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Institute of International Bankers

Advancing the Interests of the International Banking Community in the United States

Global Survey 2009

Regulatory and Market Developments

Banking - Securities - Insurance
Covering 33 Countries and the EU

October 2009

OVERVIEW

The Institute of International Bankers represents internationally headquartered banking/financial institutions from 38 countries in connection with U.S. legislative, regulatory, compliance and tax issues that affect their banking, securities, insurance and other financial activities in the United States. As of December 31, 2008, the combined banking and non-banking assets of the U.S. operations of international banks were approximately $4.8 trillion according to data from the Federal Reserve, with banking assets of approximately $2.6 trillion and non-banking assets of approximately $2.2 trillion. Collectively, the U.S. operations of international banks contribute significantly to the U.S. economy and to the depth, liquidity and vitality of the U.S. financial markets.

This 22nd annual *Global Survey of Regulatory and Market Developments in Banking, Securities and Insurance* is part of the Institute's ongoing efforts to contribute to the understanding of the trends toward globalization of financial markets and convergence of regulatory systems around the world. This year's Global Survey covers developments during the period from July 1, 2008 to June 30, 2009 in 33 countries and the European Union (EU). We are very grateful to the banking associations and financial services supervisory authorities from those countries and the EU that have contributed to this year's Survey and without whose participation this publication would not be possible.

The period under review witnessed the most serious financial crisis the world has experienced since the 1930s. The events of the past year have called into question the resiliency of the regulatory architecture of the international financial system. They have had a profound impact on financial institutions and their supervisory authorities alike and have sparked extensive debates regarding reforming market practices and regulatory systems to prevent future such crises.

The country chapters provide valuable insights into the varying degrees to which liquidity and credit problems emerged around the world during the period under review, the impact these problems had on national financial markets and economies, and the variety of actions taken by various national governments in response. Clearly, the crisis has had a severe impact on all countries, but it is evident that some have been more adversely affected than others.

A matter selected for special attention in this year's Global Survey is the way in which policymakers in various countries have responded to the financial crisis. In this connection, contributors were asked to discuss the programs, if any, their countries adopted to stabilize their financial systems and/or provide capital support to their financial institutions, with particular attention to the extent to which non-domestic institutions are eligible for assistance under these programs and whether the eligibility criteria for these programs distinguish between operations that non-domestic institutions conduct in the country through branches and those they conduct through subsidiaries. In describing the diversity of responses to the financial crisis by countries around the world, the Global Survey provides a useful point of reference for assessing these developments and their impact on the international financial community.

As indicated in the individual country chapters, a variety of approaches to addressing the consequences of the crisis in the financial system has been taken around the world, including creation of central bank liquidity facilities, central bank purchase of assets, increases to deposit insurance schemes, creation of asset guarantee/protection schemes, direct equity investments by home country governments in their banks and combinations thereof. Certain of these programs have been made available to both domestic and non-domestic institutions, while others have been limited to only domestic institutions.

Early action was taken in the United Kingdom, where the government has made direct equity investments in specific domestic institutions, while its asset protection scheme has been open to U.K. deposit-taking institutions, including the U.K. subsidiaries of non-domestic institutions, with more than £25 billion of eligible assets. The French plan includes programs to provide medium-term financing and equity capital to French institutions in return for commitments to ease access to loans for households, enterprises and local authorities and implement principles of ethical governance, including with respect to compensation practices. These programs have been made available to French subsidiaries of non-domestic institutions but not to their branches. Germany established a Financial Market Stabilization Fund (SoFFin), which is designed to stabilize the financial system by helping to overcome existing liquidity shortages and strengthen financial institutions' equity base. Its tasks include providing guarantees, participating in recapitalizations and assuming risk positions. Financial-sector enterprises which have their headquarters in Germany are eligible for SoFFin support. German subsidiaries of non-domestic financial institutions may be financial-sector enterprises if they satisfy the relevant requirements, but their German branches are excluded.

In the United States, the Obama Administration in February 2009 announced its Financial Stability Plan, which continues the programs initiated by the Bush Administration under the Troubled Assets Relief Program (TARP), such as the Capital Purchase Program (CPP), and initiates additional programs, including the Capital Assistance Program (CAP) and the Public-Private Investment Program (PPIP). In addition, the Federal Reserve has undertaken a variety of programs intended to stabilize the financial system and revive lending in key sectors of the economy, including the Commercial Paper Funding Facility and the Term Asset-Backed Securities Loan Facility (TALF). For its part, the FDIC has extended important assistance through its Temporary Liquidity Guarantee Program. Many of these programs are available to the U.S. operations of internationally headquartered banking institutions on the same terms as are offered to their domestic counterparts, although in some instances eligibility is limited by whether or not an international bank is owned or controlled by a foreign government. In the case of the CPP the Treasury Department decided that the U.S operations of international banks would not be eligible for the equity investments made by the U.S. Government under that program on the grounds that they are foreign-owned (whether or not by a foreign government).

In Japan, equity investments by the government pursuant to the Financial Functions Strengthening Act are limited to domestic institutions while branches and Japanese subsidiaries of non-domestic institutions are eligible to participate in the purchase of shares by the Banks' Shareholdings Purchase Corporation. In Hong Kong a deposit guarantee scheme was made available to all authorized institutions, wherever headquartered, while eligibility for the Contingent Bank Capital Facility was limited to locally incorporated licensed banks. The South African chapter reports that, while the South African Reserve Bank during the period under review did not embark on any out-of-the ordinary liquidity management operations, its emergency liquidity assistance programs in general apply only to domestically incorporated and authorized banks whose failure might have systemic implications.

The discussion in the country chapters indicate that Basel II has been broadly, but not universally, implemented. Several of the chapters also highlight the increasing attention that has been devoted in the face of the financial crisis to revising certain aspects of the Basel II framework, especially as it applies to securitization exposures. The chapter on developments in Switzerland discusses plans to introduce a leverage ratio for that country's two major banks, UBS and Credit Suisse.

Many of the country chapters deal with ongoing efforts to combat money laundering and the financing of terrorism. European Union Member States are in the process of implementing the Third Anti-Money Laundering Directive, which, among other things, calls for enhanced customer due diligence, especially with respect to politically exposed persons (PEPs). Other subjects covered in the individual country chapters include implementation of the European Commission's Single European Payment Area (SEPA) and Markets in Financial Instruments Directive (MiFID); restrictions on short selling; enhancements to the regulation of credit rating agencies; the adoption of guidelines regarding compensation of financial services professionals (see, for example, the chapters on developments in France and Switzerland) and enhancements to corporate governance practices (see, for example the chapter on developments in Germany).

As in past years, the Survey includes an updated table on permissible securities, insurance and real estate activities of banking organizations in various countries. In addition, this year's Survey includes updated tables on the implementation of Basel II in various countries, the approach countries take to funding the activities of their bank supervisory authorities, consolidated supervision, host country supervision of branches of non-domestic banks, applicability of host country endowment/dotational capital requirements for branches of non-domestic banking organizations, the applicability of asset pledge requirements to branches of non-domestic banking organizations, and the availability of central bank "daylight overdraft" credit for both domestic and non-domestic banking organizations.

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STATUS OF BASEL II IMPLEMENTATION
(as of June 30, 2009)

IMPLEMENTATION OF BASEL II IS EXPECTED BUT HAS NOT YET OCCURRED (*see notes*)	BASEL II HAS BEEN IMPLEMENTED AND IS APPLICABLE IN ITS ENTIRETY TO ALL DOMESTIC BANKS	BASEL II HAS BEEN IMPLEMENTED BUT IS NOT APPLICABLE IN ITS ENTIRETY TO ALL DOMESTIC BANKS (*see notes*)
Cayman Islands Turkey	Australia Austria Bahrain Bermuda Canada Chile Denmark Finland France Germany Hong Kong (*see notes*) Ireland Italy Japan Latvia (*see notes*) Luxembourg The Netherlands Norway Portugal Romania Singapore South Africa (*see notes*) Spain Sweden Switzerland United Kingdom	Argentina India Israel Philippines United States

NOTES

Argentina: The Central Bank of Argentina has adopted the Simplified Standardized Approach to credit risk, which will be implemented commencing January 2010. Regarding operational risk, the Central Bank will continue analyzing the options available in order to determine what is most appropriate to the local financial system.

Cayman Islands: The Cayman Islands Monetary Authority intends to stage the implementation of the Basel II framework between 2010 and 2012. The initial focus will be on requiring Cayman incorporated banks to implement the standardized approaches under Pillar 1 by the end of 2010, with a staged implementation of Pillars 2 and 3 between 2010 and 2012. Further consideration will be given to the more advanced approaches thereafter.

Hong Kong: Hong Kong implemented Basel II on 1 January 2007. The Basel II capital adequacy framework is applicable to all AIs that are incorporated in Hong Kong. To cater for smaller AIs with relatively simple and straightforward operations, the framework contains a "Basic Approach" for credit risk and makes available de minims exemptions from market risk capital requirement and certain financial disclosure requirements for these AIs. The Basic Approach is essentially a modified Basel I framework with modifications to incorporate, among other things, certain definitional changes to bring it into line with the standardized approach of Basel II. The HKMA does not require or mandate any particular AI, or any type or group of AIs, to adopt a particular approach.

India: As of April 1, 2008, all foreign banks operating in India and Indian banks having a presence outside India are subject to the Basel II standardized approach for credit risk and the basic indicator approach for operational risk. Indian banks that do not have any foreign branches will be subject to the same requirements as of April 1, 2009. The Reserve Bank of India has worked out the roadmap for the Indian banks to graduate from the simpler approaches of the Basel II framework to more advanced ones.

Israel: In January 2007, the Supervisor of Banks announced the implementation of the Basel II recommendations in Israel commencing from the end of 2009, in accordance with the Standardized Approach.

Philippines: Guidelines issued by the Philippines Central Bank implementing the Basel II framework apply to all universal banks and commercial banks, as well as their subsidiary banks and quasi-banks. Thrift banks, rural banks, as well a quasi-banks that are not subsidiaries of universal banks and commercial banks shall continue to be subject to the Basel I framework.

South Africa: Basel II was implemented in South Africa on 1 January 2008, from which time Basel I was no longer available to banks registered in terms of the Banks Act, 1990. For the time being, Basel II will not be implemented for the two Mutual Banks operating under the Mutual Banks Act, 1993.

Turkey: In June 2008, Turkey announced the indefinite delay of implementation of Basel II owing to turbulence in global financial markets and after consultation with Turkish banks.

United States: The Advanced IRB and Advanced Measurement Approach is mandatory for "core" banks. Non-"core" banks may opt into the advanced framework with the prior approval of their primary regulator. The federal banking agencies have proposed to permit non-"core" banks to elect between applying a version of the Basel II standardized approach or remaining under the Basel I regime. They also have requested comment on whether "core" banks should be given the option to apply the version of the Basel II standardized approach proposed for non-"core" banks.

THE APPROACH COUNTRIES TAKE TO FUNDING THE ACTIVITIES OF THEIR BANK SUPERVISORY AUTHORITIES

Country	Funded Through Assessments Paid by the Regulated Institutions and Independent of the Government's General Budget Process	Funded Through Assessments Paid by the Regulated Institutions but Subject to the Government Budget Process, Including any Freezes	Funded Through the Central Bank's Budget Process	Funded Through Deposit Insurance Assessments	Funded Through the Government's General Budget Process
Argentina			Central Bank of Argentina		
Australia		Australian Prudential Regulation Authority[1]			
Austria	Austrian Financial Market Authority[2]		Oesterreichische Nationalbank		Ministry of Finance
Bahrain			Bahrain Monetary Agency		
Belgium	Banking, Finance and Insurance Commission		National Bank of Belgium		
Bermuda	Bermuda Monetary Authority				

[1] Not subject to government freezes
[2] The Federal Act on the Institution and Organization of the Financial Market Authority stipulates that the Austrian federal government contributes a fixed sum each financial year.

Country	Funded Through Assessments Paid by the Regulated Institutions and Independent of the Government's General Budget Process	Funded Through Assessments Paid by the Regulated Institutions but Subject to the Government Budget Process, Including any Freezes	Funded Through the Central Bank's Budget Process	Funded Through Deposit Insurance Assessments	Funded Through the Government's General Budget Process
Brazil			Banco Central do Brasil		
Canada	Financial Consumer Agency of Canada/ Office of the Superintendent of Financial Institutions			Canada Deposit Insurance Corporation	
Cayman Islands		Cayman Island Monetary Authority			
Chile	Superintendent of Banks				
Czech Republic			Czech National Bank	Deposit Protection Insurance System	Securities Commission/Office for Supervision of Credit Cooperatives
Denmark		Danish Financial Supervisory Authority			
Egypt			Central Bank of Egypt		
Finland	Financial Supervision Authority				

Country	Funded Through Assessments Paid by the Regulated Institutions and Independent of the Government's General Budget Process	Funded Through Assessments Paid by the Regulated Institutions but Subject to the Government Budget Process, Including any Freezes	Funded Through the Central Bank's Budget Process	Funded Through Deposit Insurance Assessments	Funded Through the Government's General Budget Process
France			Banque de France		
Germany	Federal Financial Supervisory Authority		Deutsche Bundesbank	Deposit Insurance Systems of Private Banks	
Hong Kong			Hong Kong Monetary Authority		
Ireland	Irish Financial Services Regulatory Authority – 50%		Irish Financial Services Regulatory Authority – 50%		
Israel			The Bank of Israel		
Japan					Financial Services Agency

Country	Funded Through Assessments Paid by the Regulated Institutions and Independent of the Government's General Budget Process	Funded Through Assessments Paid by the Regulated Institutions but Subject to the Government Budget Process, Including any Freezes	Funded Through the Central Bank's Budget Process	Funded Through Deposit Insurance Assessments	Funded Through the Government's General Budget Process
Korea	Financial Supervisory Service		Financial Supervisory Service		
Latvia	The Financial and Capital Market Commission[3]				
Luxembourg	Commission de Surveillance du Secteur Financier		Banque Centrale du Luxembourg		
Norway		Kredittilsynet	Norges Bank	Guarantee Schemes for Banks	
Panama		Superintendency of Banks			
Philippines	Bangko Sentral ng Pilipinas				
Portugal	Securities Market Commission		Banco de Portugal	Deposit Protection Scheme	

[3] From July 1, 2001 to December 31, 2006, activities of the Financial and Capital Market Commission are financed from payments made by financial and capital market participants, the State budget and the Bank of Latvia. As from 2007, the activities of the Commission shall be fully financed from payments by financial and capital market participants.

Country	Funded Through Assessments Paid by the Regulated Institutions and Independent of the Government's General Budget Process	Funded Through Assessments Paid by the Regulated Institutions but Subject to the Government Budget Process, Including any Freezes	Funded Through the Central Bank's Budget Process	Funded Through Deposit Insurance Assessments	Funded Through the Government's General Budget Process
Romania	National Securities Commission		National Bank of Romania		
Singapore			Monetary Authority of Singapore		
South Africa			South Africa Reserve Bank		
Spain			Bank of Spain		
Sweden		Financial Supervisory Authority	Sveriges Riksbank	Deposit Guarantee Board	
Switzerland	Swiss Federal Banking Commission				
Turkey	Banking Regulation and Supervisory Agency			Saving Deposit Insurance Fund	

Country	Funded Through Assessments Paid by the Regulated Institutions and Independent of the Government's General Budget Process	Funded Through Assessments Paid by the Regulated Institutions but Subject to the Government Budget Process, Including any Freezes	Funded Through the Central Bank's Budget Process	Funded Through Deposit Insurance Assessments	Funded Through the Government's General Budget Process
United Kingdom	Financial Services Authority				
United States	Office of the Comptroller of the Currency (OCC) as well as a number of states	A number of states, including the New York State Banking Department	Federal Reserve System	Federal Deposit Insurance Corporation	

THE APPROACH COUNTRIES TAKE TO CONSOLIDATED SUPERVISION OF THE OPERATIONS OF DOMESTIC AND NON-DOMESTIC FINANCIAL GROUPS

Consolidated Supervision Applied to Bank Subsidiaries and Affiliates of Domestic and Non-Domestic Financial Groups <u>and</u> to Unincorporated Branches/Agencies and Affiliates of Non-Domestic Financial Groups	**Consolidated Supervision Applied to Bank Subsidiaries and Affiliates of Domestic and Non-Domestic Financial Groups <u>But Not</u> to Unincorporated Branches/Agencies and Affiliates of Non-Domestic Financial Groups**	**Consolidated Supervision Applied to Bank Subsidiaries and Affiliates of Domestic Financial Groups <u>But Not</u> to Bank Subsidiaries and Affiliates or Unincorporated Branches/Agencies and Affiliates of Non-Domestic Financial Groups**	**Consolidated Supervision is <u>Not</u> Applied to Either Domestic or Non-Domestic Financial Groups**
Argentina Brazil Canada[1] China France India Indonesia Ireland Israel Italy Japan Luxembourg The Netherlands Panama Philippines Romania[2] South Africa[3] Spain[4] Sweden[5] Switzerland[6] United States[7]	Australia[8] Austria[9] Bahrain Belgium Bermuda[10] Cayman Islands[11] Finland Hong Kong[12] Korea[13] Latvia Norway Poland Singapore[14] United Kingdom	Czech Republic Denmark[15] Germany Turkey	Chile

[1] While the Office of the Superintendent of Financial Institutions oversees the operations at the federal level, certain entities within a financial group (e.g. securities and insurance companies) may also be subject to supervision by provincial agencies, such as the Ontario Securities Commission.

[2] For the EU non-domestic branches, reliance is placed on home country supervision. For the non-EU non-domestic branches, the Romanian legislation provides in principle for the same treatment as for institutions that are Romanian legal persons.

[3] Consolidated supervision extends to all the companies in a banking group, including the controlling company, its subsidiaries, joint ventures and companies in which the controlling company or its subsidiaries have a direct or indirect participation.

[4] As far as subsidiaries, affiliates or branches of non-domestic banks are concerned, consolidated supervision refers to their respective "Spanish sub-groups."

[5] Regarding affiliates of banks within the EEA, the Swedish Financial Supervisory Authority has a shared responsibility with the home country supervisor. After notification to the Swedish supervisor a home country supervisor may conduct an on-site exam at an affiliate location in Sweden.

[6] Swiss Banking law requires the Swiss Federal Banking Commission (SFBC) to exercise consolidated supervision over bank subsidiaries and affiliates of domestic financial groups. Bank subsidiaries and affiliates of non-domestic financial groups and unincorporated branches/agencies of non-domestic financial groups are only allowed in Switzerland if they are subject to consolidated supervision by their home country banking authority.

[7] Under the Gramm-Leach-Bliley Act of 1999 as well as the International Banking Act of 1978 the U.S. Federal Reserve Board does make determinations regarding the capital strength of the non-domestic banking organization that seeks to become a "financial holding company" or engage in other nonbanking activities permissible for bank holding companies.

[8] The Australian Prudential Regulation Authority (APRA) supervises locally-incorporated ADIs (including their overseas branches and subsidiaries) on a consolidated basis. APRA also supervises foreign-owned locally-incorporated ADIs (and their subsidiaries and any overseas branches) on a consolidated basis. Foreign banks operating as branches in Australia (foreign ADIs) are subject to supervisory oversight on the branch operations in Australia. APRA does not supervise on a consolidated basis unincorporated branches, agencies and affiliates directly owned by non-domestic financial groups, but requires such entities to be subject to adequate consolidated supervision by the parent supervisors of the foreign ADI operating in Australia.

[9] Within the European Union (EEA countries) reliance is placed on home country control; non-EU countries: The Austrian Banking Act stipulates that a non-EU non-domestic branch is treated in principle in the same way as an independent credit institution is treated. Thus, the Austrian branch is obliged to fulfill the Austrian regulatory and supervisory provisions independently. The situation of the entire bank will not be taken into account. However, legally the branch is not deemed to be independent.

[10] Bermuda does not license branches of overseas banks. Consolidated supervision is applied to the licensed entity and to any subsidiaries or affiliates.

[11] The Cayman Islands Monetary Authority (CIMA) supervises locally incorporated authorized institutions on a consolidated basis, covering their subsidiaries as well as local and overseas branches. CIMA will also require that branches of foreign incorporated banks are under adequate consolidated supervision in their home country. This is one of the minimum authorization criteria that will be assessed at the time of authorization and on an on-going basis thereafter.

[12] The Hong Kong Monetary Authority (HKMA) supervises locally incorporated authorized institutions on a consolidated basis, covering their subsidiaries as well as local and overseas branches. The prudential requirements and supervisory approach applicable to foreign bank branches are broadly the same as those for authorized institutions incorporated in Hong Kong. The HKMA will also require that branches of foreign incorporated banks are under adequate consolidated supervision in their home country. This is one of the minimum authorization criteria that will be assessed at the time of authorization and on an on-going basis thereafter.

[13] As far as subsidiaries, affiliates or branches of non-domestic banks are concerned, consolidated supervision refers to their respective Korean sub-groups.

[14] The Monetary Authority of Singapore (MAS) supervises Singapore-incorporated banks on a consolidated basis, taking into account the operations of their domestic and overseas branches and subsidiaries. MAS does not supervise on a consolidated basis unincorporated branches, agencies and affiliates of non-domestic financial groups but takes

into account, among other things, the adequacy of consolidated supervision exercised by parent supervisors for the foreign banks' operations in Singapore and overseas in considering applications made under our licensing and regulatory processes.

[15] If the parent company is located abroad only the subgroup is encompassed by the consolidated supervision.

HOST COUNTRY SUPERVISION OF BRANCHES OF NON-DOMESTIC BANKS[1]

Host Country Generally Relies on Global Supervision by the Home Country[2]	Host Country Applies Its Supervisory Standards Apart from the Home Country[5]		
Cayman Islands[3]	Argentina	France	Peru
Panama[4]	Australia	Germany	Philippines
	Austria	Greece	Poland
	Bahrain	Hong Kong	Portugal
	Belgium	India	Romania[8]
	Bolivia	Indonesia	Singapore[9]
	Brazil	Ireland	South Africa[10]
	Canada	Israel	Spain
	Chile	Italy	Sweden
	China	Japan[7]	Switzerland
	Colombia	Korea	Turkey
	Czech Republic	Latvia	United States[11]
	Denmark	Luxembourg	United Kingdom
	Estonia[6]	Netherlands	Uruguay
	Finland	Nigeria	Venezuela
		Norway	

1 Host country supervisory practices may be subject to cooperative agreements with the banking authority in a home country.

2 The host country may impose special limitations on branches of non-domestic banks that are not subject to global supervision by the home country.

3 The Cayman regulatory authority (the "Authority") will verify that the entity's home supervisor conducts consolidated supervision of the entire group in accordance with standards acceptable to the Authority. In making an assessment of whether consolidated supervision is conducted in accordance with standards acceptable to the Authority, the Authority will take into account whether or not the home country supervisory adheres to internationally recognized standards such as the Basel Core Principles, the International Association of Insurance Supervisors core Principles, the core Principles of the International Organization of Securities Commissions, or ay other international standard considered appropriate by the Authority. Specifically, the home country supervisor should receive consolidated financial and prudential information about the group's global operations, and have the capability to prevent affiliations that undermine consolidated supervision and the creation of establishments in particular jurisdictions.

4 Branches of non-domestic banks in Panama are subject to host counting supervision under Panamanian law, but home country requirements for liquidity, capital adequacy and other conditions apply. Home country supervisors may request information from the Superintendency of Bank only for supervisory purposes.

5 Member States of the European Union (EU) are listed on the basis of their supervisory practices with respect to non-domestic banks from outside the EU. Within the EU, relationships among bank supervisors are governed by the Second Banking Directive, which establishes a "home country" supervisory system for banks incorporated in a Member State. Under these arrangements, (i) the banking license of a bank from a Member State permits the bank to branch throughout the EU without obtaining approval of the host country, and (ii) the supervisory authority of the Member State where a bank is incorporated (i.e., the home country) has primary responsibility for the operations of the bank throughout the EU. An EU Member State also can apply the home country principle applied to EU banks in whole or in part to banks from non-EU countries if there is reciprocity, close cooperation between the supervisory authorities of both countries, and a high standard of home country supervision. Otherwise, the EU Member State makes its own assessment of banks from non-EU countries and applies capital standards consistent with EU standards.

By agreement, these arrangements have been extended throughout the European Economic Area to include, in addition to the 15 EU Member States, Iceland, Lichtenstein and Norway.

[6] Estonia applies the EU's "home country" supervisory system to banks from EU Member States, although it is not itself an EU Member State.

[7] In Japan, the supervision of the capital adequacy of branches of non-domestic banks relies on consolidated supervision by the home country, but Japanese standards are applied to the other aspects of the branches of non-domestic banks.

[8] For the EU non-domestic branches, reliance is placed on home country supervision. For the non-EU non-domestic branches, the Romanian legislation provides in principle for the same treatment as for institutions that are Romanian legal persons.

[9] In considering bank license applications, the Monetary Authority of Singapore takes into account the strength of the home country supervision and the willingness and ability of the home supervisory authority to cooperate with MAS. This includes the supervision of the applicant and its parent institution by the home country supervisory authority on a consolidated basis in accordance with the principles in the Basel Concordat.

[10] The Companies Act requires a branch of a foreign company to register as an external company. Branches of non-domestic banks are subject to the same capital adequacy and liquidity requirements as domestic banks.

[11] The Office of the Comptroller of the Currency is the primary regulator for federal branches and agencies and the states are the primary regulator for branches and agencies licensed under their laws. The Federal Reserve has examination authority over the combined U.S. operations of international banks, including their branches and agencies. U.S. branches and agencies of international banks are subject to supervisory standards regarding risk management, asset quality, operational controls and compliance with laws and regulations.

APPLICABILITY OF HOST COUNTRY ENDOWMENT/DOTATIONAL CAPITAL REQUIREMENTS FOR BRANCHES OF NON-DOMESTIC BANKING ORGANIZATIONS[1]

Host Country Applies Such A Capital Requirement[2]	Host Country Does Not Apply Such A Capital Requirement
Argentina	Australia
Austria	Bahrain[9]
Belgium	Canada[10]
Czech Republic	Cayman Islands
Denmark[3]	Finland
France	Hong Kong
Germany[4]	Ireland
India	Japan
Indonesia[5]	Latvia[11]
Italy	Norway
Korea	Panama
Luxembourg	Philippines
The Netherlands	Singapore
Panama	Sweden
Philippines[6]	Switzerland
Portugal[7]	United Kingdom
Romania[8]	United States[12]
South Africa	Turkey
Spain	

[1] Banks from Member States of the European Union (EU) may branch freely into other Member States under the EU "passport" system. Accordingly, responses for these countries are limited to requirements applicable to branches of banks from outside the EU.

