee tasked with preparing a report to the Minister of Finance with recommendations on whether there are merits to proceeding with open banking in Canada.

In January of 2019, the Department of Finance issued an initial consultation paper on the merits of open banking. The consultation paper asked for views on the potential benefits and risks of open banking for Canadian consumers and small businesses. In January 2020, the Advisory Committee issued its first Interim Report providing recommendations and findings from consultations with stakeholders. In the report, the Advisory Committee recommended there are merits to open banking and recommended the development of a “consumer-directed framework.”

It is expected that the Department of Finance will commence the second phase on consultations on what is now referred to as consumer-directed finance in late 2020. As noted in the 2020 Economic and Fiscal Snapshot, the Advisory Committee will work with stakeholders to provide the government options for enhancing data protection for consumer-driven data sharing in the financial sector and subsequently provide recommendations to the Minister of Finance.

**Technology Risk Review**

In its 2019-2022 strategic plan, OSFI stated it is undertaking a holistic review of technology risk as part of its strategic goal to improve regulated entities’ preparedness for, and resiliency to, non-financial risks. Seeking views from stakeholders on this issue, OSFI intends to issue a technology risk discussion paper focused on themes like cybersecurity, third-party ecosystem and advanced analytics. It is expected this work will contribute to the development of potentially new or revised regulatory guidance and supervisory expectations.
China

**Significant Developments in the Banking Industry**

On September 10, 2019, the State Administration of Foreign Exchange (SAFE) announced it would abolish the investment quota restrictions for Qualified Foreign Institutional Investors (QFII) and Renminbi Qualified Foreign Institutional Investors (RQFII) to boost financial reforms and opening-up. The two programs have been important in the opening-up of China's financial market. Since the implementation of QFII system in 2002 and RQFII system in 2011, more than 400 institutional investors from 31 countries and regions have invested in China's financial market in this way, according to the SAFE.

On Dec. 18, 2019, the China Banking and Insurance Regulatory Commission (CBIRC) announced the revision of implementation measures for regulations on the administration of foreign-invested banks. The revised implementation measures allow foreign bank branches to choose their business direction based on a clear functional positioning, said the regulator in a media note posted on its website. The CBIRC set prerequisites for foreign banks to establish subsidiaries and branches in China simultaneously and added regulatory requirements accordingly. It removed the total asset requirement for foreign banks to set up institutions in China and obtain regulatory approval for conducting renminbi business. The regulator also said it will assess the interest-earning assets ratio, the renminbi working capital adequacy ratio and the liquidity ratio of a foreign bank's branches combined, rather than a singular foreign bank branch.

On January 4, 2020, China's banking regulator unveiled revised management regulations for foreign banks to advance opening up of the banking sector to a higher level and promote its high-quality development. Foreign banks can establish branches and wholly foreign-owned banks at the same time on the Chinese mainland, according to the CBIRC. The requirement on total assets for foreign banks to establish business institutions in China was eliminated, and the selection range of the Chinese major shareholder of the Sino-foreign joint venture banks was widened.

China has eased administrative approvals regarding foreign exchange (forex) management within its pilot free trade zones (FTZs) on a trial basis amid efforts to further facilitate investment and trade. Four administrative approval items have been canceled, covering issues including forex market access and the registration of import and export entities, according to the SAFE. By easing the administrative procedures, the SAFE expects to effectively improve approval efficiency and lower costs for market entities. More efforts will be made to implement the reform on streamlining administration, delegating powers, and improving regulations and services, as well as the reform on separating business licenses from administrative permits.
On January 19, 2020, China's central bank launched a new system to better disclose credit records of both individuals and enterprises. The new system will provide more details of the credit status in a better format, such as co-borrowing records and loan repayment records, according to the People's Bank of China (PBOC). The system update, reflecting recent developments in financial technologies, came in response to increased public demand for more effective credit information and service improvement. Other details to be added to the individual's credit report include employment status, nationality and credit agreement information. For enterprises, inquirers will obtain further information like revolving overdraft and late payments. The new system has also intensified the management and protection of user identity and information transmission to ensure information security, according to the PBOC.

**Significant Developments in the Securities Industry**

On October 11, 2019, the China Securities Regulatory Commission (CSRC) said in an online statement that China had set a clear timetable for allowing full foreign ownership of financial service companies. Foreign ownership limits on fund management firms would be lifted starting April 1, 2020. Shareholding caps on foreign investors currently faced by brokerages would be scrapped from December 1, 2020. The restrictions on foreign ownership of futures companies would be lifted from January 1, 2020, the CSRC said in a separate statement, adding that overseas entities can start to file applications.

On March 1, 2020, the revised China's Securities Law became effective, a milestone in China's capital market reform. The Securities Law has 14 chapters, outlining regulation details in securities issuance and trading, the takeover of listed companies, information disclosure as well as investor protection. The latest revision to the law highlights rules on the newly-devised science and technology innovation board, which will pilot a registration-based initial public offering (IPO) system. The revised law has changed the requirement of issuing new shares from "capable of continuous profitability" to "capable of continuous operation," authorized stock exchanges to review public offering applications, and made information disclosure requirements stricter. The new law also increases the penalties for illegal activities in the securities sector. It not only stipulates the confiscation of illegal proceeds but also pledges stricter administrative punishments.

On April 1, 2020, China lifted the limitations on the ratio of foreign shareholding in securities companies, according to the CSRC. Eligible foreign investors can then file applications for the establishment or change of the actual controller of securities firms in accordance with related laws and regulations. The CSRC said it will continue to firmly implement the country's overall arrangement on opening up, actively advance the opening up of China's capital market, and approve the establishment of foreign-invested securities companies or the change of actual controllers of securities companies in accordance with the law.
Significant Developments in the Insurance Industry

China's banking and insurance regulator has unveiled a guideline that sets the target for the high-quality development of the two sectors in the next few years. By 2025, China expects the banking and insurance system to have a better financial structure with multiple layers, broad coverage and diversity, according to the China Banking and Insurance Regulatory Commission (CBIRC). Toward this end, the functions of large and medium banks should be further optimized, and local small and medium-sized banks should further enhance their financial service capabilities. Meanwhile, China expects the insurance institutions to play a larger role in risk covering, and hopes to seek further development of foreign banking and insurance institutions and foster unique advantages of non-banking financial institutions. From now to 2025, the country hopes to establish a modern financial enterprise system with Chinese characteristics by improving corporate governance, as well as a financial product system that meets market demand with diverse and customized products. The guideline particularly stressed the need to create financial products that support the real economy and improve people’s lives, including those facilitating strategic emerging industries, advanced manufacturing, technological innovation and agricultural development.

On May 20, 2020, China's insurance regulator issued measures to strengthen the supervision of credit insurance and guarantee insurance. The measures, issued by the CBIRC, specify the operating requirements of the financing credit insurance business, such as linking with the central bank credit reference system. They also highlight the protection of insurance consumers' rights and interests. Other measures include setting flexible underwriting limits to guide leading insurance firms to support small businesses as well as expanding insurance services for the real economy.
Institute of International Bankers.  Global Survey 2020

European Union

**New European Commission**

In July 2019 the new Commission President, Ursula Von der Leyen, was elected for a five years’ term (2019-2024). She and her college of commissioners officially took office as of 1 December of 2019 with an ambitious legislative programme. The new EC priorities These priorities are based on 6 'headline ambitions':

1. A European Green Deal
2. An economy that works for people
3. A Europe fit for the digital age
4. Protecting our European way of life
5. A stronger Europe in the world
6. A new push for European democracy

Of interest for the banking sector are some aspects of the twin green and digital transitions, especially related to digital and sustainable finance where the European Commission is committed to make good progress. Of course, the finalisation of Basel III package and the renewed push for Capital Markets Union are also key elements for the development of the banking industry.

**Banking supervision and regulation**

**Implementation of the Banking package - CRR quick fix**

In May 2019, the Council and the European Parliament adopted a package of legislative acts referred to as the "Banking Package". The Banking Package introduced various measures agreed upon in international regulatory fora, aiming at strengthening banking supervision and resolution while also catering for EU specificities. Some of these measures require national transposition, which is currently ongoing within Member States, with the transposition deadline of 28 December 2020. In order to ensure a common understanding of the underlying legal acts, the European Commission started organizing transposition workshops.

Extensive preparations were carried out for the so-called "Finalization of the Post Crisis Reforms", which constitutes the final EU implementation step of rules endorsed by the Basel Committee of Banking Supervision (BCBS). The Commission announced its intention to review the regulatory framework on bank capital requirements, set out in the capital requirements directive (CRD) and regulation (CRR), to complete the implementation of the international regulatory standards. During the 2019 fall, the Commission did all the preparatory works aimed at gathering sufficient input from stakeholders in order to propose to the Council and the European Parliament, by June 2020, a new legislative proposal in order to fulfil international commitments to finalize post crisis reforms by 2022.
However, following the Covid-19 outbreak and its significant repercussions on the European and global economies, such implementation was considered difficult to put in place for regulators, supervisors and banks alike, who were all experiencing operational constraints given the high impact of the pandemic on everyday life. Among other measures, the BCBS agreed to postpone the implementation of the final standards by one year (to 2023), as well as a greater flexibility to the phase-in of the impact of the international financial reporting standard (IFRS) 9 on capital.

To reflect these changes in EU rules, the Commission postponed the adoption of the legislative proposals implementing the Basel III final elements and on 28 April 2020 presented a proposal for a banking package increasing flexibility in prudential and accounting rules, in the context of the Commission's economic response to the COVID-19 crisis.

This comprises an Interpretative Communication on the EU's accounting and prudential frameworks as well as a legislative proposal for targeted and temporary amendments to the Capital Requirements Regulation (CRR). The objective of these proposals is to unlock further funding for the real economy without opening the entire European single rulebook, while ensuring continued bank resilience. Negotiations on this "crisis response package" were quite expeditious and the Council and European Parliament collaborated closely in order to adopt the measures quickly. A guiding principle is that the proposed measures are timely, targeted and COVID-19 related. On June 26, 2020 the CRR Quick Fix was published in the Official Journal of the EU and entered into effect on June 27, 2020.

**Non-performing loans**

The gross NPL ratio for all EU banks declined further, to 2.8 % by the end of Q3-2019. The provisioning ratio remained stable at around 59% (Q3-2019). Still, NPL ratios vary greatly across Member States and banks. High NPL ratios remain an important challenge in some banks in particular and can considerably weigh on their performance. Therefore, the further decline in the number of NPLs is still one of the key areas for reducing risk in the EU banking sector, while taking into account the Covid-19 pandemic and the severe economic impact this is bound to have possible repercussions on the financial sector.

In response to the Action Plan to tackle NPLs, the Commission put forward its NPL package in March 2018. The Action Plan as a whole is close to being delivered and the Commission is now working to achieve the remaining items. The EBA has finalised its last action by developing "guidelines on loan origination and monitoring". The ECB has also made significant efforts in implementing their parts of the Action Plan and have delivered most of the elements within its remit.

On the legislative front, two files remain open in the NPL remit. One consists of a Directive related to secondary markets and concerning credit servicers and credit purchasers, for which the Presidency obtained a mandate for negotiations with the European Parliament in March.
2019, and the other consists of a Directive for accelerated extrajudicial collateral enforcement, with a mandate dated November 2019. Negotiations are still ongoing.

Banking Union – Progress check

The December 2019 discussions in the Eurogroup and Euro Summit (meeting in inclusive format) outlined the need to continue to work on all elements of the further strengthening of the Banking Union on a consensual basis, with the aim to come back to these issues in June 2020.

In the meantime, the Covid-19 pandemic deeply altered circumstances in the EU and beyond and required reprioritization of efforts. It is in this context that the focus of the European Union turned to the implementation of urgent Covid19 related measures. Technical discussion on EDIS are still ongoing, but they are likely to result in stalemate.

Specific Covid-19 related measures

The Covid-19 pandemic is proving demanding not only from an operational perspective. Due to the numerous lockdown measures implemented across countries, many companies have faced urgent liquidity needs. In the same vein, volatility in financial markets increased significantly. In the EU, the ECB and Member States put in place strong measures to overcome the economic shock, mainly by providing liquidity to the real economy.

The banking sector, with its essential role in financial intermediation, has a central role to play in the crisis response and in particular in the provision of liquidity to the economy. In that respect, it was considered necessary to free up as much lending capacity as possible within the banking sector without endangering financial stability. In a first step, the European Supervisory Authorities and the ECB issued statements making use of existing flexibilities in EU banking law, clarifying the application of rules concerning the accounting framework, non-performing loans, the market risk frameworks and other targeted and temporary relief measures. At the same time, banks were called upon to refrain from using the capital relief for dividend distribution and the pay-out of bonuses. These measures were supported by EU Ministers of finance and in a communication from the Commission.

In parallel, the SRB is ensuring that short-term constraints on the minimum requirement for eligible liabilities (“MREL”) do not prevent banks from lending to businesses and the real economy. The SRB has been working together with banks under its remit and national resolution authorities to prepare the implementation of the 2020 resolution planning cycle, including changes to MREL decisions under the new banking package, while reflecting any changes in capital requirements as part of the prudential response to the crisis. It will also take a forward-looking approach to banks that may face difficulties meeting current binding MREL targets by making use of the flexibility already embedded in the framework. Some AHWP members are worried that this case-by-case, pragmatic approach, although welcome, may not
guarantee equal treatment across banks under SRB remit, and have called for further transparency.

**Capital Markets Union**

A Capital Markets Union remains one of the pillar projects of the new agenda under the Executive Vice President Valdis Dombrovskis and he said that its completion would significantly contribute to make Europe’s economy and financial system stronger and more resilient, supporting growth and stability.

Building on its goal to finalise the creation of capital markets union (CMU), the Commission on 10 October 2019 launched a call for expression of interest to join a High-Level Forum (HLF) on capital markets union.

The HLF is an expert group composed of highly experienced industry executives and top international experts and scholars to feed into the work on the future CMU policies. The group was tasked with the drafting of policy recommendations for future CMU actions, to ensure that citizens and businesses can access capital markets across the EU on equal terms and irrespective of their geographical location.

On 20 February 2020 the High-Level Forum published its interim report. The report, which does not put forward any specific policy proposals yet, sets out a new vision for the future of the capital markets union. According to the interim report the creation of a Capital Markets Union is essential for Europe to face its new challenges. The continent has reached a critical junction, as economic and social models need to adapt to large shifts of our strategic environment. If Europe wants to provide citizens, businesses and society at large with the tools to turn these challenges into opportunities, it needs a vibrant single market for financial services, for which CMU is a precondition.

On 10 June 2020 the High-Level Forum published its final report which sets out 17 interconnected recommendations aimed at removing the biggest barriers in the EU’s capital markets. According to the report, completion of the capital markets union is particularly important now, as it can speed up the EU’s recovery from the coronavirus pandemic.

**Revision of Markets in Financial Instruments Directive – MiFID II**

On 17 February 2020, the European Commission launched its long-awaited public consultation on the review of MiFID II and MiFIR. The consultation paper is divided into two main sections: Section 1 covering general questions on the overall functioning of the MiFID II and MiFIR regulatory framework. Section 2 covering specific questions on the existing regulatory framework.

On top of that, on 11 May 2020, the European Commission started initial considerations and exchange of views whether any urgent amendments to the Markets in Financial Instruments
Directive (MiFID II) are required in the context of COVID-19. Therefore, these amendments have proceeded in parallel to a broader and scheduled review of MiFID II and MiFIR. The European Commission is currently assessing the scope of MiFIR review by consulting and working with national experts. This revision would most likely focus only on investor protection related topics and, so far, no review of market transparency or market structure is envisaged. The purpose is to alleviate client information rules, in particular of more qualified client, to ease their access to financial markets.

A proposal should be put forward on the 22nd of July. Then usual negotiations between the Council and the EP will start.

Anti-Money Laundering Developments

On 24 July 2019, the European Commission adopted a Communication entitled "Towards better implementation of the EU's anti-money laundering and countering the financing of terrorism framework" accompanied by four reports:

- Supranational risk assessment of the money laundering and terrorist financing risks affecting the Union, along with an annex, in form of a staff working document under the Supranational risk assessment.
- Report assessing the framework for Financial Intelligence Units' (FIUs) cooperation with third countries and obstacles and opportunities to enhance cooperation between Financial Intelligence Units within the EU.
- Report assessing the conditions and the technical specifications and procedures for ensuring secure and efficient interconnection of central bank account registers and data retrieval system.
- Report assessing recent alleged money-laundering cases involving EU credit institutions.

The reports stress the need for their full implementation while underlining that a number of structural shortcomings in the implementation of the Union's AML and counter terrorist financing rules still need to be addressed.

The European rules on AML and counter terrorist financing have been considerably strengthened in recent years, with two consecutive reforms being adopted since 2015. The latest revision of the AML Directive, the fifth AML Directive, was adopted in April 2018 and is due to be transposed at national level by January 2020.

On 7 May 2020, the European Commission adopted an action plan for a comprehensive Union policy on preventing money laundering and terrorism financing, which sets out concrete measures that the Commission will take over the next 12 months to better enforce, supervise and coordinate the EU's rules on combating money laundering and terrorist financing. The aim of this new, comprehensive approach is to shut down any remaining loopholes and remove any weak links in the EU's rules.
The Action Plan is built on six pillars:

1. Effective application of EU rules: the Commission will continue to monitor closely the implementation of EU rules by Member States to ensure that national rules are in line with the highest possible standards. In parallel, today's Action Plan encourages the European Banking Authority (EBA) to make full use of its new powers to tackle money laundering and terrorist financing.

2. A single EU rulebook: while current EU rules are far-reaching and effective, Member States tend to apply them in a wide variety of different manners. Diverging interpretations of the rules therefore lead to loopholes in our system, which can be exploited by criminals. To combat this, the Commission will propose a more harmonised set of rules in the first quarter of 2021.

3. EU-level supervision: currently it is up to each Member State to individually supervise EU rules in this area and as a result, gaps can develop in how the rules are supervised. In the first quarter of 2021, the Commission will propose to set up an EU-level supervisor.

4. A coordination and support mechanism for Member State Financial Intelligence Units: Financial Intelligence Units in Member States play a critical role in identifying transactions and activities that could be linked to criminal activities. In the first quarter of 2021, the Commission will propose to establish an EU mechanism to help further coordinate and support the work of these bodies.

5. Enforcing EU-level criminal law provisions and information exchange: Judicial and police cooperation, on the basis of EU instruments and institutional arrangements, is essential to ensure the proper exchange of information. The private sector can also play a role in fighting money laundering and terrorist financing. The Commission will issue guidance on the role of public-private partnerships to clarify and enhance data sharing.

6. The EU's global role: the EU is actively involved within the Financial Action Task Force and on the world stage in shaping international standards in the fight against money laundering and terrorist financing. We are determined to step up our efforts so that we are a single global actor in this area. In particular, the EU will need to adjust its approach to third countries with deficiencies in their regime regarding anti-money laundering and countering terrorist financing that put our Single Market at risk. The new methodology issued alongside this Action Plan provides the EU with the necessary tools to do so. Pending the application of the revised methodology, updated EU list ensures better alignment with the latest FATF (Financial Action Task Force) list.

On 7 May 2020, the Commission has also published a new methodology to identify high-risk third countries that have strategic deficiencies in their national anti-money laundering and countering terrorist financing regimes, which pose significant threats to the EU’s financial system. The aim of this new methodology is to provide more clarity and transparency in the process of identifying these third countries. The key new elements concern: (i) the interaction between the EU and FATF listing process; (ii) an enhanced engagement with third countries; and (iii) reinforced consultation of Member States experts. The European Parliament and the Council will have access to all relevant information at the different stages of the procedures, subject to appropriate handling requirements.
Under the Anti-Money Laundering Directive (AMLD), the Commission has a legal obligation to identify high-risk third countries with strategic deficiencies in their regime regarding anti-money laundering and countering terrorist financing. Pending the application of the above-mentioned refined methodology, the Commission has revised its list, which it is now better aligned with the lists published by the FATF. Countries which have been listed: The Bahamas, Barbados, Botswana, Cambodia, Ghana, Jamaica, Mauritius, Mongolia, Myanmar, Nicaragua, Panama and Zimbabwe. Countries which have been delisted: Bosnia-Herzegovina, Ethiopia, Guyana, Lao People's Democratic Republic, Sri Lanka and Tunisia. Given the Coronavirus crisis, the date of application of Regulation listing third countries – and therefore applying new protective measures – only applies as of 1 October 2020. The delisting of countries entered into force 20 days after publication in the Official Journal.

**Taxation**

On 8 May 2020, The European Commission has decided to postpone the entry into force of two EU taxation measures to take account of the difficulties that businesses and Member States are facing with the Coronavirus crisis.

First, the Commission has proposed to postpone the entry into application of the VAT e-commerce package by 6 months. These rules will apply as of 1 July 2021 instead of 1 January 2021, giving Member States and businesses more time to prepare for the new VAT e-commerce rules.

Second, the Commission has decided to propose deferring certain deadlines for filing and exchanging information under the Directive on Administrative Cooperation (DAC). Based on the proposed changes, Member States will have three additional months to exchange information on financial accounts of which the beneficiaries are tax residents in another Member State. Similarly, Member States will have three additional months to exchange information on certain cross-border tax planning arrangements.

Depending on the evolution of the Coronavirus pandemic, the Commission proposes the possibility to extend the deferral period once, for a maximum of three further months. The proposed tax measures only affect the deadlines for reporting obligations.

The beginning of application of DAC 6 remains 01 July 2020 and the reportable arrangements made during the postponement period will have to be reported by the time the deferral has terminated. Equally, the information on financial accounts to be exchanged under DAC 2 during that period will have to be reported by the time the deferral has ended. The choice of different deferral periods responds to the fact that while the exchange of information under the DACs relies on an existing IT system, the e-Commerce package requires both adaptation of existing IT systems and the setting-up of new ones by Member States.
**Financial transaction tax (FTT)**

On 14 June 2019, member states participating in enhanced cooperation in this area updated the Council on the state of play and next steps regarding the financial transaction tax (FTT). A proposal for a directive on a common system of FTT was submitted by the Commission to the Council in 2011. Given that unanimous agreement by all member states could not be reached, the Commission tabled a proposal aimed at introducing an FTT through the instrument of ‘enhanced cooperation’ in 2013. Currently, 10 countries are participating in the negotiations on the proposed directive: Belgium, Germany, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia. Technical work on the file has been carried out in the Council and ministers have regularly reviewed the state of play on this dossier at ECOFIN meetings. The FTT currently being considered by participating member states would be levied on the acquisition of shares of listed companies which have their head office in a member state of the EU and market capitalisation in excess of €1 billion on 1 December of the preceding year. The tax would be levied on the transfer of ownership when shares of listed public limited companies are acquired. Initial public offerings, market making and intraday trading would not be taxable. The tax rate would be no less than 0.2%. The revenue would flow into the EU budget or the still-to-be-created euro area budget. Revenue levied nationally would be distributed among the member states according to a distribution mechanism to be further defined.

**Other significant developments**

**Digital finance**

In March 2018 the European Commission adopted an action plan on FinTech to foster a more competitive and innovative European financial sector. The action plan sets out 19 steps that the Commission intends to take to:

- enable innovative business models to scale up at EU level
- support the uptake of new technologies such as blockchain, artificial intelligence and cloud services in the financial sector
- increase cybersecurity and the integrity of the financial system

These initiatives mainly aim to enhance supervisory convergence toward technological innovation and prepare the EU financial sector to better embrace the opportunities brought by new technologies. This should enable innovative digital finance solutions to be rapidly rolled out across the EU and benefit from the scale economies of the single market, while preserving financial stability and ensuring consumer protection.

On 13 December 2019 the Expert Group on Regulatory Obstacles to Financial Innovation (ROFIEG), set up by the European Commission in June 2018, published its recommendations on how to create an accommodative framework for technology-enabled provision of financial services (‘FinTech’).
The group’s 30 recommendations are pertaining to the innovative use of technology in finance, maintaining a level playing field, access to data, and the financial inclusion and ethical use of data.

During the Winter and Spring 2020, the European Commission has organized and launched a series of initiatives (public consultations and online events) to gather inputs and views of a wide range of stakeholders, in particular, from Member States, national competent authorities, the European Supervisory Authorities, the European Central Bank, EU financial industry (incumbent financial institutions; start-ups; technology companies...), FinTech organisations, organisations representing the interests of consumers and investors, technology experts, academics and EU citizens.

The final objective is to propose in Q3 2020 a new digital finance strategy / FinTech action plan that sets out a number of areas that public policy should focus on in the coming five years. This new strategy will build on the work carried out during the previous mandate, in particular in the context of the FinTech action plan. It will take into consideration all the recent market and technological developments that are likely to impact the financial sector in the near future.

**Sustainable finance**

On 11 December 2019, the Commission presented the European Green Deal, a growth strategy aiming to make Europe the first climate neutral continent by 2050. As part of the Green Deal, on the Commission presented on 14 January 2020 the European Green Deal Investment Plan, which will mobilise at least €1 trillion of sustainable investments over the next decade. It will enable a framework to facilitate public and private investments needed for the transition to a climate-neutral, green, competitive and inclusive economy.

The Commission set up a technical expert group on sustainable finance (TEG), which began work in July 2018 and its mandate has been extended until 30 September 2020 in order to conclude technical work in February 2020 and provide further advice to the Commission before the end of its mandate.

On 18 December 2019, the European Commission has welcomed political agreement between the European Parliament and the Council on an EU-wide classification system for sustainable investments (taxonomy). The Taxonomy Regulation was finally adopted by the European Parliament on 18 June 2020. The taxonomy will enable investors to refocus their investments on more sustainable technologies and businesses. It will be key to enabling the EU to become climate neutral by 2050 and achieve the Paris agreement’s 2030 targets. These include a 40% cut in greenhouse gas emissions, for which the Commission estimates that the EU has to fill an investment gap of about 180 billion EUR per year.
The future framework will be based on six EU environmental objectives:

1. Climate change mitigation.
2. Climate change adaptation.
3. Sustainable use and protection of water and marine resources.
4. Transition to a circular economy.
5. Pollution prevention and control.
6. Protection and restoration of biodiversity and ecosystems.

The taxonomy for climate change mitigation and climate change adaptation should be established by the end of 2020 in order to ensure its full application by end of 2021. For the four other objectives, the taxonomy should be established by the end of 2021 for application by the end of 2022.

Article 20 of the Taxonomy Regulation creates a ‘Platform on sustainable finance’. The platform will be an advisory body composed of experts from the private and public sector. This group of experts will advise the Commission on the technical screening criteria for the EU Taxonomy. In addition, the platform will monitor and report on capital flows towards sustainable investments. The Commission launched a call for applications for the selection of the members of the Platform on sustainable finance on 18 June 2020.

On 18 October 2019, on the margins of the International Monetary Fund (IMF)/World Bank annual meetings in Washington DC, the European Union, represented by Vice-President Valdis Dombrovskis, together with relevant authorities from Argentina, Canada, Chile, China, India, Kenya and Morocco, launched the International platform on sustainable finance (IPSF). On 4 March 2020 Indonesia, Norway and Switzerland joined the IPSF. On 11 June 2020 Singapore and New Zealand also joined the platform. The ultimate objective of the IPSF is to scale up the mobilisation of private capital towards environmentally sustainable investments. The IPSF is a forum to strengthen international cooperation and, where appropriate, coordination on approaches and initiatives for the capital markets (such as taxonomies, disclosures, standards and labels), that are fundamental for private investors to identify and seize environmentally sustainable investment opportunities globally.