[2] Except as otherwise noted, the host country does not impose any restrictions on how a branch may use its endowment/dotational capital, which is freely available to a branch to make loans and investments as it sees fit (other than with respect to transactions with other members of the bank group). In this regard, endowment capital requirements are fundamentally different from "asset pledge" requirements, which restrict eligible assets to highly liquid but low yielding instruments.

[3] The Danish Financial Supervisory Authority may grant exemption from the capital requirement.

[4] Under a 1994 regulation of the German Federal Ministry of Finance, the dotational capital requirement for German branches of U.S. banks that are supervised by the Board of Governors of the Federal Reserve System or the Office of the Comptroller of the Currency has been capped at the legal minimum amount of 5 m euros.

[5] Use of funds is subject to the approval of the Bank of Indonesia.

[6] Under Republic Act No. 7721 (An act Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines and for Other Purposes), foreign bank branches with full banking authority in the Philippines shall inwardly remit and convert into Philippine currency, as permanently assigned capital, the US Dollar equivalent of ₱210 million at the exchange rate prevailing on 5 June 1994 (₱26.979 to US$1.00). The Foreign bank is entitled to establish 3 branches in locations of its choice. The same foreign bank may open additional 3 branches by remitting and converting into Philippine currency, as permanently additional assigned capital the US Dollar equivalent of ₱35 million for every additional branch, computed at the same exchange rate of ₱26.979 to US$1.00.

The capital of a Philippine branch of a foreign bank which is authorized to operate as an expanded commercial bank may consist of its permanently assigned capital plus the "Net due to Head Office" not to exceed 3 times the amount of permanently assigned capital (Circular No. 465 dated 4 January 2005).

[7] Funds must be invested in Portugal.

[8] The minimum endowment capital established only for non-EU non-domestic branches may not be less than the equivalent in RON of EUR 5 million. For the time being for banks, it is established for RON 37 million (about EUR 8.8 million).

[9] Branches of non-domestic banks holding a full commercial bank license (which allows the holder to undertake retail as well as wholesale banking business in any currency, with both residents and non-residents) <u>are</u> subject to such requirements.

[10] Branches of non-domestic banking organizations are instead subject to host country asset pledge requirements.

[11] A foreign bank that opens a branch in Latvia shall invest, within one year after the receipt of a license, at least EUR 1 million in assets in Latvia and shall maintain such an investment level throughout the entire time of its operations.

[12] Branches of non-domestic banking organizations may instead be subject to host country asset pledge (*i.e.*, collateral) requirements as, for example, New York that requires 1% of third party liabilities of the branch, unless the bank is "well rated," in which case a lesser amount may be pledged).

APPLICABILITY OF ASSET PLEDGE REQUIREMENTS TO BRANCHES OF NON-DOMESTIC BANKING ORGANIZATIONS OPERATING IN A HOST COUNTRY[1]

Branches Are Subject to Asset Pledge Requirements	Branches Are Not Subject to Asset Pledge Requirements	
Canada	Argentina	Korea
United States[2]	Australia	Latvia
	Bahrain	Luxembourg
	Belgium	Netherlands
	Cayman Islands[3]	Norway
	Chile	Panama
	Czech Republic	Philippines
	Denmark	Poland
	Finland	Portugal
	France	Romania
	Germany	Singapore
	Hong Kong	South Africa
	India[4]	Spain
	Ireland	Sweden
	Israel	Turkey
	Italy	United Kingdom
	Japan	

[1] Asset pledge requirements refer to any host country law or regulation that as a general matter requires branches of non-domestic banking organizations to maintain on deposit with local custodian banks a specified minimum amount (determined, for example, as a percentage of the branch's total liabilities to third parties) of liquid assets such as domestic government securities that would be available to the appropriate host country authority in connection with the liquidation of the branch. Such requirements are distinguished from (i) minimum "endowment capital" requirements, pursuant to which a branch must be established with a minimum amount of freely available funds as prescribed by the host country, and (ii) "asset maintenance" requirements, pursuant to which a host country regulator may require branches of non-domestic banking organizations to maintain in the host country a certain level of assets in relation to third-party liabilities. Among the surveyed countries, Bermuda and Colombia do not permit non-domestic banking organizations to operate through branches, and therefore the issue does not arise.

[2] U.S. branches and agencies of international banks are subject to asset pledge requirements under applicable federal and state law. At the federal level, the International Banking Act of 1978 provides that branches and agencies licensed by the Office of the Comptroller of the Currency must maintain a "capital equivalency deposit" equal to at least 5% of their third-party liabilities. Requirements under state laws vary. For example, branches and agencies licensed by the State of Illinois are not required as a general matter to pledge assets, although the Commissioner retains the discretion to impose an asset pledge requirement when deemed "necessary and appropriate". In December 2002, the New York State Banking Department lowered its asset pledge requirement to 1% of third-party liabilities from 5%.

[3] At licensing stage, the parent is required to provide a statement in writing in a form acceptable to the Authority accepting legal responsibility for the obligations and liabilities of the branch.

[4] In India, foreign banks are required to furnish Reserve Bank an undertaking that the banks will not remit abroad the remittable surplus retained in India & included in tier I Capital as long as the banks function in India.

AVAILABILITY OF CENTRAL BANK "DAYLIGHT OVERDRAFT" CREDIT

Central Bank Daylight Overdraft Credit Is Not Available to Domestic and Non-Domestic Banks	Central Bank Daylight Overdraft Credit Is Available Equally to Domestic and Non-Domestic Banks But Only on a Fully Collateralized Basis	Central Bank Daylight Overdraft Credit Is Available to Domestic and Non-Domestic Banks on an Uncollateralized Basis But Stricter Limits Apply to Non-Domestic Banks
Australia[1] Bahrain Cayman Islands[2] Hong Kong[1] Philippines[1] Romania Switzerland[1]	Argentina Austria Belgium Czech Republic Denmark Finland France Germany Ireland Israel Italy Japan Korea Latvia Luxembourg Netherlands Norway Portugal Singapore[3] South Africa[4] Spain Sweden Turkey United Kingdom	United States[5]

[1] Intra-day liquidity is provided through repurchase agreements with the central bank.

[2] There is no Central Bank equivalent in the Cayman Islands.

[3] Only for banks which are Primary Dealers in Singapore government securities.

[4] Both prudential cash and liquid assets are used to fully collateralize the real time gross settlement system intra-day.

[5] In December 2008 the Federal Reserve announced changes to its Payments System Risk (PSR) Policy to loosen intraday liquidity constraints and reduce operational risk in financial markets and the payments system. The revisions to the PSR Policy create strong incentives for banks to pledge collateral voluntarily to secure their intraday exposures. Net debit caps will continue to be based on a bank's capital and remain at the same level as under the current system. Thus, for U.S. domestic banks the net debit cap would continue to be based on 100 percent of a bank's capital, while

for international banks the cap would still be based on no greater than 35 percent of capital for those that are financial holding companies (FHCs) and no greater than 25 percent for those that are not FHCs but have a SOSA rating of "1". However, the revisions provide for a new streamlined procedure that in effect will permit international banks that are FHCs, or that have a SOSA rating of "1" but are not FHCs, to raise their collateralized net debit cap to a level based on 100 percent of their capital. Except for the streamlined procedure, which became effective in March 2009, these revisions will be effective sometime during either the fourth quarter of 2010 or the first quarter of 2011 to provide the Reserve Banks time to implement required changes to their collateral management/monitoring systems and processes.

PERMISSIBLE ACTIVITIES FOR BANKING ORGANIZATIONS IN VARIOUS FINANCIAL CENTERS[1]

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Argentina	Permitted	Permitted, but only with regard to pension fund affiliates	Limited; based on bank capital and investment	Limited	Permitted but subject to prior approval of authorities
Australia	Permitted	Permitted through subsidiaries or sister companies, subject to controls under the insurance laws	Limited	Permitted; a bank (and banking group) is required to deduct equity investments and other capital investments in non-subsidiary entities that exceed (i) 0.15% of the bank's (banking group's) capital base before deductions for an individual investment; and (ii) 5% in aggregate for all such investments.	Shareholdings of more than 15% in a bank need the approval of the Treasurer. The Treasurer has signaled a willingness to consider an association between a bank and a non-financial company where a sound case can be presented. This policy will be applied conservatively.
Austria	Permitted	Permitted through subsidiaries	Permitted	Permitted, subject to capital deduction rules relating to equity investments in non-financial entities.	Permitted, but subject to notification and prohibition under certain circumstances

[1] With respect to the activities described, the chart indicates which types of financial activities are permitted. The chart is not intended to summarize the complete range of prudential restrictions which may apply to any such activities.
[2] Securities activities include underwriting, dealing and brokering all kinds of securities and all aspects of the mutual fund business.
[3] Insurance activities include underwriting and selling insurance as principal and agent.
[4] Real estate activities include real estate investment, development and management.
[5] Including investments through holding company structures, where applicable.

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Bahrain	Permitted	Selling as agent is permitted	Generally limited to own premises. Management or development on behalf of customers is permitted.	Subject to large exposure limits (15% of capital) and generally limited to holdings of marketable securities	No legal restriction, but subject to “fit and proper” regulations of the Bahrain Monetary Agency
Belgium	Permitted	Permitted through subsidiaries	Generally limited to holding bank premises	Single qualifying holding may not exceed 15% of bank's own funds and such holdings on an aggregate basis may not exceed 45% of own funds	Permitted, but subject to prior approval of authorities
Bermuda	Permitted	Permitted	Permitted	Permitted, subject to regulatory consent	Permitted, subject to regulatory vetting of business
Brazil	Permitted through subsidiaries	Permitted through subsidiaries	Generally limited to holding bank premises	Limited to suppliers to the bank	Permitted

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Canada	Permitted through subsidiaries	Permitted through subsidiaries	Permitted	Permitted up to 10% interest in industrial firm	Permitted up to the following limits: a 20% voting share limit in banks with equity of C$8 billion or more; a 65% voting share limit in banks with equity of C$2 billion to C$8 billion; and a 100% voting share limit in banks with equity of up to C$2 billion.
Cayman Islands	Permitted, upon issuance of a securities business license or exemption	Permitted upon issuance of an insurance license	Permitted, subject to an exposure limit of 20% of net worth, or otherwise with approval of the Authority	Permitted, subject to an exposure limit of 20% of net worth, or otherwise with approval of the Authority	Approval of the Monetary Authority is required. The Authority may grant exemption when the shares are publicly traded on a recognized stock exchange and the Authority is notified of any change in control or the acquisition of 10% of the shares or voting rights

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Chile	Permitted	Insurance brokerage permitted	Not permitted	Permitted up to 10% of a bank’s shares after which the Superintendent’s prior approval is required	Not permitted
China	Not permitted	Not Permitted	Not permitted	Not permitted	Permitted; acquisitions of 5% or more require approval of the banking regulatory authority
Denmark	Permitted	Permitted through subsidiaries	Permitted up to 20% of the bank's capital	Permitted with restrictions; permanent controlling holdings in industrial companies are prohibited	Not prohibited
Egypt	Permitted through subsidiaries	Permitted through subsidiaries	Generally limited to holding bank premises	Limited to 40% of the capital of the company and in the aggregate may not exceed the bank's capital	Consent of the Central Bank of Egypt is a pre-requisite for the ownership of more than 10% of a bank's issued capital; ownership through heritage is exempted

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Estonia	Permitted	Permitted through affiliates	Permitted, but as of July 1, 1998 total investments in fixed assets may not exceed 60% of own funds	Permitted, but each shareholding may not exceed 15% of the bank's own funds and such holdings in the aggregate may not exceed 60% of own funds	Permitted
European Union[4]	Not applicable; permissibility is subject to home country authorization and limited to host country regulation	Not applicable; permissibility is subject to home country and host country regulation	Not applicable; permissibility is subject to home country and host country regulation	Each 10% or more share-holding may not exceed 15% of the bank's own funds and such shareholdings on an aggregate basis may not exceed 60% of own funds	No general restrictions; does not allow investments of 10% or more if home country supervisor is not satisfied with the suitability of the shareholder
Finland	Permitted	Only selling of insurance policies as an agent is permitted	Permitted to hold real estate and shares in real estate companies up to 13% of the bank's total assets	Permitted, subject to the EU directive on qualified companies	Permitted

[4] The Second Banking Directive contains a long list of securities and commercial banking activities that EU "credit institutions" (i.e., entities engaged in deposit-taking and lending) may conduct directly or through branches throughout the EU so long as their home countries authorize the activities. Subsidiaries of credit institutions governed by the law of the same member state may also conduct activities on the list throughout the EU, subject to conditions which include 90% ownership and a guarantee of commitments by the parent credit institutions. Insurance and real estate activities are not on the list and are therefore determined by home country and host country regulations.

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
France	Permitted	Permitted; usually through subsidiaries	Permitted	Permitted, but limited to 15% of the bank's capital; in the aggregate limited to 60% of the bank's capital	Not prohibited
Germany	Permitted	Permitted, but only through insurance subsidiaries	Permitted	Permitted, but limited to 15% of the bank's capital; in the aggregate limited to 60% of the bank's capital	Permitted, subject to regulatory consent based on the suitability of the shareholder
Hong Kong	Permitted, through registration with the Securities and Futures Commission and subject to limits based on the capital of the bank	Agency permitted, subject to regulatory requirements. Underwriting permitted through subsidiaries.	Permitted, subject to limits based on the capital of the bank	Permitted, subject to limits based on the capital of the bank	Permitted, subject to regulatory consent based on suitability of the shareholder with a 10% or more controlling interest.
India	Underwriting permitted; trading activities through subsidiaries	Permitted through joint ventures and agency business only	Generally limited to holding bank premises	Limited to 30% of the capital funds of the bank	Permitted up to 30% of the capital and reserve of the investing company subject to approval of RBI of the transfer of 1% or more of the bank's capital

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Ireland	Permitted; usually conducted through a subsidiary	Permitted to engage in agency and certain life assurance activities through a subsidiary, which must be separate and independent	Permitted	Acquisition of more than 10% of voting rights of a firm requires Central Bank approval	Permitted, but subject to prior notification to the Central Bank for acquisition of more than 5% of total bank shares
Israel	Permitted; brokerage and investment advice by banks directly, underwriting and portfolio management activities through subsidiaries	Permitted in an advisory capacity but not in underwriting	Permitted on a limited basis	Permitted on a limited basis	Permitted, but subject to prior approval of the Bank of Israel
Italy	Permitted	Limited to 10% of own funds for each insurance company and 20% aggregate investment in insurance companies	Generally limited to holding bank premises	Permitted, up to 15% of the bank's capital, subject to approval of the Bank of Italy	Permitted, up to 5% of shares of the bank, subject to the approval of the Bank of Italy

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Japan	Some services (e.g., selling of government bonds, investment trusts and securities brokerage services) permitted to banks, others permitted through subsidiaries.	Some services (only selling insurance products) permitted to banks, others permitted through subsidiaries	Generally limited to holding bank premises	Limited to holding 5% interest[5]	Permitted, provided total investment does not exceed investing firm's capital or net assets. Acquisitions of shares in excess of 5% must be filed and shares equal or in excess of 20% subject to regulatory approval
Latvia	Permitted	Permitted through subsidiaries	Permitted	Permitted, but limited to 15% of bank's capital; in the aggregate limited to 60% of the bank's capital	Subject to regulatory approval for acquisitions of voting shares equal to or in excess of 10, 20, 33 and 50%

[11] Bank holding companies and their subsidiaries are allowed to hold in the aggregate up to 15% of the total shares of non-financial companies.

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Luxembourg	Permitted	Permitted through subsidiaries	Permitted	Permitted, but limited according to EU Directives	Permitted, but majority shareholdings are very restricted
The Netherlands	Permitted	Permitted through subsidiaries	Permitted	Subject to regulatory approval for voting shares in excess of 10%	Subject to regulatory approval for voting shares in excess of 5%
Norway	Permitted; the activities need no longer be conducted in separate subsidiaries; mutual fund management permitted through dedicated subsidiaries	Permitted through subsidiaries	Permitted, only 4 % of total bank assets permitted to be invested in real estate	Investments of up to 49% in single companies permitted; only 4% of total bank assets permitted to be invested in shares	Any person who intends to acquire a "qualified holding" (10% or more) in a financial institution must notify the authorities and get prior authorization
Panama	Permitted through subsidiaries	Not permitted	Not permitted	Permitted up to 25% of the bank's capital	Permitted

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Philippines	Permitted; universal banks may engage in securities activities directly or through a subsidiary with limitations; regular commercial banks may engage in securities activities only through the investment house where they have a minority interest	Insurance companies/ insurance agency and brokerage permitted for universal banks through subsidiaries with limitations; insurance agency and brokerage permitted for regular commercial banks through subsidiaries with limitations	Permitted for universal banks through subsidiaries with limitations	Permitted for universal banks through subsidiaries with limitations	Permitted with limitations on foreign and/or corporate ownership
Poland	Permitted; dealing in publicly traded securities through subsidiaries	Permitted	Permitted	Permitted up to 25% of the bank's capital	Permitted
Portugal	Permitted; mutual funds only through subsidiaries	Permitted through subsidiaries	Generally limited to holding bank premises	Permitted up to 15% of bank's own funds (but not to exceed 25% of the voting rights of the company) and such investments may not in the aggregate exceed 60% of the bank's own funds	Subject to regulatory approval for acquisitions of voting shares equal to or in excess of 5, 10, 20, 33 and 50%

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Romania	Banks allowed to engage in underwriting, dealing and brokering; with regard to mutual fund business, only carrying on the function of depositary institution is permitted	Not permitted; however investments in insurance companies are not limited, but are subject to notification to the NBR or in certain circumstances, to prior approval	Permitted only for carrying out banking activity in compliance with the Banking Law, for employees' use, and the enforced collection of claims	Permitted up to 15% of the bank's own funds; such investments in the aggregate may not exceed 60% of the bank's own funds.	Permitted, but acquisition of 10% or more requires prior notification of the National Bank of Romania
Singapore	Banks may engage in the full range of underwriting, dealing, brokering and mutual fund activities	Banks can act as a distributor but not as a manufacturer of insurance products unless they possess a separate license to conduct insurance business, which is governed under the Insurance Act administered by MAS	Investment in real estate is limited in the aggregate to 20% of bank's capital funds. Banks are generally not allowed to engage in property development or management	Interests in excess of 10%, or that give the bank significant influence over the management of a company, require regulatory approval. In addition, a bank may not invest more than 2% of its capital funds in any individual firm.	Acquisitions of 5%, 12% and 20% or more by any single shareholder require regulatory approval

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
South Africa	Generally permitted, but subject to financial reporting requirements and prudential liquid and capital requirements on trading book	Banks and associates of banks may not without prior written approval of the Registrar hold more than 49% of a registered insurer	A bank may not hold more than 10% of its liabilities, excluding liabilities in respect of capital and reserves, in immovable property without the written approval of the Minister of Finance	Banks require prior written permission from the Registrar to establish subsidiaries or a joint venture within or outside South Africa or to acquire an interest in companies or open a branch or representative office outside of South Africa, including beneficial interest in a trust or establish any financial or other business undertakings under its direct or indirect control	Only a bank or bank controlling company may control (hold more than 50% of the nominal value of the issued shares of the bank) a bank. Permission is required from the Registrar for holdings in excess of 15% of the nominal value and from the Minister of Finance for holdings in excess of 49%
Spain	Permitted; banks themselves allowed to become members of the stock exchange; mutual funds managed through separate affiliate	Marketing permitted directly and through subsidiaries	Permitted	Permitted, subject to capital-based limits under EU Directives	Acquisitions of 5% or more require the approval of the Bank of Spain
Sweden	Permitted	Permitted	Generally limited to holding banking premises	Limited	Not prohibited, but such investments are generally not made

Country	Securities[2]	Insurance[3]	Real Estate[4]	Bank Investments in Industrial Firms[5]	Industrial Firm Investments in Banks
Switzerland	Permitted through specific license as securities dealer	Permitted through subsidiaries	Permitted	Permitted	Not prohibited
Turkey	Permitted	Permitted to act as agent but not permitted to act as principal	Not permitted unless specifically authorized by bank's charter	Limited to 15% of bank's own funds and in the aggregate limited to 60% of bank's own funds	Not prohibited
United Kingdom	Permitted; usually conducted through subsidiaries	Permitted through subsidiaries	Permitted	Permitted, subject to supervisory consultations	No statutory prohibition
United States	Permitted, but underwriting and dealing in corporate securities must be done through (1) a nonbank subsidiary of a bank holding company (subject to revenue limits), (2) a nonbank subsidiary of a financial holding company (no revenue limits) or (3) a financial sub of a national bank (no revenue limits)	Insurance underwriting and sales are permissible for nonbank subsidiaries of financial holding companies. National banks and their subsidiaries are generally restricted to agency sales activities.	Generally limited to holding bank premises	Permitted to hold up to 5% of voting shares through a BHC (bank holding company), but a BHC that is designated as a financial holding company and has a securities affiliate may exercise merchant banking powers to make controlling investments, subject to certain regulatory restrictions	Permitted to make noncontrolling investments up to 25% of the voting shares, subject to restrictions to ensure noncontrol; acquisition of a 10% or greater voting interest subject to prior regulatory review

ARGENTINA

As was the case during the second half of 2007, 2008 continued to be a test period for the Argentine financial system. Since the end of the first quarter, the Argentine economy suffered the negative impact of the conflict between the national government and the agricultural sector and, towards the end of the year, to the elimination of the capitalization pension and retirement scheme and to transfer of funds to the national administration. These local factors increased the exposure of the economy to be affected for the worsening of the international financial situation.

Liquidity problems and massive outflow of the riskiest assets by investors all over the world translated, at the local market level, into a generalized reduction of the market value of shares and notes and, at the specifically banking level, into a more volatile behavior of deposits within a framework of gradual GDP growth slowing down throughout the year. Interest rates, on the other hand, fluctuated in line with the evolution of market expectations; while production, consumption and investment started to show a lower growth ending the year. As it was to be expected, this situation ended up conditioning also the private sector bank credit growth, both from the borrowers' point of view as well as the supply of financing.

In spite of the uncertainty provoked by the international financial turbulence, at the local level the stability of the financial system was preserved by the high level of liquidity reserves held by institutions and the proactivity of the Central Bank supporting the system liquidity, both holding up the market value of their debt instruments and making easier the banks access to financial assistance of last resort.

On the other hand, the banking sector has been especially careful managing risks, mismatching, and the level of capitalization. This explains the reduced level of non-performing assets of banks, obviously very much favored by the process of indebtedness reduction that have taken place as a consequence of the 2001-2002 crisis, and the rigorous credit risk management carried out both by banks and the Central Bank as the banking regulator and supervisor.

Systematic capitalization of profits plus the injection of new funds and the conversion of some pre-crisis debts into equity carried out by shareholders, have allowed the full recovery of system's solvency. In fact, banks exhibit nowadays regulatory equity of almost 17 percent of risk-weighted assets, which broadly exceeds 11 percent required by regulation, also if it is adjusted for the regulatory forbearances introduced as of the onset of the crisis and which have lately lost the relevance they used to have. Since January 2009, forbearances related to capital requirements in particular, are no longer in force as it was originally scheduled.

Last, the scarce incidence of both local and foreign capital markets on the current banking funding structure has preserved banks in Argentina from facing the difficulties other financial systems, more integrated to international financial markets, had to withstand.

On the other hand, the average profitability of the banking system has remained at approximately 1.5 percent of assets per year. Although this level is not one of the highest in the region, it shows a very solid base and scarce volatility, mostly as a result of the strong incidence of transactional funds in the financing structure and of the low incidence of nonperforming rates.

Both aspects tend to compensate the high tax burden affecting banking activity and other factors that have provoked a sustained cost increase.

Likewise, it is worth mentioning that the Central Bank's action regarding the managing of the financial regulations and the monetary and exchange rate policies, has represented a clearly positive contribution for the banking system stability. Managed floating exchange rate policy has constituted a clear stabilizing factor, especially taking into account that the Argentine economy has not yet fully overcome the dollarization of savings. Liquidity instruments available to Banks, on the other hand, were expanded to the extent it was wide enough in order to avoid the reduction of the supply of credit because of deposits volatility.

In summary, in spite of the difficulties arising both from international and domestic sources, the banking system has remain stable and sound; its stability has not been affected at any time and, even though the credit has suffered a strong de-acceleration, the crisis has not prevented the financing to the private sector to keep growing.

As it has been shown during the last five-year period when deposits grew continuously, banking credit becomes abundant and available and competence among banks drives continuous improvements of terms and conditions, both regarding tenor as well as costs. However, lately, deposits to GDP ratio tends to be stagnated and, recently, more volatile. Thus, consolidating bank credit growth both in these difficult times and in the future, will basically require the identification of those factors which are limiting the channeling of domestic savings through institutional financial markets and the introduction of specific policies aimed to solve this problem.

Central Bank measures related to the international financial crisis

As regards measures adopted by the Central Bank to assure liquidity, it is worth mentioning the following:

- The repos market was adapted, offering liquidity at both fixed and variable interest rates.
- Part of Central Bank's Notes and Bonds (LEBAC and NOBAC) maturities were monetized, and these instruments were repurchased in the subprime mortgage market.
- Open market operations with treasury debt were activated through purchases to be liquidated in Pesos, in order to inject liquidity and to preserve the monetary balance.
- In two instances the minimum cash requirement was unified in bimonthly periods, where market liquidity so required.
- An active repos mechanism in US Dollars was created in order to reduce Peso depreciation expectations.
- Transactions of up to one-year term started to be carried out, with credit ratings of at least AA in the Non-Deliverable Forward (NDF) market.
- A new liquidity window was authorized. This allows using as guarantee for repos certain species not previously authorized.

- Limits to operate in the futures market were extended, both for the Central Bank and for those agents associated to any of the counterparts. It should be highlighted that the Central Bank only operates with non-delivery contracts denominated in local currency.

- The Central Bank allowed the reference exchange rate applicable to future and forward transactions between the Central Bank and its counterparts to be fixed by the Emerging Market Traders Association.

- The liquidity provision scheme was adapted, allowing banks having debts in favor of the Central Bank, with six month maturity at the latest, to immediately receive funds.

- A repo mechanism on Central Bank's debt was established, allowing banks to improve liquidity not depending on the secondary market.

- Minimum cash requirements for deposits in foreign currency were reduced in order to increase availability of funds for foreign commerce financing.

- A guarantee prequalification window was established for the financial assistance system.

- For the purposes of the minimum reserves requirements, institutions were allowed to calculate all their cash holdings, in-transit holdings and holdings in companies devoted to transportation of monies and securities (before they could only compute two thirds of their holdings).

- Fixed rate repos line was increased from $3 billion to $10 billion.

AUSTRALIA

Focus on the Credit Crisis

Australia's authorized deposit taking institutions (ADIs) remain sound, and have weathered the global economic downturn well with continued growth in housing lending. ADIs have generally enjoyed strong deposit growth over the past year as well as continued profitability and the maintenance of regulatory capital ratios in excess of minimum standards. Nevertheless, the Australian Prudential Regulation Authority (APRA) remains in a heightened state of readiness.

A number of measures have been taken, or are proposed to ensure ADIs remain sound and able to deal with unexpected events should they occur. These include:

- the release of proposed new liquidity requirements designed to strengthen the resilience of ADIs to liquidity risk and improve APRA's ability to assess and monitor ADIs' liquidity risk profiles. These proposals represent the first round of consultation on a regime to build stronger liquidity buffers in our banking system. These proposals are currently being consulted on with a further round of consultation to be undertaken in 2010;

- changes to the measurement of capital for ADIs; the market risk framework; securitizations; and prudential disclosure requirements in light of the enhancements to the Basel II Framework released by the Basel Committee on Banking Supervision in July 2009.

Authorized Deposit taking Institution (ADIs)

In March 2009 APRA was invited to become a member of the Basel Committee on Banking Supervision. Although previously not a member of the Basel Committee, APRA has been involved with its work for many years through participation on a number of sub-committees and working groups.

Other prudential initiatives that have been finalized or are currently in progress include:

- The existing ADI prudential standard 'Audit and related arrangements for prudential reporting' was refined to clarify expectations with respect to the nature, extent and form of audit report to be provided. The revised standard was released in December 2008 and became effective from January 2009.

- May 2009, APRA released a consultation package on remuneration for ADIs and general and life insurance companies. APRA's proposals on remuneration are designed to endorse and implement the Financial Stability Forum's (FSF) Principles of Sound Compensation Practices. A second consultation package was release in September 2009 and it is expected that the final prudential standards and associated guidance will be released in November 2009 to be effective from 1 April 2010.

- APRA is reviewing its prudential requirements in relation to the funds management activities of ADIs and groups of which they are members. A discussion paper and draft prudential standard will be released for consultation in early 2010.

- Beyond this, APRA intends to develop an overarching risk management standard for ADIs, having regard to guidance issued by the Basel Committee on Banking Supervision on risk management and capital planning processes as part of the Basel II enhancements released in July 2009.

- APRA is also developing a prudential framework for conglomerate groups, i.e., groups that straddle the prudentially regulated sectors and may include unregulated entities as well. The proposed framework will better protect the interests of beneficiaries by limiting the risks to regulated entities (from contagion, reputation and operational risks in particular) that may arise from that entity's membership of a conglomerate group.

General Insurance

Consolidated supervision has been one of APRA's supervisory priorities during this period. While developments in this area were first initiated from the HIH Royal Commission, the current crisis has continued to reinforce the importance of supervising insurers on a consolidated basis and considering all the risks directly or indirectly impacting on an insurer.

APRA has finalized a new consolidated supervision framework for the supervision of general insurance groups domiciled in Australia. The new framework: aims to reduce the potential for group activities and intra-group relationships to adversely affect the financial soundness of insurer(s) within the group; and requires general insurers and their corporate group to meet various requirements similar to those applying to individual APRA-authorized general insurers on a consolidated basis.

Prudential standards were effective from 31 March 2009 and the final reporting standards were released on 31 August 2009.

APRA also released a prudential standard (and an associated prudential practice guide) on the Internal Model-based Method for regulatory capital which is effective from 31 March 2009. The framework is in accordance with principles and concepts developed for ADIs under the Basel II framework, and the guidelines issued by the International Association of Insurance Supervisors.

Lenders mortgage insurers (LMIs) have attracted greater attention during the financial crisis as a result of significant exposures to credit risk in mortgage lending in Australia. In September 2008, APRA released a discussion paper and draft prudential standard for LMIs covering the maximum event retention calculation, which is being reviewed to improve clarity and implementation. The release of a final prudential standard is currently delayed to ensure appropriate consideration of industry submissions. It is expected to be finalized in the fourth quarter of 2009.

APRA is reviewing its capital standards for both life insurance and general insurance. The review will be considering the standards in light of international developments, reviewing the risk sensitivity and appropriateness of the capital standards, and improving the alignment of the standards between the two industries. APRA intends to issue a consultation paper by the end of 2009, and develop prudential standards during 2010.

APRA is also developing improvements in the collection of industry data on major events to better assess their impact on the capital position of insurers individually and collectively. A discussion paper on this topic will be released for public consultation in late 2009.

Life Insurance

Since the financial crisis began, APRA has been focusing supervisory efforts on the capital strength of life insurance companies. In late 2008, APRA established a team to closely monitor life insurance capital and to coordinate supervisory responses.

In August 2009, APRA acquired the power to supervise non-operating holding companies of prudentially regulated life insurers (life NOHCs) through the passing of the Financial Sector (Enhancing Supervision and Enforcement) Bill 2009. APRA will be expanding governance and fit and proper requirements to life NOHCs and will also review audit and actuarial requirements for life companies.

As discussed above, APRA will be reviewing its capital standards for life insurance (and general insurance). This will include a review of the resilience reserve and the capital requirements for risk products.

Superannuation

As a result of an increase in size and complexity of the average superannuation fund, APRA has introduced proposals to deepen the statistics collection through an enhanced annual data collection. The first round of consultation took place in May 2009, with a second consultation package expected for release in late 2009, and final reporting forms and standards to be released in June 2010.

APRA has been reviewing and updating its superannuation guidance and, where possible, harmonizing with other APRA-regulated industries.

In April 2009, APRA released draft prudential practice guides on the use of reserves in superannuation funds, and on management conflicts of interest.

In August 2009, APRA released draft guidance on prudent practices for APRA-regulated superannuation trustees around capital, risk management, adequacy of resources and fitness & propriety. This follows a release earlier in the year of revised guidance for reserves and conflicts of interest.

In August 2009, APRA also released performance data for individual superannuation funds, covering the five-year period from 2004 to 2008. This will assist in evaluating long-term performance of funds and their trustees, and greatly promotes transparency and accountability.

Regulation of the Financial Services Industry

The Australian Securities and Investments Commission (ASIC) continues to address a range of key regulatory issues arising from the global financial crisis. Several issues are being addressed in conjunction with work carried out by the International Organization of Securities Commissions (IOSCO).

Australia introduced a ban on naked short selling in September 2008 to maintain efficient functioning of markets during a period of severe market stress. This was subsequently replaced on 25 May 2009 by the Corporations Amendment (Short Selling) Act 2008, which was passed on 5 December 2008, clarifying ASIC's power to regulate short selling, banning naked short selling and providing a broad framework for covered short selling disclosure. ASIC introduced a temporary reporting regime for short selling while the Government finalizes the permanent disclosure regime for short selling. ASIC is also involved in the IOSCO Task Force on Short Selling to address global consistency.

Treasury and ASIC continue to work together to review the regulation of credit rating agencies (CRAs) in Australia. In November 2008 the Australian Government announced that CRAs will be expected to be licensed by 1 January 2010. License conditions specific to CRAs will include: requiring compliance with the IOSCO Code and annual reporting on compliance, disclosure of methodologies and assumptions; updating ratings; and consent to ASIC sharing information with other regulators. ASIC has consulted with CRAs and industry regarding whether compliance with the IOSCO Code of Conduct should apply on a mandatory basis. ASIC is also involved in the IOSCO Standing Committee on CRAs to address global consistency.

Following the establishment of IOSCO's Taskforce on Unregulated Financial Markets and Products, of which ASIC is co-chair, ASIC has been working with Treasury to review the Taskforce's recommendations in the context of the Australian market and corporate legal framework and provide the Government with advice on potential reforms.

Following the establishment of IOSCO's Taskforce on Unregulated Financial Entities, of which ASIC is a member, ASIC has been working with Treasury to examine whether changes in regulation in Australia, including enhanced license obligations for hedge fund managers and reporting obligations, will be necessary.

In October 2008, the Council of Australian Governments agreed that the regulation of all consumer credit will be transferred from the State Governments to the Australian Government with the new regulation to be administered by ASIC. The National Consumer Credit Protection Bill was introduced into Parliament in June 2009 and requires people currently engaging in credit activities to register with ASIC from early 2010. Entities will be able to apply for an Australian Credit License from 1 July 2010. ASIC is involved in developing the policy framework for credit (e.g. policies on licensing, licensee obligations, competence and training requirements for licensees and representatives, compensation and financial requirements), and is also involved in extensive work with Treasury in commenting on legislative drafting.

The Corporations Legislation Amendment (Financial Services Modernization Bill 2009) introduced into Parliament in June also proposes that margin lending facilities will be considered 'financial products' for the purposes of the Corporations Act. The proposal forms part of a larger proposal covering new responsible lending requirements and the regulation of notification of margin calls.

The Parliamentary Joint Committee (PJC) on Corporations and Financial Services commenced an inquiry into issues associated with recent financial product and services provider collapses, including the role played by financial advisers and the state of the general regulatory environment, amongst other issues. ASIC provided evidence and information to the PJC, to support the inquiry. The PJC will consider recommending any necessary legislative or regulatory change on these issues. On completion of the inquiry, there may be scope, depending on the outcome of the PJC Inquiry, for legislative reforms to shift the balance towards greater protection of retail investors.

The US SEC, ASIC and Treasury have been involved in discussion regarding mutual recognition arrangements for the two nations' securities markets. The mutual recognition arrangement framework agreement, and accompanying Enhanced Enforcement Memorandum of Understanding and Supervisory Memorandum of Understanding was signed by ASIC and SEC on 25 August 2008, and are intended to enhance cross-border law enforcement cooperation, facilitate regulatory coordination, and increase investor access to well-regulated capital markets. The timing of the implementation of the framework arrangement has been postponed given the importance of work relating to the current financial crisis.

In August 2009, the Australian Government announced that ASIC will take over the supervision and surveillance of financial markets and market participants effective third quarter 2010. Market operators such as the Australian Securities Exchange (ASX) will retain supervision of listed entities. ASIC is working with Treasury on relevant legislation and will work closely with ASX to ensure a smooth transition of market surveillance and participant supervision to ASIC.

Payment Systems, Electronic Commerce and Banking

The Reserve Bank of Australia (RBA) completed a review of its payments system reforms in September 2008. The review of existing regulations relating to payments cards was wide ranging and involved extensive consultation and data gathering by the RBA.

The review concluded that the existing regulations relating to transparency, access and the removal of restrictions on merchants should be retained. For interchange fees, however, the RBA expressed a view that the enhanced competitive environment provided an opportunity to step back from formal regulation. It therefore concluded that if the industry could provide it with comfort that interchange fees would not rise in the absence of regulation, it would be able to step back from interchange regulation. Absent such comfort, the RBA foreshadowed regulatory intervention to further lower interchange fees. The RBA indicated that it would assess progress in meeting its requirements in August 2009.

In August 2009 the RBA decided that progress was not yet sufficient to warrant the lifting of regulation but was sufficient to delay, for the time being, a decision on whether to further lower interchange fees. The RBA has indicated that the decision will remain under review and that it is prepared to re-open consideration of the regulations in light of industry developments. In the meantime, the RBA has commenced consultations on the possibility of aligning the regulatory treatment of interchange fees in scheme and domestic EFTPOS systems.

In 2003, the RBA determined financial stability standards with which central counterparties and securities settlement facilities are required to comply. The standards seek to ensure that clearing and settlement facilities conduct their affairs in such a way that promotes the stability of the Australian financial system. The standards are supplemented by a number of measures that the RBA considers relevant in assessing compliance with the standards.

The Financial Stability Standard for Securities Settlement Facilities was amended in 2005 to limit its application to facilities that settle obligations in excess of $100 million in a financial year. This was done to ensure that the standard applies only to securities settlement facilities that could potentially pose a risk to the stability of the financial system, exempting small systems from unnecessary regulation. In February 2009 a measure of this standard was varied to require disclosure of equities securities lending to enable participants to better understand the risks of participating in such facilities.

The Financial Stability Standard for Central Counterparties was also varied in February 2009 to allow overseas central counterparties to be exempt from the full application of the standard if it is subject to a ‘sufficiently equivalent’ regulatory regime in its home jurisdiction. The effect of the variation was to remove unnecessary duplication of regulation on overseas central counterparties. The RBA also produced guidance on how it will assess ‘sufficient equivalence’ for the purposes of the exemption.

Anti-Money Laundering Developments

The final set of obligations under Australia's Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (the AML/CTF Act) entered into force on 12 December 2008. The obligations relate to ongoing customer due diligence and reporting under the AML/CTF Act. Obligations under the Act were implemented in stages over a period of 24 months to allow industry to develop necessary systems in the most cost efficient way. The AML/CTF Act implements the first tranche of reforms to Australia's AML/CTF regulatory regime and covers the financial sector, gambling sector, bullion dealers and other professionals or businesses ('reporting entities') that provide particular 'designated services'.

The Australian Government is currently considering outcomes of a consultation process regarding the second tranche of AML/CTF reforms. The second tranche of reforms will extend regulatory obligations to designated services provided by real estate agents, dealers in precious stones and metals, and specified legal, accounting, trust and company service providers.

Since July 2008, the Australian Transaction Reports and Analysis Centre (AUSTRAC) has made and registered 12 AML/CTF Rules and has released three guidance notes to assist reporting entities to comply with their AML/CTF obligations.

Reporting entities were required to submit an AML/CTF compliance report to AUSTRAC by 31 March 2009 for the period from 1 January 2008 to 31 December 2008. The compliance reports provide AUSTRAC and the reporting entity an indication of their progress in implementing their AML/CTF obligations.

The Australian Government has continued to highlight to industry the importance of implementing robust AML/CTF programs and systems to assist in protecting the financial system from the potentially heightened money laundering and terrorism financing risks emanating from the recent period of financial instability.

Australian Government's Deposit and Wholesale funding guarantees

The Australian Government's deposit and wholesale funding guarantees were introduced following the serious deterioration in global financial markets in September and October 2008, and in the context of unprecedented policy actions from authorities around the world. While Australia's financial system was relatively well placed to withstand the turbulence in credit markets, the freezing of global credit flows and the introduction of financial sector guarantees internationally threatened the ability of Australian financial institutions to access funding. This had potentially serious implications for the health of individual financial institutions, the stability of the financial system, the flow of credit to Australian household and business borrowers, and consequently Australia's economic growth.

In response to these developments, the Government announced on 12 October 2008 that it would guarantee deposits and wholesale funding of authorized deposit-taking institutions (ADIs). Deposit balances up to $1 million per depositor, per institution are covered automatically and for free under the Financial Claims Scheme (FCS). Deposit balances above $1 million and eligible wholesale funding instruments may be covered on an opt-in basis and for a fee under the Guarantee Scheme for Large Deposits and Wholesale Funding (Guarantee Scheme).

The Guarantee Scheme fee schedule is based on the credit ratings of the issuing institutions and is set at levels between the prices of ADIs' wholesale debt instruments at the height of the financial turmoil and the prices that had prevailed in more normal market conditions. This approach provides an incentive for ADIs and their investors to cease using the Guarantee Scheme as market conditions normalize, helps to mitigate any impacts of the guarantee on the markets for other financial assets, and ensures that the fee schedule reflects market-based pricing signals and the risks borne by taxpayers.

Since the guarantee arrangements for wholesale funding became operational, Australian banks have issued around $185 billion of long-term debt, with $142 billion of this having been issued under the Guarantee Scheme. The total stock of guaranteed liabilities continues to grow, reflecting growth in deposits and long-term wholesale issuance.

Australia's four major banks have been the largest issuers of government guaranteed long-term funding, consistent with their size and historic reliance on wholesale markets for a larger share of their total funding relative to smaller institutions. However, smaller institutions have also benefited from the guarantees. Non-major Australian banks' deposit bases have grown at a faster rate than the major banks' since the guarantees were introduced, and non-major institutions have increased their share of the wholesale term funding market. In addition, a larger proportion of smaller institutions' funding is guaranteed automatically and for free under the FCS relative to that of the four major banks.

In the aftermath of the collapse of Lehman Brothers, it is likely that low liquidity in financial markets would have resulted in ADIs paying a substantially higher yield on issues on non-guaranteed securities, if they were able to sell them at all. In the absence of the Guarantee Scheme, it is likely that ADIs would have responded to such a high cost of funds by borrowing fewer funds in total, reducing the supply of credit, and passing the higher costs of funds to their new and existing borrowers. That is, the Guarantee Scheme is likely to have put downward pressure on borrowing costs for Australian households and businesses.

Financial institutions that are not ADIs do not have access to the guarantees as they are not permitted to accept deposits and are not subject to prudential regulation. These institutions have also been impacted by the global financial crisis. While it is difficult to disentangle the impact of the events leading up to the introduction of the guarantees on non-ADIs from the impact of the guarantees themselves, it is clear that the difficulties faced by non-ADI institutions had already emerged prior to the introduction of the guarantees and are likely to have persisted in the absence of the guarantees. The outlook for non-ADIs is expected to continue to improve with the recovery in global financial markets.

The FCS and Guarantee Scheme have been carefully designed to minimize the Government's financial exposure. The likelihood of the guarantees being drawn upon is low. ADIs are subject to prudential regulation which is designed to ensure that they have the capacity to meet their financial commitments. In addition, in the unlikely event that a guarantee is called upon, the

Commonwealth has the capacity to recover its expenditure through a claim on the relevant institution.

The Australian Government has committed to reviewing the cap on deposits covered by the FCS by 12 October 2011, and removing the guarantee of wholesale funding when markets conditions normalize. The Government is monitoring conditions in wholesale funding markets and supporting multilateral efforts to unwind the wholesale funding guarantee in a timely, well-sequenced and coordinated manner.

AUSTRIA

Financial Crisis

As early as October 2007 the EU's finance ministers adopted a policy package aimed at addressing the consequences of the financial crisis and ensuring the safety of savings deposits and the viability of companies. However, this package only included "common principles" for the recapitalisation of ailing financial institutions. In the light of the credit crunch the European Commission (EC) published in October 2008 a new Communication with guidelines based on Article 87 EC, explaining how it intends to apply the State aid rules to State intervention during the current crisis. In another Communication of December 2008 the EC provided more detailed guidance for the recapitalisation of financial institutions to ensure lending to the real economy and stabilise financial markets without undue distortion of competition.

The Commission clarified that recapitalisation by one Member State of its own banks should not give those banks an undue competitive advantage over banks in other Member States where no such aid is provided. The Commission distinguished between fundamentally sound, well-performing banks on the one hand and distressed, less-performing banks on the other. The pricing scheme for capital injections to sound banks should be based on the Central Banks' benchmark rate of interest, while it also needs to adequately factor the current risk profile of the beneficiary bank. The use of State capital for banks at risk of possible insolvency can only be accepted on the condition of a bank's thorough and far-reaching restructuring to ensure long-term viability of the bank concerned, including a change in management and corporate governance where appropriate.

In February 2009 the EC issued a Communication on the treatment of asset relief measures by Member States concerning impaired assets, *i.e.*, assets on which banks are likely to incur losses (*e.g..*, U.S. sub-prime mortgage-backed securities). The Commission considers that a common European approach is presently needed to deal with impaired assets so as to make sure that foreseeable losses are disclosed and properly handled and banks can use their capital to resume their normal function of lending to the economy. The Commission's Communication outlines various methods to deal with impaired assets, notably through asset purchase (including bad bank scenarios) or asset insurance schemes.

National Measures Adopted in Response to the Crisis

The EC gave the green light for the Austrian banking package in December 2008 subject to stringent conditions concerning interest and dividends: Austrian banks applying for State capital may distribute as dividends up to 17.5 percent of their net earnings available for distribution prior to changes in reserves. The price paid for such participating capital should be up to 9.3 percent in sound banks (Tier 1 ratio of at least 7 percent), unless more than 30 percent of State capital are subscribed by private investors. This rate can be reduced to 8 percent if 110 percent of the nominal value is repaid at the end of the 5-year term. Sound banks are only subject to annual reporting requirements.

In addition, the EC accepted in March 2009 the fixed-term revision of the Austrian risk capital rule in support of the real economy, as well as the fixed-term company subsidies of up to EUR 500,000 under the temporary framework for State aid measures, such grants being awarded by Austria Wirtschafts Service (AWS) to companies having difficulties accessing finance due to any potential "credit crunch".

The policy package adopted at a special meeting of parliament on 20 October 2009 to "strengthen confidence in financial markets" includes the following legislation:

- Act to Stabilise the Interbank Market (IBSG)

(Total budget EUR 75 billion) Owned by Austria's banks, an Austrian clearing bank called *Österreichische Clearingbank AG* (OeCAG) has been established with the aim to stabilise the interbank market. Under the auspices of Oesterreichische Kontrollbank Aktiengesellschaft (OeKB, Austria's central provider of financial services and information) this clearing bank accepts deposits by financial institutions, may raise funds on capital markets and lend them to other financial institutions. Alongside measures to revive the interbank market, this Act also includes the option of underwriting issues by credit institutions. The rules governing such underwriting are set out in the Financial Market Stability Act (FinStaG).

- Financial Market Stability Act (FinStaG)

Under this Act the Federal Government may assume liability for the payables of an entity or vis-à-vis an entity, as well as grant loans or provide equity capital; it may also acquire shares in companies and take over a company's assets through merger. As a means of last resort the Government may also assume ownership rights in credit institutions. Recourse to capital injections and similar measures is subject to a number of restrictions defined in a special ordinance, such restrictions concerning the remuneration of managers or employees of beneficiary banks or the distribution of dividends. These conditions need to be negotiated individually based on the above EC guidelines.

Moreover, the policy package includes amendments to Austria's Stock Exchange Act (BörseG) enabling the Financial Market Authority (FMA) to issue ordinances banning or limiting the short selling of individual financial instruments for a limited period of time of no more than three months.

Preventing Money Laundering and Financing of Terrorism

FMA Circular Letter on Identification

In early July 2008 Austria's Financial Market Authority (FMA) published a circular letter on identifying a customer and verifying identity to help banks meet their obligations in respect of identifying and verifying the identity of customers, authorised representatives and beneficial owners.

Securities Law

MiFID and WAG 2007

Following the successful transposition and implementation of the new Securities Supervision Act (WAG 2007) in November 2007, continued efforts were undertaken in 2008 at European and national levels to ensure harmonised implementation, application and interpretation of the new securities supervision rules set out in the Markets in Financial Instruments Directive (MiFID).

FMA Circular Letter on Organisational Requirements under WAG 2007

In early 2009 the FMA issued a circular concerning the organisational requirements under WAG 2007 in view of compliance, risk management and internal audit. In the light of frequently asked questions in the context of new organisational requirements the FMA's circular letter uses practical examples to assist banks in the implementation of such organisational provisions under WAG.

It primarily addresses credit institutions and the demands, made for the first time under WAG 2007, on an independent compliance regime and its comprehensive tasks. Among others, the circular explains the interaction between organisational requirements of WAG 2007 and those of the Banking Act (BWG) in terms of risk management and internal audit.

Payments Services Bill

In late January 2009 the Federal Ministry of Finance submitted for consultation its proposal for transposing the Payments Services Directive into national law. The bill should also create the legal framework for SEPA in Austria. Modelled on the Securities Supervision Act (WAG 2007), the proposed Payments Services Bill (ZaDiG) sets out supervisory requirements for payment institutions and the rights and obligations of all providers of payment services in rendering such services.

Payment services are defined to be services enabling cash to be placed on, and withdrawn from, a payment account, executing payment transactions, executing direct debits, executing payment transactions through a payment card or a similar device, as well as executing credit transfers, including standing orders. The products affected by this new legislation include giro accounts, debit and credit cards, as well as electronic banking.

ZaDiG will change or annul a number of existing Acts, such as the Credit Transfer Act. The sanctions that have been introduced into the Credit Transfer Act in the context of the Regulation on cross-border payments in euro are still applicable and will be integrated into the ZaDiG. The Austrian banking Act (BWG) is to be adjusted for similar provisions on value dating and execution of payment services. Minor changes will also be made to the Distance Financial Services Act (FernFinG) and the Consumer Protection Act (KSchG).

The proposed Bill also creates a new category of providers, the so-called payment institutions, which are subject to reduced supervisory requirements. Their activities include: credit transfers, issuing payment cards and executing card payment transactions (also where the funds are covered by a credit line), transfers of funds, so-called telecommunication-assisted payments (*i.e.*, payments via mobile phones), direct debits from payment accounts held by customers at the payment institutions and used exclusively for payment transactions but not for deposits. Payment institutions may grant credit subject to consumer protection rules. Such credit is restricted to the institutions' card business and repayable within 12 months at most. Payment institutions may not engage in deposit activities.

BERMUDA

During the period July 1, 2008 to June 30, 2009 the Bermuda Monetary Authority (the "Authority") took a proactive approach to managing the impact of the financial crisis on Bermuda's financial market, while simultaneously pressing forward with an aggressive regulatory policy agenda.

The Authority intensified supervision of all sectors within Bermuda's market, which took the form of a combination of specialized market surveys, stress testing, and enhanced monitoring of those areas of the market most impacted. Although Bermuda's banking sector remained resilient through the year, maintaining compliance with the Authority's capital and liquidity standards, the Authority heightened its supervision of this sector given the potential exposure of banks worldwide to the effects of the crisis. The banks were required to undertake a series of stress tests to simulate the impact on their operations of a severe economic downturn. As a precautionary measure, the Authority decided to require banks to hold an additional capital buffer to withstand the economic conditions simulated by these tests. This requirement was implemented in the first quarter of 2009, resulting in Bermuda's banks being in an even stronger position to manage further disruptions that may occur from the financial crisis.

Other areas of Bermuda's financial market that were subject to heightened supervision during the year included: financial guaranty companies, which were the most impacted within the insurance market; long-term insurance firms, due to the increasing pressures on life insurers; retail investment businesses, because of the potential impact to Bermuda residents; and the funds sector, specifically the impact on hedge funds as a result of investment losses and increased redemption rates that were experienced worldwide. Although all sectors within Bermuda's financial market have weathered the financial crisis to date, the Authority remains vigilant and intends to continue with its intensified supervision throughout 2009.