Renewed Sustainable Finance Strategy

The European Green Deal and the recovery from the economic consequences of the COVID-19 crisis will significantly increase the investment efforts needed across all sectors, meaning that financing frameworks, both public and private, must support this overall policy direction. This is why the European Green Deal has announced a Renewed Sustainable Finance Strategy, which aims to provide the policy tools to ensure that the financial systems genuinely support the transition of businesses towards sustainability in a context of recovery. The renewed strategy will contribute to the objectives of the European Green Deal Investment Plan, in particular to create an enabling framework for private investors and the public sector to facilitate sustainable investments. It will build on previous initiatives and reports, such as the
Commission’s 2018 Action Plan on Financing Sustainable Growth and the reports of the Technical Expert Group on Sustainable Finance (TEG). The importance of a Renewed Sustainable Finance Strategy is highlighted through the ongoing COVID-19 crisis, which underscores some of the subtle links and risks associated with human activity, climate change, and biodiversity loss, as well as the subsequently critical need to strengthen the sustainability and resilience of our societies and economies.
France

Introduction: answer to the pandemic crisis

France has taken a series of unprecedented measures to answer the pandemic. This included:

- fiscal and budget measures, including allowances to maintain 85% of wages
- moratoriums on business loans, that were put in place by banks shortly after the lockdown, which can go up to 6 months, without additional costs; banks also set up fast track procedures to respond to credit requests for difficult cashflow situations (to date, more than 2 million loans have been subject to deferral, which represents cash support of more than 20 billion euros)
- state guaranteed loans (PGE) which concerns to date nearly 555,000 companies, mostly small businesses, with 114 billion euros granted; a new state-backed loan entitled "PGE season" will also allow tourism companies (tourism, hospitality, catering, event, sports, leisure and cultural sectors) to apply to this new form of credit on the basis of the best three months of turnover achieved in 2019
- guaranteed loans provided by the French public investment bank BPI

Regulation and Supervision of Banks

France, as a member of the European Union, continues to follow the ongoing discussions at the Council and the European Parliament on the revision of the European supervisory and resolution framework. The aim is to transpose the international standards in Europe which were published before December 2017 (i.e. those endorsed by the Basel Committee and by the Financial Stability Board).

As far as the pandemic is concerned, the unprecedented implications of the global crisis triggered by COVID-19 have prompted European public authorities globally to take swift and decisive actions aimed at ensuring that credit institutions can continue to fulfil their role in funding the real economy and are able to support economic recovery, notwithstanding the likely increasing losses they will face due to the crisis:

- The ECB has made use of the supervisory flexibility permitted by the current legal framework to support credit institutions to keep providing credit to households, viable businesses and corporates hardest hit by the current economic fallout. In this regard the ECB provided temporary capital and operational relief and announced further flexibility in the prudential treatment of loans backed by public guarantees. The ECB has also encouraged institutions to avoid excessive procyclical effects in the application of the International Financial Reporting Standard (IFRS) 9, reduced temporarily the qualitative market risk multiplier to cater for the extraordinary levels of market volatility and issued a recommendation on dividend distributions aimed at preserving capital resources within the banking system to enhance its capacity to support the real economy.
• The European Commission initiated an emergency legislation to increase the capacity of credit institutions to lend and to absorb losses related to the COVID-19 pandemic, while still ensuring their continued resilience, in the form of targeted adjustments to Regulation (EU) No 575/2013 of the European Parliament and of the Council (CRR quick fix). This included:
  
  o Transitional arrangements for mitigating the impact of IFRS 9 provisions on regulatory capital
  o Treatment of publicly guaranteed loans under the NPE prudential backstop
  o Modifying the date of the treatment of publicly guaranteed loans under the NPE prudential backstop
  o Offsetting the impact of excluding certain exposures from the calculation of the leverage ratio
  o Allowing some temporary flexibility to certain aspects of market risk requirements

• The ECB also validated the emergency measures taken at the French level to answer the pandemic crisis.

**Regulation and Supervision of non-Bank Financial Institutions**

The first transparent and standardized (STS) securitization issues were launched in 2020, using the new label initiated by the European Commission in 2019.

The European Commission has published proposals to amend the securitization process in order to facilitate access to a greater range of investors and increase liquidity during the COVID-19 recovery phase; the proposal aims at encouraging a broader use of securitization by freeing up bank capital. This will be part of the wider Capital Markets Union action plan which is expected to be presented by the European Commission in September 2020.

**Anti-Money Laundering Developments**

The 5th European Anti-Money Laundering Directive of 30 May 2018 was enacted into French law in early 2020 and introduced new measures to further improve the fight against money laundering.

Under the 5th AMLD:

• New due diligence measures applicable to countries where anti-money laundering and counter terrorist financing systems show shortcomings are introduced to allow for better monitoring of financial flows from these countries. The European Commission published a revised methodology for the identification of high-risk third countries and a new list of these high-risk countries on 19 June 2020
For prepaid card payments, the threshold for exemption from due diligence requirements is lowered from €250 to €150.

For obligations regarding the identification and verification of the identity of customers using remote banking service: innovative electronic identification processes may be used in certain cases.

The French national assessment of the risks of money laundering and terrorist affecting the French internal market was published on 20 September 2019, and the sectorial assessment for the financial sector was been published on 18 December 2019.

Some updated guidelines have been also been published by the French supervisor ACPR:

- Guidelines on requirements related to KYC
- Guidelines on asset freeze
- Guidelines on the consolidated monitoring of the AML/CFT framework at the group level

**Cybersecurity**

As a strategic industry, French banks are investing massively in cyber security, which is a matter of national and European security. They are actively raising clients’ awareness of these issues.

The COVID-19 crisis was well managed by the Robustness French group that comprises of the Banque de France and French banks.

The pandemic has shown French banks' ability to massively develop teleworking; the Banque de France also praised the resilience of French non-cash payment players facing the COVID-19 health crisis and the efficiency with which French banks have been able to respond to the upheavals linked to the health crisis and to provide responses to the challenges raised by crisis; under complex operating conditions, the French cashless payments market has shown its resilience allowing unrestricted accessibility and availability of all payment services.

Two collective successes of the Paris financial center are also worth highlighting:

- The promotion of digital payment solutions, developed by national players to professionals who had to convert to distance selling
- The promotion of contactless payment, the maximum of which has been be increased to €50 for card payments in a few weeks thanks to a massive commitment from the French community
Treatment of Non-Domestic Financial Institutions

The treatment of non-domestic financial institutions by French institutions has not changed in the recent years.

However, the ongoing Brexit negotiations will have an impact on the treatment of non-domestic institutions and institutions licensed in the UK which will not benefit from the EU passport anymore and which will need to apply for a European license after Great Britain leaves the EU. Brexit may also require market infrastructure providers currently based in the UK (trading venues, CCP, etc.) to apply for equivalence status to the European Commission should they wish to continue to provide services to EU banks and asset managers.

Furthermore, the revision of the European Regulation of Market Infrastructure (EMIR review) adopted in 2019 reinforces CCP supervision. This text describes the rules that third country CCPs have to comply with if they want to be recognised by the EU authorities and to keep operating with EU counterparties.
Germany

As in most countries, the period from July 1, 2019, to June 30, 2020, was one of the most turbulent ones in decades for the German financial services industry. Global, regional and local developments triggered significant market developments as well as “quick fixes” and other regulatory changes for financial services providers both at a European and at a national level. The following section provides an overview of regulatory and market developments in Germany that took place or were initiated over the past year.

Germany as a financial center – market developments

Frankfurt is one of the leading financial centers in continental Europe and the Brexit-related restructuring process has been improving its position in the financial world. By the end of 2019, 31 international banks had opted to establish or expand their business activities in Germany as a result of the uncertainty surrounding Brexit. At the same time, the consolidation process in the German banking sector continued in 2019, due in particular to the highly competitive environment and the associated need to further reduce costs. The number of banks fell by 3.1 percent to 1534.

Positive economic developments in Germany in recent years have contributed to a decline in provisions on bank balance sheets. This trend has made a significant contribution to the profits German banks have been able to generate. However, the COVID-19 crisis is expected to reverse this trend. The size and scale of the provisions will depend on how the recession develops and the speed of the economic recovery.

In an international comparison, banks in Germany continued to show weak earnings in 2019 (measured as return on equity). If these weak earnings persist, they could become a serious competitive disadvantage, especially after the high investment costs of the digital transformation and in case the COVID-19 pandemic causes a lengthy recession. At the same time, significant investment in digital technologies and future-proof systems and market infrastructures have the potential to compensate for the current negative trends and ensure the long-term robustness and profitability of the German banking sector.

Developments due to the COVID pandemic

COVID-related measures to support small, medium, and large enterprises

Due to the economic effects of the pandemic on most sectors and on all kinds of enterprises (like disrupted supply chains, total shutdown), their need for liquidity started to rise significantly in March 2020. In the following months, banks substantially increased their lending. At the same time, new public programs and measures were put in place to support
companies that were suffering from declining sales (in so far as these were COVID-related). Germany’s largest development bank (KfW) offered loans to companies backed by an 80%, 90%, or even 100% public guarantee. The so-called Economic Stabilization Fund was established in July 2020 to grant targeted and temporary recapitalization measures for larger enterprises. While companies apply for publicly guaranteed loans through their bank, they contact the Economic Stabilization Fund directly to apply for support.

COVID-related regulatory measures

Insolvency law

Against the backdrop of the coronavirus pandemic, German insolvency law has been modified for a limited period of time. March 27, 2020 saw the entry into force of the Act to temporarily suspend the obligation to file for insolvency and limit management liability in the event of insolvency caused by the COVID-19 pandemic (Gesetz zur vorübergehenden Aussetzung der Insolvenzantragspflicht und zur Begrenzung der Organhaftung bei einer durch die COVID-19-Pandemie bedingten Insolvenz – COVInsAG). This Act suspends the obligation of debtors to file for insolvency if they are insolvent as a result of the corona pandemic. The obligation is suspended until September 30, 2020. The Act envisages that this period can be extended until March 31, 2021 by federal government decree. In addition, the Act contains certain provisions to protect banks that lend money while the suspension lasts. In particular, loans granted to a debtor cannot normally be challenged (Insolvenzanfechtung) by the insolvency administrator.

Consumer loans

To mitigate the effects of the pandemic, German legislators have also established civil law provisions regarding permanent contractual obligations, in particular, on the deferral of consumer loans (Article 240(3) of the Introductory Act to the Civil Code (Einführungsgesetz zum Bürgerlichen Gesetzbuche – EGBGB)). According to these provisions, interest or principal payments due from April 1, 2020 can be deferred for a period of three months. The deferral is dependent upon the consumer having lost income due to the exceptional circumstances caused by the COVID-19 pandemic, which meant they could not reasonably be expected to fulfill the obligation. The legal regulation only affects consumer loans during the period mentioned.

COVID-related supervisory measures

Both European regulators and German supervisors acted quickly to reduce the economic impact of the corona pandemic. Even before legislation was put in place, the Federal Financial Supervisory Authority (BaFin) and the German central bank (Bundesbank) took measures to encourage lending by less significant institutions (LSI: total assets <30bn euros). For example, German supervisors lowered the countercyclical capital buffer from 0.25% to 0.00% and allowed institutions to fall below the Pillar 2 guidance (Eigenmittelzielkennziffer) as well as the combined capital buffer.
Additionally, operational relief was provided in a number of forms, such as by postponing stress tests and deadlines for disclosing accounting documents; postponing consultations, such as that on the data collection concerning residential property loans (FinStabDEV); and by allowing institutions to communicate digitally to a certain extent even if regulation required communication in paper form.

Finally, German supervisors clarified that the publicly guaranteed portion of loans would not count towards the large exposure limit, which helped financial institutions provide companies with such publicly guaranteed loans.

**COVID-related tax measures**

In Germany, the COVID-19 crisis has led to numerous adjustments to legislation and tax administration, which should result in tax reductions for taxpayers.

In the field of legislation on corporate/bank taxation (Corona Tax Assistance Act of June 8, 2020 and Second Corona Tax Assistance Act of June 30, 2020):

1. Postponement of deadline for reporting cross-border tax arrangements.
2. Adjustment of the tax retroactivity for conversion processes.
3. VAT rate reductions from 19% to 16% and from 7% to 5% for the period from July 1, 2020 to December 31, 2020.
4. Increase in the tax loss carryforward to 5m euros for losses in 2020 and 2021.
5. Degressive (declining) balance depreciation for movable assets for the 2020 and 2021 financial years at a rate of 25% per annum, limited to 2.5 times the current straight-line depreciation rate.

In the field of tax administration:

1. Postponement by three months (from September 30 to December 31, 2020) of the deadline for transmitting to the Federal Central Tax Office accounts for the 2019 reporting period subject to reporting requirements under the OECD Common Reporting Standard.
2. Postponement by three months (from September 30 to December 31, 2020) of the deadline for transmitting to the Federal Central Tax Office accounts for the 2019 reporting period subject to reporting requirements under the FATCA USA Implementation Regulation.
3. Consultation agreements and extensions with neighboring countries Austria, Belgium, France, Luxembourg, the Netherlands and Switzerland concerning workers affected by the pandemic, especially cross-border commuters.
Further regulatory developments

German implementation of the Capital Requirements Directive V (CRD V)

On April 30, 2020, the German Ministry of Finance started to consult on the implementation of the European Capital Requirements Directive V in German law. The Risk Reduction Act (Risikoreduzierungsgesetz – RiG) will transpose CRD V into German law. The draft bill nevertheless contains some deviations from European law, such as the requirement to fulfill Pillar 2 guidance with common equity tier 1 (CET1) capital. The Association of German Banks has addressed these issues in order to achieve harmonized implementation of the European directive throughout Europe. The RiG will probably enter into force on June 28, 2021.

Crypto-assets as financial instruments under the German Banking Act (KWG)

On January 1, 2020 the amendments to the German Banking Act (Kreditwesengesetz) concerning the regulation of activities in relation to crypto-assets came into force. In connection with the implementation of the Fifth Anti-Money Laundering Directive (AMLD5), which amended the German Banking Act, Germany introduced a new definition of crypto assets. Crypto-assets are defined as

“digital representations of value that are neither issued nor guaranteed by a central bank or a public authority and that do not have the legal status of currency or money, but that, based on agreement or actual practice, are (i) accepted by natural or legal persons as means of exchange or payment or (ii) serve investment purposes and that can be transferred, stored and traded electronically”.

Furthermore, crypto-assets have been classified as a new category of “financial instrument” in order to require companies that operate in this area to apply for a license. This “catch-all” clause only applies if no other licensing requirement applies to the business in question. In addition, the reform explicitly regulates crypto-custody business, which also requires a license.

Germany has thus been very quick to provide market participants with clarity and legal certainty. The German supervisor BaFin received a large number of applications for such licenses in early 2020.

BaFin Guidance Notice on Dealing with Sustainability Risks

In December 2019 the Federal Financial Supervisory Authority (BaFin) published a guidance notice on dealing with sustainability risks. It is aimed at all entities under its supervision (financial institutions, insurance undertakings and asset management companies) and across all sectors.
The guidance notice supplements existing supervisory requirements on risk management to include the topic of sustainability risks. Its content sheds light on areas such as strategies, responsible corporate governance and risk culture, proper business organization, risk management including loan processing and risk classification procedures, stress tests, outsourcing arrangements and group issues.

It is intended as a guide for institutions to make them more aware of sustainability risks, which are seen as risk drivers of known material risk types (counterparty default risk, market risk, operational risk, liquidity risk, strategic risk and insurance risk). With regard to climate risk, BaFin differentiates between physical risk and transition risk.

Taxation-related developments

EU Dispute Resolution Mechanism Act

Germany implemented the EU Dispute Resolution Mechanism Directive (Directive (EU) 2017/1852) on December 23, 2019 by means of the EU Double Taxation Agreement Dispute Resolution Mechanism Act (EU-Doppelbesteuerungsabkommen-Streitbeilegungsgesetz – EU-DBA-SBG). The provisions are to be applied retroactively to all appeals for the resolution of disputes concerning income and assets filed from July 1, 2019 and, in principle, with respect to taxation periods from 2018 onwards. Taxable banks thus have the prospect of better protection against double taxation in the EU.

Mandatory rule to report cross-border tax structures

The so-called DAC6, the latest amendment to the EU Directive on Administrative Cooperation (Directive (EU) 2011/16), establishes uniform reporting obligations for specified cross-border tax arrangements throughout Europe (entry into force: June 25, 2018). The provisions are to be applied in EU member states for the first time as of July 1, 2020. In addition, there is a retroactive obligation to report implemented tax structures from the entry into force of the EU Mutual Assistance Directive. The German law introducing an obligation to report cross-border tax structures was promulgated in the Federal Law Gazette on December 30, 2019.

Under Section 138d of the German Fiscal Code, so-called intermediaries are obliged to notify the Federal Central Tax Office of certain cross-border tax structures that they have designed, prepared for implementation or administered. Intermediaries subject to notification may be banks. Although the Economic and Financial Affairs Council (ECOFIN) of the European Union agreed to flexibly postpone the deadlines for first-time transmission of notifications in light of the corona pandemic, the German Federal Ministry of Finance decided against a postponement, meaning notifications must be made as of July 1, 2020.
Draft bill implementing the Anti-Tax Avoidance Directive

The EU directives against tax avoidance practices (ATAD I, Directive (EU) 2016/1164; and ATAD II, Directive (EU) 2017/952) lay the foundation for uniform Europe-wide implementation of the OECD base erosion and profit shifting (BEPS) framework. EU member states were required to publish and apply the minimum requirements on a mandatory basis from January 1, 2020.

On December 10, 2019, the German Federal Ministry of Finance presented a draft bill on this subject, which, in addition to implementing the ATAD requirements, also envisages a comprehensive reform of foreign tax law, in particular a reform of supplementary taxation (controlled foreign corporation (CFC) regime) and a reorientation of transfer pricing rules. This has received considerable criticism, which has led to delays in the legislative process.

It remains to be seen how the legislative process will progress. First, according to the Coalition Committee meeting of March 8, 2020, the low tax limit of currently 25 percent is to be adjusted by the end of 2020 in accordance with the OECD Inclusive Framework Minimum Tax Initiative (Pillar 2). In addition, it is expected that the new provisions of foreign tax law will no longer be applicable to the current assessment period, but only apply from January 1, 2021.

Draft bill on the Multilateral Instrument

The OECD BEPS initiative against aggressive tax structures includes a Multilateral Instrument (MLI) to enable participating states to amend double taxation agreements (DTAs) in a single act by means of a multilateral international treaty instead of time-consuming bilateral negotiations. Germany signed the Multilateral Instrument on June 7, 2017.

In Germany – unlike most other MLI states – the procedure will be two-stage. In a first step, the MLI will be transposed by implementing legislation into national law. This will enable Germany to ratify the MLI, but it will not yet have any concrete effects. In a second step, the concrete changes to the DTAs covered will be set out in separate legislation and applied domestically. The MLI adjustments to the first German DTAs are expected to take effect from January 1, 2021 at the earliest.
Hong Kong

Banking Industry Overview

The Hong Kong banking sector remains resilient with strong capital and liquidity positions in the face of the outbreak of the novel coronavirus disease (COVID-19). The consolidated total capital adequacy ratio of locally incorporated authorized institutions (AIs) stood at 20.1% at end-March 2020, more than double the international minimum requirement of 8%. The average Liquidity Coverage Ratio (LCR) of category 1 institutions was 160.4% in the first quarter of 2020, well above the statutory minimum requirement of 100%. The average Liquidity Maintenance Ratio (LMR) of category 2 institutions was 56.8% in the first quarter of 2020, also well above the statutory minimum requirement of 25%. Meanwhile, although the asset quality of the banking sector is showing signs of modest deterioration it remains healthy overall. The classified loan ratio of the banking sector remained low at 0.62% at end-March 2020.

Relief measures introduced by the Hong Kong Monetary Authority (HKMA) and the banking sector are helping to tide borrowers over the COVID-19 driven downturn. At end-June 2020, for corporate customers, more than 42,000 applications for payment holiday under the Pre-approved Principal Payment Holiday Scheme or other forms of relief had been granted by banks, amounting to more than HKD500 billion. For personal customers, banks had approved more than 14,000 cases of principal payment holiday for residential mortgages and other personal relief loans, amounting to over HKD31 billion. In addition, the Hong Kong Mortgage Corporation launched in April 2020 a “Special 100% Loan Guarantee” scheme, which had more than 11,000 applications totaling over HKD20 billion approved by end-June 2020.

Belt and Road Initiative

The Infrastructure Financing Facilitation Office (IFFO) of the HKMA continues its work to facilitate infrastructure investments and financing by organising a number of well-attended seminars, workshops and roundtables to promote the Belt and Road Initiative. Among these events some highlights include the below:

- The Fourth Belt and Road Summit co-organised by the Hong Kong Government and the Hong Kong Trade Development Council was held on 11 -12 September 2019. At the Summit the IFFO led a panel discussion entitled “Sustainable Finance in Infrastructure”, which discussed the business case for adopting sustainable finance into infrastructure projects and the latest industry trends and offerings.
- The Second “Connecting Belt & Road, Capturing Opportunities Together” High-level Roundtable was held on 9-10 July 2019, co-organised by the HKMA and the State-owned Assets Supervision and Administration Commission (SASAC) of the State Council. The Roundtable considered how Central State-owned Enterprises can leverage on Hong Kong’s advantages to facilitate their overseas investment and business expansion.
The IFFO continues to harness and cooperate with a strong network of key stakeholders with the aim to promote the use of Hong Kong for infrastructure investments and financing. The number of IFFO's partners sits at 95, evidencing the IFFO's position as a strategic and collaborative platform offering “East and West” and public and private sector perspectives in infrastructure investments and financing.

**Green and Sustainable Finance**

The HKMA continues to promote Hong Kong as a major hub for green and sustainable finance. As announced in May 2019, the HKMA is implementing its three phase approach on green and sustainable banking, promoting responsible investment and beefing up capacity building.

- On green and sustainable banking, the HKMA has progressed Phase I (Development of a common greenness assessment framework for banks). The major focus of Phase I involves the development of a common assessment framework to assess the “greenness” baseline of AIs. In July 2019 the HKMA formed a “Working Group on Green and Sustainable Banking” represented by 22 AIs to develop an assessment framework. The industry was consulted on the draft assessment framework in December 2019 and the first round of assessment was launched in May 2020 (with approximately 50 banks participating). The results will be available in August 2020.

- The HKMA has now entered Phase II (Setting out supervisory requirements with a consultation) on green and sustainable banking. On 30 June 2020, the HKMA published the “White Paper on Green and Sustainable Banking” (White Paper). The White Paper sets out the HKMA’s initial thinking with regards to its supervisory approach to addressing climate related issues, including nine guiding principles designed to help AIs develop a framework (covering governance, strategy, risk management and disclosure) for managing the risk and opportunities brought by climate change. Apart from the White Paper, the HKMA issued a circular on 7 July 2020 to share with AIs practices adopted by major banks to manage climate risks observed by the HKMA in a recent study. The HKMA plans to consult the industry in 2021 on their supervisory expectations.

In June 2020, the Hong Kong Exchanges and Clearing Limited (HKEX) announced plans to launch a new sustainable finance platform, the HKEX Sustainable and Green Exchange (STAGE), which is the first-of-its kind in Asia. In the second half of 2020, an online repository consisting of data and information on sustainable and green finance investments will be launched in order to promote the visibility, transparency and accessibility of such financial products. It is intended that the platform will be developed further to introduce more asset classes and product types, such as derivative products linked to the relevant sustainability or “Environmental, Social and Governance” indices.

At the financial product level, green bonds arranged and issued in Hong Kong totaled USD10 billion in 2019, while new forms of sustainable debt financing also continued to evolve, including transition bonds, Greater Bay Area-themed green bonds, as well as green and
sustainability-linked loans. The banking sector has also seen a number of innovations in green and sustainable products launched in Hong Kong. This includes the following:

- In November 2019, a sustainable deposit was launched for corporate and institutional clients. The raised funds were used to finance activities that supported the United Nations Sustainable Development Goals in developing countries.
- In December 2019, green retail certificates of deposit were issued. The proceeds were earmarked to finance business and projects that promote transition to a low carbon, climate resilient and sustainable economy.

In October 2019, the IFFO’s Centre for Green Finance and the International Finance Corporation, a member of the World Bank Group, co-organised a seminar titled “Greening Financial Institutions” to enhance capacity and preparedness on green and sustainable banking. The seminar highlighted how financial institutions were increasingly factoring in climate-related risks in various aspects such as governance, lending policies, risk management frameworks, investment portfolios, business models and disclosure and discussed various principles and tools for corporates to transition their business and financing strategies.

On 5 May 2020, the HKMA and the Securities and Futures Commission (SFC) initiated the establishment of the Green and Sustainable Finance Cross-Agency Steering Group (Steering Group). The Steering Group aims to co-ordinate the management of climate and environmental risks to the financial sector, accelerate the growth of green and sustainable finance in Hong Kong and support the Government’s climate strategies. Other members of the Steering Group include: the Environment Bureau, the Financial Services and the Treasury Bureau, HKEX, the Insurance Authority (IA) and the Mandatory Provident Fund Schemes Authority.

**Renminbi Banking Business and the Greater Bay Area (GBA) Development Plan**

Hong Kong maintains its position as the global hub for offshore RMB business. Over 70% of global RMB payments were consistently handled in Hong Kong according to SWIFT statistics. RMB financing activities also increased in 2019, with offshore RMB bond issuance increasing by 17.9% to RMB49.4 billion in 2019 and RMB lending up 45.5% to RMB153.7 billion by the end of 2019.

Over the latter half of 2019, offshore and onshore RMB exchange rates strengthened over the US-China trade deal before weakening in January 2020 amid COVID-19. RMB exchange rates will continue to be influenced by the uncertainties surrounding US-China relations (particularly in respect of trade) and the continuing impact of COVID-19.

The People’s Bank of China (PBoC) continued to issue bills in Hong Kong, which aims to expand the spectrum of high-quality RMB assets in Hong Kong and to improve the benchmark yield.
curve of RMB bonds in Hong Kong. In 2019, the PBoC issued a total of RMB150.0 billion offshore bills in Hong Kong, of which RMB80.0 billion were outstanding as at the end of February 2019.

Various enhancements have also been introduced to the Bond Connect and Stock Connect schemes which connect the financial markets between Hong Kong and Mainland China. Driven by the inclusion of RMB bonds in major fixed income indices, the number of registered investors under Bond Connect tripled from 503 at end-2018 to 1,601 at end-2019 while average daily turnover also tripled to around RMB10.6 billion. From August 2019, offshore investors could choose T+3 as the bond settlement cycle. Since February 2020, RMB-denominated Mainland China government and policy bank securities have been included into the J.P. Morgan Government Bond Index-Emerging Markets. As a result, more overseas investors have started to invest in the Mainland China interbank bond market via Bond Connect.

Positive progress has been achieved in rolling out financial facilitation measures to support the development of the GBA. Financial connectivity with the Mainland is being enhanced, and access to financial services by Hong Kong residents has been made more convenient. The usage of Hong Kong e-wallets in Mainland China has expanded to cover some 800,000 merchants. Hong Kong residents are also allowed to open personal Mainland China bank accounts remotely.

On 29 June 2020, the HKMA, the PBoC, and the Monetary Authority of Macao jointly announced the launch of a cross-boundary wealth management connect pilot scheme (Wealth Management Connect) in the GBA and unveiled the framework of the scheme. The launch of the Wealth Management Connect adds a new member to the suite of Connect schemes linking up capital markets in the Mainland and Hong Kong, and can help to better serve the growing demand for cross-boundary wealth management and investment services by GBA residents.