Notwithstanding the difficulties presented by the financial crisis, the Authority made significant progress toward enhancing the regulatory framework for Bermuda's financial services industry during the year. This involved the introduction of key regulatory policy initiatives which have strengthened the standards and the quality of Bermuda's risk-based regulatory framework.

Also during the period, the Authority remained actively engaged in ongoing regulatory enhancements internationally via participation and membership of key international standard setting bodies. Such involvement ensures that the Authority remains abreast of, and contributes to, the international standards development process, as well as ensuring that Bermuda's regulatory frameworks reflect and are aligned to international best practice in financial regulation.

Insurance

The Authority maintained focus on its goal of developing a leading international regulatory framework for Bermuda's insurance sector by completing a number of initiatives in preparation for regulatory equivalence assessments with other important international markets. These enhancements to the insurance framework also supported the long-standing balance between effective regulation and the progressive business environment which continues to be a main feature of the Bermuda market.

In terms of significant legislative changes, the Insurance Act 1978 was amended during the year. The Insurance Amendment Act 2008 introduced provisions to establish an enhanced solvency regime for Bermuda's commercial (re)insurers which includes the introduction of the Bermuda Solvency Capital Requirement, the Authority's risk-based capital adequacy model; standardized stress testing information on market and underwriting risk; a provision to impose capital add-ons where deemed appropriate; and the requirement to file audited GAAP financial statements as a further step to increasing financial disclosure within the sector. The Authority also established the framework for permitting the use of internal capital models to determine regulatory capital for (re)insurers, which included assessment standards and the applications process. All of these enhancements apply to Class 4 companies within Bermuda's insurance sector (*i.e.*, highly capitalized (re)insurers underwriting excess liability and/or property catastrophe reinsurance risk).

In addition, the Authority also completed the reclassification of its Class 3 sector of insurance companies, which resulted in the segregation of firms in this sector into three distinct classes based on the percentage of unrelated business assumed and the amount of net premium written. In addition, a new Special Purpose Insurer class was created. The reclassification initiative facilitates more effective supervision of the Bermuda insurance sector by appropriately identifying those Class 3 companies that are truly commercial carriers and as a result should receive a higher level of regulatory and supervisory oversight.

The Insurance Accounts Amendment Regulations 2008 and the Insurance Returns and Solvency Amendment Regulations 2008 (collectively, the "Insurance Regulations") were also passed by the Bermuda Parliament and came into force at the end of 2008. The Insurance Regulations formally make insurers who re-registered under the Authority's revised classification for Class 3 companies (*i.e.*, Class 3, Class 3A, Class 3B, or Special Purpose Insurer) subject to similar provisions as existing classes of insurers, including filing of statutory financial returns and minimum solvency requirements.

As an initial step to the implementation of a group supervision framework, the Authority successfully hosted its first series of supervisory colleges for three of Bermuda's Class 4 (re)insurers. The supervisory colleges bring together foreign regulators with responsibility for subsidiaries or affiliates of Bermuda-based insurance groups to discuss supervisory or regulatory issues of common interest arising from supervising each entity. They also assist the Authority in developing stronger relationships with international regulators, as well as with developing a more global and cooperative approach to the day-to-day supervision of these large international financial groups.

The Authority also began work on a discussion paper entitled "Implementing Group-wide Supervision" as a next step in the development of its group supervision framework. The discussion paper, which was published at the end of the second quarter 2009, highlights critical issues the Authority would be considering for inclusion in its proposals such as the determination of group solvency, the treatment of intra-group transactions, eligible capital, reporting requirements, group corporate governance and risk management.

Banking

The aggregate risk/asset ratio of Bermuda's banks ended 2008 at 17.5 percent remaining well in excess of the 10 percent minimum ratio imposed by the Authority. The Authority continued to fulfill its responsibilities as the home supervisory authority for Bermuda's banks and deposit companies by conducting ongoing reviews of their operations and capital adequacy. Supervision continued to involve a program of regular prudential and strategy discussions with senior management, together with off-site analysis and review of prudential data and certain on-site work, conducted both in Bermuda and in significant group operations abroad.

The Authority completed a major overhaul of the banking policy framework and successfully implemented Basel II as of January 1, 2009. Following a lengthy consultation with industry, the Authority published its "Revised Framework for Regulatory Capital Assessment" which sets out in a single policy document the final rules for implementation in Bermuda of Pillars 1 and 2 of Basel II. Pillar 1 provides new rules for calculating the base capital requirement for institutions, while Pillar 2 sets out the process under which the Authority reviews how institutions assess the amount of capital they should hold, given the full range of risks they are exposed to, and the quality of controls they have established to mitigate those risks.

The Authority also published a consultation paper on July 18, 2008 setting out the approach it proposed to adopt for the implementation of Pillar 3 of the Accord, which deals with disclosure and market discipline. After a period of consultation with industry participants which concluded in early December, the final rules for the implementation of Pillar 3 were incorporated into the "Revised Framework for Regulatory Capital Assessment" Handbook on December 31, 2008.

The Authority has also published in final form the revised reporting framework for capital adequacy reporting of credit, market and operational risks together with related guidance notes.

Trust

Bermuda's trust sector had a steady year. There were no legislative or regulatory changes within the sector, although Bermuda's new anti-money-laundering provisions will apply to trust work in 2009. During the past year, the Authority conducted a series of prudential meetings with management of licensed trust companies in line with its risk-based approach to regulation. The Authority continued its liaison with the Society of Trust and Estate Practitioners (Bermuda Branch), the Bermuda Association of Licensed Trustees, and the Association of Bermuda Compliance Officers. The market for recruitment of qualified staff continued to be challenging.

Investments

The Authority continued to supervise investment businesses in accordance with the framework established under the Investment Business Act 2003, the primary legislation for the regulation of investment businesses. Off-site supervision includes a review of quarterly financial reporting, audited financial reports, other periodic reports and scheduled prudential meetings. Prudential meetings take place with the investment provider's senior management to discuss the development of the company's business, encompassing past performance and future strategy. On-site review visits assess the effectiveness of policies, procedures, internal controls as well as compliance with the requirements of the Act, Regulations and Codes.

As regards investment funds, the Authority's supervision of this sector continued in line with the legislative framework established under the Investment Funds Act 2006, with the aim of protecting investors. The main focus of the Authority's supervision is the review of funds' periodic statistical reports and the content of prospectuses and the vetting of the funds' service providers. The Act requires fund operators to furnish the Authority with such reports on funds' activities as the Authority may reasonably require. During the year, the Authority also conducted a number of surveys of the industry to assess the impact of the financial crisis on the Bermuda market.

In the second half of the year, the Authority implemented a program of on-site visits to fund administrators. The purpose of on-site supervision is to enable the Authority to review compliance with policies and procedures, as well as the effectiveness of processes that management have put into place to monitor and control key risks in the business. The scope of the visits includes a review of the organizational structure, strategy and financial position. In addition, these visits allow for an assessment of the policies and controls around risk management, fraud, new business acceptance, anti-money laundering, information technology and disaster recovery.

Anti-Money Laundering and Anti-Terrorism Financing

During the year the Authority supported a major initiative by the Bermuda Government to enhance the regulatory framework for anti-money laundering and anti-terrorism financing (AML/ATF). This work was assisted by relevant recommendations from the International Monetary Fund arising from their 2007 assessment of Bermuda's financial regulations.

A suite of legislation was drafted during the year, and adopted towards the end of 2008, which enhanced various aspects of Bermuda's AML standards. As a result of those legislative changes, the Authority now has broader responsibilities and powers for monitoring and enforcing compliance with these standards. These include the powers to register unlicensed financial institutions for the purposes of AML supervision, and to monitor these firms for AML compliance. The changes also allow for the Authority to conduct enforcement action as necessary and to cancel registrations or impose fines of up to $500,000, for breaches of the AML regulations. To support our newly expanded AML responsibilities and enforcement activities, the Authority increased its resources during the year by establishing a supervisory team focused exclusively on executing these functions.

BRAZIL

The financial market in Brazil from July 2008 to June 2009

One can safely say that the Brazilian financial system passed with honors in the real stress test to which it was submitted in the wake of the deterioration in the international financial crisis which followed the demise of Lehman Brothers. On the contrary to what happened in most other countries, especially in the so-called developed economies, no financial institutions went to the wall and there was no need for a bailout using public funds. In our evaluation, this positive behavior by the Brazilian economy and its financial system can be attributed to a combination of the following factors:

(a) The high capitalization level and strict regulatory framework – the minimum Basel requirement in the Brazilian market is 11%. In December of 2008, the industry average was 20,01 %. If we take only the five largest banks, which account for 67,40 % of the assets, the Basel ratio was 18,46 %. Furthermore, in the Brazilian case, the regulatory framework places all financial institutions (including investment banks) under regulation and supervision by the Central Bank.

(b) Low exposure to the property sector and credit derivatives - according to data published by the Central Bank, in June 2009, real estate financing transactions stood at R$ 5.755 millions, representing about 5,5% of total credit transactions. There are several reasons behind this reduced volume of transactions, among them the high levels of inflation and nominal interest rates which prevailed up to the mid-1990s, which made longer-term credit transactions typical of the property sector more difficult.
In relation to derivatives, in the Brazilian market financial institutions rarely carry these transactions on their balance sheets. These were usually products offered to their clients in the so-called corporate segment, but simultaneously hedged on the Mercantile and Futures Exchange, in other words: discounting occasional credit risk, financial institutions were not carrying substantial positions (in net terms) in derivatives on their balance sheets.

(c) Reduced external vulnerability on the macroeconomic plane – contrary to what happened during other financial crisis to which the Brazilian economy has been submitted, especially from the 1990s onward, this time around the economy experienced no external strangulation on account of a lack of foreign reserves. One will recall that in past financial crises, high external indebtedness and the absence of foreign currency reserves had left the Brazilian economy in a position of vulnerability to external crises. As a rule, interruptions to external flows would lead to capital flight and sharp local currency devaluation. In addition to inflationary pressure, this devaluation weakened the position of the public sector, which was a net debtor in foreign currency. To contain this devaluation, the government found itself compelled to raise interest rates and make sharp fiscal adjustments by reducing expenditures and raising taxes – usually with negative impacts on the level of activity. This time, with accumulated currency reserves, Brazil became a creditor in dollars, breaking this vicious circle. Devaluation of the Real in relation to the dollar led to an improvement (not a deterioration) in the debt/GDP ratio, opening the way for the adoption of an anti-cyclical policy through reduced interest rates and fiscal relief. In short, the strong external position contributed to the Brazilian economy's positive reaction to this external shock.

The worsening international financial crisis had two immediate and important effects on the Brazilian economy and on the financial market: Firstly, the virtual freeze on external credit flows and the temporary closure of the capital markets brought great pressure to bear on the domestic credit market. The immediate transfer of this external demand to the domestic credit market in Reais, at a time of growing uncertainty, led to a sharp rise in spreads, especially in the corporate segment. In addition, there was a reduced supply of credit to those sectors most vulnerable to the crisis, like for example, micro, small and mid-size companies. A second important impact was that the crisis created a concentration (or pooling) of liquidity in larger financial institutions, especially those in the public sector. In the pre-crisis period, common practice among financial institutions operating in Brazil - especially small and mid-size banks - was to raise funds via bank certificates of deposit (local acronym, CDB) with accelerated redemption clauses. In spite of the usually long placement terms, these CDBs could be redeemed in advance at the request of investors. As the crisis worsened and investor uncertainty increased, there was a substantial migration of these funds to larger institutions. The result was a significant concentration of funds with larger banks and a significant contraction in the liquidity of smaller institutions.

The measures taken by the government

Against this background the Brazilian government, through the Central Bank, had to face three major challenges if the financial market was to return to business as usual: assure liquidity in the dollar market by raising supply in the spot market and funding lines to exporters; reduce/eliminate the pooling of liquidity in Reais, by creating instruments for the short-term distribution of Reais among different financial institutions; and lastly, to instigate monetary relaxation and avoid a shutdown of the domestic credit market. From September onwards, the Central Bank took decisive action on three fronts:

(a) Measures implemented in the dollar market - using its solid base of currency reserves (US$ 206,5 bi in September) , the Central Bank took a series of measures aimed at reestablishing liquidity in this market, both on the spot market and in trade finance facilities. The most important of these were: a-) the Central Bank re-started sales of US$ on the spot market, firstly via repo transactions, and thereafter via outright sales. From day one, the intention was to provide the market with liquidity, rather than interfere with pricing, since in times of sharp crises sellers are no where to be found and the lack of liquidity becomes a serious problem, with serious implications in terms of price distortions. It should be stressed that the Central Bank did not revert the tendency of the Real to devalue, but rather only ensured that this would happen within a scenario of greater liquidity and lower volatility. According to official data, from the beginning of the crisis in September of 2008, to July 2009, total Central Bank sales on the spot market were US 14,5 billion.

(b) In early October, the Central Bank re-started currency swap transactions with the aim of expanding the offer of dollar-indexed assets to the banks. As we know, in these transactions the monetary authority holds liabilities in US$ and assets in CDI (Interbank Certificates of Deposit, which are corrected by a interest rate near the selic rate), but settlement takes place in Reais. In this manner, the monetary authority provides the system with a currency hedge, while the system, in turn, can extend this cover to non financial companies without using its currency reserves. These transactions prevented a worsening of company asset and liability positions exposed at that time to devaluation of the Real. Since the deterioration of the external crisis, these transactions have totaled US 33 billion, according to official Central Bank figures. Let us remember that the monetary authority was carrying on its balance sheet reverse swap transactions (in which the Central Bank holds US$ assets and liabilities in CDI) undertaken in previous years. As a result, the new transactions practically contributed to zeroing the position of the Central Bank, which held no US$ liability position (in net terms) on concluding these transactions.

(c) Lastly, the Central Bank also undertook auctions of trade finance facilities, including pre-shipment and post-shipment advances (local acronyms, ACC and ACE, respectively) totaling around U$ 24,4 billion, also according to official data. Of this total, around US 15,9 billion had already been liquidated by the end of the first semester of 2009, which reduced net injections by the Central Bank in these transactions to approximately U$ 8,5 billion.

In all, considering the liquidity injected into the currency market (spot and credit facilities), plus currency swap transactions, the Central Bank injected around US$ 52 billion in the currency market.

Liquidity Injections in the Currency Market and Currency Swap Transactions

In US$ billions	Injections	Redemptions/Purchases	Net
Spot Sales Auctions	14,5	4,0	10,5
ACC + Facilities Auctions	24,4	15,9	8,5
Swap Transactions (1)	33,0	0,0	33,0
Total	**71,9**	**19,9**	**52,0**

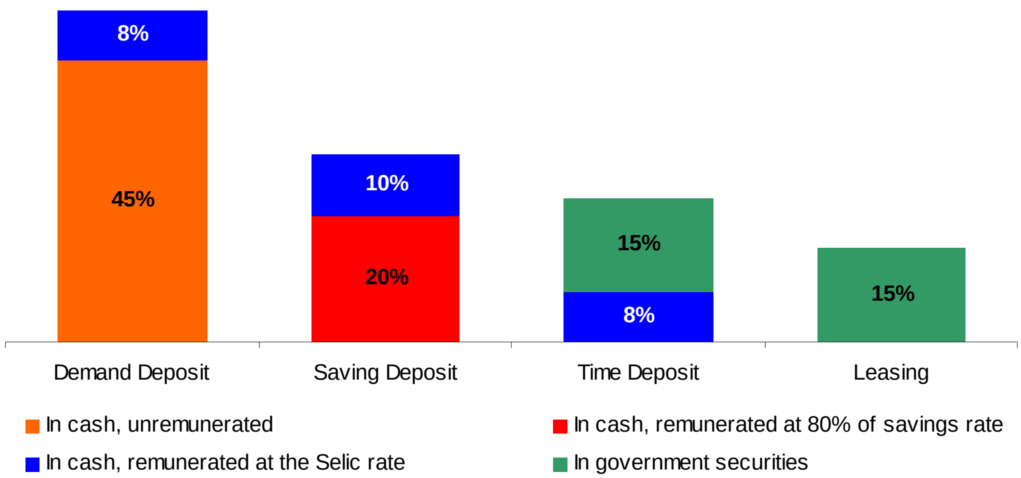
Source: Central Bank.
(1) The settlement of these transactions is in reais

The Central Bank also played an important role in the local currency domestic market, by increasing liquidity to the system, reducing concentration and bringing about an additional relaxation of monetary policy by lowering the basic interest rate in the economy.

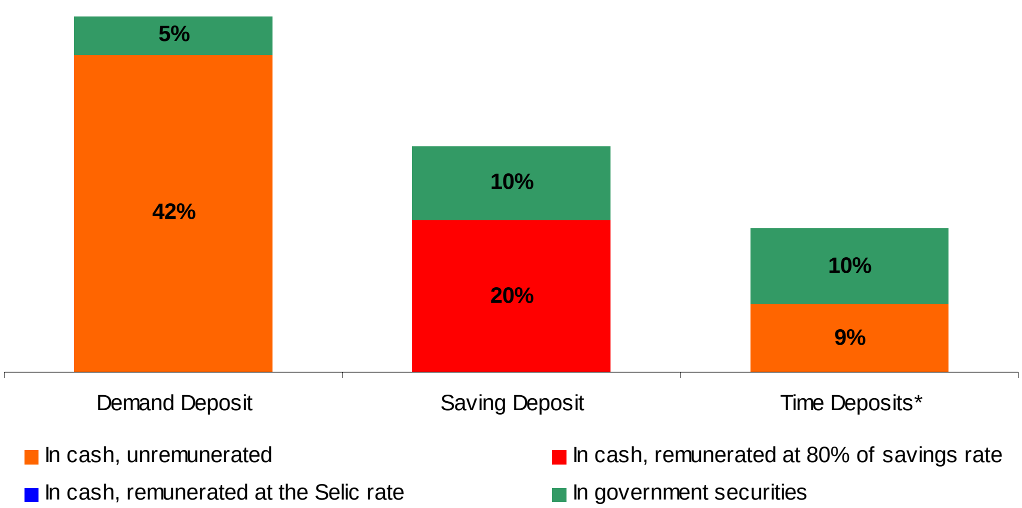
In September of 2008, total compulsory deposits (remunerated and unremunerated) of the financial system transferred to the Central Bank stood at R$ 259,4 billion. During the last quarter of the year, the Central Bank instigated a series of reductions in compulsory deposit rates, part of which was conditional on financial institutions acquiring credit portfolios. Let us explain this in detail: As the crisis deepened and investor uncertainty rose, there was a flight of funds from small and mid-size institutions to larger institutions, especially public banks – which at that time were perceived as offering less risk. This meant that smaller institutions began to face liquidity problems in carrying their loan portfolio positions. The Central Bank's measure enabled the sale of credit portfolios to larger institutions, which were permitted to use part of their compulsory deposits to acquire these portfolios. According to Central Bank data, total compulsory deposits released were approximately R$ 100 billion, of which around R$ 42 billion were channeled to small and mid-size banks (this last figure is unofficial, based on presentations by Central Bank officers, since the breakdown has not been officially published).

Compulsory Deposits – Liabilities Chart

August 2008



July 2009



Note: * Now includes leasing debentures. Comprising:
- 15% of compulsory deposits, of which: 9% in cash, liable to deduction and 6% in government securities.
- 4% additional liabilities in securities.

Source: Central Bank.

Complementing the compulsory deposit reduction measures, the Central Bank also initiated a sharp drop (500 basis points) in the Selic rate. The cycle of monetary relaxation began at the meeting held on December 10, 2008, when the rate was reduced from 13.75% to 12.75%, and at least in this first phase, it ended at the meeting on July 22 this year, when the Selic was set at 8.75% (its lowest level since the inflation target system was established).

Credit evolution

Although at a much slower pace, credit transactions maintained their growth trajectory, even after the international crisis deteriorated in September of 2008. It is safe to say that this happened because of a set of favorable factors, the soundness of the local financial system and the Central Bank's liquidity expansion measures (described above).
In June 2008, the balance of credit transactions in Brazil stood at R$ 1,067 trillion, representing 36.7% of GDP. The table below shows the credit evolution over the June/08-July/09 period, based on the origin of funds and capital control:

Credit as a percentage of GDP - %

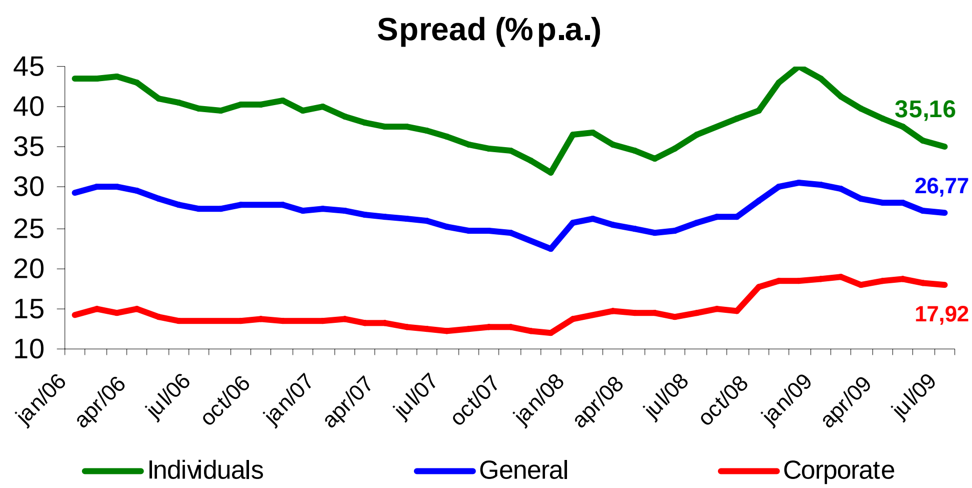
Date	Origin of Funds			By Sector				
	Nonearmarked	Earmarked	Total	Public Sector	Total Private Sector	Brazilian Private Sector	Foreign private Sector	Total
Jul/08	26,3	10,4	36,7	12,6	24,1	16,3	7,8	36,7
Aug/08	27	10,6	37,6	12,9	24,7	16,7	8	37,6
Sept/08	27,8	10,9	38,7	13,2	25,5	17,2	8,3	38,7
Oct/08	28,3	11,2	39,5	13,8	25,7	17,2	8,5	39,5
Nov/08	28,8	11,6	40,4	14,4	26	17,4	8,6	40,4
Dec/08	29,3	12	41,3	15	26,3	17,7	8,7	41,3
Jan/09	29,4	12,1	41,5	15,2	26,4	17,7	8,6	41,5
Feb/09	29,5	12,3	41,8	15,5	26,3	17,6	8,6	41,8
Mar/09	29,8	12,7	42,5	16	26,6	17,8	8,7	42,5
Apr/09	29,9	12,7	42,6	16,1	26,5	17,9	8,7	42,6
May/09	30,5	12,7	43,2	16,4	26,8	18,2	8,6	43,2
Jun/09	30,9	13	43,9	16,9	26,9	18,2	8,7	43,9

From this table, several features of this most recent cycle of expansion in credit transactions become clearer:

(a) As already pointed out, even as the external crisis deteriorated, credit transactions maintained a growth trajectory, standing at 43.7% of GDP in June 2009. One can also see that this growth was more significant in the directed credit segment, especially because of the performance of the BNDES, the Brazilian government's social and economic development bank.

(b) In the case of the analysis based on origin of capital, there is a clear increase in the participation of public banks in total credit, to the detriment of Brazilian private banks and, above all, of foreign-owned financial institutions. While public sector institutions raised their participation in total credit from 12.7 to 16.9% of GDP, private capital banks grew less, from 16.2% to 18.2% of GDP. Foreign capital-owned banks showed an even more modest expansion in their credit transactions, from 7.8% to 8.7% of GDP. It should be pointed out that the statistics for private banks include small and mid-size banks, which saw their credit portfolios dwindle sharply on account of lost funding (which, as we have already mentioned, migrated to larger institutions). If we take into account only the larger banks, the difference between private and public banks declines in regard to the credit transaction growth in this period.

(c) Spreads and default - the reduction in the offer of foreign credit and the resulting increase in demand for funds on the domestic market against a background of uncertainties led to a sharp increase in spreads on transactions in Reais. This increase affected both individual borrowers and corporate, especially the latter, precisely on account of greater demand pressure. The following chart illustrates the recent behavior of spreads, both the upward movement in the wake of the crisis, and the reversal – in the personal loan segment – beginning on January of 2009. In the corporate segment, the decline has been more moderate.



In regard to defaults, one can observe an overall growth trend, which reflected the more adverse conditions of the economy and the credit market, above all beginning in 4Q08. Although at a lower level, the relative increase in defaults was more significant in the corporate segment, particularly in the sub-sector of small and mid-size companies. This growth in default compelled the financial system as a whole to strengthen its provisions, which reduced the profitability of the industry in the first semester of 2009. Nevertheless, worthy of note is the fact that default growth remained below the most pessimistic estimates formulated at the outset of the external crisis.

Summing up, the balance of credit transactions continued to grow during this period, albeit at a slower pace. One can observe an increase in participation by public banks and larger private banks to the detriment of small and mid-size and foreign capital banks. Spreads and defaults rose, but already pointed to a reversal of this trend at the close of the first semester of 2009.

Summary and Conclusions

Summing up, one can say that the Brazilian financial industry showed tremendous resistance during this crisis period, thanks to its high degree of capitalization, strict regulatory framework and low exposure to the property and derivatives segments.

The crisis affected Brazil on account of the external credit squeeze and the virtual shutdown of the capital markets. Financial institutions did not face solvency problems, but rather liquidity difficulties on account of the concentration of funds with larger banks, especially public sector banks. The Central Bank acted by providing foreign currency liquidity via auctions on the spot market and in trade finance facilities, and in Reais by releasing a portion of the compulsory deposits.

These measures helped to solve the liquidity problem and ensured that the supply of credit was maintained. The growth rate fell, but the balance of credit transactions continued its upward expansion. During the crisis, public banks and larger private banks increased their participation at the expense of the small and mid-size banks and foreign capital institutions. Spreads and the default rate rose, but were already indicating a declining trend in the personal loan segment in 1Q09.

Further information regarding government measures relating to the expansion of liquidity; the foreign exchange market, export credit and foreign investment; credit and financing transactions; and acquisition of participations in financial institutions is provided at http://www.iib.org/associations/6316/files/2009GlobalSurvey_BrazilSupp.pdf.

Other events

Merger of Itaú and Unibanco – November 3, 2008: the merger between Itaúsa and Unibanco was announced on November 3, 2008. Total combined assets were R$ 575 billion, with shareholders' equity of R$ 51,7 billion. The new bank now has 4.800 branches and service outlets (18% of the banking network); accounts for 19% of the Brazilian financial system in volume de credit (R$ 225,3 billion) and has 108,039 employees.

Purchase of Nossa Caixa by Banco do Brasil – November 20, 2008: The purchase of Nossa Caixa by Banco do Brasil was announced on November 20, 2008. The transaction was worth R$ 5,386 billion, excluding minority shareholders. Banco do Brasil's total assets, (adding R$ 53,4 billion to the previously existing R$ 459 billion), stood at R$ 512,4 billion. Shareholders' equity was R$ 31,507 billion. Total credit transactions rose to R$ 213,7 billion while the number of employees totaled 103,000.

Purchase of part of Banco Votorantim by Banco do Brasil – January 9, 2009: Banco do Brasil purchased part of Banco Votorantim on January 1, 2009. Under the agreement, BB holds 49.99% of the institutions' voting stock and 50% of its capital stock. The acquisition was worth R$ 4,2 billion, taking the assets of Banco do Brasil to R$ 553,3 billion.

CANADA

Overview

Over the last twelve months, the banking system in Canada has shown its resilience and indeed was recognized by the World Economic Forum as the most sound in the world. Heading into the financial crisis, Canada's banks were well capitalized at levels significantly above BIS standards; well regulated by a national prudential regulator, the Office of the Superintendent of

Financial Institutions, and a national market conduct regulator, the Financial Consumer Agency of Canada; and well managed, with a particular focus on prudent standards that enabled banks to continue lending to businesses and individuals. As a result, during the period of global financial crisis, Canada's government has not had to bail out its banks through infusions of capital or purchase of toxic assets, nor has the government made deposit insurance more generous. At the same time, however, the Canadian government did take steps to regulate the credit card industry in line with developments in many other countries. The federal government has also taken concrete steps to improve the structure of securities regulation in Canada. On the international front, a key area of attention for Canada's banking system was the accounting regime, with a particular focus on transitioning to the International Financial Reporting Standard.

Financial and Credit Markets

Although the global financial crisis that followed the collapse of Lehmann Brothers in the fall of 2008 had a significant effect on the Canadian financial market, Canada was relatively less affected than many other major jurisdictions. The strength of the Canadian financial system was reflected in the fact that short-term interest rate spreads in this country increased much less dramatically than in the US, the UK and the Euro zone. In addition, while these spreads have all diminished substantially from their peaks in the major jurisdictions, these spreads are noticeably lower in Canada than in other countries. Yield spreads for longer-term investment grade securities issued by financial issuers around the world showed a similar trend – they spiked in late 2008/early 2009 but the increase was less dramatic in Canada.

This is a reflection of the fact that Canadian financial institutions, in particular banks, had stronger capital positions and were more stable than their international peers. They did not face the same threats of insolvency as did large banks elsewhere and consequently the Canadian government and its agencies intervened in the sector in ways that were modest by international standards. Although the government provided itself with the powers to inject capital into banks and also established insurance funds that banks and life insurance companies could tap into to backstop assets (e.g. the Canadian Lenders Assurance Facility), there has been no need to make use of these programs. Indeed, in Canada there have been no bailouts of banks, government capital was not needed, and deposit insurance was not made more generous.

The government and the Bank of Canada did, however, inject liquidity into the system to make sure that credit could continue to flow at reasonable prices. As a result of a strong capital base and improved liquidity, bank credit continued to flow to consumers and businesses, even as it was being curtailed in other jurisdictions. Moreover, even as certain parts of the Canadian financial markets – particularly non-banks and foreign institutions – were contracting in the fall of 2008, Canadian bank lending accelerated to pick up the slack.

The federal government also initiated a number of new programs (such as the Business Credit Availability Program and Canada Secured Credit Facility) designed to provide incremental credit and to help restore the viability of the securitization market. Although credit markets in Canada continue to perform well, banks are participating in these federal government programs to ensure that access to credit continues to be available for Canadian businesses.

A further factor contributing to the strength of the Canadian system has been its mortgage market, which differs in many key respects from markets in other jurisdictions. For example, subprime mortgages were not a significant feature of the Canadian mortgage market, and government rules introduced in 2008 limited certain practices (e.g. 40 year mortgages would no longer be guaranteed by the government in the event a mortgage insurer fails) that policy-makers considered were unduly risky for federally-regulated financial institutions.

Credit Cards

Consistent with international regulatory trends, the Government of Canada introduced new regulations governing credit card business practices in 2009. The regulations apply only to credit cards issued by federally-regulated financial institutions (banks and trust companies). They do not apply to other issuers, such as credit unions and finance companies. While the regulations (which are still in draft form at the time of writing) are wide-ranging, the key elements include a requirement for an interest-free 21-day grace period on new credit card purchases, new rules on allocation of payments, restrictions on proactive credit limit increases, and enhanced and standardized disclosure on credit card applications and agreements.

In addition to the regulatory measures on the consumer aspects of credit card business practices, the structure of the credit card market has also attracted considerable attention by legislators and regulators. Most notably, the Competition Bureau (the national competition regulator) announced that it has initiated an investigation into the credit card market in Canada. In addition, both the Senate Committee on Banking, Trade and Commerce as well as the House of Commons Standing Committees on Finance, and Industry, Science and Technology undertook studies of the payment card industry in Canada.

Accounting Developments

In response to current market conditions, the Canadian Accounting Standards Board has implemented changes to the accounting requirements for the recognition and measurement of other-than-temporary impairment for securities. These changes align Canadian GAAP with the existing International Financial Reporting Standard (IFRS) and also achieve a similar result as the changes made by the Financial Accounting Standards Board to the US standard. The focus is now on the foundation changes which have been proposed for the international standard. These changes represent a fundamental shift from an incurred loss model to an expected loss model and are driven primarily by the desire to mitigate procyclicality. However, since Canada is slated to adopt IFRS in 2011, there is significant concern in the financial industry about the extensive work effort and the large amount of operational risk that will ensue should the proposed standard need to be implemented during the same time frame as IFRS transition.

In addition to the changes to accounting for impairment, Canadian financial institutions have also voiced concerns about other changes being made to international accounting for financial instruments, including changes to classification and measurement and to de-recognition. These changes also represent fundamental rewrites, and banks are concerned about the impact they will have on transition. In particular, there is significant concern that the IFRS platform to which Canada will be transitioning is becoming increasingly unstable. Authorities and industry groups in Canada are continuing discussions with their international counterparts.

Structure of Securities Regulation

Although Canada has a strong prudential and consumer regulatory system, an area of continuing concern is securities regulation, where Canada's system is fragmented among 13 sub-national bodies (provinces and territories). Canada remains the only industrialized country without a national securities regulator. To address this issue, in February 2008 the federal government created an expert panel to report on issues related to Canada's capital markets. This expert panel reported in January 2009 and recommended the establishment of a Canadian Securities Commission to administer a single securities statute for Canada. It also made recommendations regarding the content of regulation, particularly the reliance upon proportionate, principles-based regulation.

In June 2009, the government acted on these recommendations by announcing the establishment of a Transition Office, whose role is to develop a federal securities statute and to develop a plan to work with the provinces to transition to a national regulatory body. There is a widely-held view that a national form of securities regulation would strengthen enforcement and investor protection across the country, and it would improve access to capital for businesses seeking to tap the capital markets.

CAYMAN ISLANDS

The Cayman Islands Monetary Authority ("CIMA" or "the Authority") is the sole regulatory body charged with the responsibilities of regulating the financial industry of the Cayman Islands including Banks, Trust Companies, Mutual Funds, Mutual Fund Administrators, and Insurance Companies.

The Banking Supervision Division of the Cayman Islands Monetary Authority is responsible for ongoing supervision and regulation of the activities of the banks through, receipt and analysis of regular audited and un-audited financial statements and on-site inspections. Capital adequacy, asset quality, earnings, corporate governance, liquidity etc. are all assessed on a quarterly basis.

At the end of June 2009, there were a total of 269 licensed banks comprised of 18 Category "A" banks and 251 Category "B" banks, the majority of which are branches or subsidiaries of major international banks. Holder of category "A" licenses are generally permitted to carry on retail business in the Cayman Islands. Category B license holders usually provide services to international markets and facilitate inter-bank transactions.

Under the **Monetary Authority Law (2008 Revision)**, regulation and supervision of licensed banks falls within the ambit of the statutory regulator, the Cayman Islands Monetary Authority (CIMA) acting through its Banking Supervision Division. CIMA is also responsible for licensing and supervision of non-banking financial intermediaries such as money services businesses, credit unions, building societies and the Cayman Islands Development Bank. The Monetary Authority Law provides that the CIMA may issue Rules, Statements of Guidance or Statements of Principle concerning the conduct of licensees.

The Fiduciary Services Supervision Division's duties encompass the supervision and regulation of Company Managers and all Trust Companies not having a banking license. This division processes applications for Companies Management, Corporate Services, as well as applications for Trust Licenses in respect of companies without a banking license. The division is also responsible for ongoing supervision and regulation of the activities of the licensed Trust Companies and Company Managers through the receipt and analysis of regular audited financial statements, meetings with the licensees' management, and periodic detailed reports or examinations by auditors on specific areas of internal controls and systems. Capital adequacy, asset quality, management capability and expertise, earnings and liquidity are all assessed on an ongoing basis.

The Insurance Division monitors licensed insurance entities to ensure that they are operating in a satisfactory manner and remain solvent. Monitoring is on going and is both compliance and risk based - an assessment of whether the licensee complies with the relevant legislation, applicable instruments issued by the Authority and any conditions or enforcement directives issued to the entity. Regular reporting, on-site inspections and off-site supervision are all essential elements of monitoring.

The Investments and Securities Division's duties encompass the supervision and regulation of mutual funds, mutual fund administrators as well as persons licensed to conduct securities investment business, which includes market makers, broker-dealers, securities arrangers, securities advisors and securities managers. The division processes all applications for those entities specified above and makes recommendations to the Authority's Board of Directors on the issue (or non-issue) of a license when necessary.

Legislative Changes

During the period July 2008 to June 2009, there has been significant amendment of pertinent laws, regulations and publication of policy statements and guidance notes impacting banks and other financial service providers. These amendments reflect Cayman Island’s principled and pragmatic approach to maintaining Cayman as a leading financial service center in responding to international banking commitment to increased transparency and international banking standard set by Basel II. The relevant legislative changes are summarized below.

Licensing of Banks

The conduct of banking business is governed primarily by the **Banks and Trust Companies Law (2007) Revision** (“**BTCL**”). The most recent amendment of the BTCL was passed on 7 August 2008 clarify the exemption for controlled subsidiaries of licensed trust companies and impose certain prohibitions on bank licensees with respect to acquisition and holding of interests in an entity or real estate.

Transparency and Tax Exchange Agreements

The **Monetary Authority Law** was amended in December 2008 to reflect agreed position reached with the International Organization of Securities Commission’s recommendations on international co-operation. The amendment removes the distinction between routine and non-routine requests of an overseas regulatory authority and permits CIMA to consent to the use of information in criminal investigations or proceedings.

The **Tax Information Authority Law, 2005** was amended in December 2008 to provide for a parallel "unilateral mechanism" for cooperation in tax matters that can be used in addition to bilateral agreements. The mechanism is designed to reflect OECD technical standards for transparency and provision of information. The mechanism was used by the Cayman Islands in March 2009 to extend comprehensive tax information assistance to 12 countries: Austria, Belgium, Czech Republic, Germany, Ireland, Luxembourg, the Netherlands, Japan, Slovak Republic, Switzerland, South Africa and the United Kingdom.

Cayman's commitment to international standards of transparency and exchange information on tax matters is evidenced by its participation in the OECD Global Forum on Taxation (2000). On 13 August 2009, Cayman met the OECD standard for re-classification and recognition in the "white" category with the signing of its 12th bilateral tax information exchange agreement ("**TIEA**") with New Zealand. A classification of "white", the highest distinction denoting substantially implemented agreed OECD standards, requires an offshore financial centre to have entered into a minimum of 12 TEIA's. Other countries with which Cayman currently has signed TIEA's include Denmark, Faroe Islands, Finland, Greenland, Iceland, Ireland, the Netherlands, Norway, Sweden, the United States and the United Kingdom.

Anti-Money Laundering

The **Proceed of Crime Law (the "PCL")** came into force in September 2008 and adopts the recommendations from the IMF/CTATF. The PCL replaces the Proceeds of Criminal Conduct Law. Key changes include stringent definitions of criminal property and criminal conduct, the creation of new inchoate offences, civil forfeiture regime, enhanced freezing orders and confiscation powers.

The **Money Laundering (Amendment) Regulations (2008) (the "Regulations")** passed in October 2008 and the CIMA Guidance Notes on the Prevention and Detection of Money Laundering ("**Guidance Notes**") implement the recommendations of the Cayman's CFATF evaluation of November 2007. The Regulations and the Guidance Notes apply to persons carrying on "relevant financial business" in or from Cayman Islands. A relevant financial business includes a business carried on by a person who is required to be licensed or registered with CIMA. The Regulations now require banks and other financial service providers, to designate at a managerial level, a Compliance Officer who is responsible for monitoring and ensuring internal compliance with money laundering laws. Other changes include more stringent requirements relating to acceptance of third-party eligible introductions, client identification in certain circumstances, record-retention and internal AML audit. The Regulations also reinforce the legal scope of the Guidance Notes.

Consolidated Supervision

Policy statements relating to banks were issued by CIMA in October 2008 and March 2009 and deal respectively with licensing of banks and their consolidated supervision. CIMA acknowledges in its recent policy statement that exchange of information with foreign regulators is essential for the performance of effective consolidated supervision.

Rules issued by CIMA cover risk management, country and transfer risk, credit risk, interest-rate risk, investment securities and derivatives risk, liquidity risks, loan loss provisions and large exposure and credit risk concentration. The Monetary Authority Law also allows the Authority to enter into memoranda of understanding ("**MOU**") with overseas regulators for the purpose of assisting with consolidated supervision. Most recently, CIMA has entered into a MOU with the Securities and Exchange Commission of Brazil. The MOU affirms CIMA's commitment to cooperating and sharing information with international regulatory counterparts.

Dealing with the Financial Crisis

The principal impact of the recent financial crisis has remained in the onshore jurisdictions and there has been little direct impact in the Cayman Islands. CIMA has continued to gather information on the exposure of licensed banks to those onshore institutions which have collapsed or have had to be rescued, and the reported exposure is comparatively small. As such, no programs to stabilize the financial system or provide support to financial institutions were adopted in the Cayman Islands. However, the regulatory policy statement of March 2, 2009 addresses and clarifies the scope of effective supervision where CIMA acts as home or host supervisor of licensees within a multi-jurisdictional group structure. In addition, CIMA has required category "A" banks to file financial information weekly in addition to the quarterly returns. CIMA reported that their capital adequacy positions were in excess of the required minimums.

Basel II Update

The most recent development has been the Basel II consultation process for Cayman which was initiated in January 2009 when CIMA and the Cayman Islands Bankers' Association ("**CIBA**") partnered to form the CIBA/CIMA Basel II Working Committee. The implementation of the Basel II framework is being conducted using a phased approach. The initial part of the first phase of the implementation is predominantly Pillar 1 standardized Basel II approaches. This will be completed by December 31, 2010. Subsequently, Pillars 2 and 3 of the Basel II Framework will be implemented after December 31, 2010. The second phase will focus on advanced Basel II approaches and will be implemented after 2012. Implementation of the Basel II framework will impact approximately 100 locally incorporated banks. Branches are excluded from implementing Basel II.

CHILE

M&A

DnB NOR Bank ASA of Norway, established a branch of their bank in Chile, under the name of "DnB NOR Bank ASA, Agency in Chile."

Electronic Transfers Tax Elimination

In October 2008, Law No. 20,291 came into force. This law repeals the specific taxes on electronic transactions, checks and ATM withdrawals. The industry welcomes this initiative because it will stimulate banking and it removes some of the barriers facing low-income individuals and small businesses.

International Financial Reporting Standards

In January 2009, Chilean companies began to adopt International Financial Reporting Standard (IFRS). This process will continue over the next three years in three stages. In the first stage, which will take place over the 2009 calendar year, all major listed companies regulated by the Superintendencia de Valores y Seguros (SVS) will be required to adopt IFRS. The following year, smaller listed companies, insurance companies, mutual funds, pension funds, stock brokers and dealers, insurance agents, and companies that issue publicly traded debt securities – plus any of the large listed (open) companies that were unable to switch to IFRS in 2009 – will be required to adopt IFRS. Finally, in 2011, any remaining companies regulated by SVS that have not already adopted IFRS will be required to do so.

It is important to note that small companies (those with less than 500 shareholders) are not required to be regulated by the SVS and will be allowed to choose whether or not to adopt IFRS.

Electronic Check Clearing

Since 2005, Chile has attempted to facilitate more convenient check clearing by building a national electronic payment system. Chile will continue to create electronic clearinghouses throughout 2009 and eventually plans to adopt a system that would allow the electronic capture and exchange of check images. Electronic clearinghouses encourage faster, more efficient, and more cost-effective check clearing throughout Chile.

Basel II

The Chilean Superintendency of Banks generated the documentation necessary to accomplish legal changes that would incorporate international guidelines from the Second Capital Accord (Basel II).

Reciprocal Guarantee Corporation

A special purpose corporation was created to provide certificates of guaranty for the benefit of its partners, including banks and financial institutions and small and medium-sized firms. This corporation aims fuel the growth of small and medium-sized companies and to promote new business lines within the capital market structure by generating transferable and divisible guarantees.

Tax Exemptions for Capital Gains in Fixed-Rate Instruments

The Chilean government exempted certain fixed-rate instruments from taxes on capital gains (17%). Exempt instruments have to be registered in the Securities and Insurance Supervisor and be traded on Chilean stock exchanges with prices determined by the market.

Securitization

Changes in the law permitted the removal of the 35% limit on holdings of assets originated or sold by a company. Also, the tax law has been amended so as to permit the recognition of income and expenses as generated with respect to securitizations.

Programs to Stabilize the Financial System

Central Bank Actions to Promote Liquidity

The Chilean Central Bank took a number of measures to ease domestic liquidity tensions. On April 10, 2008, the Central Bank announced that it would begin to sell pesos and purchase U.S. dollars in currency markets to strengthen the international liquidity position of the Chilean economy. In late September 2008, this program was terminated in order to shield Chile from the effects of global interbank market turbulence. In its place, the Chilean Central Bank resumed its program of currency swaps to expand its capacity to provide U.S. dollar liquidity. Under this program, the Chilean Central Bank effectively offered dollar loans at a premium above the London interbank offered rate against dollar-denominated assets, from one to six months.

In October 2008, a series of amendments to the Compendium of Financial Regulations were introduced. These included:

1. A six-month extension of the currency swap program. The swaps were for 60 or 90 days, offering $500 million at each auction up to a maximum of $5 billion.
2. The offering of repo transactions (purchase option agreements with a given sales price).
3. The creation of renewable 7-day repos, which accepted bank deposits as collateral.

These efforts sought to improve domestic currency liquidity and to expand eligible collateral for the purchase of securities, bonds, and mortgages and for general money market operations.

In December 2008, the Central Bank moved to expand its currency swap program by offering swaps with 180-day maturities. The Central Bank also announced that all of its existing liquidity measures would be extended through 2009.

Government Actions to Support Businesses

In October, Chilean President Michelle Bachelet pledged to help small business weather the global financial crisis. In response, the Chilean government began to funnel US$850 million from the annual budget surplus to a state development agency that helped exporters and small businesses combat the international credit crisis. Chile's government also vowed to lend local banks US$700 million to boost cash supplies.

In November, the government initiated a US $ 1.2 billion program to encourage the purchase of housing and to support small businesses' access to finance. $500 million was directed to Chile's state-owned BancoEstado to increase credit for qualifying businesses. The rest went to subsidize home purchases by middle income families, which also created more jobs in the construction industry. In addition, the Chilean Internal Revenue Service carried out various actions to increase the speed of tax refunds and to streamline procedures for smaller companies. A Price Stabilization Fund was also created for the copper mining industry.

In January, a law was enacted as part of an economic stimulus plan aimed to soften the impact of the global financial crisis. Among other things, this law:

1. Granted a special tax breaks for low-income families.
2. Created temporary tax incentives.
3. Eliminated the stamp tax for all credit operations during 2009 and lowered it to 50% of the previous rate for the first half of 2010. This issue had the largest direct impact on banks, for this tax was imposed on all loan transactions.
4. Allowed taxpayers to request an advance refund of income tax that may correspond to the 2010 tax year, to be paid in September 2009.
5. Expanded incentives for forestation activities.
6. Allowed spending for company training to be discounted from Monthly Provisional Payments (tax).
7. Contributed US $ 41 million to the Common Municipality Fund, which is the source of most municipal resources.
8. Established other measures to support investment and employment.

Government Actions to Support Banks

In October 2008, the Treasury took US $1 billion short-term deposits in local banks and announced a Treasury temporary surplus deposit program in the local financial market.

It should be noted that there was no need to allocate public resources to capitalize Chilean banks.

Government Actions to Support Employment

A National Labor Committee was created in order to coordinate measures to deal with rising unemployment caused by the economic crisis. On January 27, 2009, a law was enacted that enhanced the unemployment insurance system and changed other employment-related legislation, thereby strengthening the fiscal stimulus plan.

CHINA

Significant developments in banking

To cope with the international financial crisis and maintain sound and relatively fast national economic growth, China has adopted flexible monetary policy since November 2008. The People's Bank of China (PBOC), the central bank, has removed mandatory restriction on the commercial banks' loan plan as well as further cutting interest rates.

PBOC is now preparing for pilot international trade settlement in the Chinese currency RMB, according to China's central bank official in March 2009. The pilot program is to reduce "institutional obstacles for cross-border trade settlement in *yuan* and provide convenience for such settlement.

PBOC said on March 11, 2009 that it had signed a currency swap agreement with the National Bank of the Republic of Belarus. The agreement allows the two banks to swap 20 billion *yuan* in three years. Before that, PBOC had signed bilateral currency swap agreements (totalling 280 billion *yuan*) with Malaysia and Hong Kong in early 2009.

China would extend the lockup period for foreign strategic ownership in its commercial banks to five years, according to chairman the China Banking Regulatory Commission (CBRC). The current lockup period for foreign strategic investors' stakes at some commercial banks is three years.

On April 8, 2009, PBOC unveiled a pilot project to allow international trade settled in *yuan* in Shanghai and four cities in Guangdong, the southern province bordering Hong Kong. China has been promoting greater use of RMB for trade and investment as an effort to shield the country's export-oriented economy from the impact of exchange rate fluctuations.

China's big four State-controlled banks will be the first batch to run their own insurance company in a pilot program, a CBRC official said at a forum on April 11, 2009. CBRC has reached agreement with the insurance regulator on banks to set up their own insurance companies. There should be at least one insurance company launched by a bank approved in 2009.

China will push ahead with the development of interest rate swaps, forward rate agreements and other tools to help domestic financial firms hedge currency risks, according to PBOC. PBOC also said on May 15, 2009 that the central bank would accelerate securitization and allow foreign institutions as well as wealth management funds to participate in the inter-bank market.

On May 19, 2009, HSBC and Bank of East Asia confirmed that their units in China had won approval from Chinese regulators to become the first overseas banks to sell *yuan* bonds in Hong Kong, which has moved China one step closer to building an offshore RMB market.

Significant developments in securities

In September 2008, the China Securities Regulatory Commission (CSRC) required fund companies to make their information release more transparent. The new rule starting from January

2009 is expected to help third-party agencies to appraise and supervise the management of fund companies, which is part of China's recent efforts to straighten out the stock market order and lay a sound foundation for long-term development.

In January 2009, CSRC said that China was expected to soon launch its Growth Enterprises Board (GEB), modeled along the lines of NASDAQ, to help small companies raise capital and restore investor confidence. CSRC is going to set up the proper listing threshold for GEB and strengthen supervision mechanisms to avoid excessive speculation. At present, in addition to its main board, China has only one small and medium enterprises (SME) board, which was launched in 2004 in Shenzhen.

China will "steadily increase" the use of the social security funds for overseas investment in 2009, the National Council for Social Security Fund (SSF) said on February 25, 2009. By the end of 2008, the total asset value of the SSF stood at 562.5 billion *yuan*.

Significant developments in insurance

In September 2008, the China Insurance Regulatory Commission (CIRC) said in a statement that it had set up a nonprofit State-owned corporation with registered capital of 100 million *yuan* to manage its insurance protection fund, amounting to at least 7 billion *yuan*. Under the new rule, insurance companies are required to make payments to the fund at rates based on gross insurance policy sales rather than retained premiums, in order to provide better protection to policyholders rather than insurance companies.

China will launch a pilot program to allow selected insurance companies to invest in private equity funds and allow qualified small- and medium-sized insurance companies to invest in equities, according to CIRC's spokesman on February 26, 2009. CIRC will also increase the number of insurance companies allowed under the pilot program to invest in infrastructure projects and a wide categories of fixed income debt instruments.

DENMARK

The all-important legislation during the last year has concentrated on legislative measures to stabilize the financial sector and to ensure a continuous supply of credit to viable enterprises and households.

The international financial crisis has been a main driver in the development of the Danish financial markets in 2008 and in the first half of 2009. The bankruptcy of Lehmann Brothers in September 2008 triggered the financial crisis in Denmark. Some Danish banks held investments in US financial institutions, which among other things diminished the confidence in the banks' financial state.

As a result of the financial turmoil and the subsequent global real economic downturn, the Danish banks have experienced a decrease in earnings and their access to liquidity has been tightened.

The lack of confidence and financial losses has put the liquidity and capital contingency planning of Danish banks under strong pressure. The uncertainty about the creditworthiness of counterparties in the interbank market and about the bank's own liquidity situation has led to increased demand for liquidity and rising financing costs.

As a consequence of the financial and economic downturn, some of the small and medium-sized Danish banks have been subjected to winding-up and have merged with or been acquired by other banks. The liquidations of some of the banks have drawn negative international attention to Danish banks and thus, to some extent, have decreased foreign banks' willingness to finance them, which limited their access to liquidity even further.

Several measures have been taken by both the Danish Central Bank (Danmarks Nationalbank) and the Danish Government and Parliament (Folketinget) to respond to the consequences of the financial crisis. Thus, the Danish Central Bank has launched a number of new lending facilities (see below), and the Danish Government and Parliament have adopted two bank rescue packages: The Act on Financial Stability and Act on Recapitalisation (see below). In addition, the minimum coverage level has been raised in the Act on a Deposit Guarantee Scheme (see below).