**Financial Technologies (Fintech)**

The following developments in Fintech signified not only the new opportunities to various industry participants but also the risk management challenges that banks must grapple with:

- The HKMA published a number of high-level principles that banks should take into account when designing and adopting their artificial intelligence and big data analytic applications. The principles cover governance, application design and development, ongoing monitoring and maintenance.
- The HKMA separately issued a set of guiding principles on consumer protection aspects in respect of artificial intelligence and big data analytics. The guiding principles incorporated feedback from the banking industry as well as references from the “Updated Effective Approaches for Financial Consumer Protection in the
Digital Age” issued by the Organisation for Economic Co-operation and Development, focusing on governance, accountability, fairness, transparency and disclosure and data privacy and protection.

- The extensive experience in working remotely as a result of COVID-19 would likely speed up the adoption of Fintech and deepen the digitalisation process. Since 2018, more than ten retail banks have launched remote account opening services and other banks are considering similar initiatives. While enhancing efficiency, the increased use of Fintech may bring on new types of technology risk, including cyber risk. In view of this, the HKMA has issued alerts to remind banks to adopt good technology risk management practices and cyber hygiene.

- The HKMA has granted a total of eight virtual bank licences to date. Two virtual banks officially commenced operations in March and June 2020 respectively. Five others also commenced soft launches involving external customers, internal staff or close user groups under the HKMA’s Fintech Supervisory Sandbox by June 2020.

- In 2018, the HKMA published its “Open Application Programming Interface (API) Framework for the Hong Kong Banking Sector.” The Framework adopts a four Phase approach to implement various Open API functions. Twenty retail banks launched over 300 Phase II (customer acquisition) Open APIs in October 2019 as scheduled, covering deposits, loans, insurance and investments to support applications for banking products and services. Banks have begun to partner with third-party service providers (TSPs) using the APIs, and collaborative services have been gradually launched. In consultation with the HKMA, the Hong Kong Association of Banks (HKAB) published in November 2019 a common baseline with a view to streamlining banks’ engagement with TSPs. The baseline contains the common requirements which the banking industry should consider applying when they select and monitor TSPs. The next focus will be on implementing Phases III (account information) and IV (transactions). As phases III and IV involve access to customer data and processing of transactions, the HKMA has announced that it will first define a set of technical standards to facilitate secure and efficient implementation across the industry, before setting out a concrete implementation timetable. The technical standards are planned to be published in 2020.

- The HKMA and the Bank for International Settlements (BIS) entered into an Operational Agreement in September 2019 to mark the collaboration between the BIS and the HKMA on the BIS Innovation Hub Centre in Hong Kong. With the HKMA’s facilitation, the world’s first Innovation Hub Centre commenced operation in Hong Kong in November 2019. The Hong Kong Centre will serve as a focal point for regional Fintech collaboration and bring the application of innovative technologies among central banks to a new level.

- In November 2019, a memorandum of understanding was signed between the subsidiaries of Hong Kong Interbank Clearing Limited and the PBoC “Institute of Digital Currency” to conduct a Proof-of-Concept (PoC) trial that aims to connect eTradeConnect (a blockchain-based trade finance platform launched under the facilitation of the HKMA) and the PBoC Trade Finance Platform. The collaboration
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aims to streamline trade finance processes and provide firms in Hong Kong and Mainland China with more convenient trade finance services. The PoC trial is currently underway.

- The HKMA and the Bank of Thailand initiated a joint research project to study the application of Central Bank Digital Currencies (CBDCs) to cross-border payments with ten participating banks from both Hong Kong and Thailand. The first phase of the study was completed with a report published in January 2020 and a DLT-based PoC prototype developed, allowing participating banks in Hong Kong and Thailand to conduct funds transfer and foreign exchange transactions on a peer-to-peer basis, which helps reduce settlement layers. Further joint research work in relevant areas, including the possibility to extend the architecture to support an additional CBDC (issued by a third jurisdiction) is being conducted.

- The Faster Payment System (FPS) (launched in September 2018) supports multi-currency instant payments on a round-the-clock basis, with full connectivity between banks and e-wallets. Adoption has been increasing steadily as manifested by 5.4 million registrations at end-June 2020 (up by 34% or 1.4 million registrations from end-December 2019). The turnover of the FPS also rose particularly fast in the first half of this year amid the epidemic. To further promote e-payment in Hong Kong, the government has adopted FPS in accepting the public’s payment of government bills since November 2019. By the end of June 2020, 916,000 government bill payment transactions involving HKD1 billion had been made through the FPS. In addition, some Government departments are examining the feasibility of accepting FPS QR code payment at the counters and self-help kiosks. The service is planned to be rolled out in late 2020.

Implementation of Basel III in Hong Kong

In April 2014, the Basel Committee on Banking Supervision (BCBS) issued a “Supervisory framework for measuring and controlling large exposures” to supervise bank’s credit concentration risk. Pursuant to this, on 1 July 2019, the HKMA implemented the Banking (Exposure Limits) Rules (Cap. 155S) (BELR). BELR aims to update exposure limits to keep in line with market developments. The HKMA also issued a number of policy manuals as part of its implementation of BELR.

The Banking (Liquidity) (Amendment) Rules 2019 took effect on 1 January 2020 to:

- recognise Basel-compliant listed ordinary shares and triple-B rated marketable debt securities as high quality liquid assets (“level 2B assets”) under the LCR; and
- implement a required stable funding charge of 5% on total derivative liabilities under the Net Stable Funding Ratio, in line with the Basel Committee’s guidance. Similar amendments were also made to the LMR and the Core Funding Ratio.

On 27 March 2020, the Group of Central Bank Governors and Heads of Supervision (GHOS) announced the deferral of the Basel III implementation by one year to 1 January 2023. The objective was to provide additional capacity for banks to respond to the COVID-19 crisis. In
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particular:

- The target implementation of the revised credit risk, operational risk, output floor and leverage ratio frameworks will be deferred to 1 January 2023. The HKMA is developing detailed policy proposals for implementing these frameworks as informed by a local impact study.
- AIs will be required to implement the new market risk framework for reporting purposes by 1 January 2023. The local implementation of the actual capital requirements in Hong Kong based on the new framework will be no earlier than 1 January 2023.
- The implementation of the revised credit valuation adjustment (CVA) framework will be aligned with the revised market risk framework.

On 3 April 2020, the BCBS issued guidance to alleviate the impact of COVID-19 on the global banking system. In the Hong Kong context, the following applied:

- The HKMA expects the credit loss estimates to reflect the mitigating effect of the economic support and payment relief measures put in place by public authorities and the banking sector.
- The HKMA will defer the final two implementation phases of margin requirements for non-centrally cleared over-the-counter (OTC) derivatives by an additional year. The final implementation phase will start on 1 September 2022.

The HKMA reduced the jurisdictional Countercyclical Capital Buffer for Hong Kong on two occasions in October 2019 and March 2020 from 2.5% to 1.0% with immediate effect to allow banks to be more supportive of the domestic economy.

Additionally, the HKMA lowered the regulatory reserve requirement on AIs by half with effect from 8 April 2020. The HKMA sought to provide AIs with more room on their balance sheets to cater for future financing needs. The regulatory reserve release is not to be used for dividend distribution, share buyback or payment of bonuses to senior management.

The Banking (Capital) (Amendment) Rules 2020 (BCAR 2020) will take effect on 30 June 2021 to implement two capital standards issued by the BCBS relating to the counterparty credit risk framework. The capital standards introduce a new method for measuring the amount of counterparty credit risk incurred by banks from derivative contracts and revise the capital treatment for banks’ exposures to central counterparties and clearing intermediaries.
OTC Derivatives Market Regulation

Hong Kong continues to develop detailed rules for implementing its regulatory regime for the OTC derivatives market.

The SFC introduced key changes to the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) with respect to OTC derivative transactions. This included the below:

- New conduct requirements were introduced to address risks posed by group affiliates and other connected persons. The conduct requirements became effective 14 June 2019. Key changes include that licensed corporations adopting the overseas booking model must ensure that booking entities must be a licensed corporation, AI or a corporation similarly regulated as an OTC derivative dealer or a bank in a comparable jurisdiction (unless an exemption applies).
- New risk mitigation requirements were introduced in relation to non-centrally cleared OTC derivatives. The risk mitigation requirements became effective on 1 September 2019.
- New client clearing requirements in relation to OTC derivatives are to apply. The new client clearing requirements will come into force when new regulated activities in respect of dealing or advising in OTC derivative products (Type 11) and providing clearing agency services for OTC derivative transactions (Type 12) take effect.

On 7 May 2020, the SFC announced that it would defer the introduction of initial margin requirements for non-centrally cleared OTC derivative transactions by one year (to 31 August 2022) to provide relief over the COVID-19 situation. Initially, they were to be phased in starting 1 September 2020.

Separately, in June 2020, the SFC published its “Consultation conclusions on the OTC derivatives regime for Hong Kong” (Consultation Conclusion Paper). The Consultation Conclusions Paper primarily covered the proposed refinements to the scope of Types 11 and 12 regulated activities. The SFC is working with the Department of Justice to draft the proposed amendments on scope to the Securities and Futures (Amendment) Ordinance 2014, Securities and Futures Ordinance and the Clearing Rules.

Recovery and Resolution

Hong Kong continues to operationalise the resolution regime established under the Financial Institutions (Resolution) Ordinance (Cap. 628) (FIRO) through developing resolution policies, advancing resolution planning and building up the execution capacities of the resolution authorities.

The introduction of a new resolution facility as part of the HKMA’s updated Liquidity Facilities
Framework for Banks on 26 August 2019 was a significant milestone in the work to operationalise the resolution funding arrangements under the FIRO.

In accordance with the Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements – Banking Sector) Rules (Cap. 628B) (LAC Rules), a resolution entity or a material subsidiary is required to make a quarterly or semi-annual disclosure under Part 6 of the LAC Rules. On 31 October 2019, after consultation with the HKAB and the Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies (DTC Association), the HKMA issued the standard disclosure templates (with accompanying explanatory notes) with respect to loss-absorbing capacity under the LAC Rules.

In addition, on 22 January 2020 the HKMA published a consultation paper setting out its policy proposals for making rules under the FIRO on contractual stays on termination rights in financial contracts for AIs. The consultation paper sets out the HKMA’s policy objectives for making rules requiring the adoption of appropriate contractual provisions in certain types of financial contracts that are not governed by Hong Kong law. In particular, the rules will address risks stemming from the disorderly early termination of financial contracts in a resolution context.

On 19 June 2020, the HKMA issued a revised version of the SPM Module RE-1 “Recovery Planning” as a statutory guideline under the Banking Ordinance (BO). The revised SPM module mainly incorporates the expectations in exercising the HKMA’s powers relating to recovery planning requirements in the BO, reflects recent international or related local requirements and major jurisdictions’ practices, and clarifies certain aspects of recovery planning in response to the banking industry’s feedback.

**Prevention of Money Laundering and Terrorist Financing (ML/TF)**

As part of Hong Kong’s overall anti-money laundering and counter-financing of terrorism (AML/CFT) efforts, the HKMA together with the banking sector played an important role in safeguarding the banking system from ML/TF risks.

On 4 September 2019, the Financial Action Task Force (FATF) and Asia/Pacific Group on ML (APG) published the Mutual Evaluation Report (MER) of Hong Kong. The MER provides an assessment of the compliance and effectiveness of Hong Kong’s AML/CFT regime against international standards. The MER represented one of the best overall results to date in the FATF’s fourth-round MER of its member jurisdictions. The MER recognised that the banking sector had a clear understanding of ML/TF risks as well as adequate understanding and implementation of customer due diligence/record keeping requirements. With respect to the stored value facility (SVF) sector, the MER noted that the HKMA has a reasonable understanding of ML/TF risks in light of the relatively recent supervisory regime. A number of recommendations were put forward which will assist the HKMA in focusing its efforts over the coming years. These include understanding the higher risk areas such as foreign corruption and tax crimes and developing sectors such as SVFs. Work has already started to address these
recommendations. In July 2019, the HKMA published a report which updates the ML/TF risk assessment for the SVF sector. It was noted that pockets of higher ML/TF risks had emerged which included some SVF products with functions such as overseas cash withdrawal, cross-border remittance and person-to-person fund transfers. Moreover, the HKMA has commenced thematic examinations on private banking.

On 26 July 2019, the HKAB with input from the HKMA published an updated set of AML/CFT FAQs. The updated FAQs assist banks in understanding AML/CFT requirements.

In November 2019, the HKMA hosted the first AML/CFT RegTech Forum (Forum) to bring together a number of experts in RegTech (including banks, RegTech companies and other stakeholders) to share experiences and identify opportunities in how RegTech can be applied to further enhance the efficiency and effectiveness of AML/CFT efforts. The HKMA also published the Record of Discussion for the Forum in December 2019.

The HKMA published a circular dated 16 December 2019 to provide guidance to banks and SVF licensees in respect of managing ML/TF risks associated with virtual assets (VAs) and virtual asset service providers (VASPs). The circular was issued in response to the revised FATF Recommendation 15 which clarified the business and activities that the FATF requirements apply in the case of VAs and VASPs. The HKMA also referred to the “Guidance for a Risk-Based Approach – Virtual Assets and Virtual Asset Service Providers” published in June 2019 by the FATF, which is intended to, among others, help private sector entities wishing to engage in VA activities to understand and comply with their AML/CFT obligations.

In response to COVID-19, the HKMA continued to work closely with banks and SVF licensees to address practical AML/CFT issues in a pragmatic manner. The HKMA wrote to the industry on 7 April 2020 to resonate with the statement published by FATF on 1 April 2020. The HKMA reminded banks and SVF licensees to remain alert to COVID-19 related financial crime risks. In particular, it has become apparent that there is an increase in COVID-19 related scams (for example the face mask scams) as well as the vulnerability in relation to changes in financial behaviour including in the rising number of customers unfamiliar with online platforms. The HKMA has been in touch with banks to, amongst other things, understand the challenges they faced in maintaining normal operations of AML/CFT systems, and reiterated the flexibility inherent in the risk-based approach and the benefits of Fintech and remote on-boarding initiatives in view of social distancing requirements resulting from COVID-19. Further to this, the HKMA shared its key observations and good practices identified in the thematic review of remote customer on-boarding initiatives with the industry in June 2020.

The HKMA also supported multiple industry-led initiatives on emerging financial crime risks in relation to COVID-19, including the Fraud Risk Management Taskforce (Taskforce) established by the HKAB primarily in response to fraudulent activities arising from the global pandemic. In addition to sharing good practices on fraud prevention and detection with the banking industry, the Taskforce also intends to launch a publicity and education campaign for awareness raising among the general public. Meanwhile, the HKMA has published a series of social media posts to
remind the public to stay alert of and not to fall victim to COVID-19 related financial crime.

The Fraud and Money Laundering Intelligence Task Force (FMLIT), a Public-Private Partnership comprising of the Hong Kong Police, the HKMA and the banking sector, has implemented a number of initiatives aimed at addressing the financial crime risks stemming from COVID-19 related deceptions. The initiatives included the sharing of case-based intelligence to mitigate ML/TF risks across member banks and the dissemination of an alert on surgical mask scams to all banks and SVF licensees to raise awareness across the industry.

**Securities Sector**

As part of its Balanced and Responsive Supervision initiative, the HKMA has streamlined and refined investor protection measures on the sale of investment, insurance and Mandatory Provident Fund products, and provided guidance accordingly to enhance customer experience in September 2019. The HKMA provided clarification and further guidance in July 2019 in order to address industry comments on the implementation of enhanced investor protection measures governing the sale and distribution of debt instruments with loss-absorption features and related products. The HKMA provided further guidance in November 2019 on the prevention, detection, and mitigation of misconduct risks in the selling of investment funds.

**Insurance Sector**

The IA was established in 2015 as the insurance industry regulator when the Insurance Companies (Amendment) Ordinance 2015 (Amendment Ordinance) came into effect. The Amendment Ordinance was implemented in three stages. The new statutory regime covers insurers, insurance brokers and insurance agents (insurance intermediaries). On 23 September 2019, the final stage was implemented. On this date, the IA became the sole regulator of all insurance intermediaries in Hong Kong by taking over the regulatory functions from the three self-regulatory organisations. The Insurance (Maximum Number of Authorized Insurers) Rules (Cap. 41K), the Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (Cap. 41L), the Code of Conduct for Licensed Insurance Agents and the Code of Conduct for Licensed Insurance Brokers, as well as a number of regulatory guidelines issued by the IA in the latter half of 2019 came into operation.

Under the new regime, insurance intermediaries are required to be licensed by the IA. In addition to the licensing requirements, the Amendment Ordinance also sets out various statutory conduct requirements (including but not limited to a requirement to act honestly, fairly and in the best interests of a policyholder and with integrity.)

Pursuant to the Amendment Ordinance, the IA has delegated its inspection and investigation powers on AIs’ insurance regulated activities to the HKMA. The two regulators have entered into a new Memorandum of Understanding to strengthen the co-operation under the new regime.
The Hong Kong Government on 20 March 2020 published the Insurance (Amendment) Bill 2020 and the Insurance (Amendment) (No. 2) Bill. The Insurance (Amendment) Bill 2020 will, among other things, provide a bespoke and streamlined regulatory framework for the issuance of insurance-linked securities through the formulation of special purpose insurers. The Insurance (Amendment) (No. 2) Bill will permit the IA to exercise direct regulatory powers over the holding companies of multinational insurance groups. Each bill will come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

Hong Kong has seen an increase in the development and application of technology in the insurance industry (Insurtech). In particular, in 2017, the IA introduced the Fast Track scheme as a dedicated queue for firms seeking to enter the insurance market using solely digital distribution channels. In October 2019, the IA granted the first authorisation of a non-life insurer owning and operating solely through digital distribution channels under First Track. As at May 2020, the IA has granted authorisation under Fast Track to a total of four virtual insurers. In addition, in 2018, the IA set up the Future Task Force (FTF) to explore the future of technology in the insurance industry. Under the FTF, there are three working groups, namely Embracing Fintech, Financial Regulation and Policy and Image Building. In September 2019, the Embracing Fintech working group met to consider “Insurance Pain Points with Technologies – Data Privacy”. The FTF intends to draw up a number of recommendations for the future of Insurtech in Hong Kong.
Significant Market Developments

The Italian economy has continued to slow down last year. Real GDP growth went down from 0.8% of 2018 to 0.3% of 2019. The COVID-19 pandemic and the related containment measures had a strong impact on the real economy. Real GDP fell by 5.4% in Q1 and by 12.4% in Q2. However, a rebound is expected in the second half of 2020 supported by policy measures. Indeed, industrial production recorded a monthly increase of 8.2% last June. The expected recovery will be supported by the Italian economy’s strengths, such as high household wealth, low private sector debt and resilient banking sector.

Banks’ lending to the private sector has been growing since the end of 2016. The most recent data, updated to June 2020, show that total loans to households and non-financial firms continue to grow at a rate of 2.7% on an annual basis. In particular, loans to non-financial corporation grew by 3.7%, supported by liquidity measures adopted by the Government and other national and international authorities. Total funding from customers showed an upward trend in 2019, which is confirmed in the early months of 2020, driven by deposits, while retail bonds continue to decline. Overall, the latest figures (updated to June 2020) indicate that total funding from customers (deposits and bonds) grew by 4.5%.

In 2019 the Italian banks’ asset quality also continued to improve steadily, both in terms of flows and stock of non-performing loans (NPLs). The flow of new NPLs, which has been decreasing since 2014, stood at approximately 1.2% of total loans, below the pre-crisis average. The stock of NPLs, net of provisions, stood at 70 billion euro at the end of 2019 (-22% y-o-y). The reduction in NPLs inflows, combined with the simultaneous increase in their outflows, has led to a sharp reduction in the NPL ratio: it decreased from 16.5% of 2015 to 6.6% if measured in gross terms, or from almost 10% to 3.3% if measured in net terms (which means taking into account the losses on NPLs already accounted for in banks’ balance sheet). The impact of the pandemic crisis on credit quality will be mitigated by the effects of the measures adopted by the Government.

The NPLs coverage ratio remained high (i.e., 52,4%) and above the euro area banks average. Capitalization has also increased and is well above the minimum prudential target requested by banking supervisors. The Common Equity Tier 1 ratio stood at 13.9% at the end of 2019, over 60 basis points more than at the end of 2018.

In 2019, the profitability of Italian banks is slightly decreased compared to the previous year, mainly due to the reduction in interest income and higher tax charges. The return on equity (ROE), net of extraordinary components, was 5.0% (5.7% in 2018).
Local Regulation of Securities Firms, Insurance Firms, Commodities Firms and other Nonbank Financial Firms

As it regards the developments in the Italian local regulation, during the period under scope of analysis, two important regulations were issued in order to complete the transposition of the provisions of the Directive 2016/97/EU on Insurance Distribution (i.e. IDD), which entered into force on 1 October 2018. The new regulations are focused on the conduct rules applicable to the distribution of investment-based insurance products (i.e. IBIPs) and are, respectively, represented by:

- Consob Resolution No 21466 of 29 July 2020, referring to the distribution of IBIP carried out by banks and investment firms;
- IVASS Resolution No 97 of 4 August 2020, referring to the distribution of IBIP carried out by insurance companies and insurance tied agents.

Another important development of the Italian local regulation regards the issuance of a piece of regulation aimed at completing the transposition of the Directive 2016/2341/EU on the activities and supervision of institutions for occupational retirement provision (i.e. IORP II), which had to be transposed into national law by 31 January 2019. On 29 July 2020 Covip (the Italian Pension Funds Supervisory Authority) issued the Directives to supplementary pension schemes regarding the necessary amendments to be implemented in order to apply the new legislative provisions provide by the legislative decree N 252 13 December 2006m, modified according to the IORP II Directive.

Development Regarding the Regulation of Derivatives, Securities Products, Investment Services and Operators of Regulated Markets

In consideration of the (still) uncertain outcome of the negotiations between the European Union and the United Kingdom on a possible agreement on the withdrawal from the Union, it is worth recalling a Law Decree n. 22 (commented in the previous edition of the Report) issued in March 2019 containing regulatory measures aimed (i) at ensuring continuity in the provision of investment services and activities by both Italian entities operating in the United Kingdom and British entities operating in Italy, as well as (ii) to regulate an ordered exit from the Italian domestic market by UK entities called to cease operations within the Republic by the withdrawal date, whose entry into force is conditioned to the lack of an agreement on the withdrawal of the UK from the EU (so-called, no-deal scenario). In this context, with specific regards to derivative contracts, banks and investment firms in the UK will be allowed to continue managing life cycle events of OTC derivative contracts not subject to clearing by a central counterparty, even in cases where this involves amending these contracts or the conclusion of new contracts, as far as it is within the “transitional period”, subject to notification to the competent authorities (with “transitional period” defined as the timeframe between the date of withdrawal without an agreement and the end of the 18th following month).
Moving to more recent local legislative initiatives, the Law Decree n. 23 dated 8 April 2020 brought some ‘minor’ amendments to some footnotes of the Italian Consolidated Financial Law ("Testo Unico della Finanza", T.U.F., namely the Legislative Decree n. 58 of 24 February 1998), aimed at recalling some forthcoming terms specified under art. 95 (Transitional Provisions) of the MiFID II Directive (Directive 2014/65/EU, as amended over time by other Directive) where it is stated that, only until 3rd of January 2021, the clearing obligation and the risk mitigation techniques set out under Regulation (EU) No 648/2012 (so-called, EMIR Regulation) will not apply to “C6 energy derivative contracts” entered into by non-financial counterparties (NFC) which fall above the clearing threshold (under the EMIR discipline). Such due-to-expire exemption is granted by the relevant competent authority.

The same Law Decree n. 23/2020 updated also some footnotes in the “Central Securities Depository” Section of the T.U.F. (specifically under Article 83-bis) in order to recall that, as at the 1st of January 2023, the first and second paragraph of such Article 83-bis (on transferable securities to be represented in book-entry form), will be replaced and recall the text of Art. 3(1) of Regulation (EU) 909/2014 (so-called, CSDR Regulation). The amendment does not imply any substantial changes to the local regulation though as transferable securities in Italy are already represented in book-entry form.

Further to the above, the Italian Financial Services Authority (CONSOB) Resolution no. 20249 of 28 December 2017 ("Market Regulation" or “Regolamento Mercati”), which lays down implementation rules of the (above mentioned) T.U.F. Decree, was amended twice, in September 2019 and April 2020:

- The first set of amendments were aimed at expanding the scope of the shareholdings that operators managing regulated markets can take. Indeed, further to shareholdings in central counterparties (CCPs) and central securities depositories (CSDs), and in companies that directly or indirectly manage regulated markets, MTFs or OTFs, the amendment dated September 2019 has also included “companies licensed to provide the service of receiving and transmitting orders where the activity consists of preparing and managing information circuits for entering terms of trading for financial instruments that do not allow the conclusion of the contract by means of the same circuit companies licensed to provide the service of receiving and transmitting orders where the activity consists of preparing and managing information circuits for entering terms of trading for financial instruments that do not allow the conclusion of the contract by means of the same circuit.”

- The second set of amendments is aimed at including in the above-recalled “Market Regulation” a recent amendment brought to the trading tick-size regime applicable to trading venues, provided for in MiFID II’s delegated regulation, and it states “The application of the dimensions of the trading ticks does not prevent the trading venues from combining large size orders as identified by the Delegated Regulation (EU) 2017/587 at the midpoint of the current purchase and sale prices.”.
Implementation of EU Regulation 2019/979 on “Prospectus”

The process of implementation of the European Regulation on "Prospectus" took place in Italy in two phases: the first relating to the changes that directly concern the so called “Regolamento Emittenti” 11971/1999 in July 2019; the second phase concerning the amendments to the “Testo Unico della Finanza” (T.U.F.) which must be preliminarily implemented through the European Delegation Law, which took place in the first months of the current year.

With reference to the amendments to the “Regolamento Emittenti”, CONSOB, following an ad hoc consultation, simplified the submission, control, approval, publication of prospectuses and supplements for the public offer or "admission to trading of securities on a regulated market. The implementation process was finally completed with the amendments at national level to the “TUF” to adapt it to the European Regulation. In this regard, the Ministry of Finance launched on February a consultation process. It is worth noting that in the final text a responsibility regime, for the managers running the placement of the securities, for false information or omissions that may influence the decisions of the investors, has been included.

Crisis management for mid-size and small banks

In the last few months the need to deepen and complete the European banking union project has triggered a lively debate at EU level.

It has been noted that European financial markets are still fragmented and barriers to the free flow of capital and financial liquidity still exist, therefore it is time to bundle together a comprehensive package to further ameliorate the banking union project.

In particular, for the time being one of the more politically charged objective is to address the failure of smaller and medium sized banks, which currently tend to be handled outside of the resolution regime due to the absence of public interest in resolution.

EU policymakers agree with the need for more effective crisis management of smaller banks, which would require better articulation between resolution and insolvency. In this regard, there is a growing recognition of the need to further harmonise elements of insolvency for banks, particularly with respect to the ranking of liabilities, the trigger points to initiate insolvency and resolution, and the tools that would provide for flexibility in managing the failure of banks that are not resolved.