Tight credit lines and high costs of funding, combined with increased default rates in the business sector and among households, have had ramifications for retail lending rates. For both the corporate sector and for households, the banks' interest margin increased in the second half of 2008; however, prior to this, the interest margin was at a historical low level, and it has been decreasing in 2009.

The increasing costs of borrowing combined with the economic downturn – and hence lower demand for capital – have naturally decreased the Danish banks' lending growth. In 2008, the lending growth fell, and it turned negative in the first quarter of 2009. Despite the declining growth rate, the banks' level of lending to both Danish households and to the corporate sector was in the first quarter of 2009 still higher than at the same time the previous year.

Act on Financial Stability

In order to safeguard financial stability by contributing to facilitate the resumption of interbank lending, the Danish Government and a broad political majority along with the Danish financial sector agreed in October 2008 that the State and the financial sector in cooperation would establish a safety net to give all claims of depositors and senior debt (unsecured unsubordinated debt) full coverage in case a bank does not fulfil the statutory requirements of solvency and it is impossible to reach a viable private solution.

The practical implementation of the agreement is described in Act no. 1003 of 10 October 2008 on Financial Stability. The Act makes it possible for Danish and foreign lenders and holders of debt instruments (unsecured creditors), including other banks and financial institutions, to lend money to banks in Denmark without assuming any risk.

The State guarantee comprises banks which have applied for membership to the "Private Contingency Association" – an association set up by the Danish Bankers Association to deal with banks in distress. Almost all banks are members of the Association and are covered by the State guarantee. A list with member banks is available on the website of the Danish Bankers Association: www.finansraadet.dk.

For foreign branches of Danish banks in countries with a similar guarantee arrangement, the bank may allow the branch to be covered.

Branches in Denmark of non-domestic banks are eligible to participate in the scheme and can receive coverage for deposits of a type by the Danish Guarantee Scheme, in case they are not covered by a similar arrangement in their country of origin. This in order to avoid competitive distortion on the Danish financial market and to be non-discriminatory.

The State guarantee is unlimited, unconditional, and irrevocable. It also ensures timely payments of the covered claims terminating on 30 September 2010.

It follows from the agreement and accordingly of the Act that the financial sector contributes up to 35 bn. DKK or the equivalent of 2 percent of GDF. The State provides an additional guarantee and establishes a state owned company (The Financial Stability Company) with the purpose of facilitating the winding up of insolvent banks so that depositors and senior debt do not suffer losses on their claims against insolvent banks. The company is also responsible for ensuring the timely payment of all due claims of unsecured creditors and depositors.

The guarantee scheme runs for two years, until 30 September 2010, with the possibility of an extension if financial stability concerns necessitate its continuation. After the expiration of the State guarantee, depositors will be covered by the Deposit Guarantee Fund within the coverage limits of this Fund (see below). After 30 September 2010, other simple creditors will no longer be covered by the State Guarantee.

The Act, however, contains an option for banks - on an individual basis – to apply for a State guarantee running for a three-year period, until 31 December 2013, covering existing and new unsecured unsubordinated debt and issued covered bonds. The aim of the three-year individual guarantee is to phase out the State guarantee by ensuring continuous access for banks to liquidity and, thereby, avoiding the banks cutting off loans and credits.

Other Conditions and Restrictions Embedded in the Scheme

In order to complement the safety net, the banks, as part of the agreement discussed above, agreed to display a cautious approach and to strengthen their balance sheets during the two year period. Therefore, the safety net is among other things combined with a ban on dividend payments in the financial years 2009 and 2010 and bans on share repurchases of own shares by the banks as well as on the creation or prolongation of existing stock option programmes and other comparable schemes for the management of the institutions. Expiring stock option programmes must not be renewed or extended.

The Act on Recapitalisation of Credit Institutions

In continuation of the agreement discussed above, the Danish Government and a broad political majority in January 2009 agreed on a supplementary agreement aiming at capital injection in eligible banks by the State in order to increase the capital leverage in banks (extra capital cushion) and, thereby, stimulating the supply of credit to viable and healthy undertakings and households.

The practical implementation of the agreement is described in Act No. 67 of 3 February 2009 on Recapitalisation of Credit Institutions.

The recapitalisation scheme is open to all solvent credit institutions (banks and mortgage credit banks) fulfilling the solvency requirements fixed by the Danish FSA, *i.e.*, fundamentally sounds banks. The last day for applications was 30 June 2009.

Subsidiaries of non-domestic banks in Denmark are included in the scheme. These banks have to commit to the Danish authorities that the capital obtained is not transferred to the foreign mother company.

The State capital injection consists of hybrid capital with no final maturity, *i.e.*, Tier 1-capital, according to the general provisions for these capital instruments. With the capital injection, the Tier 1 ratio of the bank shall be at least 12 percent, which is considered necessary in order to ensure that the institutions are both able to continue lending and, at the same time, cover the expected losses from the economic turnaround.

The remuneration is fixed individually for each individual bank based on an evaluation of the bank´s capitalisation and risk-profile (capital gearing, deposit deficit, liquidity risk etc.).

The Danish authorities estimate that the recapitalisation scheme will involve around 13.5 bn euro if all eligible institutions apply for the capital injection to obtain a minimum of 12 percent of Tier 1 capital.

The State capital injection is temporary and, therefore, the Act contains incentives for the banks to reimburse the capital. Thus, the capital can be reimbursed after three years at 100 percent of the face value plus interests. After the fifth year, the instrument is recallable at 105 percent of the face value plus interest and as of the seventh year at 110 percent.

Other Conditions and Restrictions Embedded in the Scheme

Until the State capital injection is reimbursed, the bank is subject to a ban on dividend payments for the financial years 2009 and 2010. Thereafter, and as long as the State capital is not reimbursed, dividends can only be paid out in so far as the dividends are covered by the yearly profit of the bank. The bank is also subject to a bans on issuing bond shares at a special price, on the creation or prolongation of existing stock option programmes and other comparable schemes for the management of the institution, and on repurchasing programmes for own shares. Finally, there exist limitations to the remuneration of members of the executive management.

The Danish Central Bank – New Lending Facilities

The Danish Central Bank has introduced three temporary facilities as a response to the consequences of the financial turmoil.

The Danish Central Bank has established a temporary 7-day secured lending facility, where banks and mortgage credit banks can borrow against loan bills – a new special type of bills issued by Danish banks. Loan bills can be used as collateral for borrowing at the Danish Central Bank from 23 May 2008 until 30 September 2010.

In the period from 26 September 2008 to 30 September 2010, the Danish Central Bank on the last business day of each week offers banks and mortgage credit banks credit facilities on the basis of their excess capital adequacy. Such loans shall mature on the last business day of the following week, *i.e.*, normally seven days later.

From 26 September 2008, the Danish Central Bank has temporarily expanded the collateral basis for borrowing by banks and mortgage credit banks from Denmark's Central Bank (monetary-policy loans, loans for decentralised banknote holdings, and intraday credit).

Until 30 September 2010, the collateral base includes quoted shares, investment fund shares, senior debt, subordinated covered bonds (junior covered bonds) and bank bonds guaranteed by the Kingdom of Denmark.

In addition, until 30 December 2013, the collateral base will include quoted bank bonds and junior covered bonds.

Amendments to the Existing Deposit Guarantee Scheme

The Deposit Guarantee Scheme forms part of the safety net for depositors. By amendment of the Act on a Deposit Guarantee Scheme in May 2009, the coverage level was raised from 20.000 euro to 100.000 euro as from 1 October 2010, *i.e.*, immediately after the expiry of the unlimited State guarantee. In the period from 1 July 2009 until 1 October 2010, the minimum coverage level for banks not covered by the State guarantee has been raised to 50,000 euro.

Individual Solvency Requirements

In 2009, legislation has been adopted in Denmark which subject all banks and mortgage credit banks to disclose their individual solvency requirement, *i.e.*, the outcome of their Internal Capital Adequacy Assessment Process (ICAAP). The requirement is part of the above mentioned Act on Recapitalisation of Credit institutions and will result in more detailed changes to the Danish capital adequacy requirements.

Denmark is adhering to the European Union's implementation of Basel II - the Capital Adequacy Directive (CRD) - but the new disclosure requirement is exclusively Danish.

With the implementation of the Basel II framework, all institutions should have a process for assessing their overall capital adequacy in relation to their individual risk profile - for example, liquidity risk, potential mergers, diversification - and a strategy for maintaining their capital adequacy levels, which in brief is called the ICAAP.

Following the new Danish legislation, Danish banks will have to disclose the outcome of the ICAAP, and further, break down and disclose the outcome of the ICAAP in credit risk, market risk, operational risk and an unspecified category. The ICAAP process and approach have to be described. Further, ICAAP stress testing has to be mentioned.

Danish banks will most likely disclose the new requirements in conjunction with annual disclosures on their risk management approaches, which will ease the reading of the information. It is important to underline that the outcome of the ICAAP is a complex figure which cannot be directly compared across institutions.

EUROPEAN UNION

Financial Markets

Investment Funds

With regard to investment funds, an important reform was agreed in 2008 with the revision of the Directive on Undertakings for Collective Investments in Transferable Securities (UCITS), which provides an EU passport to investment funds that comply with a certain number of conditions as regards, particularly, the management of these funds and their underlying assets.

A review of the Transparency Directive is foreseen by mid-2009, although this might be delayed by a few months. Over 2008, most work was at the level of the national authorities to implement the Directive at Member State level and coordinate horizontally to achieve some convergence across Member States in the implementation.

Fiscal Affairs

The European Commission presented in the autumn of 2008, a Proposed Directive amending the Savings Tax Directive **(EUSD)**.

Accounting

IASB Amendments to IFRS (IAS 39 and IFRS 7)

The European Banking Federation requested the International Accounting Standards Board (IASB) to reconsider the reclassification of the trading category (providing full disclosure). This was already possible under the US Generally Accepted Accounting Principles (GAAP), albeit limited in its scope and therefore not widely used, and would prevent further write-downs of financial instruments resulting from the application of the fair value.

On 13 October 2008, the IASB adopted amendments allowing reclassification out of the trading category in particular circumstances, clarifying that it applies to current market circumstances. The entities were also permitted to transfer from the available-for-sale category to the loans and receivables category, if certain conditions are met. The amendments have been effective since 1 July 2008.

Legal Affairs

EU Competition Law

1. Merger Regulation 139/2004

The European Commission launched a public consultation on the review of the Council Merger Regulation 139/2004, which entered into force on 1 May 2004. The Regulation sets out the rules for merger control in the European Economic Area (EEA), aiming to evaluate the functioning of the rules on jurisdictional thresholds and referral mechanisms during the four years that the Regulation has been in force.

The Commission aims to employ the outcome of this public consultation along with its own experience of applying the Regulation and feedback from national competition authorities and other sources, as support for the report envisaged to be presented to the European Parliament and the Council on the functioning of regulation on 1 July 2009.

2. Antitrust regulation 1/2003

The European Commission launched a public consultation on the functioning of the Council Regulation 1/2003, which entered into force on 1 May 2004. That Regulation defines the rules for the Commission's enforcement of the EC Treaty antitrust rules.
The Commission used the outcome of this public consultation as support for the report presented to the European Parliament and the Council of Ministers on the functioning of regulation 1/2003 on 1 May 2009.

3. Damages Action for Breach of Commission Antitrust Rules

The European Commission prepared a White Paper on damages actions for breach of the its antitrust rules in April 2008 which contains proposals for policy choices and concrete measures with the aim of ensuring that all victims of EU competition law infringements have access to effective redress mechanisms in order to be fully compensated for the harm they suffer. Some important issues are addressed in the document, such as Collective redress, *Inter partes* disclosure of evidence and binding effect of National Competition Authorities decisions.

On 27 March 2009, the European Parliament adopted an own-initiative Resolution on the Commission’s White Paper, thereby calling upon the European Commission to take a more coordinated approach to the matter of collective redress that is taken up in the White Paper as a possible mechanism of enforcement. The Commission is expected to issue related policy measures in the coming months.

4. Competition Policy and the Financial Crisis

Competition policy has a central but limited role to play in finding solutions to the financial crisis. The Commission is taking an active role in ensuring that national responses to emerging problems take into account the European dimension. DG Competition – the Commission's competition department - has allocated more than 20 case teams to work on these issues. The Commission's areas of direct involvement are State aid and funding and merger control.

Of particular note is the Commission's October 13, 2008 Communication which provides guidance on how national responses can comply with State aid rules and thus supports Member States in addressing the crisis quickly and forcefully in compliance with the rules of the Treaty. The College of Commissioners has also granted new powers to increase the speed of Commission decisions. For example, this allowed the Commission to grant formal approval to a rescue aid package for Bradford and Bingley bank in less than 24 hours.

Further information regarding the Commission's role in this area is available at http://ec.europa.eu/competition/sectors/financial_services/financial_crisis_en.html.

Civil and Procedural Law – Regulation on the Law Applicable to Contractual Obligations (Rome I)

The European Commission Proposal on the law applicable to Contractual Obligations was adopted by Parliament at first reading and by the Council in June 2008.
A Commission Report on the effectiveness of an assignment or subrogation of a claim is due on 17 June 2010.

Legal Framework for Securities

1. Review of the Financial Collateral Directive and Settlement Finality Directive

After conducting a consultation in which the EBF participated, the European Commission has carried out an impact assessment and prepared a proposal to review simultaneously the Collateral Directive and the Settlement Finality Directive. The Directive was adopted at the European Parliament plenary session on 18 December 2008 and should be adopted by Council on first reading in 2009.

2. The Legal Certainty Group

The Legal Certainty Group (LCG) published its Second Advice in August 2008 and further meetings should take place in 2009.

The Commission has started drafting a document which could serve as a basis for a 'Securities Directive'. The proposal for a Directive which is due end-2009 should include conflict of laws rules.

Consumer Affairs

Following its adoption by the two co-legislators, between January and April 2008, Directive 2008/48/EC on credit agreements for consumers was published in the Official

Journal on 22 May 2008. The approved text aims at fully harmonizing provisions in a number of key areas, as advised by the impact assessment conducted in 2007.

Directive on Distance Marketing of Financial Services

An economic and legal impact assessment was produced by the Commission on the implementation of Directive 2002/65/EC in February 2009.

Payments

Revision of Regulation 2560/2001 on Cross-Border Payments

The European Commission published on 15 October 2008, a proposal modifying and extending the provisions of Regulation 2560/2001 on cross-border payments in the Community under which cross-border bank transfers and card payments in euro within the EU have the same costs as domestic transfers and card payments. The new Regulation would replace the existing one as from 1 November 2009. The proposal introduces three main changes to Regulation 2560/2001:

• The principle of equality of charges for cross-border and corresponding domestic payments is extended to cover direct debits;

• Member States are requested to appoint competent authorities and out-of-court redress bodies, to deal effectively with complaints and disputes regarding this proposal.

It phases out, until 1 January 2012, the balance-of-payments statistical reporting obligations imposed on payment service providers.

FINLAND

Key developments on the banking scene in 2008

The financial crisis began from the mortgage crisis in the U.S. in mid-2007. After mid-2008 the crisis escalated, and most nations faced considerable economic slowdown or recession. Now, in mid-2009, there is still no clear knowledge on the continuation and long-term effects of the crisis.

The Finnish banking system is a part of the international banking system, and international financial distress has an effect on the Finnish banking system and the Finnish national economy as well. Demand for corporate financing increased considerably in 2008, and government aid for Finnish banks was considered to secure their lending capabilities, but the banks handled the situation without needing such support.

Finnish banks' results, loans, deposits and key figures showed positive development during the early half of the year. The later half was negatively affected by the financial crisis, difficulties of exporters, and weakened consumer confidence.

Diminished export sales and financial difficulties of consumers had a clear impact on banks' operations. However, the Finnish banking system operates on a solid foundation, and the banks still have strong capital adequacy. Moreover, the good profitability and efficiency achieved in recent years make a good basis for facing the future challenges.

Changes in banking structures

The crisis was brought home to the Finnish banking system when the Icelandic banks collapsed. During the past few years, the Icelandic banks had grown rapidly and expanded their operations in several countries. Last year these banks lost investor confidence, faced a liquidity crisis and ended their operations in Finland.

Over half of the Finnish banking market is in foreign ownership. Nordea Bank Finland operates as a subsidiary and a commercial bank of the Nordea Group, and, as a result of the purchase in 2006, Sampo Bank became a subsidiary of the Danish Danske Bank. New players also entered the sector; Sofia Bank began its operations in the beginning of 2009.

Finnish financial groups offer various saving, investing, financing and insurance services. A financial group here means a financial group that offers both banking and insurance services. In Finland such groups are OP Pohjola Group and Aktia Group, with more emphasis on banking, and Tapiola with more emphasis on insurance.

A number of branches of foreign banks have operated in Finland for a long time. The largest of these branches is Svenska Handelsbanken, with offices nationwide. At the end of 2008, there were 336 banks operating in Finland, 322 of them domestic:

- 15 commercial banks
- 227 member cooperative banks of the OP-Pohjola Group
- 42 local cooperative banks
- 38 savings banks, and
- 14 deposit-taking branches of foreign credit institutions.

In international comparison, the number of banks in Finland is fairly high. This is due to the high number of independent cooperative and savings banks. The banks had a total of 1,672 branches in Finland at the end of the year, approximately 30 fewer than the year before. The number of branches shrunk the most in OP-Pohjola Group, and increased the most in Tapiola Group.

Regulatory bodies joined forces

Finanssivalvonta (Fiva), or the Financial Supervisory Authority (FIN-FSA), is the new authority for supervision of Finland's financial and insurance sectors and, from 1 January 2009, responsible for most of the supervisory functions previously undertaken by the Financial Supervision Authority and the Insurance Supervisory Authority. The entities supervised by the new authority include banks, insurance and pension companies as well as other companies operating in the insurance sector, investment firms, fund management companies and the Helsinki Stock Exchange.

Trade associations joined forces

The Federation of Finnish Financial Services (FFFS) is a trade association body that represents nearly all banks, insurers, finance houses, securities dealers and financial employers operating in Finland. The FFFS was formed in 2007 when the Finnish Bankers' Association, the Federation of Finnish Insurance Companies, the Finnish Finance Houses Association and the Employers' Association of Finnish Financial Institutions joined forces. The Finnish Association of Securities Dealers joined the FFFS at the start of this year. The Finnish Association of Mutual Funds (FAMF) has decided to recommend its members to join the Federation of Finnish Financial Services (FFFS). Approved unanimously by both the annual general meeting of the FAMF and the board of the FFFS, the merger is scheduled for 1 September 2009.

Addressing the Effects of the Financial Crisis

Guarantees:

The Finnish Government can grant guarantees to Finnish banks for unsecured credit facilities with maturities from 3 months to five years. These optional guarantees are restricted in a number of ways, for instance so that the guarantees cannot expand unreasonably. The system is effective until the end of 2009. The overall maximum for the guarantees would thus be at most EUR 50 billion, which is slightly more than the volume of existing bank deposit certificates and bonds with maturities at the end of next year. Besides restrictions on the maximum volume, there would also be bank-specific limitations.

Capital injections:

The government is proposing that it could invest in private equity in viable and solvent Finnish banks. Private equity resembles the financial instruments adopted during the 1990s crisis in Finland, which were used to improve bank lending capacity. Private equity is classified as bank equity capital. Interest on these investment instruments exceeds market rates and the terms are defined in such a way that the government receives sufficient compensation for the risk and the risks are of limited duration. Since Finnish banks have not expressed the need for such financing, at the moment it is very difficult to assess the volume of resources possibly required for such arrangements.

The guarantees and capital injections are available to deposit banks located in Finland including subsidiaries of foreign banks but excluding branches of foreign banks. No bank has applied for either guarantees or capital injections.

FRANCE

Significant Changes in French Banking and Financial Regulation

The global financial crisis has deepened since September 2008 when stock markets worldwide became highly volatile and sometimes even stopped after the collapse of Lehman Brothers. In only several weeks, banks, mortgage lenders and insurance companies in the United States collapsed, while a certain number of banks in European countries were merged or nationalized in order to avoid bankruptcies.

Even though they have been affected by the crisis, French banks are holding up relatively well overall thanks to the diversification of their businesses and the quality of their assets. The 400,000 employees who work in the French banking industry, particularly those who are in contact with customers, are taking action to support their customers, businesses and households during this difficult period. The increase in overall outstanding loans was 8% at end-December 2008, a figure which is higher than the euro zone average. Banks are therefore indisputably fulfilling their role of financing the economy.

In order to restore confidence and the stability of banking and financial systems and to ensure sound financing of economy, concerted measures have been implemented by the European Union Governments. In this context, in mid-October, the French Government set up a national plan to ensure the financing of the economy.

The French Plan

The French plan is mainly designed to support the lending activity of banks by providing them with medium-term financing and equity capital. It also includes measures to support small and medium-sized enterprises (SMEs) that face financing problems due to the crisis. The objectives of the Plan are:

Facilitating bank refinancing

- The plan's first initiative was to set up a finance company, Société de financement de l'économie française (SFEF). This charged with gathering funds from institutional investors on the market and providing the banks that require them with medium-term loans (over 1 to 5 years), in euros or US dollars. The SFEF is held and guaranteed by the Government (34%) and the main French baking groups (66%). In order to take advantage of these loans, banks have to provide the SFEF with high-quality assets as collaterals. The interest rate paid by the banks is increased by the Government guarantee. The banks use these loans for their lending activity to households, enterprises and export finance. All banks operating in France are eligible to participate in the program.

Increasing banks financing capacity

- The second initiative of the plan was to set up a state-owned investment company, Société de Prise de Participation de l'Etat (SPPE). Its objective is to increase the equity capital of financial institutions in two cases:

  - when they are in a difficult situation and their potential failure would induce a risk for the system as a whole;
  - to increase their financing capacity.

This contribution to the equity capital of banks is actually an investment of the Government, remunerated on market conditions (at an interest rate of 8%). The French Government may subscribe to subordinated debt securities issued by banks (eligible as Tier One Capital). The European Commission approved on 8 December 2008 up to 21 billion euros. The Government subscribed on 11 December 2008 to subordinated debt securities of a total amount of 10.55 billion euros issued by the six main French banking groups (BNP Paribas, Caisse d'Epargne, Crédit Agricole, Crédit Mutuel, Société Générale). On 20 January 2009, a second operation of increasing the equity capital of banks was announced, via the subscription of financial instruments issued by the banks. The banks that want to participate may issue, by 31 August 2009, either subordinated debt securities, or preferred shares. This second operation was approved by the European Commission on 28 January 2009. Three French banks have already used this opportunity so far.

Supporting financing to SMEs

- The third initiative of the plan regards the financing of SMEs. 22 billion euros of funds have been provided to banks and to OSEO (a bank specialized in financing SMEs) in order to support their lending activity. The funds come from:
  - savings accounts, such as "livret de développement durable" (LDD) and "livret d'épargne populaire" (LEP), up to 17 billion euros ;
  - Government's issue of an intervention capacity to OSEO, up to 5 billion euros.

French Banks' Commitments

The implementation of the French plan is supported by the French banks that committed to ease access to loans for households, enterprises and local authorities. The main commitments of the banks are:

- to increase the overall outstanding loans by 3% to 4% by the end of 2009 on a year on year basis, while maintaining a high-level of solvency;

- to support SMEs through
  - better information of SMEs with regard to their outstanding loans;
  - encouraging the dialogue with company leaders;
  - closer support in particular to the smallest companies, by adapting the factoring business to companies whatever their size;
  - stronger partnership with OSEO.

- to monitor the clients that have subscribed bridge loans by committing to:
  - better information of clients prior to the subscription to the bridge loan;
  - preventive monitoring of clients committed to bridge loans;
  - tailored solutions for clients experiencing difficulties in paying off their bridge loans.

- to implement principles of ethical governance, such as prohibiting parachute payments to executives when financial institutions collapse; these principles are implemented based on the recommendations of Association française des entreprises privées (AFEP) and the French Business Confederation (MEDEF).

Eligibility of Non-domestic Institutions under the French Governmental Programs to Stabilize the Financial System and Provide Financial Support

- Branches are not eligible to participate in the program.

- Only French subsidiaries of foreign institutions are eligible (there is no distinction between EU or non-EU institution: i.e. no branch under European passport, the entity has to be a subsidiary).

- There is no limitation for subsidiaries.

- There is no distinction between depositary or non-depositary subsidiary.

Recent Developments, including Self Regulation Initiatives

- **Banking accessibility**: End 2008 "banking accessibility charter", applicable as of 1 January 2009 on the right to open an account. The charter:
  - states the modalities and the delays of exchanges between credit institutions and Banque de France;
  - improves customers' information.

- **Ecological initiatives**: the Finance Act for 2009 doubles the limit for zero-interest rate loans for new buildings until the end of 2009. It also sets out the principles for the ecological zero-interest rate loan:
  - creation of the ecological zero interest rate loan for older buildings (Finance Law of 27 December 2008);
  - combination of ecological zero interest rate loan and tax credit on several energy-savings undertakings (amended Finance Law).

- **Credit Mediator** set up on 27 October 2008 by the French Government, designed to help enterprises that face financing difficulties when solutions have not been reached with the banks or with OSEO. Between October 2008 and April 2009, the Credit Mediator solved 4000 cases.

- **Economic Modernization Act** of 4 August 2008:
  - favors increased competitiveness of the French financial market and makes Paris a more attractive financial center. It notably plans to modernize the legal framework for public offerings and the law which governs financial instruments and market infrastructure;
  - supports financing of economy. It allows all banks to distribute "livret A" (a savings account accessible to all, liquid, offering an attractive interest rate) starting with 1 January 2009;

- improves banking system security. It requires, by order, the transposition of the third Directive on Anti-Money Laundering and financing of terrorism.

- **Guidelines for the compensation of financial market professionals**: the guidelines are adopted by FBF. They shall enter into force as from 2009 and shall apply to variable compensation to be paid in 2010. The guidelines are designed to enhance coherence between the behavior of professionals (notably in risk management area) and the long-term objectives of the enterprises that employ them. The guidelines apply to all professionals: front office, support functions, control functions, in area such as trading, investment and corporate banking divisions, regardless of the legal form of their employer (e.g. bank, insurance company, investment firm, management company, etc.).

- September 2008**:** a new student loan aims to broaden access to credit for all students. It is based partially on a public guarantee, exempt from parental guarantee.