In the past few months the SRB has made clear that the harmonization of insolvency regimes for banks is a necessary end-goal. However, it is unlikely to be achieved in the short-term. The creation of a centralized administrative liquidation tool may be more feasible in the short-medium term and would address many of the issues identified for medium-sized banks, with insolvency tools remaining available for smaller banks.
Such a liquidation tool could be created by amending the BRRD, SRMR and DGSD - whose current application also merits further technical analysis - and could provide for the powers to transfer assets and liabilities in an orderly liquidation, in line with the current resolution tools. In the Banking Union, this power could be entrusted to a central authority. As a first step, the SRB’s toolbox could be enriched with a “pre-liquidation tool”, allowing the application of resolution tools to save the good part of a bank without entering into liquidation, or without requiring a specific liquidation regime at European level.

In this context, the example of the U.S. FDIC has been brought up repeatedly, whose experience also shows the benefits of having a centralized authority with harmonized resolution and insolvency procedures, P&A tools and Deposit Guarantee competences.

All in all, a centralized liquidation regime in the EU would address the current gap in the framework for medium-sized banks and improve the overall system: a further step towards the completion of the Banking Union that EU policymakers will explore further in the coming months.

**Payment Accounts Directive (PAD)**

Following the transposition of the European Directive on payment accounts (PAD)⁴ by means of Legislative decree 37/2017, in July 2019 Bank of Italy published a new release of the Transparency Provisions (secondary legislation) which were amended, following a specific consultation, to implement the Commission Regulations provided for under the PAD.

The main changes concern Union standardized terminology (Regulation EU 2018/32), the standardized presentation format of the Fee Information Document – FID (Regulation EU 2018/34) and of the Statement of Fees – SoF (Regulation EU 2018/33).

**Class Action**

With regard to the new provision on class action (Law no. 31 of April 12, 2019), it should be noted that Law no. 28 February 2020 n. 8 postponed the entry into force of the new discipline from 19 April 2020 to 19 November 2020.

**Anti-Money Laundering**

During the term July 2019-July 2020, the Bank of Italy completed the regulatory framework of AML legislation, as the Provisions regarding customer due diligence measures and the Provisions about the means of retention and use of data for anti-money laundering purposes have been issued.

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The abovementioned regulation was long awaited by the intermediaries, as it contains, respectively, the set of operational rules for the compliance with KYC principles contained in Legislative Decree n. 231/2007, and the instructions about how the relevant data and information collected for AML should be made available to FIU and Bank of Italy (leaving intermediaries the possibility to choose whether to extract data from the “chosen” storage system, based on technical specifications and of the standards provided by the regulators, or make use of standardized archives, in particular the former “AUI”, for which technical registration standards are provided).

Eventually, on December 23rd, the Ministry of Treasure launched a public consultation on the draft Decree regarding UBO register, and in particular, the means for the supply, access and consultation of the register.

The choice of the Italian legislator fell on the creation of a special section of the current Company register. This register will include the beneficial owners of joint-stock companies, which by definition are registered in the business register, the same will also include the beneficial owners of private legal persons (registered in the prefectural registers) and trusts. The final decree, expected for July the 3rd, hasn’t been published yet.

Finally, the Regulator implemented the V AML Directive into domestic legal framework by the legislative Decree No 125 of October 2019.

**Payment Services Directive (PSD2)**

In the second half of 2019, all Payment Service Providers in Italy (PSP) worked towards compliance with the rules introduced by Delegated Regulation 2018/389 complementing Directive (EU) 2015/2366 (i.e. PSD2) with regard to the Regulatory Technical Standards on Strong Customer Authentication (SCA) and Common and Secure Communication (CSC) which applied as from 14 September 2019.

However, as to SCA, on 21 June 2019, the EBA published an Opinion that, acknowledging the complexity of the payments markets across the EU and the challenges that arise from the changes that are required to comply with the RTS, in particular for some actors in the payment chain that are not PSPs, accepted that, on an exceptional basis and in order to avoid unintended negative consequences for some payment service users after 14 September 2019, national competent authorities (NCAs) may provide limited additional time for e-commerce card-based payment transactions to allow card-issuing PSPs to migrate to authentication approaches that are compliant with SCA and acquiring PSPs to migrate their merchants to solutions that support SCA. Furthermore, the EBA in October 2019, the EBA published an additional Opinion that while setting the deadline of 31 December 2020 for such limited

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additional time of regulatory flexibility, prescribed the expected actions to be taken during the migration period by NCAs and the related monitoring deadlines.

In accordance with this, Bank of Italy, in its quality of NCA, decided to provide the Italian financial industry additional time until 31 December 2020 to complete the adjustments required, requesting the intermediaries wishing to make use of the extension to submit a detailed migration plan which includes communication and customer-readiness measures, in relation to both merchants and cardholders.

Due to the COVID-19 pandemic and related difficulties in the market, the EBA supported issuing and acquiring payment service providers’ efforts to focus on their customers, by removing their NCA’s obligation to report by 31 March 2020 their readiness to meet the strong customer authentication requirements for e-commerce card-based transactions keeping all other requirements set out in the above mentioned Opinions unchanged.

While continuing to clarify a number of issues relating to PSD2 and the related secondary legislation via its online Q&A tool, in June 2020, the EBA also published an additional Opinion responding to a number of queries and issues that had been raised by market participants with the EBA and national competent authorities (NCAs) regarding the dedicated interfaces provided by ASPSPs and, in particular, regarding potential obstacles to the provision of TPPs’ services (articles 31 and 32 of the above mentioned RTS on SCA and CSC).

At national level, Bank of Italy’s amended Transparency Provisions (secondary legislation) to implement PSD2, concerning mainly pre-contractual information, communications to customers and complaints entered into force on 1st January 2020. On the same date, the sections of the Transparency Provisions amended to complete implementation of the Payment Accounts Directive (PAD)⁶ and specifically to implement the Commission Regulations provided for under the PAD with regard to the Union standardized terminology (Regulation (EU) 2018/32) and the standardized presentation format of the Fee Information Document – FID (Regulation (EU) 2018/34) and of the Statement of Fees – SoF (Regulation (EU) 2018/33), also entered into force.

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Latvia

Regulatory developments

The changes in the framework of regulatory requirements were mainly based on the legal acts issued by EU institutions in order to ensure a harmonised framework in the EU single financial market, considering the risks and development trends of the Latvian financial sector and concurrently seeking solutions fostering the reduction of administrative burden.

Overall, in 2019 broad changes were introduced in the framework of regulatory requirements pertaining to such areas as credit risk management, establishment of corporate governance system, preparation of annual statements, and a number of others. Further improvements were made also AML/CFT sector.

To enhance credit risk management, in light of the changes in the EU regulations and supervisory practice, in 2019 the Financial and Capital Market Commission (the FCMC) put considerable effort in enhancing the laws and regulations in the field of credit risk. New FCMC Regulations for Calculating Credit Risk Capital Requirement were approved, prescribing the threshold of materiality of delay in obligations for determination of default, providing for more extensive explanation of the features used in Article 178 of Regulation No 575/2013 to determine that the obligor is unlikely to pay its debt in full without realising security, as well as laying down the criteria to be considered when determining items related to especially high credit risk for the needs of calculating capital requirement.

Numerous amendments were introduced to the Regulations on Credit Risk Management, inter alia, in order to reduce the amount of non-performing loans and to prevent repeated accumulation thereof in the future, the content of the credit risk strategy was adjusted, more detailed requirements were set for application of forbearance measures, additional requirements were set for the institution with high NPL share in the field of management of such loans. Considerable changes were introduced in the requirements set for the loan-granting process, introducing binding borrower-based measures - quantitative limits ensuring effective credit risk management and well-reasoned assessment of creditworthiness of borrowers for consumer loans. The regulations also entailed specific restrictions for housing loans for the purposes of gaining income arising out of the borrower’s real estate operations, and new requirements were set for using automated solutions in the loan-granting process.

Fostering the implementation of better corporate governance standards, in 2019 the amendments to Regulations on Establishment of the Internal Control System were approved, introducing EBA guidelines on internal governance, as well as taking into consideration the core principles of Basel Committee on Banking Supervision in the field of corporate governance. The amendments change the requirements of the regulations in such material internal governance aspects as strengthening the role and independence of the internal control function holders, strengthening of risk culture and prevention of conflict of interest situations, introduction of
corporate values and standards of professional conduct and ethics, and implementation of an effective organisational structure, and supplement the regulations with the requirements to assess the need to nominate an independent member of the supervisory board.

In addition, the **Regulations on the Assessment of the Suitability of the Executive and Supervisory Board Members and Key Function Holders** were developed, introducing "Joint EBA and ESMA Guidelines on the assessment of the suitability of members of the management body and key function holders". Regulations cover such aspects as the procedure and principles for the assessment of suitability of the officials, criteria for suitability assessment, implementation of diversity policy within the scope of the supervisory and executive board, principles for ensuring individual and collective suitability assessment of the supervisory and executive board members.

In 2019, the FCMC prepared amendments to the **Law on Alternative Investment Funds and Managers Thereof**, prescribing significant changes with respect to supervision of the activities of the registered AIFM and the payments to the FCMC related thereto.

Amendments to the Law stipulate that the FCMC will perform the registration of a registered AIFM (registered manager), but will not henceforth perform the registration of the AIF under the management thereof. Registration of the manager will take place based on the reduced scope of information to be provided to the FCMC. If the investor of the fund of the registered manager would detect that the manager fails to observe the requirements laid down in the Law on Alternative Investment Funds and Managers Thereof or, due to the actions of the manager, the infringement of his or her rights have occurred, he or she will be entitled to address he court of the Republic of Latvia under the procedure prescribed by law and regulations. The FCMC continues performing the supervision of managers licenced in Latvia and the manager registering European venture capital fund in Latvia, as well as the custodian banks in accordance with the Law on Alternative Investment Funds and Managers Thereof and directly applicable EU legal acts. At the same time, the FCMC is also in charge of supervision of the distribution in Latvia of the investment units (shares) of a member state fund under the management of a licenced manager.

After the coming into force of the amendments to the Law on Alternative Investment Funds and Managers Thereof, it was necessary introduce amendments to the **Regulations on Preparation of Reports of Alternative Investment Fund Managers** and the **Regulations on Preparation of Reports of Investment Management Companies**, to ensure that the frequency of provision of data on the activities of the registered manager to the FCMC is reduced to that prescribed by the Law on Alternative Investment Funds and Managers Thereof - once per year, at the same time preserving the volume and content of the received data for the FCMC to be able, within the scope of information exchange, to provide data to other institutions for aggregating statistical data in accordance with the requirements of the directly applicable EU legal acts.
At the end of 2019, the **Law on Private Pension Funds** was adopted, replacing the previous Law on Private Pension Funds, transposing and adjusting the norms contained therein, as well as supplementing it with voluminous requirements to introduce into the national laws and regulations Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016, on the activities and supervision of institutions for occupational retirement provision. The Law prescribed the procedure for supplementary pension provision, types of pension funds and their operational principles, types of pension plans, the rights and obligations of the pension plan participants and recipients of supplementary pension, procedure for management of assets, competence of the asset-holder, and the procedure for performing supervision of the referred to activities.

Under the delegation provided for in the Private Pension Funds Law, the FCMC regulations have been developed prescribing the requirements for pension funds with respect to corporate governance, preparation of reports, calculation of solvency standard and own funds, and other aspects.

From 16 July 2019, the amendments to the **Financial Instruments Market Law** are in force, introducing the Shareholder Rights Directive, prescribing the duty of the companies with the stocks being listed on a regulated market to develop the remuneration policy and the report. Likewise, additional disclosure requirements are set for the credit institutions and investments firms as regards investments in the stock of the companies listed on a regulated market.

Concurrently with the referred to changes, the shareholder identification requirements are also being introduced; however, they will come into force only on 1 September 2020. From 16 July 2019, the amendments to the **Insurance and Reinsurance Law**, the **Law On Investment Firms**, the **Law on Alternative Investment Funds and Managers Thereof**, and the **Law on Private Pension Funds** (currently already replaced by the Private Pension Funds Law) are in force, introducing the Shareholder Rights Directive and setting additional disclosure requirements as regards investments in the stock of the companies listed on a regulated market.

Further to transposition of the **5th EU Anti-Money Laundering Directive** into the **Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing**, the FCMC issued **Regulations on the Establishment of Customer Due Diligence, Enhanced Customer Due Diligence, and Risk Scoring System**, which are binding on all kind of market participants. The regulations set risk factors to which the institution assigns a certain number of points. The referred-to risk factors are divided into two groups - risk factors, upon the occurrence whereof the institution carries out enhanced customer due diligence; and risk factors, upon the occurrence whereof the institution carries out one or more enhanced customer due diligence measures to such an extent that ensures the examination of the relevant risk factor. The regulations also prescribe risk-decreasing factors, which the institution may apply when performing customer risk scoring. The regulations provide for elaboration of methodology for the customer risk scoring system, ensuring that the customer's risk scoring system appropriately and effectively reflects the overall risk inherent to each customer in numbers. As compared to the previous regulation, the Regulation provides for the rights to extend the term
for carrying out enhanced due diligence and prescribe the conduct of the institution in such cases. The regulations also stipulate the types and content of enhanced due diligence, as well as elaborate on the restrictions to be set within the scope of enhanced supervision. In July 2020, the FCMC adopted recommendations on the client due diligence to provide a manual for the credit institutions and financial institutions on the risk-based principle.

In addition, in 2019, the FCMC issued Regulations on Conducting an Independent Assessment of the Internal Control System for the Prevention of Money Laundering and Terrorism and Proliferation Financing prescribing the frequency, scope, and procedures for performance of the independent assessment of the AML/CTPF internal control system of the institution. The FCMC also issued Regulations on Information Accompanying Transfers of Funds, prescribing minimum measures to be taken to ensure the fulfilment of the requirements of Regulations (EU) 2015/847 of 20 May 2015, on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 and to minimize the MLTPF risk associated with transfers of funds.

It should be noted that the year 2019 was highly important for Latvia in preventing the deficiencies referred to in Moneyval Fifth Round Evaluation Report that put Latvia under enhanced follow-up status. Work was taking place in implementation of significant and permanent changes in the field of anti-money laundering and combating financing of terrorism and proliferation in Latvia. As a result, in the Moneyval Report published on 22 January 2020, legislative framework of Latvia was assessed as compliant or largely compliant with all FATF 40 Recommendations. The Latvia’s efficiency or application of the regulatory framework in the fight against money laundering and financing of terrorism and proliferation was positively recognised by the FATF experts in February 2020. Latvia has successfully fulfilled all 11 FATF immediate outcomes. It was concluded that Latvia has established a strong and resilient financial system for protection against money laundering, terrorist financing, and proliferation of weapons of mass destruction.
Malaysia

In the first half of 2020, Malaysia, like many other countries around the world, faced challenging economic times brought about by the COVID-19 pandemic. Following the Movement Control Order (MCO) that was effective from 18 March 2020, whereby all sectors, except essential services, were instructed to close, the Malaysian government rolled out several economic stimulus packages aimed at protecting the welfare of the people, supporting businesses including Small and Medium Enterprises (SMEs) as well as to strengthen and stimulate the country’s economy to weather the effects of the COVID-19 pandemic.

Financial Relief Measures due to COVID-19

Bank Negara Malaysia (BNM), the Central Bank of Malaysia, announced on 27 February 2020, financial relief measures which were made available to assist business/SME borrowers as a necessary solution as the country battled on with the COVID-19 pandemic. These relief measures included facilities for SMEs under BNM’s Fund for SMEs, namely Special Relief Facility, SME Automation and Digitalisation Facility and Agrofood Facility.

BNM announced additional relief measures on 25 March 2020 which included an automatic deferment of all loan/financing repayments for individuals and SMEs for a period of 6 months (subject to certain minimum conditions), with effect from 1 April 2020, and on 27 March 2020 with increased allocations to the aforementioned facilities.

PRIHATIN - Implementation of Prihatin Rakyat Economic Stimulus Package

The Government of Malaysia announced on 27 March 2020 the PRIHATIN initiative amounting to RM250 billion aimed to benefit people from all quarters who have been affected by the COVID-19 crisis in the country. Through this allocation, the PRIHATIN initiative is set to aid households, businesses and corporates that are affected by the COVID-19 pandemic.

PENJANA – National Economic Recovery Plan
Malaysia’s Short Term Economic Recovery Plan (June – December 2020)

On 5 June 2020, the Government announced the PENJANA (Pelan Jana Semula Ekonomi Negara) or the National Economic Recovery Plan. This plan focuses on 3 key thrusts, namely Empower People, Propel Businesses and Stimulate the Economy, and aims to reach all sectors of the economy and individuals. The banking sector together with other governmental agencies and authorities worked hand in hand to provide crucial assistance to individuals and businesses to improve economic recovery as the nation battled the COVID-19 pandemic.

The COVID-19 Bill was passed by the Malaysian Parliament on 25 August 2020. Some of the key provisions under this Bill, which are all time bound, that may impact on the financial services industry in Malaysia include:

- Prevents any party or parties from exercising his/their rights under a contract as a result of the inability of the other party to perform any contractual obligation arising from any of the categories of contracts specified in the Bill due to the measures prescribed, made or taken under the Prevention and Control of Infectious Diseases Act 1988 to control or prevent the spread of COVID-19;

- Amendments to the Insolvency Act 1967 that prohibits a creditor(s) from presenting a bankruptcy petition against a debtor, unless the aggregate amount of debt owing by the debtor to the petitioning creditor(s) is RM100,000 or more. The minimum threshold for commencing bankruptcy proceedings has been increased to RM100,000 from the previous threshold of RM50,000; and

- Amendment to the Hire Purchase Act 1967 which states that property owners shall not exercise any power to repossess any goods under a hire purchase agreement for any default in payment between 1 April 2020 and 30 September 2020.

This Bill seeks to support the initiatives announced under the Prihatin and PENJANA economic stimulus packages announced by the government as well as to reduce the financial and social impact of the COVID-19 pandemic.

Proposed amendments to the Companies Act 2016 and Limited Liability Partnerships Act 2012

The Companies Commission of Malaysia (CCM) is reviewing the Companies Act 2016 and the Limited Liability Partnerships Act 2012. The amendments under consideration include some provisions to enhance the existing corporate rescue mechanism and is intended by CCM to support the Government’s initiatives to cushion the impact of COVID-19 on companies and limited liability partnerships in Malaysia.

Overnight Policy Rate (OPR)

The impact of COVID-19 on the Malaysian economy has been fairly severe. In order to encourage market conduciveness, the Monetary Policy Committee (MPC) of BNM decided to

7 The OPR is the sole indicator used to signal the stance of monetary policy, and is announced through the Monetary Policy Statement released after the Monetary Policy Committee meeting.
reduce the OPR by 25 basis points to 3.00 percent on 7 May 2019. A further reduction of 25 basis points to 2.75 percent to the OPR was announced by MPC on 22 January 2020.

In the latest announcement made by MPC on 7 July 2020, the OPR was again cut by 25 basis points to 1.75 percent, which is the lowest the OPR has been in over 10 years. The reduction in the OPR provides additional policy stimulus to accelerate the pace of economic recovery.

Statutory Reserve Requirement (SRR)

Effective 20 March 2020, the SRR rate for banking institutions was reduced from 3.00% to 2.00% (100 basis points) of Eligible Liabilities. This measure is part of BNM’s continuous efforts to ensure sufficient liquidity to support financial intermediation activity.

The SRR is an instrument to manage liquidity and is not a signal on the stance of monetary policy. The SRR may be raised to manage the significant build-up of liquidity, which may result in financial imbalances and create risks to financial stability. BNM may lower the SRR if necessary to support the transmission of monetary policy rates to retail rates. However, it is important to note that changes to SRR should not be construed as a signal on the stance of monetary policy, whereby the OPR is the sole indicator.

Recent Developments in the Banking Sector

Payments - Real-time Retail Platform (RPP) and QR Pay/DuitNow QR

In 2019, BNM’s efforts were directed at enabling the interoperability of e-wallet services offered by banks and non-bank approved e-money issuers (EMIs). As envisaged under the Interoperable Credit Transfer Framework (ICTF), PayNet\(^8\) has implemented a shared payment infrastructure, known as the Real-time Retail Payments Platform (RPP), with fair and open access to banks and eligible non-bank EMIs. With RPP, consumers and businesses are able to make and receive payments instantly by drawing funds from bank accounts or e-money accounts.

To-date, two key services have been offered on the RPP. The first service, DuitNow (launched in December 2018), enables a sender to transfer funds by referencing the mobile phone number, National Registration Identity Card number, or the business registration number of the recipient. More recently, the second service, DuitNow QR, which is a national QR payment solution, enables a customer of an e-wallet operator to seamlessly collect funds from customers of other participating e-wallet operators. The DuitNow QR service was launched in the second half of 2019.

\(^8\) Payments Network Malaysia Sdn. Bhd. (PayNet) is the operator of the country’s shared payment systems and financial market infrastructures, which is jointly owned by Bank Negara Malaysia and 11 domestic banks.
Utilising QR code, developments in the electronic payments (e-payment) systems has seen greater adoption by bank customers. Significant progress was made in efforts to promote greater adoption of e-payments. It was noted based on BNM’s Annual Report 2019, Malaysians on average made 144 e-payment transactions each in 2019, up from 125 in 2019. The is supported by widening acceptance of e-payments among merchants with 668,744 point-of-sale (POS) terminals deployed and over 288,000 QR payment registrations recorded as at end-2019, as compared with only 514,818 POS terminals and 65,000 registrations in 2018.

Further, in managing the robust growth of QR payment, safeguards have been put in place to continuously strengthen security against payment frauds and manage risks with smarter supervision and surveillance.

Through the use of RPP, consumers and merchants are able to enjoy faster payments and collections, greater convenience with wider reach and inclusiveness. Noticeable adoption of e-payments was seen during the pandemic in Malaysia with consumers favouring cashless payments.

**Cybersecurity - Risk Management in Technology (RMIT)**

With the rapid growth of the use of technology in the provision of financial services, there is an ever increasing need for financial institutions to strengthen their technology resilience against operational disruptions to maintain confidence in the financial system. Compounded by the growing sophistication of cyber threats, the need for greater vigilance and capability of financial institutions to respond quickly and effectively to emerging threats becomes of utmost importance for financial institutions. To address this issue, on 19 June 2020, BNM released the Risk Management in Technology policy document, which sets out the regulator’s requirements with regard to financial institutions’ management of technology risk.

**Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions (AML/CFT and TFS for FIs)**

BNM had on 31 December 2019 released a policy document on Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions (AML/CFT and TFS for FIs). This policy document aims to set out:

(a) Obligations of reporting institutions with respect to the requirements imposed under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA);
(b) Requirements on reporting institutions in implementing a comprehensive risk-based approach in managing ML/TF risks; and
(c) Targeted financial sanctions requirements on financial institutions regulated or supervised by BNM.
This policy document consolidates the following:

(a) AML/CFT standards and guidance that are applicable to all reporting institutions in the financial sector; and
(b) Targeted financial sanctions requirements that are applicable to all financial institutions regulated or supervised by Bank Negara Malaysia (BNM).

The policy came into effect on 1 January 2020.

Policy Document on Fair Treatment of Financial Consumers

BNM issued the policy document on Fair Treatment of Financial Consumers on 6 November 2019. This policy document aims to foster high standards of responsible and professional conduct in a financial service provider (FSP), promote a culture where the interests of financial consumers are an integral part of a FSP’s business strategies and operations, set expectations for a FSP to effectively manage conduct risk and provide financial consumers with the confidence that a FSP acts fairly in its dealings with financial consumers. The policy document came into effect on 6 May 2020.

Domestic Systemically Important Banks (D-SIB) Framework

On 5 February 2020, BNM issued a policy document on Domestic Systemically Important Banks (D-SIB) Framework, which sets out the BNM’s assessment methodology to identify D-SIBs in Malaysia. D-SIBs refer to banks whose distress or failure have the potential to cause considerable disruption to the domestic financial system and the wider economy. Higher capital requirements introduced for such banks will complement the regulatory framework in place to mitigate the risks posed by D-SIBs to the stability of the Malaysian financial system and the wider economy.

The D-SIB framework has been informed by the Basel Committee on Banking Supervision’s (BCBS) framework for dealing with D-SIBs and the structural characteristics of the Malaysian banking system. A D-SIB is required to maintain higher capital buffers to meet regulatory capital requirements that include a Higher Loss Absorbency (HLA) requirement. This serves to increase a D-SIB’s capacity to absorb losses thereby reducing its probability of distress or failure during periods of stress. In turn, this will contribute to a safer and more resilient Malaysian financial system.

Electric Know-Your-Customer (e-KYC)

BNM had on 30 June 2020 issued a policy document on “Electronic Know-Your-Customer” (e-KYC). The policy document sets out the requirements and standards in implementation of the e-KYC solutions for the identification and verification of customers of the financial sector.
The policy document seeks to accommodate advancements in technology to facilitate secure and safe adoption of e-KYC solutions, while preserving integrity of the financial system. The digitalisation of the processes is an important enabler to increase the convenience and reach, as well as lower the costs of financial services. The key aspect of digitalisation entails the delivery of end-to-end financial solutions through online and mobile channels, supported by the adoption of financial technology.

**Potential future developments in the Malaysian financial industry**

**Licensing Framework for Digital Banks**

BNM had on 3 March 2020 issued an exposure draft which sets out the proposed framework to allow entry of digital banks with innovative business models that seeks to serve the underserved and unserved market segments primarily or through digital or electronic means. This framework forms part of a series of measures adopted by the BNM to enable innovative application of technology in the financial sector.

Licensing of these new players with innovative business models is expected to add dynamism to the banking landscape to serve the economy and contribute to individual well-being. This includes expanding meaningful access to and responsible usage of suitable and affordable financial solutions for the underserved and unserved market segments. The licensing framework is open to licensed banks and licensed Islamic banks which may apply for a digital bank license separate from their current licensed entity.

Under the proposed licensing framework for digital banks, a defined asset threshold will be applied in the initial three to five years of operations of a licensed digital bank. During this phase, the licensed digital bank will also be subject to a more simplified regulatory requirement.

**Discussion Paper on Climate Change and Principle-based Taxonomy**

BNM, on 27 December 2019 issued a discussion paper on “Climate Change and Principle-based Taxonomy.” The discussion paper aims to provide an overview of climate change and its impact to the financial system. It serves as guidance to facilitate financial institutions in identifying and classifying economic activities that could contribute to climate change objectives. Current discussions are ongoing.

**Cash Transaction Limit (CTL)**

The National Coordination Committee to Counter Money Laundering (NCC) proposed a cash transaction limit (CTL) as an additional deterrent against illicit activities. It also serves to protect Malaysians and businesses from unknowingly facilitating money laundering. The CTL complements existing measures to further improve financial integrity in Malaysia. Under the
Currency Act 2020, the current cash transaction limit is set to RM25,000. However, no date has been appointed for this law to come into operation.

**Developments in other related agencies in the financial ecosystem**

**Temporary Relief Measure to Listed Issuers**

Bursa Malaysia Berhad (Bursa), the local stock exchange, announced on 17 April 2020 relief measures during the COVID-19 pandemic. These measures are designed to help lessen the financial burden and provide greater flexibility in navigating the challenging period posed by the COVID-19 pandemic. As such, Bursa, in consideration of the COVID-19 circumstances relief measure encompassing the following:

a) Further extension of time for Main, ACE and LEAP listed issuers to submit financial statements;

b) Increased general mandate limit for new issue of securities by Main and ACE listed issuers to facilitate and expedite fundraising;

c) Further relief measures to Main and ACE listed issuers with unsatisfactory financial condition;

Further, additional Temporary Relief Measures to Listed Issuers were announced by Bursa on 30 March 2020 with extensions of other submissions.

**Securities Commission Malaysia Grants Regulatory Flexibilities for Market Participants**

The Securities Commission Malaysia (SC) on 20 March 2020 announced that it will grant flexibilities for capital market participants in meeting selected regulatory requirement, in view of the COVID-19 and the implementation of the MCO between 18 – 31 March 2020. As a critical function of the financial services industry and identified as essential services during the MCO, the capital market will continue to operate in order to support the economy during the MCO. As part of its business continuity plans, market participants took precautionary and alternative measures in order to make services available. These included teams working remotely or on split team operations.

As such, the SC extended deadlines for market participants to comply with requirements such as regulatory filings and submissions to the SC and fulfilment of training requirements. The deferment of these regulatory submissions is part of the SC’s wider relief package for the capital market in support of the government’s measures to contain the spread of COVID-19. Flexibilities in terms of extension of time were granted for capital market participants in meeting selected regulatory requirements.
Further flexibilities to the Capital Markets Services License Holder and Registered Persons were announced on 16 April 2020 in light of the extension of the MCO to 28 April 2020 as the SC recognised the constraints and challenges faced by the licensed and registered person in complying with the timelines for certain regulatory requirements following the MCO extension.

At the same time, the SC also announced that Bursa would provide affected companies listed on the Main Market temporary relief from the Practice Note 17 (PN 17) classification effective from 17 April 2020 to 30 June 2021, for companies that satisfy certain criteria. This measure would allow companies more time to regularise their financial positions. Similar temporary relief from Guidance Note 3 classification was also provided for companies listed on ACE Market.

The SC lifted fundraising limits on Equity Crowdfunding (ECF) platforms and allowed ECF and peer-to-peer financing (P2P) platforms to operationalise secondary trading, both with effect from 16 April 2020. Further, the funding matching ratio by the government co-investment fund MyCIF, which is administered by SC, has been increased from 1:4 to 1:2 for eligible ECF and P2P campaigns until 30 September 2020. These measures were announced in response to the heightened interests by Micro, Small and Medium Enterprises to tap into alternative fundraising channels and to provide additional liquidity into the alternative fundraising space respectively.

In addition, on 24 March 2020, the SC granted waivers of the annual licensing fee for 2020 on the core regulated activity of all Capital Markets Services Licence (CMSL) entities with Profit Before Tax of RM5 million or less during Financial Year 2019 and for all individual CMSL holders and Capital Markets Services Representative’s Licence (CMSRL) holders, as well as a reduction of minimum Continuing Professional Education and training requirements for a period of 12 months commencing 1 July 2020. SC has also granted a one-off training subsidy for existing registered firms of Audit Oversight Board (AOB) with less than 10 audit partners, up to RM30,000 per firm for Approved Training Programmes conducted by the Malaysian Institute of Certified Public Accountants (MICPA).

The use of online services during the MCO period was also encouraged by the SC which saw the introduction of flexibilities in complying with the requirements under CMSA and Rules on Takeovers, Mergers and Compulsory Acquisition (“Rules”). SC permitted the use of a hybrid method of serving takeover notices and documentation via electronic publication on dedicated pages either at the Bursa or SC websites, and concurrent sending of physical summary notification to all offeree shareholders. Shareholders were likewise permitted to accept an offer either electronically or by post. The time period for settlement of cash consideration was also extended from 10 days to 12 days. These flexibilities were only applicable during the MCO period.
Credit Counselling and Debt Management Agency/Agensi Kaunseling dan Pengurusan Kredit (AKPK)

AKPK is an agency established by BNM in 2006 to provide advisory services and assistance to individual borrowers in managing their finances. With its three core focus namely:-

a) One-to-one financial counseling and advise on money management skills and advise on money management skills for individuals
b) Personalised Debt Management Programme (DMP)
c) Financial education

AKPK conducts DMP for individuals who are unable to manage their monthly debts repayment to banks & meet certain basic criteria. These individuals are assisted free of charge, to develop a personalised debt repayment plan in consultation with their banks. The DMP process is an alternative to court settlement and has advantages for both banks and individual borrowers.

AKPK has also been pivotal in driving financial literacy in the education system in the country. AKPK’s financial education initiatives have advanced further at the university level where a Personal Financial Management course was introduced as an elective or an extra-curriculum programme to educated young adults on good personal financial management before they enter the workforce. The report as indicated currently 34 higher learning institutions have included AKPK’s Personal Financial Management module into their respective curriculum. The financial education initiatives by AKPK is also available online so that access is financial management information can reach all walks of life and is inclusive for all.

Effective 1 September 2020, AKPK will start to offer specialised solutions to help SMEs (including micro SMEs) to manage their debt and promote sound financial management practices. This follows from the transfer of the Small Debt Resolution Scheme (SDRS) function from BNM to AKPK. With this transfer, AKPK will serve as the one stop platform for both individuals and SMEs seeking debt restructuring services, as well as financial education and advisory.
Portugal

In 2019, the Portuguese economy grew by 2.2% (-0.4 p.p. year-on-year). Investment and public consumption accelerated, but private consumption rose less than in 2018 and domestic demand decreased its contribution to GDP growth. Net external demand also had a more negative contribution as the deceleration in exports of goods and services was higher than that of imports. According to the Banco de Portugal, GDP is projected to decrease by 9.5% in 2020, as the economy should be deeply affected by the COVID-19 pandemic. In 2021, the economy is expected to rebound and grow by 5.2%, supported by an increase in exports and positive contributions from private consumption and investment.

At the end of 2019, the Portuguese banking system comprised 149 institutions, 61 of which were banks (including 32 branches of foreign banks), 85 mutual agricultural credit banks and 3 savings banks. As a result of its ongoing deleveraging process, the Portuguese banking system reduced its weight of total assets to the country’s GDP from 311.1% in 2010 to 183.0% in 2019. The five largest banks accounted for 77% of total assets.

In the aftermath of the financial crisis and of the economic crisis that followed, the Portuguese financial system has undergone a very intense transformational process that resulted in significant achievements in all fronts: solvency, liquidity, asset quality and, more recently, profitability, as well as business model adjustments and governance improvements. The Portuguese banking sector is now more resilient and prepared to face potential adverse shocks. Solvency has been strongly reinforced: CET1 reached 14.1% in 2019 (versus Core Tier 1 of 7.4% in 2010); liquidity stood at comfortable levels (loan-to-deposit ratio of 87.3% versus 158.7% in June 2010; liquidity coverage ratio at 218.4%); profitability improved (RoE reached 4.3%). Furthermore, ambitious strategies have been implemented to reduce NPL and remarkable progress has been achieved: non-performing loans (NPL) fell by €33.3 billion since the maximum level attained in June 2016 with the NPL ratio decreasing from 17.9% to 6.1% and the NPL coverage ratio increasing from 43.2% to 51.3%.

Legislative and Regulatory Framework

The following national initiatives were passed/implemented:

Macroprudential Policy

On 8 May 2020, the Banco de Portugal, within the powers granted upon it as the national macroprudential authority, announced its decision to postpone, by one year, the phase-in period of the capital buffer for “Other Systemically Important Institutions” (O-SII). The list of banking groups identified as O-SII in 2019, disclosed on 29 November 2019, remained unchanged. However, with this decision, the compliance with the O-SII buffer percentage that these banking groups would have to hold on 1 January 2021 has been postponed to 1 January 2022.
Internal Governance

On 15 July 2020, Banco de Portugal’s Notice No. 3/2020 and Instruction No. 18/2020 were published in the Official Gazette. These regulations revoke and replace Banco de Portugal's Notices No. 5/2008 and No. 10/2011, becoming the reference, together with the Legal Framework of Credit Institutions and Financial Companies, in terms of organizational culture, governance, internal control and risk management, for the banking system.

Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)

In the field of AML/CFT, several national initiatives were passed/implemented:

Government/Parliament

- Legislative Proposal to transpose AMLD5/6 amending Law No. 83/2017, of 18 August 2017, establishing measures to combat ML/FT and Law No. 89/2017, of 21 August 2017, the Legal Regime of the Central Register of Beneficial Ownership, provided for in article 34 of Law No. 83/2017.

Banco de Portugal


- Circular Letter No. CC/2020/00000040, setting guidance on specific AML/CFT obligations regarding credit intermediation platforms in line with Article 44 of Banco de Portugal’s Notice No. 2/2018 and Article 63 of Law No. 83/2017.

Portuguese Securities Market Commission (CMVM)

- CMVM Regulation No. 2/2020, setting AML/CFT preventive measures to be adopted under Law No. 83/2017 and specific rules regarding periodic AML/CFT information reporting to the CMVM.

Tax Framework

In the tax area, the most significant developments that have taken place over the last 12 months were:

- Law No. 98/2019, of 4 September 2019, regulates the Corporate Income Tax (CIT) regime of impairment losses of credit institutions and other financial institutions. It
also establishes new rules for the special regime applicable to deferred tax assets (“Regime especial aplicável aos ativos por impostos diferidos - "REAID").

- Law No. 120/2019, of 19 September 2019, transposes Council Directive (EU) 2017/1852, of 10 October 2017, which establishes mechanisms to resolve disputes between Member States when those disputes arise from the interpretation and application of agreements and conventions that provide for the elimination of double taxation of income and, where applicable, capital, as well as laying down the rights and obligations of the affected persons when such disputes arise.

- Law 24/2020, of 6 July 2020, transposes the Anti-Tax Avoidance Directive (ATAD) as regards hybrid mismatches with third countries. Following the transposition, the CIT Code now includes Article 68-A (Definitions), Article 68-B (Hybrid Mismatches), Article 68-C (Reverse Hybrid Mismatches) and Article 68-D (Tax Residency Mismatches). This Law further amends No. 11 of Article 67 of the CIT Code, regarding limitation on the tax deductibility of financial expenses. These rules now apply to previously excluded credit securitization companies.


**Portuguese Real Estate Investment Trusts**

In January 2019, Decree-Law No. 19/2019, of 28 January 2019, introduced the legal framework of the Portuguese Real Estate Investment Trust (REIT) regime, by creating the Real Estate Investment and Asset Management Companies (“Sociedades de Investimento e Gestão Imobiliária” or “SIGI”), a new vehicle type aimed at promoting investment and stimulating the Portuguese real estate market. Law No. 97/2019, of 4 September 2019, approved the first amendment, by parliamentary appraisal, of the Decree-Law No. 19/2019. This amendment approved the tax regime applicable to SIGIs and introduced, among others, changes to their purpose, asset composition and free float requirements.

**Loan Funds**

In September 2019, Decree-Law No. 144/2019, of 23 September 2019, was published, which, inter alia, amended the Legal Regime for Private Equity, Social Entrepreneurship and Specialized Investment, approved under Law No. 18/2015, of March 4th, enabling the establishment of alternative investment funds (AIFs) specialized in credit, capable of granting and purchasing credits subject to certain restrictions (the Loan Funds).
Decree-Law No. 144/2019, of 23 September 2019, also approved the transfer of supervision powers over management companies of investment funds and securitisation funds from the Banco de Portugal to the Portuguese Securities Market Commission.

**Legal, regulatory and supervisory measures in the context of COVID-19**

In response to the COVID-19 pandemic crisis, Portuguese authorities have adopted several measures to mitigate its economic and social effects, in particular:

**Government/Parliament**

- The Portuguese Government and the national Parliament enacted several laws and orders aimed at the social and financial protection of citizens and the financial support to companies. These measures, of an urgent and temporary nature, range from employment preservation support to financing with public guarantees. Relief measures were also adopted in the field of tax and social security obligations, credit agreements, housing and non-housing rental contracts and payments.

- Decree Law No. 10-J/2020, of 26 March 2020, established a public moratorium regime, which prohibits the revocation, in whole or in part, of credit lines and loans, in the amounts contracted, from 27 March 2020 and for all the duration of the measure. It also establishes the extension, for a period equal to the term of the measure, of credits with payment of principal at the end of the contract, together with all its associated elements, including interest, guarantees, namely those provided by the way of insurance or securities. For credits with partial instalments or other cash amounts payable, it provides for a suspension, during the period of the measure, of payments of principal, rents and interest. The contractual payment plan is automatically extended, for a period equal to the suspension as well as all the elements associated with the contracts, including guarantees. Beneficiaries may request, at any time, that only repayments of principal, or part of it, are suspended. This regime applies to credit agreements entered into by firms, sole proprietors, private social solidarity institutions, nonprofit associations and other entities from the social economy. For consumers, the moratorium applied only to credit agreements for the purchase of permanent residence. The public moratorium regime was complemented by a set of private moratoria adopted by the main financial sector associations, covering beneficiaries and operations not contemplated in the public solution.

- Council of Ministers’ decision 41/2020, of 4 June 2020, published in the Official Gazette of 6 June 2020, approved the Economic and Social Stabilization Program (“Programa de Estabilização Económica e Social” or “PEES”), aiming to respond to the consequences of the COVID-19 pandemic. With a time horizon that runs until the end of 2020, the Stabilization Program is based on four pillars: i) social, involving themes of a social nature and support to citizens’ income; ii) employment, related to
the maintenance of employment and the progressive resumption of economic activity; iii) companies, focused on business support; and iv) institutional, with the objective of simplifying and streamlining the performance of the Public Administration and the courts in all that is necessary to overcome the effects of the pandemic and accelerate the economic recovery.

- Decree-Law No. 26/2020, of 16 June 2020, introduced several amendments to Decree-Law No. 10-J/2020, in particular the extension of the duration of the measures to 31 March 2021 and the broadening of potential beneficiaries and loan types covered.

- Law No. 27-A / 2020, of 24 July 2020, introduced changes to the public moratorium regime, namely the extension, to 30 September 2020, of the deadline for bank customers to request the adherence to the public moratorium. The conditions that bank customers must fulfill in order to benefit from these measures have also been softened.

**Banco de Portugal**

- On 16 March 2020, the Banco de Portugal, through Circular Letter No. CC/2020/00000017, has taken a variety of initiatives relating to its supervisory powers, with the objective of ensuring that banks continued to play their role in financing the real economy, in line with the measures adopted by the European Central Bank (ECB) and the European Banking Authority (EBA). In particular, the Banco de Portugal allowed less significant credit institutions, subject to its supervision, to operate temporarily below the level of capital defined by the Pillar 2 Guidance, the combined buffer requirement, and with liquidity levels below the liquidity coverage requirement (LCR). Following the European Banking Authority’s decision to postpone the 2020 EU-wide stress test, the Banco de Portugal has suspended the similar initiative that was underway for less significant institutions. In addition, in-person activity related to supervision has been postponed and deadlines for financial institutions to report to the Banco de Portugal and to answer customer complaints have been extended.

- On 1 April 2020, the Banco de Portugal, through Circular Letter No. CC/2020/00000023, adopted additional flexibility measures and made recommendations to less significant institutions on dividend distributions and share buy-backs, in line with the European Systemic Risk Board (ESRB) and the ECB recommendations.

- On 16 April 2020, the Banco de Portugal issued Circular Letter No. CC/2020/00000023, providing guidance to banks on the need to adjust their AML/CFT internal controls in line with the new risks and threats posed by the
pandemic context. On July 10th, the Banco de Portugal issued Circular Letter No. CC/2020/00000047, warning about AML/CFT emerging risks in the COVID-19 context.

- On 22 April 2020, the Banco de Portugal issued Circular Letter No. CC/2020/00000028, adopting additional flexibility measures in the reporting area.

- On 29 July 2020, the Banco de Portugal announced the extension of its recommendation to less significant institutions on dividend distributions and share buy-backs until 1 January 2021 and asked banks to be cautious with regard to variable remuneration, in line with the recommendation made by the ECB for significant institutions.

CMVM

- On 20 March 2020, the CMVM issued a note with decisions and recommendations on COVID-19. In this note, the CMVM announced the easing of requirements for the provision of non-urgent information in the context of the crisis, which included, among others, the reporting of internal control reports, reporting to transaction repositories, and reporting on money laundering. On the other hand, it reinforced reporting requirements regarding vital information for the daily assessment of impacts and risks arising from the COVID-19 situation.

- On 4 April 2020, the CMVM issued a Circular Letter regarding AML/CFT emerging risks in the COVID-19 context.

In view of the exceptional times created by the COVID-19 pandemic, the banking sector, either on its own initiative or within the scope of the government initiatives, adopted several measures to support families and companies to overcome the tough constraints caused by the COVID-19 outbreak. These measures, aiming at mitigating cash and liquidity needs, involved the moratorium on payments of credit obligations, the granting of new financing (either through the public guaranteed credit facilities or through own credit lines) and the reduction of fees on several banking services.
Romania

During the period under review, the following developments were recorded in the field of prudential regulation:

On July 2019, the Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing was transposed into the national legislation by Law no. 129/2019 on the prevention and combating of money laundering and terrorism financing, as well as for amending and supplementing certain normative acts (NBR participated in the elaboration of the legislative project, according to its legal competences, in collaboration with National Office for Prevention and Control of Money Laundering, Ministry of Justice and other national authorities).

In order to adapt the regulatory framework to the requirements of Law no. 129/2019, the National Bank of Romania (NBR) issued Regulation no. 2/2019 on preventing and combating money laundering and terrorist financing (published in the Official Gazette no. 736 of September 9, 2019). The regulation contains details on the development of risk assessments, internal policies and rules, some requirements on customer due diligence measures and the use of third parties, requirements on the adequacy of the institutional staff and the specific risk management framework, as well as supervisory measures.

With regard to the transposition of Directive (EU) 2015/2366 on payment services in the internal market (that amends the existing EU directive in this field), Law no. 209/2019 on payment services and amending other normative acts and Law No. 210/2019 on the activity of issuing electronic money were published in the Official Gazette of Romania on November 13, 2019.

Following the transposition into the national legislation of the Directive (EU) 2015/2366, the NBR issued, in December 2019, Regulation no. 4/2019 on payment institutions and account information services providers and Regulation No. 5/2019 on electronic money institutions. The NBR regulations details the provisions of Law no. 209/2019, respectively the Law no. 210/2019, regarding the authorization of payment institutions and the registration of account information service providers, respectively the authorization of electronic money institutions, as well as some elements of prudential supervision (mechanisms for protecting users’ funds, approval/notification of changes following the authorization, own funds, reporting requirements).

In January 2020, NBR issued Regulation no. 1/2020 amending and supplementing the NBR Regulation No. 20/2009 on non-bank financial institutions. This regulation established a transitory regime for own funds, applicable between 2019–2021, following the entry into force of the obligation of non-bank financial institutions to implement IFRS starting with 2019 and clarified some of the provisions that raised problems during the implementation.
In the context of the crisis generated by the COVID-19 pandemic, in order to support non-bank financial institutions in using existing resources to channel efforts to carry out operational activities, NBR issued, in July 2020, Regulation no. 4/2020 which amended the NBR Regulation no. 20/2009 on non-bank financial institutions, deferring by 6 months the program for the application of the transitional regime for own funds, applicable from January 1st, 2021, instead of July 1st, 2020. The NBR Regulation no. 4/2020 also seeks to give non-bank financial institutions registered in the Special Register the possibility, for a limited period, not to comply with the requirements on the minimum level of own funds set at the level of share capital.

Also, on July 3, 2020, the NBR issued Regulation no. 5/2020 (published in The Official Journal of Romania Part I no. 596 of 8th of July 2020) which amended the NBR Regulation no. 17/2012 on certain lending conditions, in order to ease the current burden on borrowers (individuals), affected by the crisis generated by the COVID-19 pandemic. The regulation aims to standardize the regime applicable to refinancing operations of loans outstanding, by exempting them from the requirements for LTV, maximum maturity of 5 years for consumer credit and the DSTI ceiling.

In December 2019, the NBR issued Order no. 10/2019 in the capital buffers field, according to which, starting with the 1st of January 2020, credit institutions authorized in Romania and identified as other systemically important institutions have to maintain an O-SII buffer, the level of which is foreseen in the Order and is determined on the basis of the total exposure amount, calculated in accordance with Art. 92 para. (3) of Regulation (EU) No. 575/2013.

In order to ensure the harmonization of national legislation with guidelines and recommendations issued by European Banking Authority, the National Bank of Romania is constantly updating the prudential regulatory framework. Areas in which the EBA guidelines and recommendations were transposed into Romanian regulations refer to governance arrangements, complaints-handling, prevention, and combating of money laundering and terrorism financing, payment institutions and electronic money institutions (information to be provided for the authorisation, outsourcing arrangements, the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee under Article 5(4) of Directive (EU) 2015/2366), coverage of entities in a group recovery plan.

recovery and resolution of credit institutions and investment firms, as well as for amending and supplementing of some regulations in the financial field. The draft laws were submitted to the Ministry of Public Finance as a legislative initiator, which will begin the procedure of public consultation. After completion of the public consultation, the Ministry of Public Finance will submit the draft laws to the Parliament in order to adopt the laws.

Ongoing Financial Regulatory Reform Efforts

An objective in the regulatory field is to update the secondary regulatory framework in line with the new developments in the national legislative framework in the area of money laundering and terrorism financing, payment institutions and electronic money institutions.

NBR will finalize the analysis on the need to revise the legal framework that applies to the non-banking financial institutions sector.

Another objective in the regulation field is to finalize the review of:

1. The national framework applicable to credit institutions in areas such as licensing, changes in the situation of credit institutions, mergers/divisions, licensing of the bridge - credit institution, which is mainly determined by the development of EBA’s draft regulatory and implementing technical standards on the authorization of credit institutions. In this context, we will also ensure the transposition of Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2016/01);

2. The NBR Regulation No. 5/2013 on the prudential requirements for credit institutions in areas such as internal governance, assessment of the suitability of the members of the management body and key function holders, risk management, ICAAP, and ILAAP. In this context, we will also ensure the transposition of the EBA guidelines in the above-mentioned areas, such as EBA guidelines on internal governance (EBA/GL/2017/11), Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU (EBA/GL/2017/12), EBA Guidelines on credit institutions’ credit risk management practices and accounting for expected credit losses (EBA/GL/2017/06) and EBA guidelines on the management of interest rate risk arising from non-trading book activities (EBA/GL/2018/02).

The review of the regulatory framework shall also take into account the recommendations made by the International Monetary Fund and the World Bank as a result of Financial Sector Assessment Program in Romania (2017 – 2018), as well as the transposition, at the level of the secondary legislation, of the technical provisions of Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU regarding exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures.

Furthermore, another regulatory objective is drafting the legal texts for amending the legislative and regulatory framework in the field of covered bonds, in order to ensure

In order to ensure the harmonization of national legislation with guidelines and recommendations issued by European Banking Authority, the National Bank of Romania is constantly updating the prudential regulatory framework. Areas in which the EBA guidelines and recommendations were transposed into Romanian regulatory framework refer to management of non-performing and forborne exposures, the types of exposures to be associated with high risk, disclosure of non-performing and forborne exposure, equivalence of the confidentiality regime, updated reporting of funding plans, legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis, COVID-19 measures reporting and disclosure, coverage of entities in a group recovery plan, management of information and communication technology (ICT) and security risks.

**Developments in the Accounting Regulatory Field**

As concerns the non-banking financial institutions sector (NBFIs), following the recommendation of the International Monetary Fund to ensure provisioning requirements similar to those applicable to credit institutions, respectively according to the provisions of IFRS 9 "Financial Instruments", the National Committee for Macro-prudential Supervision issued Recommendation no. R/2/2019 regarding the Strategy for the implementation of International Financial Reporting Standards (IFRS) by the non-banking financial institutions as a basis for accounting and for the preparation of the individual financial statements. In order to implement this recommendation, the National Bank of Romania issued the NBR Order no.8/2019 regarding the application of International Financial Reporting Standards by non-banking financial institutions as a basis for accounting and for drawing up individual annual financial statements. The order sets up rules regarding the transition for applying IFRS as the basis of accounting and for the preparation of the individual financial statements by the NBFIs registered in the General Register, as follows:

- between 2019 – 2021, the NBFLs from the General Registry will prepare, for information purposes only, a set of IFRS financial statements;
- starting 2022, the NBFLs from the General Registry will implement and use only IFRS as a basis of accounting and for preparing individual annual financial statements.

In the context of the crisis generated by the COVID-19 pandemic, NBR took a series of measures, including the proposal to postpone by one year the implementation plan of IFRS by the NBFLs, in order to support the non-bank financial institutions activity. The proposal to postpone the implementation of IFRS was approved on 8 May 2020 by the National Committee for Macro-prudential Supervision that issued the Recommendation no. R/2/2020 on the amendment of the Strategy for the implementation of International Financial Reporting Standards (IFRS) by non-banking financial institutions as a basis for accounting and for drawing up individual financial statements. Following this, NBR amended and supplemented the NBR
Order no.8/2019 through NBR Order no.3/2020, according to which IFRS application was postponed, as follows:

- between 2019 - 2022, the NBFLs from the General Registry will prepare, for information purposes only, a set of IFRS financial statements;
- starting 2023, the NBFLs from the General Registry will implement and use only IFRS as a basis of accounting and for preparing individual annual financial statements.

Another measure the NBR took in the context of the crisis generated by the COVID-19 pandemic was to postpone the reporting deadlines and simplifying certain reporting requirements applicable to credit institutions and other entities under the National Bank of Romania regulation scope. Therefore, the National Bank of Romania issued the Regulation no.6/2020 on the modification of some reporting requirements for supervisory purposes, provided by normative acts issued by the National Bank of Romania. The main aspects considered are:

- replacement of paper reports to electronic submission for certain categories of reporting prepared for reporting dates up to the end of 2020;
- reporting on a less frequent basis of the liquidity ratio and the large liquidity risk, as provided by the NBR Order no.22/2011.

Following the amendments brought by the EBA to the FINREP consolidated reporting framework during July 2019, as well as to ensure the comparability of the financial and accounting statistical information reported by the Romanian branches of credit institutions having their headquarters in other Member States with the similar information reported by the credit institutions, the National Bank of Romania issued the NBR Order no.12/2019 amending and supplementing the NBR Order no.9/2017 and the NBR Order no.10/2017. The main aspects envisaged by the order are:

- ensuring the correlation of FINREP individual reporting framework with FINREP consolidated reporting framework, follow to the amendments brought by the EBA to the FINREP consolidated reporting framework (published on the EBA website on 16.07.2019 and remitted to the European Commission in order to be adopted at EU level), as follows:
  - revising the reporting requirements in the field of non-performing and forborne exposures;

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9 Order of the National Bank of Romania no. 22/2011 on reporting of the situations regarding the liquidity ratio and the large liquidity risk
10 Order of the National Bank of Romania no.9/2017 for the approval of the Methodological Norms on the preparation of FINREP financial statements at individual level, in compliance with the International Financial Reporting Standards, applicable to credit institutions for prudential supervision purposes
11 Order of The National Bank of Romania no.10/2017 approving the Methodological rules regarding the preparation of the periodic reports containing financial and accounting statistical information applicable to Romanian branches of credit institutions having their headquarters in other Member States
improving the reporting requirements for the items in the statement of profit or loss;

- updating FINREP forms and reporting instructions follow to the application (starting with 01.01.2019) of a new standard IFRS 16 – Leases replacing IAS 17;

- the update of the reporting framework regarding financial and accounting statistical information, applicable to the Romanian branches of credit institutions having their headquarters in other Member States, according to the amendments brought to the FINREP individual reporting framework.

To ensure the comparability of the information provided at the national level by semi-annual and annual accounting reports, as required by the Ministry of Public Finance, requirements applicable to the entities under the National Bank of Romania accounting regulation scope were updated as follows:

- As concerns the semi-annual accounting report, National Bank of Romania issued in August 2019 the Order no.7/2019 amending and supplementing the NBR Order no.10/2012\(^\text{12}\). The main aspects of the Order envisaged thereby are updating the templates applicable to credit institutions in respect of the "Statement of Assets, Liabilities and Equity" and "Profit and Loss Account" and updating of the template code 30 - "Informative data", according to the requirements of the Ministry of Public Finance (by introducing distinct reporting of the consideration of vouchers granted to other categories of beneficiaries other than employees and updating the reporting on the distribution of interim dividends according to Law no 163/2018\(^\text{13}\)).