- November 2008: the banking profession makes commitments to improve transparency with regard to borrower insurance and make clients' choices easier.
  - FBF commitments of 25 November 2008 on borrower insurance;
  - FBF commitments of 21 October 2008 on real estate bridge loans.

  FBF commitment of 25 November 2008 relating to standard information sheet regarding borrower insurance for real estate loans for individuals will come into force on 1 July 2009. Starting this date the standard information sheet will be provided to any future real estate individual borrower who wants to set up a new project. This sheet should allow customers to improve their comprehension and ease comparisons among concurrent offerings of insurance companies. The standard information sheet is the same for all professionals: credit institutions, insurance companies, bank-insurance, brokers.

- Order of 30 January 2009 transposes into French law the third Directive on Anti-Money Laundering and financing of terrorism. The Directive yields considerable improvements, in particular with regard to the risk-adjusted approach. However, its implementation requires the mobilization of important resources for the adjustment of the internal organization and for the employees' training.

- May 2009: Commitments for financing the purchase of the main residence with a variable interest rate loan came into effect.

- June 2009: The French banking community presented to European banks a set of measures regarding their activities in non-cooperative countries ("tax havens").

GERMANY

After having eroded the competitive privileges for Germany's public-sector banks, the EU Commission is now scrutinizing the stabilization measures for banks in Germany in the current financial crisis. Recent developments in German capital market, accounting and company law include new legislation governing debentures and containing new record-keeping requirements for investment advice, further alignment of accounting law with international rules, stronger adaptation of the legal provisions on AGMs to the Internet age and legislation to reform the legal forms of corporations (GmbHs and AGs). The German banking industry has developed preliminary guidance on the practical application of the significantly amended European AML/CFT rules which have been transposed into German law. The German government has undertaken major reforms in the taxation of investment income and private capital gains. In the payments sector, the German banking industry is playing an active role in the Europeanization of debit card schemes. The German and French banking sectors are also cooperating on the Europeanization of the Electronic Banking Internet Communication Standard (EBICS). E-government initiatives, especially an ID chip card, will further promote electronic commerce and banking in Germany in the future.

Decisions by the European Commission concerning State Aid to German Banks

The German government measures to stabilize the financial markets triggered a number of state aid proceedings by the European Commission, some of which have not yet been completed. These proceedings concern measures undertaken both within and without the scope of the German Financial Market Stabilization Act. Government stabilization measures have been approved, for example, for Aareal Bank AG, Commerzbank AG and Hypo Real Estate AG. The Landesbanks (public regional banks) in particular have naturally come under the spotlight, as they have benefited in the past from government guarantees and capital injections.

Particularly stabilization measures without any specific time limits – such as risk shields and capital injections – can only be approved as restructuring aid subject to strict conditions. The European Commission has, for example, tied approval of a € 5 billion risk shield for WestLB to, among other things, a requirement to reduce assets by 50%. In addition, WestLB must be sold by the end of 2011 by way of a public tender.

BayernLB has received a framework guarantee of € 15 billion under the Financial Market Stabilization Act, while the state of Bavaria has strengthened the bank's equity base by injecting a further € 10 billion. The European Commission has provisionally approved these measures as rescue aid; negotiations are currently taking place on the restructuring plan needed for final approval. According to reports, the Commission is pressing for drastic action, particularly regarding the reduction of BayernLB's total assets.

In the case of HSH-Nordbank, a € 3 billion capital injection by the city of Hamburg and the state of Schleswig-Holstein and a € 10 billion risk shield have been authorized on a temporary basis as urgent rescue aid. A viable concept for the future now has to be presented for the bank by autumn 2009.

Last but not least, the European Commission will be taking a closer look at Landesbank Baden Württemberg (LBBW). LBBW took over ailing SachsenLB in 2008, this takeover having been approved by the Commission. Following losses in 2008, LBBW's public owners decided on a capital increase of € 5 billion, and a risk shield for a securitized portfolio is planned. State aid proceedings are still pending.

Overall, the sustainable business models called for by the European Commission in connection with its decisions to approve stabilization measures are likely to lead to wide-ranging restructuring of Germany's Landesbanks.

New Developments in Securities Law

In August 2009, an act introducing a new law on debentures came into force. This new law supersedes the existing law on debentures of 1899 which in some respects no longer met the requirements of the financial markets. The act completely modernizes the legal framework for the respective rights and obligations of issuers and holders of debentures in relation to any changes to the terms and conditions of the debenture. Inter alia, it is now possible to amend the terms and conditions with the support of a qualified majority of debenture holders.

The act also contains certain changes to the Securities Trading Act. The legislative proposal was originally limited to an extension of the limitations period for damage claims in the event of wrongful investment advice (at present, a maximum of three years after giving the investment advice; in future, three years after knowledge of the facts giving rise to a claim and a maximum of ten years). Following the failure of Lehman Brothers and reports of consumers having suffering a complete loss of their investments, the banking industry came under heavy criticism from consumer organizations because of the way complex investment products were designed and marketed to consumers. The government responded to this criticism in mid-February 2009 by adding new information and recording obligations in respect of any investment advice given to consumers. These proposals were incorporated into the section of the bill concerning the limitations period with regard to wrongful investment advice. Specifically, the investors will have to be provided with a detailed protocol summarizing the investment advice given. In the case of advice provided over the telephone, consumers will have the right to rescind any transaction order based on the advice given to them if the protocol is incomplete or inaccurate.

In order to address the aforementioned public criticism, the Association of German Banks has issued, as a private banking sector initiative, guidelines on enhancing investor and consumer confidence. These guidelines are quality standards which build on the structures already in place at many banks. They deal, among other things, with internal processes for examining whether individual products are suitable for certain groups of clients, the provision of concise, easy-to-understand information on complex products and the principle that sales structures should be geared to clients' interests.

Following implementation of the EU Markets in Financial Instruments Directive, BaFin, the German financial regulator, announced various circulars on interpretation of the requirements regarding compliance, promotional material and other aspects. These have not yet been issued, however.

New Developments in Accounting and Capital Market Reporting

The so-called Accounting Law Modernization Act was passed by the German parliament on April 3, 2009. This means that the reform of German accounting law launched in 2003 has now been completed.

The individual measures envisaged under this reform are designed to establish high-quality, transparent accounting standards along with improved mechanisms for enforcing these standards and thus to maintain and enhance the quality of accounts. The purpose of the Act, which was adopted in the final step of the legislative process, is to modernize the accounting rules in the German Commercial Code (HGB), to adapt them appropriately to international standards and to delete superfluous provisions and options in order to improve the relevance, reliability and comparability of HGB annual accounts. It seeks to offer non-capital-market-oriented companies a permanent, equivalent alternative to IFRS which is at the same time simple and low-cost. A further focus of the Act is deregulation and reducing bureaucracy particularly for small and medium-sized entities. The function of the HGB annual accounts as the basis for profit distribution as well as for tax purposes remains unchanged. The new legislation has to be applied for the first time to accounts for 2010. Some new disclosure requirements already apply to accounts for 2009.

The main changes introduced by this Act are as follows:

- Fully exempting sole proprietorships which do not exceed certain thresholds from HGB accounting requirements (turnover < € 500,000 or profit € < 50,000).
- Raising the thresholds for the definition of small and medium-sized entities (AGs and GmbHs) by around 20 %.
- Lifting the "reverse authoritativeness principle".
- Dropping outdated options.
- Only credit institutions are allowed to measure financial instruments acquired for trading purposes at fair value, taking into account a deduction for risk (Value-at-Risk).
- Furthermore, credit institutions have to allocate a certain percentage of the trading profit to a special reserve for valuation risks which serves as an additional risk buffer.
- Valuing both long-term and pension provisions more realistically (taking future wage, price and personnel trends into account, discounting provisions at a corresponding average market interest rate).
- Introducing the "temporary concept" for recognizing deferred taxes.
- Adopting the consolidation rules of IAS 27 and SIC 12.
- Introducing an option to recognize own-produced intangible assets.
- Establishing transparency for off-balance-sheet transactions (reporting in the Notes on the type, purpose, risks and advantages of transactions not shown in the balance sheet, assessing the risks of contingent liabilities).

New Developments in Company Law

Over the last few years, German legislators have strengthened investor confidence in the integrity, stability and transparency of the financial markets, particularly by reforming the system of corporate governance, e.g. through the German Corporate Governance Code established in 2002. The Code has proved a success: According to a recent survey, acceptance of the Code's 84 recommendations and 19 proposals for good and responsible corporate governance remains high among Germany's listed companies.

The focus of the present legal debate is on the question of how even stronger incentives for sustainable corporate governance should be created via remuneration of management board members. Current surveys of management compensation in Germany already show at any rate that the variable component of remuneration also clearly reflects the deterioration in the economic situation. At the same time, more and more companies are starting to generally review their remuneration schemes. They are seeking to ensure downward pay-performance elasticity not only in relation to management board members. As part of a longer-term approach to remuneration, bonus-malus schemes are being discussed and also already introduced in some cases. Under these schemes, companies retain part of management bonuses so that these can be reduced retroactively in case of any losses in later years.

In May 2009, parliament passed a bill on appropriate management compensation. This bill adds to the legal instruments available to strengthen incentives for sustainable corporate governance geared to long-term success. In future,

- the remuneration of management board members of stock corporations will also be linked appropriately to their performance and customary (industry-wide or nation-wide) pay levels,
- management board members will have to wait at least four years before exercising any stock options, and
- the decision on a management board member's pay will be taken by the full supervisory board and may no longer be delegated – like at present – to a committee.
- Companies are required to provide for a deductible amount in the D&O insurance for management board members which may not be below 10% of any damage and not lower than 150% of the management board member's annual fixed pay.
- In future, former management board members may become members of the supervisory board of the same company only after a "cooling-off period" of two years, unless they are elected on the recommendation of shareholders representing more than 25% of the company's voting rights.
- AGMs of listed companies will be allowed a legally non-binding vote on whether the existing system of management board remuneration is approved or not.

In May and June 2009, the Government Commission on the German Corporate Governance Code adopted, against the background of the aforementioned law, a number of amendments to the Code, particularly to further specify the criteria for appropriate compensation of management board members. For example, the Commission further specified the provision under the new law which requires the remuneration structure to be geared to the sustainable development of the company by demanding that the variable compensation parts must reflect both positive and negative developments. In addition, it was clarified that the management board must lead the company with the aim of creating sustainable value added on its own responsibility as well as in the interest of the enterprise, taking into account the interests of shareholders, employees and other stakeholders.

On May 29, 2009, the bill on the further modernization and deregulation of stock corporation law was passed by parliament. This bill transposes the EU Directive on the exercise of certain rights of shareholders in listed companies (Directive 2007/36) into German law. It modernizes large sections of stock corporation law by proposing the increased use of electronic media (e.g. the Internet) to, for example, inform shareholders in connection with AGMs and to make it easier for them to vote, particularly those resident abroad. In addition, new rules on banks' proxy voting rights seek to facilitate voting and thus to increase AGM attendance. Finally, the bill contains – on top of the rules already in place – additional measures against improper shareholder actions. Among other things, it will in future prevent small shareholders (nominal shareholding of less than € 1,000) who raise objections regarding less serious breaches of the law or articles of association from blocking AGM resolutions against the vast majority of other shareholders. They can then only claim compensation.

On November 1, 2008, the Act to Modernize the Law Governing Private Limited Companies and to Combat Abuses entered into force. This includes a comprehensive landmark reform of the Private Limited Companies Act. This Act makes the PrLC legal structure more attractive to small and medium-sized businesses, thus strengthening Germany as a business location. In particular, a new GmbH variant that manages without minimum nominal capital will make it easier to establish a business. In addition, the reform gives PrLCs and Public Limited Companies (PuLCs) the chance of choosing to have administration headquarters in a country which is not necessarily the same as their seat of incorporation. The administration headquarters can also be located abroad, so that German companies will have more room to maneuver in developing their business activities outside Germany as well. This can, for instance, become an attractive option for German groups wishing to manage their foreign subsidiaries within the legal structure of the familiar GmbH. Finally, the reform will, among other things, also protect creditors better in the event of a crisis or bankruptcy.

New Developments in Banking Supervision Law

In July 2009, the German parliament passed a bill on strengthening financial market and insurance supervision, which the government had introduced in March 2009. This act amends the German Banking Act (Kreditwesengesetz, KWG) in the fields of BaFin's corrective action powers and reporting requirements. The latter encompass a modified leverage ratio, which does not lead, however, to any supervisory follow-up.

The act also imposes qualification requirements for members of oversight bodies of banks and insurance companies (supervisory board, administrative board) in conjunction with powers for BaFin to remove them if they prove unsuitable or untrustworthy.

Changes to the Foreign Trade and Payments Act

In April 2009, an amendment to the Foreign Trade and Payments Act and the Foreign Trade and Payments Regulation entered into force. It stipulates that the government can examine the acquisition of stakes in companies domiciled in Germany by non-Community investors (i.e. investors from outside the EU and EFTA) in individual cases if the following criteria are fulfilled:

- a stake of more than 25% is involved;

- the stake could endanger the "public order and safety".

The government examines the extent to which the “public order and safety” is actually endangered. It has three months in which to conduct an assessment after the investment deal has been made. If it does so, the assessment must be completed within two months (after receipt of all the transaction documents by the Federal Economics Ministry). An assessment may result in the transaction being unconditionally approved, approved subject to certain conditions or vetoed. Vetoing a transaction or issuing official orders requires the consent of the government.

The investor can, upon application to the Federal Economics Ministry, obtain a certificate of non-objection for a proposed investment. The condition for this is that the investment does not raise any concerns with regard to the public order and safety. The certificate of non-objection is deemed to have been issued unless the Federal Economics Ministry opens official assessment proceedings (see above) within one month of receipt of the application.

The explanatory note accompanying the legislative amendment repeatedly stresses that the government may only use its new powers in “rare individual cases” and not for “routine checks”.

Current Developments in the Payments Sector

Efforts to create a Single Euro Payments Area (SEPA) in the card sector have seen the launch, alongside the two established international card schemes, MasterCard and Visa, of three further initiatives. In addition to the “Monnet” project run by French and German banks, these initiatives, which are expressly seen by the European Central Bank as a step towards the establishment of a new pan-European card payment scheme, also include the Euro Alliance of Payment Schemes (EAPS), founded by six national payment schemes in 2007.

The leading national card payment scheme in the German marketplace, “girocard” (formerly “electronic cash”), is one of the founder members of EAPS. EAPS is now operational, and in 2008 it handled one million cross-border POS and ATM transactions bilaterally between the participating national card schemes.

At national level, too, the German “girocard” debit card scheme continued to develop positively compared with the previous year. In 2008, it recorded double-digit growth both in the number of payment transactions and in turnover. With over 94 million cards issued and a turnover of € 95 billion, it is one of Europe’s biggest card payment schemes.

In November 2008, a new cooperation agreement between Germany and France on a communication protocol for financial transactions on the Internet was signed between the German banking-industry associations working together within the Zentraler Kreditausschuss (ZKA, the joint secretariat of German banking associations), and the French banking sector, represented by Comité Français d'Organisation et de Normalisation Bancaire (CFONB). This cross-border cooperation agreement sets the framework for the joint use of a communication protocol called Electronic Banking Internet Communication Standard (EBICS), which was originally developed by the German banking industry and is intended to be made available for the European market.

This open, multibank-capable communication standard is used mainly by corporate customers to handle direct debits, credit transfers, account statements, cash management, securities orders, etc. It ensures that they can reach any bank by using only one software solution. EBICS is based on international standards such as XML, https, TLS and ZIP and meets the growing demands placed on a modern, quick and flexible communication connection via the

Internet by providing the highest level of security, cost-effective improvement in the area of data and line encryption and authentication (distributed digital electronic signatures), as well as higher transmission speed.

The agreed cooperation will enable corporate clients in both countries to reach any bank in Germany and France in the future using the same software. EBICS is already being used in Germany, and within the next two to three years it will help to replace the existing standards, namely FTAM in Germany and ETEBAC in France.

The cooperation also constitutes a further step forward towards SEPA, as EBICS will provide significant impetus to competition in European payments processing. In order to promote the standardization of payments, it is planned to extend EBICS use to other European countries. To lay the foundations for a further European dissemination, the ZKA and CFONB are engaged in establishing a joint EBICS company, which will be designed as a European company and will be open to any European country. The foundation of the company is planned for the end of 2009.

Developments in the Field of E-government

The German government has recognized the opportunities that e-government, along with e-business and e-commerce, provide for strengthening Germany as a business location and for promoting innovation. Through the systematic use of state-of-the-art information and communications technology, the e-government initiative launched by the federal and state governments seeks, on the one hand, to improve interaction between government agencies, citizens and businesses and, on the other hand, to make government services more efficient. This entails promoting the wide-spread use of information technology by government agencies and strengthening the Internet as an important communication channel between citizens, businesses and government agencies.

As part of the implementation of the e-government initiative, legislation on identity documents and electronic proof of identity, creating the conditions for the introduction of an electronic ID document, was passed in December 2008. As things stand at present, the government plans to start issuing electronic ID documents for all citizens in Germany from November 1, 2010 onwards, thereby gradually replacing the current paper-based documents. The new electronic ID document in the form of a contactless chip card not only delivers much greater security but is also designed for use as a means of online identification. The electronic proof of identity contained in the document is to be used, for example, for e-commerce, e-business and e-government services via the Internet. A future field of use for banks could be opening accounts online.

The Fight against Money Laundering and the Financing of Terrorism

The law implementing the new European AML directives, which came into force on August 21, 2008, brought about far-reaching structural changes to the existing AML regime.

The focus now rests on the practical implementation of the legislation by its addressees, in particular banks and other financial institutions. In this context, the preliminary guidance provided by the banking industry in December 2008 on the interpretation and practical application of key aspects of the new law, particularly with regard to the new customer due diligence obligations, will play an important role. It will be replaced later by more comprehensive and detailed guidance.

Tax Developments

A fundamental reform of the taxation of private investment became effective as of January 1, 2009. Interest and dividend income as well as private capital gains are now subject to a flat income tax at a rate of 25 percent.

Financial Market Stabilization Measures in Germany

In response to the growing global financial crisis and its impact on the German financial sector, the Financial Market Stabilization Act was passed by German legislators on October 17, 2008 in a hitherto unprecedented fast-track procedure.

The centerpiece of this Act is the establishment of a Financial Market Stabilization Fund (SoFFin), which is designed to stabilize the financial system in Germany by helping to overcome existing liquidity shortages and strengthen financial institutions' equity base. Its tasks include providing guarantees, participating in recapitalizations and assuming risk positions.

SoFFin can provide guarantees up to a total amount of € 400 billion. On top of this, the Federal Finance Ministry may borrow up to € 70 billion to finance recapitalizations and the assumption of risk positions. Subject to the approval of parliament's Budget Committee, this limit can be raised by up to € 10 billion.

Financial institutions are not legally entitled to assistance from SoFFin, which is offered voluntarily, nor can they be forced by the government to apply for support.

Any financial institution applying for assistance from SoFFin generally has to have a sound and prudent business policy in place. Further conditions may vary depending on the type of measure taken and its addressee. Where recapitalization and the assumption of risks are involved, SoFFin, for example, makes a € 500,000 cap on executive pay a condition.

Financial-sector enterprises (such as banks, insurance firms or pension funds) which have their headquarters in Germany are eligible for SoFFin support. German subsidiaries of foreign financial institutions may be financial-sector enterprises if they satisfy the relevant requirements. Dependent branches of foreign institutions do not, on the other hand, qualify as financial-sector enterprises, as they do not have their headquarters in Germany.

€ 152.6 billion of the total sum of € 232.8 billion applied for from SoFFin has already been approved and contractually fixed, with guarantees accounting for € 130.7 billion and additional equity for € 21.9 billion thereof (Source: SoFFin, August 12, 2009)

A first amendment to the Financial Market Stabilization Act, adopted on April 7, 2009, expanded some stabilization measures, simplified the implementation of recapitalization measures and allowed the government to expropriate financial-sector enterprises within a very narrow time corridor and subject to strict legal conditions.

On July 10, 2009 the German parliament approved another amendment to the Act, the so-called “bad-bank law”. Its key features are the creation of a “special-purpose vehicle solution” and a “public entity solution”. The former solution aims mainly at private banks and serves to transfer structured securities to SPVs. The latter solution strives first and foremost to relieve the burden on the publicly owned Landesbanks by transferring risk positions and non-strategic business lines to newly established public entities. After notification of these amendments to the Financial Market Stabilization Act to the European Commission, the German government made several commitments, for example as to valuation principles for transferred assets.

HONG KONG

Deposit Guarantee and Contingent Bank Capital Facility

In October 2008, the Financial Secretary announced that the Exchange Fund (a reserve which backs the Hong Kong dollar note issue) would be used to:

(a) guarantee the repayment of all customer deposits with Authorized Institutions (AIs) in Hong Kong. AIs are licensed banks, restricted license banks and deposit-taking companies and the Deposit Guarantee is in respect of all AIs wherever incorporated and covers deposits covered by the existing Deposit Protection Scheme (DPS) over and above the amount covered by the DPS (presently the compensation limit of the DPS is HK$100,000 per depositor per licensed bank); and

(b) establish a Contingent Bank Capital Facility to provide additional capital to locally incorporated licensed banks, should this become necessary. Foreign incorporated licensed banks and restricted license banks and deposit-taking companies are not eligible for this facility.

Both measures, which were designed to strengthen confidence in the local banking system in view of the global financial crisis, are effective until the end of 2010.

The terms of the Deposit Guarantee follow the principles and terms of the existing DPS. The DPS was established in September 2006 under the Deposit Protection Scheme Ordinance (Cap 581) under which eligible deposits taken by licensed banks are protected up to a limit of HK$100,000 per depositor. The Hong Kong Monetary Authority (HKMA) requires AIs to provide an enhanced level of disclosure both at premises and websites, in advertisements and in notifications as regards whether or not deposits are covered by the Deposit Guarantee and also when deposits are no longer covered by the Deposit Guarantee.

At the same time as establishing the Deposit Guarantee and the Contingent Bank Capital Facility, the HKMA announced enhancements to its monitoring of activities of AIs with a view to pre-empting the emergence of imprudent business practices which might be induced by the availability of the two measures. In particular, the HKMA will scrutinize certain behavior of an AI which may potentially be indicative of a degree of “moral hazard” including:

(a) unexpected increases in deposit base markedly out of step with the general trend of the AI in the specified period;

(b) solicitations of deposits by offering of benefits or interest rates abnormally generous;

(c) unexpected material increases in the level of the AI's financial exposures and risks associated with such exposures;

(d) unjustified relaxation of existing corporate governance, risk management or other control systems;

(e) material deviation from the AI's established business goals, strategies and risk appetite;

(f) marked declines in the AI's capital adequacy ratio or other supervisory ratios.

Also, AIs should notify the HKMA before embarking on any new line of business or any plan to expand an existing line of business by an annual rate of 10% or more.

Potential enhancements to the existing DPS were announced by the Hong Kong Deposit Protection Board in April 2009 for public consultation until 26 June 2009. The proposals included raising the protection limit from HKD100,000 as at present to HKD500,000 and extending protection coverage to secured deposits, along with cost mitigating measures to contain the potential increase in annual contributions by Scheme members.

Liquidity Assistance to Licensed Banks in Hong Kong

As part of its effort to ease tightness in interbank liquidity conditions during the global financial crisis, the HKMA announced on 30 September 2008 to provide liquidity assistance, from 2 October 2008 until the end of March 2009, to licensed banks in Hong Kong on their request through the following temporary measures:

(a) Expanding eligible securities for access to liquidity assistance through the discount window to include US dollar assets of credit quality acceptable to the HKMA;

(b) Extending the duration of the liquidity assistance provided to individual licensed banks through the discount window, on a case-by-case basis, from overnight to maturities up to three months;

(c) Waiving the penalty rate for using over 50% of the Exchange Fund paper holding as collateral for borrowing through the discount window;

(d) Conducting foreign exchange swaps between the US dollar and the Hong Kong dollar of various durations with individual licensed banks when necessary;

(e) Lending term money of up to one month to individual licensed banks against collateral of credit quality acceptable to the HKMA when necessary.

On 6 November 2008, the HKMA refined the fifth measure by extending the maximum tenor to three months and considering lending at a rate lower than the interbank interest rate. Having considered the utilization of the above temporary measures and market views, the HKMA has decided to continue to conduct foreign exchange swaps and term repo (i.e. the fourth and fifth measures) under its ongoing market operations to provide Hong Kong dollar liquidity assistance to licensed banks, if needed, after the expiry of the temporary measures.

In addition, the HKMA has strengthened the Lender of Last Resort (LOLR) framework for banks under liquidity stress by expanding the types of assets and facilities eligible for obtaining Hong Kong dollar liquidity. In particular, foreign exchange swaps have been included among the basic instruments to be used by the HKMA to provide LOLR support, and the definition of eligible securities for repos has also been expanded to include securities in foreign currencies with acceptable ratings.

Report of the Hong Kong Monetary Authority on issues concerning the distribution of structured products connected to Lehman Group Companies

The HKMA made a report to the government containing information and observations on the existing regulatory regime and investor protection framework applicable to the sale to retail investors of Lehman Brothers minibonds and other structured products akin to minibonds. The report contained various recommendations which can be summarized as follows:

(a) strengthening the regulatory framework;

(b) mandatory health warning by intermediaries (including AIs) selling structured products;

(c) possible restriction on the use of gifts as a marketing tool for promotion of structured products;

(d) review of the private placement regime;

(e) all aspects of AIs' securities business should be regulated by the HKMA with coordination between the HKMA and the Securities and Futures Commission to ensure consistent standards of conduct which should be strengthened;

(f) clearer separation of AIs' securities business from their deposit-taking business;

(g) enhanced risk assessment process;

(h) mandatory recording of processes of selling structured products;

(i) continuous review of risk ratings of products sold and disclosure of higher risks when identified to customers who have already purchased those products;

(j) full paper trail to be kept of reasons why a customer purchased a product particularly when there is a mismatch between a customer's risk profile and the risk rating of the product;

(k) possible mandatory cooling off period between disclosure of risks and concluding sales;

(l) sales processes to be monitored by a "mystery shopper" program;

(m) review of remuneration structure;

(n) consideration of a dispute resolution mechanism for the financial industry.

Pursuant to a circular issued by the HKMA dated 25 March 2009 after consultation with the Hong Kong Association of Banks, the retail banks are expected to have fully implemented the above-mentioned recommendations (b), (g), (i), (j), (l) and (m) in the sale of structured investment products. Recommendations (f) and (h) are expected to be implemented before 30 September 2009 while the other recommendations are subject to further studies and/or consultation.