- As concerns the annual accounting report, the National Bank of Romania issued the NBR Order no.2/2020 to replace and repeal the NBR Order no. 1/2013\(^\text{14}\). The order provides a consolidated version of the Order no.1/2013, updates the requirements considering the amendments brought to the FINREP individual reporting framework starting with 2019 and amends the template of the annual accounting reporting form code 30 - "Informative data" taking into account the information required by the Ministry of Public Finance (i.e. by including a new reporting requirement related to dividends distributed to the shareholders from the reported profit during the reporting period).

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\(^\text{12}\) Order of the National Bank of Romania no.10/2012 for the approval of the Semi-annually accounting reporting system, applicable to the entities under the National Bank of Romania accounting regulation scope.

\(^\text{13}\) Law no.163/2018 amending and supplementing the Accounting Law no.82/1991, amending and supplementing the Companies Law no.31/1990, as well as the amendment of Law no.1/2005 regarding the organization and functioning of the cooperation
Singapore

Key Developments in the Regulation and Supervision of Banks

MAS Notice 656 on Exposure to Single Counterparty Groups for Banks Incorporated in Singapore

On 14 August 2019, MAS issued MAS Notice 656, which revises the current regulatory framework for exposures to single counterparty groups for banks incorporated in Singapore. The revised regulatory framework is consistent with the large exposures framework under the Basel Committee on Banking Supervision, and includes:

- Tightening the large exposures limit to be based on 25% of Tier 1 capital;
- Enhancing criteria for aggregating and disaggregating exposures to single counterparty groups;
- Revising the scope of exempted exposures; and
- Aligning exposure measurement approaches to the capital framework.

The implementation date of MAS Notice 656 has been delayed from 1 October 2020 to 1 July 2021 to allow banks to prioritise resources towards dealing with issues related to the COVID-19 pandemic.

New Digital Bank Licences

On 28 June 2019, MAS announced it will issue up to five new digital bank licences. These new digital banks are in addition to any digital-only banks that Singapore-incorporated banking groups may already establish as qualifying subsidiaries. The five digital bank licences comprise:

- Up to 2 digital full bank licences, that will allow licensees to provide a wide range of financial services and take deposits from retail customers; and
- Up to 3 digital wholesale bank licences, that will allow licensees to serve Small Medium Enterprises and other non-retail segments.

The application window for the digital bank licences has closed on 31 December 2019.

Applicants must first meet MAS’ eligibility criteria to be considered. Eligible applicants will then be assessed against MAS’ assessment criteria. The eligibility and assessment criteria can be found on MAS’ website (link).

On 18 June 2020, MAS announced that 14 of the 21 digital bank applications received had met the eligibility criteria required. These eligible applicants, which comprised five digital full bank applicants and nine digital wholesale bank applicants, were to progress to the next stage of assessment. The expected timeline for the award of the digital bank licences is by end-2020.
Singapore Makes Significant Progress in Preparing for the SOR to SORA Transition

Since its formation in August 2019, the Steering Committee for SOR Transition to SORA\(^{15}\) (“SC-STS”) has made significant progress in front-loading the key technical preparation work required to support benchmark transition as SOR would be discontinued in tandem with LIBOR cessation. This includes establishing key market conventions and infrastructure, enhancing industry and system readiness, and starting early public education and communication efforts.

- Majority of SC-STS member banks are ready to trade SORA derivatives, and good progress has been achieved for bonds and perpetual securities as well as business and syndicated loans. Communication and public education have intensified over the past months.
- This will help lay important groundwork to facilitate banks to further drive early adoption and pilot new SORA products in second half of 2020, with the goal of a broader-base transition starting in 2021.

In addition, MAS announced several key initiatives to support SORA adoption:

- Issuance of SORA-based floating rate notes (MAS FRN) on a monthly basis, starting from 21 August 2020. This is intended to facilitate the adoption of SORA as a floating rate benchmark, provide a pricing reference for SORA cash products, and spur hedging activities through the SORA derivatives market.
- Enhancing transparency and data availability on SORA. MAS has published the key features and calculation methodology of SORA. MAS will also publish, on a daily basis, key statistics including SORA, the Compounded SORA rates for 1-month, 3-month and 6-month tenors, and a SORA Index.
- MAS has prescribed SORA as a financial benchmark under the Securities and Futures Act (SFA). This will ensure that regulatory and enforcement powers, including criminal and civil actions, can be taken against any market misconduct related to SORA.
- Finally, MAS in our capacity as the administrator of SORA has issued a Statement of Compliance with the IOSCO Principles for Financial Benchmarks (“IOSCO Principles”) for SORA. This follows recent enhancements to the methodology of SORA to broaden its representativeness.

Banking (Amendment) Act 2020

The Banking (Amendment) Act 2020 (“the Act”) was passed by Parliament on 6 January 2020 and assented to by the President on 29 January 2020. The key amendments in the Act are highlighted as follows:

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\(^{15}\) SOR is the Singapore Dollar (SGD) Swap Offer Rate published by the ABS Benchmarks Administration Co Pte Ltd. SORA is the Singapore Overnight Rate Average published by MAS, and reflects the volume-weighted average rate of SGD unsecured overnight interbank borrowing transactions in Singapore.
• Remove the Domestic Banking Unit (“DBU”) - Asian Currency Unit (“ACU”) divide.
• Rationalise and consolidate the regulation of merchant banks into the Banking Act and subject them to a licensing regime, under which they will be licensed as a class of financial institutions.
• Expand the grounds for MAS to revoke a bank licence to include:
  o Contravention of provisions of the MAS Act, which contains important regulatory requirements such as those relating to anti-money laundering and financing of terrorism;
  o In the case of a foreign-owned bank incorporated in Singapore, when the parent bank’s licence is withdrawn by the parent supervisory authority;
  o When MAS assesses that it is in the public interest to do so.
• Provide MAS with new powers to enhance its supervisory oversight of banks’ outsourcing arrangements.

The amendments will commence on a date or dates to be appointed.

MAS Notice 643 and 643A on Final Requirements for Transactions with Related Parties

On 12 December 2019, MAS issued a new set of Notices (Notice 643 and 643A) which sets out the requirements for transactions with related parties. The Notices seek to mitigate the risk of abuse arising from conflicts of interest by:

• Setting out the definition, scope and general principle governing transactions with related parties;
• Setting out the responsibilities of banks in Singapore in relation to related party transactions; and
• Requiring banks in Singapore to prepare quarterly statements of their related party transactions for submissions to their board of directors / head office and MAS.

On 2 July 2020, MAS informed all banks of the delay of the effective dates of the Notices from 1 October 2020 to 1 July 2021, in view of feedback that banks were facing difficulties meeting the earlier timeline of 1 October 2020, as significant resources were being prioritised towards dealing with the COVID-19 pandemic.

Thematic Inspections on Private Banking Sales and Advisory Practices

On 14 February 2020, MAS published an information paper that highlighted observations from thematic inspections on selected financial institutions (“FIs”) operating in the private banking industry in Singapore. The paper also sets out MAS’ supervisory expectations on sales and advisory practices in the industry. The paper can be found on MAS’ website [link].

The inspections focused on FIs’ governance framework, investment suitability, pricing controls and disclosures, as well as culture and conduct. Overall, FIs have largely adopted the
investment suitability and pricing disclosure standards set out in the Private Banking Code of Conduct (“PB Code”)¹⁶ and Guidance on Private Banking Controls¹⁷. Some FIs have established good practices with regard to investment suitability and pricing checks that others can emulate. Others have room to improve the rigor of control processes and effectiveness of implementation. Following the inspections, MAS worked with the Private Banking Industry Group (“PBIG”)¹⁸ to enhance the PB Code to reflect the expectations in the paper and to reiterate the high standards of market conduct expected of FIs.

Examples of supervisory expectations highlighted by MAS include:

- Adequate management attention on pricing issues as well as proper governance and controls to prevent overcharging;
- Front office awareness on communicating in a transparent manner and acting in clients’ interests;
- Robust change management and post-implementation reviews, which if not well managed could result in data integrity issues and design flaws that inadvertently lead to overcharging;
- Accountability over pricing issues across the three lines of defence; and
- Explore use of technology and data analytics to automate and process data in a more efficient manner that would reduce errors and ease resource constraints.

MAS Consultation Paper on Proposed Guidelines on Environmental Risk Management

On 25 June 2020, MAS issued a consultation paper on its Proposed Guidelines on Environmental Risk Management. The Guidelines aim to enhance financial institutions (“FIs”)’ resilience to environmental risk, and strengthen the financial sector’s role in supporting the transition to an environmentally sustainable economy, in Singapore and in the region.

The Guidelines, which were co-created with FIs and industry associations, set out MAS’ supervisory expectations for banks, insurers and asset managers in their governance, risk management and disclosure of environmental risk:

- **Governance** – Boards and senior management of FIs are expected to incorporate environmental considerations into their strategies, business plans, and product offerings, and maintain effective oversight of the management of environmental risk.
- **Risk Management** – FIs should put in place policies and processes to assess, monitor, and manage environmental risk.

¹⁶ The [PB Code](#) sets out standards of good practice on competency and market conduct expected of FIs (including their staff) operating in the private banking industry in Singapore.

¹⁷ The [Guidance on Private Banking Controls](#) provides FIs with guidance in the areas of (i) anti-money laundering and countering the financing of terrorism; (ii) fraud risk prevention; and (iii) investment suitability.

¹⁸ The PBIG is an industry group comprising senior executives of the private banking community in Singapore. It aims to shape the development and foster sustainable growth of private banking in Singapore.
• **Disclosure** – FIs should make regular and meaningful disclosure of their environmental risks, so as to enhance market discipline by investors.

**MAS Consultation Paper on New Omnibus Act for the Financial Sector**

On 21 July 2020, MAS issued a consultation paper to enhance its powers under a new Omnibus Act to, among others (i) issue prohibition orders to keep persons who are not fit and proper from conducting certain activities or holding key roles in financial institutions for a period of time, prohibiting unsuitable individuals from working in the financial industry; (ii) license and regulate, for anti-money laundering and countering the financing of terrorism purposes, any person in Singapore who provides digital token services overseas; (iii) strengthen the framework for technology risk management; and (iv) enhance the effectiveness of dispute resolution. The proposed new Act will consolidate similar provisions for various classes of financial institutions in the MAS Act into a single legislation.

**Anti-Money Laundering Developments**

**Key Developments in Sanctions**

Developments in the external environment have heightened sanctions risk for financial institutions (“FIs”) in Singapore:

• DPRK sanctions evasion risk remains high
  - DPRK continues to persist in wide-ranging sanctions violation and evasion at an increased scale, scope and sophistication, on its own or with third party facilitators, as highlighted in the March 2020 UN Panel of Experts Report on DPRK. Countries like the US have also expanded the scope of its mandatory sanctions, including secondary sanctions, against DPRK and its supporters. In November 2019 and June 2020, the Singapore authorities convicted individuals and companies for supplying luxury items to the DPRK, an offence under Singapore’s United Nations Act. Two of the individuals had also conspired to deceive a few banks in Singapore into granting S$130 million of trade financing loans to the convicted entity, to generate liquidity for their illicit trade. FIs in Singapore thus have to continue to remain highly vigilant against DPRK sanctions evasion activity.

• Continued focus on the maritime industry for sanctions evasion
  - With toughening measures imposed on the DPRK, the DPRK has looked to other means to evade sanctions. International typologies\(^\text{19}\) have indicated that the maritime industry has been exploited by the DPRK, to maintain its access to supply of designated items or to conduct trade to support its proliferation activities. FIs in

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\(^{19}\) Specifically, the UN Panel of Experts Report on DPRK has provided specific typologies involving ship-to-ship transfers, or vessel spoofing, to avoid detection of supply of designated goods to the DPRK. In addition, other authorities such as the US’ Office of Foreign Assets Control (“OFAC”) has also published an advisory in May 2020 on tools to counter current and emerging trends related to illicit shipping and sanctions evasion, which banks have also taken into consideration.
Singapore continue to remain vigilant to the increasingly sophisticated techniques described in these papers, as well as methods described in past papers by MAS, and incorporate controls as necessary, to mitigate sanctions risks.

Risk Priorities and Focus Areas in Anti-Money Laundering and Countering the Financing of Terrorism ("AML/CFT") Supervision

Combating proliferation financing ("PF") and detecting the abuse of legal persons for ML and PF continue to be priority risk areas for MAS.

Following a series of thematic AML/CFT inspections targeted at assessing the effectiveness of banks’ controls in mitigating risks from the misuse of legal persons, MAS published a guidance paper in June 2019 titled "Effective Practices to Detect and Mitigate the Risk from Misuse of Legal Persons". This paper summarises the key findings from the inspections and sets out MAS' supervisory expectations of sound practices which financial institutions ("FIs") should adopt, to address misuse of legal persons risks and typologies. Illustrative case examples and best practices observed from the inspections were also shared as references for FIs to review against and to enhance their controls as appropriate.

In addition to these two priority areas, MAS will be focusing on banks’ controls relating to CFT, and will be commencing inspections examine the effectiveness of banks’ controls and provide guidance on sound practices that all FIs should adopt. Also, as Singapore is a major trading and commercial hub, banks continue to remain vigilant to trade finance being exploited by criminals to launder funds and for PF. Trade fraud risks are also particularly pertinent, given the global COVID-19 pandemic and its resultant negative impact on global economies.

Furthermore, MAS has highlighted the urgency and importance of augmenting the financial industry’s data analytics capabilities in the area of AML/CFT. The banking industry, in particular, has made good progress on this front over the last two years, by increasingly integrating automation, data analytics and artificial intelligence to enhance the effectiveness and efficiency of their AML/CFT processes and controls (e.g. natural language processing, supervised machine learning techniques and network linked analysis), and to facilitate the detection and disruption of illicit networks.

Remaining Resilient to COVID-19 Challenges

The COVID-19 pandemic has presented unprecedented challenges to public health and the global economy, and has led to significant disruptions in work practices, including for financial institutions. Financial institutions ("FIs") have adapted to maintain the effectiveness of AML/CFT controls. In April 2020, MAS provided guidance to clarify that FIs should continue to

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20 MAS published a paper, “Sound Practices to Counter Proliferation Financing” in August 2018 which included emerging typologies and case studies, as well as measures FIs could put in place to mitigate risks. The misuse of legal persons, including for proliferation financing purposes, was also covered in a guidance paper MAS had issued in June 2019 – “Effective Practices to Detect and Mitigate the Risk from Misuse of Legal Persons”. 


prioritise higher risk areas; leveraging on the risk-based approach provided for in the relevant MAS AML/CFT Notices and Guidelines. FIs were also encouraged to develop data analytics capabilities, for instance, to facilitate name screening and/or transaction monitoring processes, and leverage technological solutions to apply non-face-to-face measures.

In addition, the disruptions caused by COVID-19 are likely to lead to significant changes in the behaviour of both legitimate actors as well as criminals and terrorists; the latter may seek to exploit weaknesses in AML/CFT systems to carry out financial fraud and exploitation scams. MAS and CAD published a joint alert on 14 April 2020, highlighting key COVID related scams/typologies during this period and reminding banks to stay vigilant to deter and detect such cases.

Such typologies include:

- Frauds/scams related to COVID
- Misdirection of government funds or international financial assistance and increased risk of corruption
- Change in financial behaviour to be considered during transaction monitoring
- Sale of distressed assets (e.g. real estate, troubled businesses and other high-value products)

AML/CFT Industry Partnership (“ACIP”)

On September 2019, ACIP organised its first data analytics workshop to complement ongoing initiatives by financial institutions (“FIs”) on the adoption of data analytics methods to enhance AML/CFT effectiveness. Several ACIP Banks shared strides that they had made in deploying data analytics to enhance the effectiveness of their AML/CFT processes and controls at the workshop, and participants gained ideas on how to apply these tools to enhance their own banks’ AML/CFT processes and risk detection frameworks.

To help banks understand how their peers have dealt with common implementation issues, panel discussions were conducted to address two of the key challenges in implementing AML/CFT data analytics, namely, Explainability and Governance. The first panel discussed the importance of explainability in supporting adoption of machine learning models in AML/CFT, as well as a way to tailor the level of explainability for different stakeholders to help them understand, evaluate and approve, and use such machine learning models. The second panel discussion focused on the perceived tension between governance and agility in development, and the ways to address the perception, including calibrating appropriate level of governance at each stage of a model’s development.

ACIP has also published a summary paper titled “Key Takeaways – ACIP Workshop to Promote Data Analytics in AML/CFT“ on 13 September 2019 and laid out additional resources that banks can tap on to develop their systems and staff expertise.
Addressing Cybersecurity Threats to Financial Institutions and Building Operational Resilience

Throughout the first half of 2020, financial institutions ("FIs") in Singapore implemented effective safe management measures at their workplaces and business operations. These measures include having FIs’ employees working from home as much as possible, split operations for those who have to work onsite, maintaining a safe distance between individuals, and wearing of surgical masks in the FIs’ premises.

MAS also provided guidance on technology and cyber risk management during the COVID-19 pandemic with specific focus placed on securing the IT infrastructure supporting remote access and telecommuting. MAS also kept the financial industry apprised of new COVID-19 related cyber threats promptly through our surveillance efforts. These include cyber threat actors that were using COVID-19 as part of their social engineering campaigns to trick victims into revealing sensitive information or installing malware on victims’ devices. Examples of such scams include impersonation of public health enforcement officers requesting for personal information, and phishing campaigns using spoofed email addresses of government authorities that claimed to help businesses during the COVID-19 pandemic. More COVID-themed phishing scams are expected as the pandemic continues to generate high level of public interest. FIs continue to heighten their cyber threat monitoring as well as raise cyber vigilance amongst their staff through cyber risk awareness and social engineering testing programmes.

While the COVID-19 pandemic has brought on challenges, FIs in Singapore continue to strengthen their cybersecurity and operational resilience to meet the challenges ahead.

MAS Notice on Cyber Hygiene

On 6 August 2019, MAS issued a set of notices that sets out the measures that financial institutions must take to mitigate the growing risk of cyber threats. The Notices on Cyber Hygiene make it mandatory for financial institutions ("FIs") to comply with the following requirements:

- Ensure there is a written set of security standards for every system and ensure that every system conforms to the set of security standards where possible;
- Ensure security patches are applied to address vulnerabilities in every system in a timely manner;
- Implement controls at it network perimeter to restrict unauthorised network traffic;
- Implement measures to mitigate the risk of malware infection;
- Secure administrative accounts to prevent unauthorised access; and
- Implement multi-factor authentication for administrative accounts in respect of certain critical systems as well as accounts on systems used to access customer information through the internet.

The requirements have come into effect on 6 August 2020.
Revisions to Guidelines on Technology Risk and Business Continuity Management

On 7 March 2019, MAS issued two consultation papers on proposed revisions to technology risk and business continuity management (“BCM”) Guidelines to enhance operational resilience of financial institutions (“FIs”).

- The changes will require FIs to put in place enhanced measures to strengthen operational resilience. These take into account the rapidly changing physical and cyber threat landscape.
- MAS proposes to expand the Technology Risk Management Guidelines to include guidance on effective cyber surveillance, secure software development, adversarial attack simulation\(^2\), and management of cyber risks posed by the Internet of Things.
- MAS also proposes to update the BCM Guidelines to raise standards for FIs in the development of business continuity plans that will better account for interdependencies across FIs’ operational units and linkages with external service providers. FIs are encouraged to put in place an independent audit programme to regularly review the effectiveness of their BCM efforts.
- The two Guidelines continue to emphasise the importance of risk culture, and the roles of Board of Directors and senior management in technology risk and business continuity management.

Protecting Critical Information Infrastructure

Following the designation of critical information infrastructure (“CII”) in the banking and finance sector in Q4 2018, the Cyber Security Agency of Singapore (“CSA”) has put in place Cybersecurity Code of Practice (“CCoP”) addendum for operational technology systems issued in December 2019.

CSA has further provided supplementary references to augment the requirements set out in the Cybersecurity Act and CCoP, for Critical Information Infrastructure Owners (“CIIOs”). They are:

- Guide to conducting Cybersecurity Risk Assessment for Critical Information Infrastructure in December 2019; and

A sectoral heightened alert plan for the Banking and Finance Sector was released in December 2018. This plan serves to guide CIIOs to put in place additional resources and precautionary measures based on specified cyber threats scenarios.

Cyber Security Advisory Panel (“CSAP”)

\(^2\) Adversarial attack simulation exercise tests an FI’s capability to prevent, detect and respond to threats by simulating perpetrators’ tactics, techniques and procedures to target the people, processes and technology underpinning the FI’s critical business functions or services.
The MAS CSAP was formed in 2017 with the intent to bring together leading cyber security experts and thought leaders from around the world to advise on MAS on strategies to enhance cyber resilience of Singapore’s financial sector. The 3rd meeting of the CSAP was held over 2 days in Singapore from 30 September 2019 to 1 October 2019 with support from the ABS Standing Committee on Cyber Security. Discussions between the CSAP and participating industry representatives included topics on the quantification of cyber risks, artificial intelligence and machine learning in combating cyber threats, and risks arising from the growing adoption of cloud computing.

**Exercise Raffles VI**

The MAS and the ABS jointly conducted a cyber-themed business continuity exercise to strengthen the financial sector’s resilience to cyber-attacks and operational disruptions. Codenamed Exercise Raffles, the sixth edition of the exercise was conducted over two days in November 2019.

Exercise Raffles VI (“ERVI”) saw over 140 organisations, including banks, insurers, capital market services licensees, financial utility providers, finance companies, industry associations, and the Singapore Exchange, respond to scenarios of cyber-attacks and operational disruptions by activating their business continuity and crisis management plans, and practicing their public communications and coordination. The scenarios included banking and payment service disruptions, trading disorders, data theft and the spreading of rumours and falsehoods on social media.

An important aspect of effective cyber resilience is information sharing among financial institutions and between regulators. ERVI welcomed the participation for the first time in Exercise Raffles of the Financial Services Information Sharing and Analysis Center (“FS-ISAC”) and the Hong Kong Monetary Authority (“HKMA”). The exercise was also supported by the Cyber Security Agency of Singapore (“CSA”) and financial industry partners that included SWIFT, FIS Global, and Merimen Technologies (Singapore) Pte Ltd.

**Financial Stability Board’s Working Group on Cyber Incident Response and Recovery (“CIRR”), chaired by MAS, released Consultative Document on Toolkit of Effective Practices**

The CIRR, chaired by MAS’ Deputy Managing Director, Mr Ong Chong Tee, has been working to develop a toolkit of effective practices for both financial institutions (“FIs”) and authorities to support them in responding to, and recovering from cyber incidents. The ABS and representatives from FIs had participated in the virtual meetings organised by the CIRR to provide feedback and exchange views on the draft toolkit that was released for public consultation.
The CIRR toolkit will contain a set of effective practices, structured across seven components: (i) Governance; (ii) Preparation; (iii) Analysis; (iv) Mitigation; (v) Restoration; (vi) Improvement; and (vii) Coordination and Communication, and is expected to be released in October 2020.

**Significant Market Developments**

No major mergers or privatisations were noted amongst banking, securities and insurance companies in Singapore during the period under review.

**Key Developments in Payments**

**PayNow and PayNow Corporate**

PayNow and PayNow Corporate have both continued to grow significantly in its registered user base and transaction usage. More than 4 million Singapore residents have registered their National Registry Identity Card (“NRIC”) number, Foreign Identification Number (“FIN”) or mobile number for the service. This represents a 45% YoY growth (from July 2019-June 2020) in its user base of individual consumers.

After launching in August 2018, PayNow Corporate now has 245,653 unique entity number (“UEN”) registrations as at June 2020, a 122% YoY growth from June 2019. PayNow Corporate has facilitated S$5.17 billion worth of payment transaction flows during the same one-year period.

Just recently in April 2020, ABS has also worked with the MAS and the respective PayNow banks to implement a campaign to significantly increase the adoption of PayNow Corporate by small businesses and deploy physical PayNow SGQR labels at merchant store fronts. This allows small businesses to accept e-payments quickly with low to no cost, while enabling these businesses to better participate in the digital economy.

**Enabling Direct FAST and PayNow Access for Non-Bank Financial Institutions (“NFIs”)**

ABS has played a key role in supporting MAS and other payment service providers to enable NFIs to directly access FAST and PayNow, Singapore’s real-time payments infrastructure and central addressing system. This will enable real-time payments to take place between bank accounts and e-wallets, and across e-wallets, which is a significant milestone to achieve interoperability in our payments ecosystem. The project is expected to complete in end-November 2020, and the first batch of NFIs are expected to go-live as participants of FAST and PayNow in Q1 2021.
Payment Services Act ("PS Act")

On 28 January 2020, the Payment Services Act 2019 ("PS Act") came into force. The PS Act provides for the regulation of payment service providers and oversight of payment systems. The Payment Systems (Oversight) Act and Money-Changing and Remittance Businesses Act were repealed. The objectives of the PS Act are as follows:

- Introduce a regulatory structure that recognizes the growing convergence across payment activities.
- Expand the regulatory scope of MAS to include more types of payment services, such as digital payment token ("DPT") services and merchant acquisition.
- Adopt a modular and risk-focused regulatory structure, allowing rules to be tailored to the scope of services being offered.

Regulatory Frameworks, Licence Classes & Key Risk Mitigating Areas

The PS Act introduced 2 regulatory frameworks:

- Designation Regime which allows MAS to designate significant payment systems to ensure the stability of the financial system or for efficiency or competitive reasons.
- Licensing Regime which enables MAS to regulate a wide range of payment services in a manner that matches the scope and scale of services provided by each provider, and that can respond flexibly to market developments.

There are 3 classes of licences that may be issued under the PS Act:

- Money-changing licences which entitle their holders to only carry on a business of providing money-changing services.
- Standard payment institution licences which entitle their holders to carry on a business of providing any combination of the 7 payment services, but below specified transactions flow or e-money float thresholds as set out in the PS Act.
- Major payment institution licences which entitle their holders to carry on a business of providing any combination of the 7 payment services but above specified transactions flow or e-money float thresholds as set out in the PS Act. They will be regulated more comprehensively.

The key risk mitigating measures are:

- **User protection**: The PS Act will require major payment institutions to safeguard customer monies from loss through the institutions’ insolvency.
- **Interoperability**: The PS Act gives MAS formal powers to ensure interoperability of payment solutions.
• **Technology risk management**: The PS Act gives MAS powers to impose technology risk management requirements, including cyber security requirements, on all licensees and operators of designated payment systems. Licensees and operators of designated payment systems are required to comply with cyber hygiene requirements to mitigate the growing risk of cyber threats.

• **Anti-Money Laundering/Countering Financing of Terrorist ("AML/CFT")**: MAS Notices and Guidelines were issued to DPT service providers and other payment service providers. Payment service providers are required to put in place robust AML/CFT controls to detect and deter the flow of illicit funds through Singapore's financial system.

**Enhanced Surveillance and Supervision over DPT Service Providers**

MAS has enhanced supervisory and surveillance capabilities to facilitate the pro-active detection of unlicensed DPT activities, and to use “real-time” data gathering to enhance assessment of ML/TF risks for licensed entities. Both in-house and external technologies are utilised to draw insights from new data points, such as transactional information on public blockchains and other sources, to augment traditional sources of information such as statutory returns and suspicious transactions reports.

**Proposed Amendments to PS Act**

On 23 December 2019, MAS issued a consultation paper proposing further amendments to the PS Act to strengthen and enhance the regulation of DPT service providers (also known as Virtual Asset Service Providers ("VASPs") or virtual currency exchanges/dealers) by expanding the scope of DPT service to mitigate the ML/TF risks posed by other DPT activities and to align Singapore’s regime with the enhanced FATF Standards for VASPs, and include powers in relation to the protection of customer money and assets. In addition, MAS proposed amendments to expand the regulatory scope of cross-border money transfer service to mitigate the ML/TF risks arising from certain business models where entities in Singapore broker remittance transactions between entities in two different countries.

**Key proposals include:**

- Expanding scope of “DPT service” to regulate entities that conduct safekeeping of transfer of DPTs, provide custodian wallet services for DPTs and/or actively facilitate the exchange of DPTs (without possession of money or DPTs).
- Expand scope of cross-border money transfer service to include brokering of transactions between entities in two different countries, without moneys accepted or received in Singapore by the payment service provider.
- Granting MAS powers to impose, on certain DPT service providers, user protection measures to safekeep customer assets and additional measures to ensure financial stability, safeguard efficacy of monetary policy, the protection of users or consumers or in the interest of the public.
Spain

The following are the main legislative changes during the period under review:

Covid-19 measures

_Royal Decree 463/2020 declaring the state of alarm in Spain to manage the health crisis situation caused by COVID-19_

The Royal Decree provides, within other general measures, the suspension of procedural deadlines and administrative deadlines.

_Royal Decree-Law 3/2020, of February 4, on urgent measures transposing into Spanish law various European Union directives in the field of public procurement in certain sectors; private insurance; pension plans and funds; taxation and tax litigation_

This Royal Decree-Law aims to transpose into Spanish law a set of European Directives in the field of public procurement in certain sectors, private insurance, pension plans and funds, taxation and tax litigation.

_Royal Decree-Law 6/2020, of March 10, adopting certain urgent measures in the economic field and for the protection of public health._

Some of the main measures are those strengthening the protection of mortgage debtors, debt restructuring and social rent, extending the suspension of evictions for four more years, until May 2024. It also extends the definition of the “vulnerable group” eligible for the measures of that Law.

It also extends the type of financial entities that may apply for its conversion into banks (credit unions, specialized credit institutions, broker-dealers, payment entities and e-money entities).

_Royal Decree-Law 8/2020 on urgent extraordinary measures to face the economic and social impact of Covid-19_

This provision establishes a moratorium period for the mortgage debt from loan or credit agreements of debtors undergoing any so-called “circumstances of economic vulnerability”.

It also includes a series of measures relating to the functioning of the governing bodies of legal entities governed by private law, as well as specific measures relating to the functioning of listed companies during the alarm period (holding of meetings by videoconference and adoption of resolutions without meeting, suspension of the drafting and approval of annual accounts, new deadline for the duty to file for insolvency.
Royal Decree-Law 11/2020, of March 31, adopting a new set of additional emergency measures to tackle the social and economic impact of COVID-19

The moratorium measure introduced by Royal Decree-law 8/2020 is modified and clarified, extending its scope of application as well as its term and implementing several technical adjustments for its implementation.

Royal Decree-Law 15/2020, of April 21, adopting a new set of additional emergency measures to support the economy and employment

It provides clarification regarding the moratorium period for debts: The recognition of the application of the moratorium shall not be subject to the provisions of Law 5/2019, of 15 March, on real estate credit; It is the creditor’s unilateral obligation to notarise the recognition of the mortgage moratorium in a public deed, so that the extension of the initial term can be registered with the relevant Land Registry, within others.

Some measures are also adopted in relation to non-residential and industrial leases with the aim of reducing the costs of small and mediumsized enterprises (“SMEs”) and freelancers, and aims to protect and support SMEs and freelancers, regardless of whether they are natural or legal persons.

Royal Decree-law 16/2020, on procedural and organisational measures to address COVID-19 in the field of the Administration of Justice, which provides for measures to facilitate the resumption of the normal functioning of the administration of justice and the recovery, to the extent possible, of the delay suffered.

Royal Decree-Law 19/2020, of May 26, adopting additional measures on agriculture, science, economic matters, employment and social security, and tax to mitigate the effects of COVID-19.

It introduces and regulates the “moratorium by agreement”, establishing a special system for agreements reached between financial institutions and their clients that are subject to the provisions of sectorial framework agreements between financial institutions through their representative associations.

It also regulates the effects of the moratorium when the legal moratorium and a moratorium by agreement are granted for the same financing transaction.

Royal Decree-Law 25/2020 of 3 July on urgent measures to support economic recovery and employment adds a moratorium on mortgage loans granted to finance property used for tourism as well as the introduction of a new line of ICO (Official Credit Institute) guarantees and the creation of a Fund to support the solvency of strategic companies.
Royal Decree-Law 26/2020, of 7 July, on economic recovery measures to deal with the impact of COVID-19 in the areas of transport and housing, which regulates the temporary moratorium on the payment of the principal of the contracts for loans, leasing and renting of vehicles dedicated to discretionary public transport of passengers by bus and public transport of goods.

Others

Royal Decree 736/2019 (of 24 December) on the legal regime for payment services and payment institutions.

This piece of legislation continues with the transposition of the EU Directive 2015/2366 (PSD2). A new regime is established for the creation of payment institutions, the authorization and amendment of their activities and structure, with the Bank of Spain becoming the new competent authority for their authorization. It also provides the legal regime for the cross-border activity of both payment institutions based in an EU Member State in Spain and Spanish payment institutions in other EU Member States.

Royal Legislative Decree 1/2020 of May 5, approving the revised text of the new Spanish Insolvency Law, consolidating and harmonizing various bankruptcy regulations that were already in force.


It seeks to transpose Directive (EU) 2018/843 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing (known as the "V Directive") into Spanish law.

Some of the main new developments arising from the V Directive are the following: (i) the inclusion of new regulated subjects (providers of virtual currency services and providers of electronic purse custody or key protection services); (ii) the strengthening of the system of identification of the beneficial owners of legal entities, for which a single registration system is created that will include the information of the beneficial owners already existing in the Commercial Registry and in the notary databases, and will incorporate the obligatory registration of trusts and entities of a similar nature operating in Spain and of their beneficial owners (iii) the possibility of creating common information storage systems for the fulfilment of obligations of due diligence; (iv) inclusion of details regarding the compatibility of the legislation on the protection of personal data with the regulations and obligations relating to AML; (v) additional adjustments made to the Centralized Banking Account Register in order to improve its effectiveness and adapt its content to the new requirements of the 5th Directive. The deadline for feedback was June 23 2020.
Ministerial Order 699/2020 of July 27 amending Order EHA/2899/2011, on transparency and protection of customers of banking services, to establish information obligations on open-ended credits associated with payment instruments.

It establishes a series of regulatory provisions to improve the position of those individuals who hold payment instruments associated with a revolving credit, including revolving credit cards (annual instalments in revolving credit agreements must imply the amortization of at least 25% of the credit limit; further information must be attached to the precontractual information documents and ongoing information must be provided to the borrower on a quarterly basis).

Circular 4/2020 of the Bank of Spain, on advertising of banking products and services (published on June 15).

The Circular aims to adapt to the evolution of the advertising sector and the impact of digital technology and further develops the changes introduced by a previous Order of regulation and control of advertising of banking services and products.

Revision of the Good Governance Code of Listed Companies of the National Commission of the Stock Market (June 26).

Such reform seeks to update some contents of the current Code to adapt them to legal changes that have occurred since its entry into force or to clarify or complement its scope (strengthen aspects related to controls in order to avoid possible irregular practices; incorporate a more up-to-date approach to sustainability or update the Code’s approach to diversity in councils).

Public consultation on the transposition of Directive (EU) 2019/713 of the European Parliament and of the Council of April 17, 2019 on combating fraud and counterfeiting of non-cash means of payment, which aims to improve security and strengthen user confidence in the digital market and facilitate criminal legal assistance between Member States when investigating and prosecuting cross-border cases (December 2019)
Sweden

Trends in Financial Market Developments

Banks’ results and key figures

The description focuses on the four major commercial banks in Sweden. They jointly represent about 70 per cent of the market. These major banks have considerable activities in markets outside Sweden. The text is mainly based on reports from the National Institute of Economic Research (NIER) and Finansinspektionen (the Swedish FSA).

Market Developments

Sweden’s GDP increased by 1.7% in 2019 compared to 2.0% in 2018, according to Eurostat. Household consumption contributed with 0.5% to total growth and public consumption, 0.1%. Gross fixed capital formation decreased by 1.2%, reducing GDP by -0.3%. Residential construction is an important factor in gross fixed capital formation and fell in 2019. Residential construction made up 20 percent of gross fixed capital formation in 2020 compared to 21 percent in 2019 and 23 percent in 2017. Changes in inventories reduced GDP growth by -0.3%. Exports increased more than imports and therefore net exports added 1.1%.

Preliminary GDP-figures shows a sharp contraction in the second quarter of 2020, by 8.6 percent, when Sweden was hit by the covid-19 pandemic. However, the contraction was less severe in Sweden compared to the rest of EU, where the GDP fell on average by 11.9 percent in the second quarter.

Production of goods rose by 1.4% and services by 1.9% (for an average of 1.7%) in 2019. Employment increased by 0.6%. The employment, measured as the total number of hours worked, decreased by -0.4%. Unemployment increased to 6.8% in 2019 from 6.4% in 2018. The covid-19 pandemic has led to a decline in employment and rise in unemployment. The unemployment rate in the second quarter of 2020 increased to 9.1 percent.

Inflation was relatively stable during 2019, 1.8% at year end. Core inflation (Consumer Price Index with fixed interest rate) however decreased in 2019 and was 1.7% in the end of 2019.

Government debt as a percentage of GDP was 35.1% in 2019, down from 38.8% in 2018, equivalent to a fall of SEK 24.8 bn in 2019 and SEK 38.2 bn in 2018.

The Swedish Mortgage Market

Residential mortgage lending grew by 5.3% in 2019 compared to 6.1% in 2018. The growth rate has now been declining for four years in a row.
Mortgage interest rates have been relatively stable the last five years. The variable (3-month) rate has been between 1.3 and 1.6% during 2019, a similar range to that prevailing from 2015 to 2018. Initial fixed rates, 1-5 years, have ranged from 1.4 and 1.6%, slightly lower than in previous years. Initial fixed rates over 5 years have decreased further in 2019 and by year end were below shorter mortgage interest rates.

The share of households that amortise their mortgages (87%) and the size of these amortisations was unchanged in 2019 compared to last year. Although, over a period of several years this has increased partly due to the stricter amortisation requirement.

The average LTV for new mortgage loans is 65.5% in 2019, which is slightly higher than in 2018.

The credit loss ratio on mortgage loans remained close to zero. due to high credit standards, the social welfare system, and house prices that have been almost continuously increasing for 25 years.

A number of measures have been taken in recent years to counteract high indebtedness. In 2010 Finansinspektionen (the Swedish Financial Supervisory Authority), introduced a mortgage cap, whereby home loans may not exceed 85% of the value of the home. They have also introduced a risk weight floor for Swedish mortgages, currently 25%.

A further measure is the introduction of amortisation requirements. In June 2016 the Finansinspektionen’s regulation on amortisation entered into force, requiring annual amortisation of at least 1-2 percent on mortgages with LTV (loan to value) 50 percent and higher. Stricter amortisation requirements entered into force from March 2018 requiring additional annual amortisation of 1 percent on mortgages with LTI (loan to income) from 450 percent or higher. Due to the covid-19 outbreak in 2020 a general easing of these rules was introduced in April 2020, allowing exceptions such as interest only mortgages until August 2021.

Finansinspektionen has also focussed on commercial real estate in 2019, and at year end they announced additional capital requirements for commercial real estate which will apply from 2020 through Pillar II-requirements. The risk weight for the new additional capital requirements is 35% for commercial real estate and 25% for commercial residential properties.

Profitability and Capital in the Banking Sector

At the beginning of the COVID-19 pandemic, the Swedish banking system was mainly in a good position according to Finansinspektionen (Swedish supervisory authority). The authority has expressed that the resilience of the banks was satisfactory due to good profitability and substantial capital and liquidity buffers they had built up since the global financial crisis in 2008–2009. Finansinspektionen currently makes the assessment that the Swedish banking system can handle a sharp economic downturn. However, there is considerable uncertainty, primarily since it is difficult to predict how deep and protracted the crisis after covid-19 will be.
It is important that the banks can supply credit to the economy during the covid-19 crisis and therefore Finansinspektionen lowered the countercyclical buffer rate to 0 per cent on 16 March 2020. The rate will not be raised before 16 March 2021 and according to Finansinspektionen this means, assuming normal implementation periods, that the buffer rate can be expected to remain at 0 per cent until at least 16 March 2022. The reduction is large in comparison to other European countries, in part because the previous Swedish buffer rate of 2.5 per cent was the highest in the EU.

According to Finansinspektionen the lowering of the countercyclical buffer rate decreased the large and mid-size Swedish banks’ capital requirements by a total of SEK 46 billion (for the three major banks the effect was SEK 32 billion). This corresponds to potential new lending in Sweden of SEK 900 billion.

In the Financial Stability Report by Finansinspektionen, it says that the liquidity of the major Swedish banks is satisfactory. Due to the crisis, Finansinspektionen also announced that the banks will be allowed to temporarily fall below the requirements if necessary. All major banks have high levels of surplus liquidity, which in other words means they have a large surplus of liquid assets in addition to what is required for meeting requirement levels.
Switzerland

Introduction

Swiss banks, insurers, and financial institutions are the backbone of the Swiss financial centre. Gross value added of our 248 banks and 199 insurance companies amounts to CHF 63 billion in 2018. That is 9.4% of the country’s total GDP.

An important issue is digitalisation, which is viewed as an opportunity for the financial sector. According to the latest fintech study by the ‘Institute of Financial Services’ of the Lucerne School of Business, the number of fintech companies grew by 7.3% from 2018 to a total of 382 in 2019. Swiss fintech companies are active in a wide range of technology-driven areas like distributed ledger technology, analytics or artificial intelligence. The Swiss Parliament is currently considering amendments to federal law to further improve the conditions for Switzerland to develop as a leading, innovative and sustainable location for Blockchain / Distributed Ledger Technology companies. The regulation of digital financial innovation is among the most advanced globally. According to the ‘Global Fintech Hub Report 2018’ by the Universities of Zhejiang and Cambridge, Switzerland ranks second in terms of policies and regulations. In the Global Fintech Index 2020 Switzerland ranks #5 with four Swiss cities in the global top 100. Being a highly internationally interconnected market, legal, capital and liquidity requirements such as those established by the Financial Action Task Force (FATF) and the Basel Committee on Banking Supervision are rigorously complied with. In 2020, the supervising authorities continued to enforce Basel III standards.

In August 2019, the Swiss Financial Market Supervisory Authority (FINMA) has issued banking and securities dealers’ licences to two pure-play blockchain service providers for the first time. The two companies will offer services for institutional and professional customers.

Capital and Liquidity Requirements

The Swiss Bankers Association’s (SBA) amended self-regulation on minimum requirements for mortgage financing entered into force on 1 January 2020 and got recognized by FINMA as a minimum regulatory (supervisory) standard. By increasing the down payment made by the borrower and shortening the repayment period for the loan, the industry is contributing to further stabilize the market for investment properties. For mortgage financing of such properties, the minimum down payment will be 25% of the lending value (hitherto 10%) and the mortgage must be amortized to two thirds of the lending value of the property within a maximum of 10 years (hitherto 15 years).

In November 2019, the Federal Council adopted an amendment to the Capital Adequacy Ordinance stating new capital requirements for the parent entities of the two Swiss global systemically important banks (G-SIBs). Since 1 January 2020, the respective parent banks need to hold additional gone concern capital for their possible restructuring and resolution. The
corresponding requirements for the two G-SIBs at consolidated group level and for the three domestic systemically important banks (D-SIBs) had already been introduced in 2016 and 2019, respectively.

Furthermore, and within the Capital Adequacy Ordinance, the Federal Council created the legal basis for the so called ‘small banks regime’, allowing FINMA to transpose its pilot programme into ordinary regulation as of 1 January 2020. The new ‘regime’ seeks to ease the regulatory burden on small and particularly solid banks, without jeopardizing their stability and safety. Participating institutions must therefore be extremely well capitalized (Leverage Ratio ≥ 8%) and enjoy high liquidity (Liquidity Coverage Ratio ≥ 110%). In return, they benefit from regulatory reliefs and significantly reduced complexity both in quantitative and qualitative terms (e.g. waiver of calculating risk-weighted assets). Currently, the ‘small banks regime’ counts more than sixty participating institutions.

Eventually, FINMA – in its role as the accounting standard setter for banks in Switzerland – revised its provisions on accounting principles for banks. In line with international developments (e.g. IFRS and US GAAP), the method for forming value adjustments for default risks was adjusted and new approaches for expected losses or inherent default risks were introduced. To this end, FINMA published a new accounting ordinance and a fully revised accounting circular. Both legal texts came into force on 1 January 2020. It is noteworthy that the new approaches to the formation of value adjustments for default risks are designed to be proportional.

Anti-Money Laundering

Switzerland has a strong anti-money laundering system based on numerous laws (AMLA, AMLO-FINMA, CDB to name a few). In December 2016, the FATF published the fourth country report on the evaluation of Switzerland, in which the FATF acknowledged the generally good quality of the Swiss system for combating money laundering and terrorist financing, but also identified several weaknesses. The report therefore contained a set of recommendations for improving Swiss legislation and its implementation.

As a result, Switzerland is in the middle of an enhanced follow-up process in which various adjustments to the Swiss legal situation are necessary. Since the last Global Survey, Switzerland has taken the following steps:

- The AMLO-FINMA and the CDB have been revised and entered into force on 1 January 2020. The AMLO-FINMA has specified the requirements for the global monitoring of corresponding risks. This applies to Swiss financial intermediaries with branches or group companies abroad. The necessary risk management measures have also been specified if domiciliary companies or complex structures are used or there are links to high-risk countries. In addition, FINMA and the CDB have lowered the threshold for identification measures for cash transactions to the FATF level of CHF 15,000.
• The AMLA revision runs for updating client data and verifying the identity of the beneficial owner. The dispatch (explanatory note) was published in June 2019.

• Certain amendments to the AMLA, which would be necessary due to the FATF recommendations, have led to major political discussions. The Swiss Parliament is debating whether to pursue the revision of the AMLA and will continue its discussions in autumn 2020.

**Financial Market Law**

Over the last few years Switzerland has been updating its financial market architecture. As part of this large-scale legislative effort, almost all the elements relating to modern financial market legislation have been revised or drafted from scratch. The final building block was the introduction of the new Financial Services Act (FinSA) and the new Financial Institutions Act (FinIA). The FinSA and FinIA create uniform competitive conditions for financial intermediaries and improve client protection. The FinSA therefore introduces standardized rules of conduct and distribution rules for all financial services providers and establishes a general securities prospectus requirement. Under the FinIA, independent asset managers will come under the remit of newly created supervisory organizations, which will in turn report to FINMA – with those adjustments, the authorization rules for financial service providers are getting harmonized. Both the FinSA and FinIA came into force on 1 January 2020 with transitional periods of two years for most duties.

**Access to Foreign Markets**

Swiss banks are strongly committed to maintaining their leading position in wealth management for private clients. In this context, access to foreign markets is of strategic importance for ensuring the Swiss financial centre’s ability to remain competitive and to act in the best interests of customers. In order to preserve, and where clients’ interests call for it, to improve market access, political agreements must also be reached with the various partner states, also to ensure free movement of capital. This would also contribute to tackling the negative impacts of the global COVID-19 outbreak as well as to speeding up the related recovery process. In this context, market access into the EU is particularly key, given that a substantial proportion of assets under management come from customers domiciled in the EU and the Swiss financial centre presents a major source of capital for the European economy. Regarding the discussion about an institutional framework agreement between the EU and Switzerland, the Swiss banking sector has repeatedly called for improvements and level-playing field conditions. The focus must be on the positive conclusion of specific equivalence processes which are pending in the area of financial services, a fundamental improvement in the current EU equivalence regime, and agreements on sensible and practicable market access solutions with the EU and/or of individual European states.
**Tax Matters**

*Domestic tax reforms*

Switzerland is one of the most attractive locations for multinational companies, including banks and other financial services providers. On 1 January 2020 the Federal Act on Tax Reform and AHV Financing (TRAF Act) entered into force. The tax reform eliminates significant legal uncertainties for foreign corporations in Switzerland. Among other measures the TRAF contains the following elements:

- Lower corporate tax rates
- Abolition of tax privileges
- Introduction of a patent box system
- Additional deduction for research and development costs

In spring 2020, the Swiss Federal Council launched a public consultation on two issues of major importance for the financial sector:

- The abolition of the stamp duty on the issuing of shares and turnover of securities: a phasing-out is foreseen.
- Abolition of the Swiss withholding tax on interest and the introduction of a paying agent system for interests of Swiss and foreign source paid to individuals residing in Switzerland.

The Swiss Federal Council is currently preparing the corresponding bills that will be presented to the Parliament in the coming months. A decision is not expected before mid-2021.

*International automatic exchange of information on financial accounts (AEOI)*

The international AEOI standard governs how tax authorities in participating countries exchange data relating to taxpayers’ bank accounts. Its primary objective is to prevent cross-border tax evasion. Members of the G20, the OECD as well as a significant number of other countries, have committed to implementing the AEOI.

Compared to other jurisdictions, Switzerland was prompt to establish the legal framework required for collecting and exchanging data within the scope of the AEOI. As far as the current AEOI network is concerned, Switzerland is internationally well positioned. In line with Swiss legislation, Swiss banks began to implement the AEOI in 2017. Switzerland has since then successfully exchanged information.
Swiss banks keep being fully committed to implementing the AEOI. As almost one quarter of the world’s cross-border private wealth is managed in Switzerland, the country is particularly concerned about the proper implementation of the AEOI. In this context, the issue of data protection and data security during the effective exchange of information, as well as in the respective recipient states, is of major importance for Swiss banks.

**Framework Conditions for Digitalisation**

Digitalisation is driving the structural realignment in the banking sector. As an important factor for the competitiveness of the Swiss financial centre, Switzerland is committed to innovation-friendly framework conditions: The Swiss legislature introduced several measures in a short period of time to face the increasing digitalisation of the financial centre. Switzerland is doing pioneering work by lowering the entry barriers for fintech companies to assure increasing competitiveness. The quality of the Swiss financial centre and its competitiveness are to be strengthened and the growth of the economy shall be supported. Therefore, the Swiss legislature reacts fast and target-oriented to the developments within the financial industry.

**ICOs, blockchain and digital assets**

One of the key issues in Switzerland over the past years was the rapid increase in the number of initial coin offerings (ICOs) as a new method for raising capital and for tokenisation of so far non-bankable assets such as art or non-listed shares.

In late November 2019, a further step towards an optimized legal framework for digitalization within the Swiss financial centre was taken: The results of the public consultation on improved framework conditions for DLT have been published. Based on the public consultation which started in March 2019, the Swiss Federal Council adopted the dispatch on the adaptation of federal law to developments in distributed ledger technology (DLT). The proposal is currently being discussed by the Swiss Parliament with the approval of the bill to be expected soon.

In contrast to other jurisdictions, Switzerland refrained from drawing up a specific DLT act, but aims for a technology-neutral integration of these amendments into existing federal law. The proposal introduces selective amendments in order to improve the legal and regulatory framework and to increase legal certainty for business models based on DLT. Moreover, the Federal Council wants to consistently combat abuses and ensure the integrity and good reputation of Switzerland as a financial centre and business location.

One of the central pieces of the proposed adjustments consists of the creation of a new category of securities with substantially the same features as certificated securities that allow the digital transfer. The new category of securities will be able to embody so-called asset tokens, e.g. shares or bonds registered on the blockchain. The SIX Swiss Digital Exchange (SDX) is established. SDX aims for a globally leading market infrastructure to offer a fully integrated end-to-end trading, settlement and custody service for tokenised assets.

For the financial industry, further key amendments are as follows:
• Civil law: Increase legal certainty for the digital transfer of rights, mainly rights that can be referred to as asset tokens, embodying shares, bonds and derivative instruments.
• Bankruptcy laws: Introduce provisions for the segregation of crypto-assets and data without asset value in the event of bankruptcy of a financial service provider (including corresponding amendments to the banking insolvency procedures).
• Financial markets laws: Create a new licence category for blockchain-based financial market infrastructures which allows access to individuals with the possibility of simplified requirements for small players.
• Anti-money laundering laws: Confirm the application of the Anti-Money Laundering Act (AMLA) to decentralised trading platforms.

**Fintech licence, sandbox and settlement accounts**

In July 2017 already, the Federal Council adopted a new fintech framework with an authorisation-exempt area (regulatory sandbox) and has extended the timeframe for settlement accounts to 60 days. The regulation thereby aims to reduce unnecessary regulatory obstacles for innovative business models.

On 1 January 2019, the Swiss parliament introduced a new licensing category known as the Fintech licence for companies that operate beyond the core activities characteristic of banks. The requirements for Fintech companies are based on the established auditing of banks and securities dealers, but the audit is less extensive and the reporting process simpler, while focusing on the risks specific to Fintech business models. In March 2020 FINMA granted the first Fintech licence to a Swiss Fintech company.

With effect from 1 April 2019, the Federal Council has also made changes to the provisions relating to the sandbox. The sandbox concept defined in the revised Banking Ordinance allows for public deposits to be accepted without a license up to a limit of CHF 1 million, provided they are not invested and do not bear interest. Depositors must be informed that the sandbox is not subject to FINMA supervision and that the deposits are not covered by the deposit protection scheme. Deposits may be invested and interest-bearing if they are intended to fund a main commercial or industrial activity. Crowdlending activities can be performed within the sandbox.

**Data Protection, Privacy and Digital Identity**

A law proposal regarding a complete revision of the Federal Data Protection Act has been discussed in Parliament since 2018. It will be entering into force in January 2021. The revised bill clarifies the handling of individual data and focuses on new technological standards. It considers developments on the European level.

In September 2019, a law regarding the establishment of an officially accepted electronic identity (E-ID) for individuals has been adopted by parliament. It enables the issuance of E-IDs by publicly authorized and supervised private firms. The issuance of E-ID will facilitate the
customer digital onboarding process and user-friendliness. In 2021 the Swiss sovereign will be invited to cast a ballot on the legal provision enabling E-ID.
United Kingdom

In common with many other countries around the world the UK authorities have worked closely with the banking system to ensure that households and businesses are as little impacted as possible by the economic stress that Covid-19 is causing. Measures taken include, tax relief, cash grants, employee furloughing schemes and loans to individuals and businesses backed by government guarantees. Banks have offered 3-month payment deferral schemes for personal and SME banking products which some customers have chosen to roll-over for a further three months. At the peak of the pandemic one in six mortgage borrowers were taking Covid-19-related Payment Deferral.

This contribution to the IIB annual survey focuses on business-as-usual regulatory and market developments in the UK.

Prudential Regulation

Counter cyclical buffer

In December 2019 the Financial Policy Committee increased the UK Counter cyclical buffer that it expects to set in a ‘standard risk environment’ from 1% to 2%. At the same time it announced that it would reduce Pillar 2A minimum capital requirements so that overall loss absorbing capacity in the UK banking system remained broadly unchanged, although depending on the business model this reduction may not apply to all banks.

As a result of this shift from minimum capital requirements towards buffers that can be drawn down if need be banks will be more able to continue lending to the economy in times of stress, rather than deleveraging to preserve minimum capital ratios by reducing new loans as risks increase.

Regulatory reporting

Following a substantial fine of a bank that was found to have had inadequate internal controls and governance arrangements underpinning it regulatory reporting requirements the PRA issued a Dear CEO’ letter. It reminded banks that they must submit complete, timely and accurate regulatory returns, absent which neither the supervisor nor the bank are able to assess whether capital and liquidity requirements are being met.

In parallel the PRA commenced a series of ‘skilled person’ reports to examine whether larger banks are preparing their regulatory returns in accordance with its regulatory reporting requirements.
IFRS 9

A year after the introduction of the IFRS 9 accounting standard the PRA wrote to banks about its thematic findings as a result of auditors’ written reports in relation to the implementation of Expected Credit Loss (ECL) models. Whilst recognising that forward looking ECL modelling methodologies will continue to evolve the letter highlighted some thematic weaknesses, including:

- Over-reliance on expert judgement to generate overlays which compensate for risks and uncertainties not yet captured by ECL models, rather than the incorporation of these risks into ECL models
- Gaps in core modelling approaches to multiple economic scenarios, particularly high impact/low probability downside scenarios
- Lack of consistency in banks’ approaches to determining whether a Significant Increase in Credit Risk has occurred, and the assumptions made about the product lifetime over which the ECL is measured, particularly in relation to revolving facilities such as credit cards.

Asset Encumbrance

The PRA has clarified its views on how asset encumbrance should be taken into account by banks. Encumbered assets are used to secure, collateralise or credit enhance a transaction which could not be freely transferred, withdrawn or otherwise disposed of by the pledgor.

The PRA recognised that secured funding can diversify and cheapen a bank’s cost of funding and provide access to liquidity in times of stress.

It did not suggest a one-size-fits all maximum encumbrance level but instead requires firms to take asset encumbrance into account when preparing their Internal Liquidity Adequacy Assessment, their recovery plan and where relevant, preparing for resolution.

Customer Vulnerability

The publication of the Financial Conduct Authority’s Vulnerability Guidance Consultation (GC19/3) on the fair treatment of vulnerable consumers built on existing consumer regulation and seeks to clarify regulatory expectations as it is anticipated that ‘vulnerability’ will be referenced in all future guidance.

The Guidance aims to improve customer outcomes and drive consistency across the sector by embedding vulnerability into the culture and operating models of all regulated firms. Supervisory teams will monitor firms’ progress – with particular interest on the extent to which
they develop appropriate communications material and channels, ensure inclusive product and procedure design supported by robust monitoring and processes.

The Guidance Consultation (GC20/2) on Branch and ATM closures or conversions provides a live example of where Vulnerability is being used to ensure that all customers are being treated fairly.

The FCA was concerned that the decrease in cash usage, resulting from the pandemic, would catalyse a review of firms’ geographical footprints. This Guidance effectively regulates branch closure activities for the first time and explicitly requires firms to consider the needs of vulnerable customers. Whilst the Vulnerability Guidance has yet to be finalised, it is already having an impact and is applicable to SME’s and the end to end customer journey including activities undertaken by a bank’s supply chain.

The FCA published its latest update to the vulnerability guidance in July 2020, introducing a new concept, the Spectrum of Risk which posits that all customers have the potential to be vulnerable and that events, for instance the Coronavirus Pandemic, can increase a consumer’s susceptibility to vulnerability and consumer detriment. The July 2020 Financial Lives Survey Research found that, there has been a 16% (1.5 million) increase in adults experiencing a change in their vulnerability with 5 million individuals displaying new characteristics of vulnerability. So, this guidance is more relevant now that when it was first published in July 2019.

**LIBOR**

LIBOR Transition in the UK has continued to be driven by the Working Group for Sterling Risk-Free Reference Rates (RFR Working Group), the cross-industry group coordinating market led transition from LIBOR to the preferred risk-free reference rate, SONIA, with the Bank of England and Financial Conduct Authority acting as ex-officio members. The Group continues to work closely with regulators, in 2019 writing to both domestic and international regulatory bodies to secure actions against a number of regulatory barriers impeding the transition away from LIBOR.

In 2019 the RFR Working Group increasingly focused on agreeing market conventions for referencing SONIA in new contracts, with particular attention to the loan market due to its pre-existing diversity in lending approaches. Responses to a consultation published in August 2019 concluded that it was sensible to secure consistency, as far as practicable, across all product segments and jurisdictions. Whilst the UK market was moving in favour of a SONIA rate
compounded in arrears with a lag mechanism approach it was confirmed greater consensus was still needed, for instance on the number of days in the lag period.

The RFR Working group pursued the agreement of a market-accepted methodology for a Credit Spread Adjustment that would account for the economic difference between SONIA and LIBOR for fallbacks in cash products currently referencing GBP LIBOR. It subsequently confirmed a consensus in favour of the historical five-year median approach, concurrent with the method adopted by ISDA in the derivatives market. This approach is only applicable to contracts in the event of cessation or pre-cession triggers.

Last year also saw greater consideration of alternative rates beyond SONIA compounded in arrears, with the agreement of a case for the use of a forward-looking Term Sonia Reference Rate (TSRR). In January 2020, product segments suitable for use of this term rate were identified through the publication of the RFR Working Group’s Use Cases paper. This confirmed the necessity and future provision of a TSRR for about 10% of the market (by value), but maintained SONIA compounded in arrears was the preferred alternative rate whenever appropriate. The Financial Conduct Authority also issued guidance on conduct and treating customers fairly through the transition.

To address the issue of ‘tough legacy’ contracts that do not have robust fallbacks and prove unable to be amended ahead of LIBOR discontinuation, the RFR Working Group’s report published at the end of May 2020 confirmed the recommendation for some form of legislative solution. In summer 2020, the UK government confirmed it would be pursuing legislation to support the LIBOR transition. This is expected to be progressed in 2021, although a focus on the pursuit of market-led active transition of contracts remains to maintain control over the economic terms of these contracts.

Covid-19 disruption prompted some delays to interim timetables of the RFR Working Group, but the industry expects to be ready for the end of 2021 expected LIBOR cessation.

**UK Economic Crime**

**Contingent Reimbursement Model Code**

May 2019 saw the introduction of the voluntary Authorised Push Payments (APP) Contingent Reimbursement Model (CRM) Code. Industry, the Payment Service Regulator (PSR) and consumer groups worked with the Lending Standards Board (LSB) to produce a refund model aiming to provide greater consumer protections against APP scams. The Code has two key aims, as outlined in the by the LSB:
• Protecting industry’s customers with procedures to detect, prevent and respond to APP scams, providing a greater level of protection for customers considered to be vulnerable to this type of fraud.

• Greater prevention of accounts being used to launder the proceeds of APP scams, including procedures to prevent, detect and respond to the receipt of funds from this type of fraud.

The Code covers any customer whose Payment Service Provider is signed up and is defrauded via an APP scam. The current iteration of the CRM Code is being reviewed by the LSB in a consultation closing at the end of September 2020.

Transposition of the Fifth Money Laundering Directive

The Fifth Money Laundering Directive (5MLD) was transposed into UK law on 10th January 2020. The legislation builds on the original 2009 Directive to prevent the financial system being used to fund criminal activities, specifically terrorist financing and money laundering. 5MLD aims to do this by improving the existing laws on payment and funds transparency, with specific reference to crypto-asset transfers, the role of Financial Intelligence Units (FIUs) and improving Due Diligence on cross border equivalence of High-Risk Third Countries (HRTCs).

The UK’s Economic Crime Plan 2019-2021

Published in July 2019 by a cross-sector steering group with Ministerial approval, the Economic Crime Plan states an intention For the public and private sectors to jointly deliver a holistic plan that defends the UK against economic crime. It contains proposals to be actioned by a combination of government and private sector organisations, The Economic Crime Plan also sets out to define the broad term ‘Economic Crime’, widening its scope to include typical ‘white-collar’ crimes (i.e. money laundering, sanctions contravention and terrorist financing) as well as cybercrime. Industry continues to work with HM Government to deliver the aims of the plan.

UK Sanctions Regime Transposition

The UK’s EU Withdrawal Bill includes a one-year transitional period, until 31st December 2020, during which the UK is bound to EU sanctions law. The UK Government through the Office for Sanction Implementation (OFSI) and the Foreign Office have been working to transition existing EU sanctions laws into an autonomous UK regime. This has taken the form of the Global Human Rights Charter, laid into parliament in July 2020, with a statutory instrument timetable to introduce additions to the sanctions list and align it with US and Canadian regimes.
Capital Markets

Onshoring EU regulation post BREXIT

The focus of UK regulation changes capital markets regulation has been to ensure that its national laws are in place in time for its departure from the EU. Following the finalisation in the UK Parliament of the EU Withdrawal Act on 23 January 2020 a transition period ensures the UK will be treated in the same way as an EU member state until 31 December 2020. To prepare for the end of the transition period, the UK Government are onshoring existing regulation implemented through EU laws into UK legislation through Statutory Instruments (SIs). Examples include the onshoring of EU EMIR (European Market Infrastructure Regulation) into UK EMIR.

EMIR is being onshored through the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (the Derivatives SI). This amends the UK Financial Services and Markets Act (FSMA), EMIR and related already-approved EMIR SIs, to take into account the changes made by EMIR 2.2 that are applicable before the end of the transition period. The Derivatives SI provides temporary deemed recognition for at least a three year period for third-country central counterparties (CCPs) which are already authorised or recognised under EMIR, as long as they have made the appropriate notification to the Bank of England before the end of the transitional period. Such third-country CCPs will be able to continue to provide clearing services in the UK while their application for recognition is being assessed. On 24 March 2020, the Derivatives SI was laid before Parliament, but it still requires approval before it is signed into law.

The UK is not obliged to onshore EU legislation that is set to apply after the end of the transition period, though it may choose to do so. For example, as part of the EU capital markets union (CMU), the Investment Firm Regulation and Directive (IFR/D) amends the Capital Requirements Directive IV/ Capital Requirements Regulation (CRD IV/CRR) and the Markets in Financial Instruments Directive II/ Markets in Financial Instruments Regulation (MiFID II/MiFIR) so that small non-systemic investment firms are not subject to rules designed for banks. IFR/D entered into force on 25 December 2019 and will not be applicable until 26 June 2021. Therefore, UK investment firms are not required to apply the new rules, but the UK may decide to onshore IFR/D. It is expected that the Financial Conduct Authority (FCA) will consult on this topic within the next few months.

In order to delay or phase-in onshored legislation, the regulators require Temporary Transitional Power (TTP). In March 2020 HM Treasury confirmed its intention to retain TTP. Subsequently the FCA, Bank of England and Prudential Regulation Authority (PRA) confirmed
they would apply TTP until 31 March 2022. Where TTP is applied, regulatory obligations on firms will generally remain the same as they were before the end of the transition period.

However, the FCA have outlined seven areas where they will not use their powers to offer forbearance, including for firms subject to MiFID II transaction reporting, firms subject to EMIR reporting obligations and EEA Issuers trading on UK markets. Further clarification on the FCA’s use of TTP will come in the form of draft directions and annexes, to be published in due course.

Open Banking

Continued evolution of open banking

Following the development of open banking in the UK, driven by the requirements of the second Payment Services Directive (PSD2) and the CMA’s Retail Banking Market Investigation Order; the UK’s open banking ecosystem continues to grow, with customer adoption of Account Information Service Provider and Payment Initiation Service Provider services increasing, perhaps stimulated by the Covid-19 pandemic.

However, the outbreak of Covid-19 also delayed the progress made by the FCA on the discussions related to Open Finance. Industry is currently grappling with some of the specific requirements of PSD2, in particular the requirement for a 90-day reauthentication which is believed to be inhibiting the sustainability of open banking services as firms have noticed a significant drop-off in customer use of their services when this authentication is requested.

The potential impact of Brexit on the open banking ecosystem has still yet to be ascertained, with some concerns that certain pillars of the technical requirements of PSD2, such as the use of electronic identification scheme certificates, may be removed in the event of a hard Brexit. Conversely, such a diversion from the wider EU regulation may enable the UK to respond more pro-actively to industry concerns regarding regulatory inhibitors to market uptake, particularly the 90-day reauthentication requirement.

Confirmation of Payee

Given wider concerns around the impact of Authorised Push Payment scams in the UK, where criminals convince customers to make payments to incorrect accounts, the PSR recently mandated six of the largest UK account providers to implement Confirmation of Payee. This distributed architecture was designed by Pay.UK and provides an additional warning to customers when making payments to an account where the name of the person they intend to pay does not match the name held at the receiving bank’s records.
To make a payment from a firm that has implemented Confirmation of Payee, the payor must know the intended recipients first and last name. Where a business is being paid, the business’s full name is checked.

There are four possible outcomes that can be returned to the payer:

- **Match** – the name and account type supplied matches the details of the receiver’s account
- **Close match** – the name is a close match but not quite that on the account
- **No match** – the name does not match the name held on the account
- **Unavailable** – it has not been possible to check the name because the account does not exist

### Revised Cross Border Regulation (CBPR2)

The Revised Cross-Border Payments Regulation (CBPR2) aims to ensure that cross-border euro payments are no more costly than national transactions in the national currency of a non-euro Member State. The Regulation aims to increase cost transparency requirements, for currency conversation services provided when clients initiate online credit transfers and card-based transactions.

The Regulation and its requirements are progressively entering into force in three steps:

1. **Extension of the scope of CBPR (including the equalisation of fees)** – Applicable since December 15th, 2019
2. **Increase transparency for card-based transactions and online credit transfers** – Application as of April 2020
3. **Electronic messages** – Applicable as of April 2021.

UK Finance is in close dialogue with HMT to understand which requirements will be on shored to the UK post-transition period.

### UK SEPA Membership

UK Finance has secured the UK’s continued membership of SEPA post-transition period through the European Payments Council (EPC).

The EPC notes and confirms the UK’s continued participation in SEPA as follows:

> However, as of 1 January 2021 as no extension of the transition period was agreed, the UK is set to leave the single market and customs union, either with an EU-UK deal, negotiated during the transition period, or without it (i.e. "no-deal" Brexit). For clarity, the UK will at that point maintain participation in the geographic scope, however, this
important change will make the SCT/SDD rules applicable to transactions from/to non-EEA jurisdictions also applicable to transactions with the UK.

The EPC reminds scheme participants of the changes that will need to be made before the end of the transition period, including those related to additional information as required through scheme rules and the Funds Transfer Regulation, including additional address information.

SEPA transactions that were executed or settled from 1 January 2020 involving a UK-based SEPA payment scheme participant must contain:

- For SCT and SEPA Instant Credit Transfer (SCT Inst) instructions from the Originator:
  - The full address details of the Originator.
  - The BIC code of the Beneficiary Bank when the Originator Bank explicitly requests this data element from the Originator.

- For SDD Core and SDD Business-to-Business (B2B) collection files from the Creditor:
  - The full address details of the Debtor.
  - The BIC code of the Debtor Bank when the Creditor Bank explicitly requests the data element from the Creditor.
United States

Over the past year, the U.S. federal financial regulators finalized a number of proposed rulemakings, many of which were highlighted in the previous edition of the Annual Global Survey. As discussed in more detail below, the Board of Governors of the Federal Reserve System (the “Federal Reserve” or the “Board”) finalized rules to “tailor,” i.e. more closely align, enhanced prudential regulation of both U.S. domestic banks and the U.S. operations foreign banking organizations (FBOs) with their risk profiles. The Federal Reserve also approved the final rule to simplify and tailor the Volcker Rule prohibitions on proprietary trading and certain fund activities. The Treasury Department finalized the Base Erosion and Anti-Abuse Tax (BEAT) provisions of the Tax Cuts and Jobs Act from 2017. The following is a review of key developments, by way of proposed and final rules and other regulatory actions, that are of particular importance to the foreign banking community in the United States.

COVID-19 Relief

Of course, no survey of the past year would be complete without a discussion of at least some of the extraordinary regulatory and legislative responses to the COVID-19 crisis. Just in the past few months, the United States has seen a flurry of quick, coordinated action at both the federal and the state level to help minimize the negative economic impact of the crisis. In March, the IIB sent a letter to Treasury Secretary Mnuchin urging him to ensure that FBOs, which make up half of all primary dealers in the United States and account for approximately 20% of all commercial and industrial loans, are able to access any of the facilities put in place by the Federal Reserve and Treasury, and emphasizing the importance of ensuring that eligibility criteria and term sheets be crafted to allow FBO participation.

In May, the Federal Reserve issued an interim final rule for bank holding companies, savings and loan holding companies, and U.S. intermediate holding companies (IHCs) of FBOs to exclude from the supplementary leverage ratio (SLR) any on-balance sheet amounts of U.S. Treasury securities and deposits at Federal Reserve Banks. The exclusion will remain in effect through March 31, 2021.

Similarly in May, the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) issued an interim final rule that, in an effort to maximize participation in the liquidity facilities, would neutralize the effect under the liquidity coverage ratio (LCR) of banks’ participation in the Money Market Mutual Fund Liquidity Facility (MMLF) and the Paycheck Protection Program Liquidity Facility (PPPLF).

Another early, impactful move made by the Federal Reserve was its establishment of temporary U.S. dollar swap lines with the Reserve Bank of Australia, the Banco Central do Brasil, the Danmarks Nationalbank, the Bank of Korea, the Banco de Mexico, the Norges Bank, the Reserve Bank of New Zealand, the Monetary Authority of Singapore, and the Sveriges Riksbank. These facilities, like those already established between the Federal Reserve and other...
central banks, were designed to help lessen strains in global U.S. dollar funding markets, thereby mitigating the effects of these strains on the supply of credit to households and businesses, both domestically and abroad.

Myriad additional efforts were made by the federal regulators, an accounting of which would at least double the length of this survey. In an effort to keep it concise, we recommend you visit the IIB’s Coronavirus Resource Page which lists them all, by agency, so you can better get a sense of the breadth and depth of regulatory relief modifications made available.

Tailoring of Enhanced Prudential Standards

On October 10th, 2019, the Federal Reserve finalized its changes to the enhanced prudential standards for FBOs as well as its changes to the applicability thresholds for certain regulatory capital and liquidity requirements with various phase-in and effective dates.

Under the regulatory tailoring rule, IHC and FBO categorization for capital and liquidity requirements will be determined on the basis of size and risk attributes, instead of size alone. The final rule also reduced the frequency of liquidity reporting and stress testing and noted that stringency of liquidity risk management will be applied at the combined U.S. operations (“CUSO”) level and determined by the size and risk attributes of CUSO. In finalizing the rule, Vice Chair Quarles stated that the Federal Reserve would be focusing its attention on the question of branch liquidity requirements in the coming months and that he intended to continue the dialogue at the international level through the Financial Stability Board.

The final rule specified that single counterparty credit limits (SCCL) would be applied to an IHC based on the size and other risk-based indicators of the IHC, rather than the CUSO of the FBO, as originally proposed, and that FBOs may comply with the SCCL requirement with respect to CUSO by certifying that the FBO meets, on a consolidated basis, standards established by its home country supervisor that are consistent with the Basel Large Exposure Framework. The gap between timing of implementation in certain home countries and the implementation date under the rule was addressed through a separate SCCL rule proposal, further explained below. The final rule, however, did not provide further guidance on how to certify to home country compliance.

The final rule also included changes to a number of reporting requirements (e.g., requirements related to the FR Y-14, FR Y-15, FR 2052a, FR Y- 9C, FR Y-9LP, FR Y-7, and FR Y-7Q) including a requirement that FBOs with $100 billion or more in combined U.S. assets must report CUSO data on the FR Y-15 with an as-of date of June 30, 2020 and submit the data no later than August 19, 2020.

Single Counterparty Credit Limits

In June of 2018, the Federal Reserve finalized its SCCL rule. The rule applied limits to IHCs and CUSO of foreign banks. However, for the limits applied to CUSO, the Board’s rule allows a
foreign bank to comply by certifying that it meets a similar rule or standard of its home country. The compliance dates were January 1, 2020 for large FBOs and July 1, 2020 for smaller FBOs. But in at least two foreign jurisdictions (EU and Japan), the comparable rule would not be final until after the Fed’s compliance date. On November 8, 2019, the Federal Reserve issued for public comment a proposal to extend the FBO CUSO compliance date for 18 months, i.e. to July 1, 2021 for large FBOs and January 1, 2022 for smaller FBOs, which was ultimately approved and finalized.

**Volcker Rule Revisions**

In November, the Federal Reserve, the FDIC, the OCC, the SEC, and the CFTC finalized revisions to the Volcker Rule. Among the changes to the rule were industry-supported changes to the trading outside the United States (TOTUS) rules including: eliminating restrictions on transactions conducted with or through a U.S. entity; eliminating restrictions on financing of a TOTUS transaction by an FBO’s U.S. branch or affiliate; and eliminating the requirement that FBO personnel who “arrange, negotiate or execute” a TOTUS transaction be located outside the United States. However, the condition that banking entity personnel inside the United States not be decision-making or executing personnel for TOTUS transactions was retained.

Additionally, the accounting prong was dropped, with the short-term intent test preserved. However, the existing rebuttable presumption was flipped — the rule presumes that financial instruments held for 60 days or longer are not within the short-term intent prong. The compliance burden was also tweaked so that FBOs with less than $20B in U.S. trading assets and liabilities no longer have to complete a CEO attestation.

Subsequently, on June 25th, each of the five Volcker agencies finalized their revisions to the “covered funds” provisions of the Volcker Rule, which represent a narrowing of the covered funds prohibitions that focuses more the original risks intended to be addressed by the Volcker Rule.

Among other changes, the rule excludes credit funds, venture capital funds, family wealth management vehicles, and client facilitation vehicles, and expands the scope of the public welfare fund exclusion. It further clarifies when debt interests in covered funds could be characterized as “ownership interests,” including the treatment of creditor rights upon default and “for cause” removal rights. It also limits the extraterritorial impact of the rule on the non-U.S. funds activities of foreign banks by codifying existing no-action relief related to controlled qualifying foreign excluded funds. Additionally, it excludes from the “Super 23A” prohibition certain low-risk transactions, such as intraday extensions of credit, credit extended in connection with payment clearing and settlement activities, and riskless principal transactions.
Derivatives

The Commodity Futures Trading Commission (CFTC) and the Securities Exchange Commission (SEC) were very active this year with regard to rules governing derivatives. In July, the CFTC finalized its Cross Border Swaps Rule which addresses the cross-border application of the swap dealer (SD) and major swap participant (MSP) registration thresholds and certain requirements applicable to SDs and MSPs. The rule also establishes a formal process for requesting comparability determinations for the requirements from the CFTC and defines key terms for the purpose of applying the Commodity Exchange Act’s (CEA) swaps provisions to cross-border transactions. The final rule incorporates a risk-based approach as defined in the swap reforms laid out in Title VII of the Dodd-Frank Act.

Also in July, the CFTC finalized rules to establish capital requirements on SDs and MSPs that are not subject to supervision by a banking regulator as well as financial reporting requirements for SDs and MSPs. The rule gives SDs three options to establish and meet minimum capital requirements, depending on the characteristics of their business: (1) a net liquid assets method, which is based primarily on existing capital requirements for futures commission merchants (FCMs), and on the capital requirements adopted by the Securities and Exchange Commission for security-based swap dealers and major security-based swap participants; (2) a bank-based method, which is based primarily on existing capital requirements for bank holding companies under the supervision of the Federal Reserve; or (3) a tangible net worth method, designed specifically for SDs which are part of a larger commercial enterprise. Additionally, the rule makes a number of amendments to existing capital requirements for FCMs to impose specific requirements for swaps and security-based swaps.

Control Rules

On January 30, 2020, the Federal Reserve adopted a final rule revising its regulations governing when one company will be deemed to control another under the Bank Holding Company Act, specifically with the intent of clarifying when one company would be deemed to exert a “controlling influence” over another. The final rule largely adopted the proposed rule, which generally retained the Federal Reserve’s conceptual framework for analyzing “controlling influence,” and rejected a number of banking industry recommendations. After an extension provided by the Federal Reserve in light of the COVID-19 crisis, the final rule became effective on September 30, 2020.

The final rule permits an institution to own up to one-third of the total equity of a company without being deemed to control, whereas the proposal would have restricted total equity ownership to 25% if the institution owned 15% or more of a class of voting securities of a company. The final rule also retained consolidation under U.S. GAAP as a rebuttable presumption of control but does not apply the same presumption to consolidation under different accounting standards (e.g., the International Financial Reporting Standards) and does not adopt a presumption of control that a company controls another company that it accounts for under the equity method of accounting.
With regard to prospective investments made after the final rule’s effective date, the Federal Reserve rejected industry recommendations to apply the rule’s framework only to prospective investments or to provide for a phase-in period. It does not grandfather existing investments or provide for a transition period. However, the Federal Reserve indicated that if an institution previously considered a relationship not to constitute control but would be presumed to be a controlling relationship under the final rule, the institution may contact the Federal Reserve to discuss potential actions.

Lastly, the final rule retains the basic framework for determining the amount of total equity that an investor owns in a stock corporation that prepares GAAP financial statements, but provided interpretive guidance in the form of FAQs.

BSA/AML/Beneficial Ownership

In the months preceding publication, there were two vehicles through which BSA/AML/beneficial ownership legislation might be passed. The first was the Crapo-Brown amendment to S.4049, the National Defense Authorization Act (NDAA), in the Senate, which ultimately was not included in the bill. The second was the House version of the NDAA, H.R.6395, which was amended to include BSA/AML/beneficial ownership legislation that was approved by the House last fall via H.R.2513, the Corporate Transparency Act of 2019.

That House bill, if passed as a part of the NDAA, would: (1) Require any corporation or LLC to file with FinCEN a list of its beneficial owners at formation and annually thereafter (essentially the same information collected by financial institutions under the current Customer Due Diligence rule), and would make this information available to financial institutions with the customer’s consent and to certain government agencies; (2) Make a number of changes at Treasury and FinCEN regarding AML enforcement including special hiring authority for people with critical and specialized skills, expanding the attaché program, creating a FinCEN domestic liaison program, codifying the FinCEN public-private info exchange program, and providing additional support for international coordination and technical assistance; (3) Give financial institutions the ability to share SARs with foreign affiliates, provide additional training for examiners, and allow for the sharing of compliance resources among smaller financial institutions (e.g. training, BSA officer, etc.); and (4) Codify FinCEN’s and financial regulators’ BSA innovation commitments and projects and support financial institutions’ ability to test new technologies.

As of the date of publication, the legislation has not yet passed.
Tax

On December 1st, Treasury issued the final base erosion and anti-abuse tax (BEAT) regulations along with additional proposals. The BEAT generally applies to an entity that: (1) is subject to US net income tax; (2) has average annual gross receipts of at least $500 million for the prior three years (the gross-receipts test); and (3) has a “base erosion percentage” of 3% or more (2% or more for a taxpayer that is a member of an affiliated group with a domestic bank or registered securities dealer) (the base-erosion-percentage test).

The final BEAT regulations included a handful of industry-supported modifications to the proposed rule including: An exception for TLAC debt issued to the parent, including a buffer of 15% and an exception for foreign-to-foreign TLAC; not treating interest paid to a branch of an FBO by a U.S. affiliate that is effectively connected income as a gross receipt or base erosion payment; and treating only the mark up portion of a qualifying service payment as a base erosion payment.

In September 2020, the Internal Revenue Service (IRS) and Treasury released another set of final regulations that clarify how to calculate the BEAT for groups of related taxpayers, modify the election to waive deductions, and provide additional guidance for partnerships.