Race Discrimination Ordinance

The Race Discrimination Ordinance has been enacted which outlaws all forms of direct or indirect discrimination on grounds of race, meaning race, color, descent or national or ethnic original of a person. This specifically includes discrimination in relation to goods, facilities and services including facilities by way of banking or insurance or for grants of loans, credit or finance. Also, rendered unlawful are racial harassment and vilification.

Counterparty Credit Risk Management

The HKMA has issued a Supervisory Policy Manual module providing guidance that AIs can adopt in developing or enhancing their counterparty credit risk management systems, and describing the HKMA's supervisory approach to counterparty credit risk. The guidance is in alignment with the relevant requirements of the Basel II framework. It also incorporates lessons and experiences drawn from the recent financial crisis and industry recommendations where appropriate.

Self-examination of Controls and Procedures regarding suitability of recommendations and solicitations of investment products

The Securities and Futures Commission has issued a circular requiring intermediaries (including AIs) to conduct a formal self-examination of controls and procedures to comply with suitability obligations on the recommendation of investment products. This is required to be implemented and documented.

Reputation Risk Management

The HKMA has issued a Supervisory Policy Manual module on Reputation Risk Management explaining its supervisory approach to this risk and containing guidelines on how this risk should be managed.

INDIA

The Indian economy has been witnessing a phenomenal growth since the last decade. The country is still holding its ground in the midst of the current global financial crisis. Despite the global slowdown, the Indian economy is estimated to have grown at close to 6.7 percent in 2008-09. The sectoral growth rates are 2.8-3.0 per cent, 5.0-5.5 per cent and 7.5-8.0 percent, respectively, for agriculture, industry and services.

The WPI inflation, which was on a path of sharp decline from the high peak level of August 2008, turned negative in June 2009, and since then the negative inflation continues (-1.2 percent as on July 11, 2009). The decline in the year-on-year inflation essentially reflects the statistical factor of high base that emanated from sharp increase in commodity prices and oil prices during the first half of 2008-09.

The Government announced three stimulus packages during the financial year 2008-09 which is largely in the form of tax commission, duty exemptions etc. Special packages were announced for sectors such as export oriented SME sectors, infrastructure and housing sector.

The monetary policy responses since September 2008 have been aimed at mitigating the adverse impact of the global economic crisis on the Indian economy. Accordingly, since October 11, 2008, the Reserve Bank has reduced CRR by a cumulative 400 basis points from 9.00 percent to 5.0 percent, repo rate by 425 basis points from 9.00 percent to 4.75 percent and the reverse repo rate by 275 basis points from 6.00 per cent to 3.25 per cent. The Reserve Bank also took a series of measures to augment rupee and foreign exchange liquidity to avoid shortage of liquidity as a source for market volatility or contraction in credit. The liquidity conditions have remained easy throughout in the recent period, which was evident from the orderly conditions in the market as well as sustained net absorption under the Liquidity Adjustment Facility (LAF).

Banking Industry in India During 2008-09

According to the Reserve Bank of India (RBI), the banking sector in India is sound, adequately capitalized and well-regulated. Indian financial and economic conditions are much better than in many other countries of the world. Credit, market and liquidity risk studies show that Indian banks are generally resilient and have withstood the global downturn well.

As far as the performance of banks is concerned, scheduled commercial banks' business improved during 2008-09. Overall deposits grew by 19.8 percent and credit growth by 17.3 percent. On an average banks' profit growth was in the range of 25 percent. Despite the slowdown, banks were able to maintain credit quality, and the Capital Adequacy Ratio and Return on Assets showed considerable improvement.

Capital Adequacy and Basel II

The Capital Adequacy Ratio (CAR) of banks has generally gone up in 2008-09 versus the previous year as lower risk weights, implementation of Basel II norms and slower credit growth has freed up capital. Banks shifted to the higher Basel-II risk and capital management requirement in April 2008. The new norms allowed them to do away with uniform risk weights and to provide less for loans to high-rated companies.

The CAR of the banks that announced their financial results for year ended March 2009 as per both Basel I and Basel II norms shown significant improvement during testing times. The average CAR of the analyzed banks as per Basel II norms improved from 12.35 percent for the year ended March 2008 to 13.48 percent in FY '09. The government injected capital into the public sector banks that had their CAR below 12 percent.

Roadmap for the Indian banks to graduate from the simpler approaches of the Basel II framework to more advanced ones.

The RBI has worked out the roadmap for the Indian banks to graduate from the simpler approaches of the Basel II framework to more advanced ones. Basel II is the second among Basel Accords, which are primarily, recommendations on banking laws and regulations issued by the Basel committee on banking supervision. It sets up rigorous risk and capital management requirements aimed at ensuring that a bank holds capital reserves appropriate to the risk it exposes itself to through its lending and investment practices. Since March 2008, foreign banks operating in India and Indian banks having presence outside the country have migrated to simpler approaches under Basel II framework. Other commercial banks migrated to these norms by March 31, 2009. Recently the RBI has given a roadmap for migrating to advanced measurement approach by the banks. The following table captures the details.

S. No.	Approach	The earliest date of making application by banks to the RBI	Likely date of approval by the RBI
a.	Internal Models Approach (IMA) for Market Risk	April 1, 2010	March 31, 2011
b.	The Standardised Approach (TSA) for Operational Risk	April 1, 2010	September 30, 2010
c.	Advanced Measurement Approach (AMA) for Operational Risk	April 1, 2011	March 31, 2013
d.	Internal Ratings-Based (IRB) Approaches for Credit Risk (Foundation- as well as Advanced IRB)	April 1, 2012	March 31, 2014

Financial Inclusion

In a country with significant sections of unbanked population and regions, financial inclusion is vital for sustaining long-term equitable development. As part of the financial inclusion drive, scheduled commercial banks have been opening 'no frills' accounts either with 'nil' or very low minimum balances. So far, banks have opened 3.3 crore such accounts. The RBI has announced a further relaxation in this direction by allowing the scheduled commercial banks to set up off-site ATMs without prior approval. Also, Rs 100 crore has been provided during the current year as one-time grant-in-aid to ensure provision of at least one centre/Point of Sales (POS) for banking services in each of the unbanked blocks in the country.

Though efforts are being made to include the financially excluded in the banking field, considering the vastness of the country, the efforts need more time to have their desired impact.

Payment and Settlement Systems: Following are the developments in the payment system in the past year.

- **National Payments Corporation of India (NPCI)** is a recently registered corporation under Section 25 of the Companies Act, 1956. NPCI is promoted by Banks in India under the aegis of the Indian Banks' Association with majority shareholding by Public Sector Banks. NPCI will be an operator for various retail electronic payment transactions including switching of card transactions. NPCI also plans to operate a National Card Payment Scheme under the brand "India Pay". NPCI proposes to put in place an integrated apex level Switch in the country, which will function as the 'Switch of Switches'. The proposed Switch aims to provide switching of all retail electronic payment transactions from all possible channels like ATM, POS, Internet, mobile payments, m-commerce, e-commerce, real time electronic funds transfer, etc .
- **Electronic Payment Systems:** The coverage of bank branches under the electronic payment network, *viz.*, the RTGS and the National Electronic Funds Transfer (NEFT) has increased significantly. While the NEFT network has increased to 54,200 branches at end-March 2009, the RTGS network has increased to 55,000 branches. The RTGS handles, on an average, 80,000 transactions per day, with a peak of 128,295 transactions processed as on March 30, 2009.
- **National Electronic Clearing Service:** The volume of transactions through National Electronic Clearing Service (NECS), introduced in September 2008, is also increasing. With a view to moving towards the centralized NECS system, the electronic clearing service (ECS) (credit) in Mumbai has been merged with the NECS. As such, no separate local ECS clearing is operative in Mumbai.
- **National Financial Switch:** The National Financial Switch (NFS) membership/volume is steadily on the increase. As on March 31, 2009 the NFS network covered a total of 38,714 automated teller machines (ATMs) of 34 banks. On an average, a daily volume of 890,180 transactions (of which 256,156 transactions pertained to balance enquiry and 634,024 pertained to cash withdrawal) were routed through the NFS in March 2009 as against a daily volume of 267,598 transactions in March 2008. Furthermore, on an average, the daily value settled through the NFS was around Rs.45 crore in March 2009 as against Rs.26 crore in March 2008. Since April 1, 2009 customers have the facility of using ATM of any bank for cash withdrawal, free of cost, thereby making ATMs national payment outlets rather than bank-specific outlets. This measure has seen a surge in transactions in the NFS network with a peak of 1.1 million transactions on a single day on April 11, 2009.
- **Mobile Payments:** The operative guidelines for mobile payments were issued on October 8, 2008. So far, 19 banks have obtained permission from the Reserve Bank to provide mobile payment facilities to their customers.
- **The Payment and Settlement Systems Act, 2007:** The process of issuing authorisation to persons to operate various payment systems has commenced following the notification of the

Payment and Settlement Systems Act, 2007 in August 2008. In terms of the Act, all payment system providers/operators including credit card issuing companies and entities engaged in money transfer activity would require authorisation.

The Prevention of Money Laundering Act Amendment: Aimed at effectively combating money-laundering, terror financing and cross-border economic offences was passed by Parliament on 1 June 2009 and was brought into force to make India's Anti-money Laundering regime stronger. The Act would check misuse of "proceeds of crime" be it from sale of banned narcotic substances or breach of the Unlawful Activities (Prevention) Act. This act will address India's international obligation and empower the enforcement directorate to search the premises immediately after the offences are committed and police have filed a report.

Know Your Customer (KYC)Norms/Anti Money Laundering(AML)Standards/ Combating of financing of Terrorism (CFT)/Obligation of Banks under Prevention of Money Laundering Act(PMLA) 2002

Indian Banks' Association has came out with a revised Guidance Note on KYC Norms and AML standards on approval by the Reserve Bank of India and Financial Intelligence Unit-India (FIU-IND) it will be implemented by all the banks.

Capital Market

The Indian capital market began the year 2008 on a bullish note, with the BSE and NSE indices touching new peaks of 20,873 and 6,288, respectively, on January 8, 2008, but it was affected adversely thereafter reflecting the impact of global financial crisis. The movement in equity prices in the Indian capital market was in tandem with trends in major international equity markets; the Indian equity market weakened further during September- December 2008 following sharp decline in stock markets across the globe and perceptible shift in investor preferences.

Having regard to these trends, the regulatory measures initiated during the year were aimed at ensuring the soundness and stability of the Indian capital market. In recent months, the Indian stock market has slowed down due to the global economic turmoil. However, expectations of it rebounding soon are also high. Furthermore, Securities Exchange Board of India, will be making it easier for companies to raise money from the stock market, by relaxing eligibility rules to facilitate faster raising of funds from existing shareholders. The sector is going to see a flurry of activity and investments in the coming months. Some of the salient policy initiatives relating to the capital market taken during the year 2008 were:

SEBI notified the SEBI (Intermediaries) Regulation, 2008 on May 26, 2008 for putting in place a comprehensive regulation applicable to all intermediaries. The registration process has been simplified. The *fit and proper* criteria have been modified to make it principle based. Apart from specifying common code of conduct, the registration granted to intermediaries was made permanent subject to the compliance of the SEBI Act, regulations, updating of relevant disclosures and payment of fees. Procedure for action in case of default and manner of suspension or cancellation of certificate has been simplified to shorten the time faced by the parties without compromising with the right of reasonable opportunity to be heard. The procedure for surrender of certificate has been simplified.

- In terms of an amendment to the SEBI (Depositories and Participants) Regulations, 1996 on August 8, 2008, the requirement of the depositories to ensure payments before effecting the transfer in the demat system was dispensed with, as the Depositories Act did not cast an obligation on the depositories to ensure that payment had been made in respect of transfer of security.

- An amendment to SEBI (Portfolio Managers) Regulations, 1993 on August 11, 2008 relaxed the criteria for considering the application for registration as portfolio manager and increased the net worth for carrying portfolio management service from Rs. 50 lakh to Rs. 2 crore.

- The SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 was amended on August 11, 2008 for facilitating the trading in currency derivatives on the platform of stock exchanges.

- The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 was amended on October 30, 2008. It was clarified that no acquirer, who together with persons acting in concert with him held 55 percent or more but less than 75 percent of the shares or voting rights in a target company, should acquire either by himself or through persons acting in concert with him any additional shares entitling him to exercise voting rights unless he made public announcement in accordance with the regulations.

- clause 35 of the Equity Listing Agreement was amended in February 2009 to include details of shares pledged or otherwise encumbered by promoters and promoter group entities. The eligible categories of the Foreign Institutional Investor (FII) applicants were expanded to allow for NRI-owned investment managers to register as FIIs subject to the condition that they did not invest their proprietary funds.

- It was decided to do away with the quantitative restrictions imposed on Overseas Derivative Instrument (ODI) issuance capabilities and restrictions on ODIs on derivatives with effect from October 7, 2008,

- In June 2008, the limit for investments in debt by the FIIs in the government securities was increased from US$ 3.2 billion to US$ 5 billion and in corporate debt from US$ 1.5 billion to US$ 3 billion. The corporate bond investment limits were further increased to US$ 6 billion in October 2008 and to US$ 15 billion in January 2009.

- The restriction on investment of FIIs in the ratio of 70:30 in equity and debt respectively was done away with.

- Anchor investor guidelines were issued by SEBI recently.

- Mutual funds cannot charge entry load from the customers when they invest in the scheme.

Insurance

The process of reforms in the insurance sector was carried forward through a series of policy initiatives. Some of these included:

- Promoting micro-insurance as a viable business opportunity and integrating the same with the poverty alleviation programs of the State Governments. During 2007-08, 3,275 micro-insurance agents were allowed to offer composite covers or packaged products to cater to the needs of the poor, taking the total number of micro-insurance agents to 4,584 at end-March 2008.

- Introduction of two bills in the Parliament viz., Insurance Laws (Amendment) Bill, 2008 and Life Insurance Corporation (Amendment) Bill, 2008 aimed at bringing about improvement and revision of laws relating to the insurance business.

- Institutionalizing the process of a self-regulatory mechanism by IRDA for enforcement of market discipline and initiating steps to ensure that the life insurance council and the general insurance council become self-regulatory organizations.

- Establishment of a separate health section in the authority with specialists.

- Stipulation by IRDA of the rural and social sector obligations of private insurers up to the tenth year of operations. Under the rural sector obligations, life insurers are required to expand their rural coverage from 7 percent of the total policies written direct in the first financial year to 20 percent in the tenth financial year. The non-life insurers in the private sector are required to reach the target commencing from 2 percent of total gross premium income written directly in the first financial year to 7 percent from the ninth financial year onwards. Under the social sector stipulations, all insurers would have to cover 5,000 lives in the first financial year to 55,000 lives in the tenth financial year.

- IRDA issued instructions on the interpretation of pre-existing conditions in health insurance, which came into effect from June 1, 2008. The standardization of terminology would help the insured by increasing clarity and ensure comparability of health insurance products across insurers; and in resolving operational constraints in the area of claims settlement in health insurance.

The total premium underwritten by the industry in the life segment has grown from Rs.156,076 crore in 2006-07 to Rs. 201,351 crore in 2007-08, recording an increase of 29.0 percent in 2007-08 attributable to introduction of new products and channels of distribution and increasing penetration of private insurance companies in uncovered markets. It increased further by 10.8 per cent to Rs. 223,053 crore in 2008-09.

Other Developments:

The Government of India has introduced the new pension scheme for all citizens, including the private sector, from May 1, 2009. The **New Pension Scheme** (NPS) is open to every Indian citizen and is regulated by the Pension Fund Regulatory and Development Authority (PFRDA) India. The PFRDA has chosen 6 fund managers to manage the funds – at quite attractive fees. Any Indian citizen between 18 and 55 years can join the National Pension Scheme launched by the Government of India (PFRDA). The scheme is designed as a defined contribution scheme and it will become the basis of the pension amount. There will be no intermediaries involved in this scheme.

IRELAND

Introduction

Notwithstanding the prevailing economic environment, financial services continue to play a significant role in the Irish economy. With some 89,000 people employed in financial intermediation, the sector accounts for some 7 percent of private sector employment. Ireland, like other jurisdictions, has taken measure to respond to the challenges presented by the financial crisis and global recession.

Government support measures

Support measures in Ireland have taken the form of a state guarantee scheme and recapitalisation of the country's two largest banks. A nationalisation measure with regard to Anglo Irish Bank has also been provided. In addition, the Government examined potential approaches available to it in dealing with risky assets on the balance sheet of Irish Banks. Plans to establish a National Asset Management Agency (NAMA) to remove the riskiest assets, mainly land and development loans, from the books of systemically important financial institutions were progressed during the period.

The State Guarantee Scheme was announced by the Minister for Finance on 30 September 2008. The Credit Institutions (Financial Support) Act 2008 became law on 2 October 2008. The scheme provides a guarantee arrangement to safeguard all deposits (retail, commercial, institutional and interbank), covered bonds, senior debt and dated subordinated debt (lower tier II) of systemically important credit institutions until September 2010. Intra-group borrowing and debts due to the European Central Bank arising from the Eurosystem monetary operations are excluded. The Scheme has been approved by the European Commission, in accordance with EU state aid rules.

The Guarantee is subject to a fee, to be determined according to a risk assessment. Steps taken by the covered institution to reduce risk is taken into account. The fee amount is calculated on a case by case basis and is subject to the composition of the covered institution's average month end covered liabilities during the preceding quarter and the guarantee charging model . Further conditions requiring covered institutions to appropriately manage their balance sheets and improve structures to ensure long-term funding stability also apply. In addition, the Minister for Finance is likely to require changes to board structures and remuneration policies.

Eligible institutions under the Act and Scheme are credit institutions that are systemically important, or subsidiaries of credit institutions specified by the Minister for Finance. The Minister clarified that the Scheme could be extended to cover any credit institution with a significant presence in 'Main Street' retail banking in Ireland. The guarantee only covers liabilities arising from such an institutions position within the Irish economy. Many of these institutions have declined the invitation to participate.

Guarantees were granted to Allied Irish Banks plc and its subsidiaries AIB Mortgage Bank, AIB Bank (CI) Limited, AIB Group (UK) plc and Allied Irish Banks North America Inc., Anglo Irish Bank Corporation plc and its subsidiary Anglo Irish Bank Corporation (International) plc, the Governor and Company of the Bank of Ireland and its subsidiaries Bank of Ireland Mortgage Bank, ICS Building Society and Bank of Ireland (I.O.M.) Limited, EBS Building Society, EBS

Mortgage Finance, Irish Life & Permanent plc and its subsidiary Irish Permanent (IOM) Limited, Irish Nationwide Building Society and its subsidiary Irish Nationwide (I.O.M.) Limited, and Postbank Ireland Limited.

Anglo Irish bank was nationalised on 21 January 2009, following the signing into law of the Anglo Irish Bank Corporation Act 2009. The legislation provides for the transfer to the Minister for Finance of Ireland (or his nominee) of all shares in Anglo Irish bank Corporation Limited. This decision was taken by the Government after consultation with the Board of the Bank, the Department of Finance, the Central Bank and the Financial Regulator.

On 12 February 2009 the Government agreed the recapitalisation terms to be offered to Allied Irish Bank and Bank of Ireland. The Government provided €3.5 billion in Core Tier 1 capital for each bank. In return, the Government received preference shares with a fixed dividend of 8% payable in cash or ordinary shares in lieu. These preference shares can be repurchased at par up to the fifth anniversary of the issue and at 125percent of face value thereafter. While any preference shares are outstanding, the Minister for Finance has 25 percent of total ordinary voting rights in respect of change of control and board appointments.

Wholesale Sector

Notwithstanding the prevailing market situation, the Asset Covered Securities (ACS) product (the Irish covered bond framework) has established itself to be a key source of funding in the medium term, given the positive features of covered bonds relative to other funding options. Two new Dedicated Credit Institutions (DCIs) have been established for the purpose of issuing ACS, bringing the number of ACS issuers to six. At present the total level of outstanding ACS in issue is circa €80bn.

The ACS product continues to receive a high level of policy support from the Irish Government. Importantly, and as mentioned above, ACS were included in the State Guarantee Scheme. Furthermore, other initiatives to strengthen the ACS framework are being actively considered.

Securitisation issuance levels grew significantly during the period with issuance levels reaching close to €30 bn. RMBS remains the dominant asset class. However, activity in the securitisation space is almost exclusively for the purpose of accessing the ECB repo facility.

Prudential Supervision

Refinement of the prudential supervision framework has continued over the period. The Capital Requirements Directive (the EU's implementation of Basel II) became fully effective from 1st January 2008 for all credit institutions operating in Ireland. In addition, the introduction of the Government guarantee scheme and Government recapitalisation / nationalisation of banks, mentioned above, brought a higher level of prudential reporting and supervision for those institutions directly involved.

The *Capital Requirements Directive* (CRD) was fully implemented across Europe on 1 January 2008. Most institutions operating in Ireland are using Foundation-IRB credit models, with some of these planning to join those already at Advanced IRB level. A smaller number are on the Standardised approach. The majority of banks are initially applying the Standardised approach to Operational Risk, with fewer at AMA and Basic level.

The Financial Regulator has maintained close and continuous contact on all risk matters with banks covered by the Government guarantee scheme. All other banks have received direction from the Financial Regulator on their initial ICAAP (Internal Capital Adequacy Assessment Processes). This indicates the overall capital sought, to address the broad spectrum of risks faced by banks. CRD reporting on has started on banks' qualitative and quantitative Pillar 3 risk disclosures. Such disclosures have generally followed the publication of the 2008 year end annual accounts. The Financial Regulator is maintaining a close watch on key prudential variables for all financial institutions in Ireland, to rebuild a solid financial environment.

Despite the recent implementation of the CRD, a range of refinements are underway across the EU. The European authorities have approved initial amendments to a number of important CRD components, to strengthen risk measurement and management in this demanding climate. These included refining large exposure limits; retention of interest by the issuer in securitised products; clarification of the role of colleges of supervisors and Tier 1 capital requirements.

A second series of amendments is well progressed, primarily relating to the trading book; resecuritization and disclosures for securitised products. Further CRD amendments are imminent, covering dynamic provisioning/ countercyclical capital buffers; further reductions in national discretions and options and incremental capital for residential mortgages in a foreign currency.

The Irish banking industry is actively involved in all evolving regulatory developments, originating at domestic, EU and BIS level. There have been many additional aspects addressed in the past year, including the initial CEBS reductions of CRD national discretions; building enhanced stress testing requirements; establishing high level principles for risk management; and now considering creating a liquidity buffer.

The Irish government is currently undertaking a review of the role and structure of the financial regulatory environment. The new framework will involve an overall Central Bank Commission, to ensure the integration and coordination between prudential supervision and financial stability oversight. This will be complemented by significant new resources and expert staff. This review is in line with developments taking place on the international stage, including the De Larosière review and its follow on at EU level and G20 proposals. The increased international harmonisation of financial supervision will be of benefit to the many cross-border banks operating in Ireland.

Retail Sector

Unprecedented global events had a significant impact upon the regulatory environment for retail banking. In Ireland, the Government took action to reassure depositors by initially raising the amount of savings covered under the Deposit Protection Scheme to €100,000 and then put in place a more extensive Guarantee in October 2008 for domestic credit institutions.

With rising unemployment and economic uncertainty, a focus grew upon the treatment of people who may experience financial difficulties. In February, the Financial Regulator published a Code of Conduct on Mortgage Arrears which was based upon a voluntary IBF industry code that mainstream lenders had already been subscribing to for over a decade. The Code articulates steps and procedures that lenders must take in order to facilitate the customer in resolving the arrears situation, including waiting at least six months from when arrears first arise before initiating legal action. Allied Irish Bank and Bank of Ireland, as part of their recapitalisation, will not commence court proceedings for repossession until after 12 months of arrears appearing. The Financial Regulator also issued a Code of Conduct for Business Lending to Small and Medium Enterprises that aims to promote fairness and transparency in the treatment of SMEs, to ensure that businesses that enter arrears are dealt with appropriately, and to facilitate access to credit for sustainable businesses.

IBF have also worked with the Money Advice and Budgeting Service (MABS), the State-funded free service for people dealing with debt, to produce the IBF-MABS Operational Protocol: Working Together to Manage Debt. Launched in June by the Minister for Social and Family Affairs, the Protocol provides a framework for lenders and MABS advisers to work together to help clients deal with their debt problems, and where possible, to formulate a mutually-acceptable, affordable and sustainable repayment plan. The Protocol will be implemented by the end of September 2009.

While initially scheduled for early 2009, the review of the Financial Regulator's Consumer Protection Code, was put back to the latter part of the year. The Code sets out statutory requirements for regulated entities providing financial services to customers and clients outside of those covered by the Markets in Financial Instruments Directive (MiFID). However the Financial Regulator did embark on a number of themed inspections to evaluate compliance among firms. In December 2008, the Financial Regulator also published the report of a cross-industry review of the insurance intermediary market that included a number of recommendations in relation to intermediary categorisation, commission disclosure and the appointments system.

Discussions are ongoing on the transposition of significant forthcoming EU retail banking regulations, namely the Payment Services Directive and the Consumer Credit Directive. In terms of the latter scheduled for implementation on 12 June 2010, and which sets out detailed requirements for entities providing non-mortgage credit between €200 and €75,000, a consultation took place in the first quarter of 2009 on the national discretions allowed in the Directive. Similarly discussions are ongoing on the transposition of the Payment Services Directive which is due to be implemented on 1 November 2009.

In September 2008, the IBF Personal and Business Account Switching Codes were enhanced with the implementation of the option to allow customers to keep their 'old' account open. Also from September 2008, customers thinking about switching their account are entitled to free statements. IBF also initiated a review of the Switching Codes to assess what changes would be needed with the implementation of the Single Euro Payments Area (SEPA) Direct Debit Scheme, scheduled for November 2009.

IBF was actively involved in European discussions relating to the development of Common Principles for Bank Account Switching. The European Commission had invited the European banking industry to develop bank account switching arrangements in each European jurisdiction and on 1 December 2008 the resultant Common Principles were published and are set for implementation across Europe in November 2009. In discussions with industry, the Commission referred to the IBF Switching Codes as the 'benchmark' that should be implemented in other jurisdictions.

Accounting Rules

Irish GAAP is effectively the same as UK GAAP and the standards issued by the UK Accounting Standards Board apply in Ireland (ASB). The ASB's "Policy Proposal: The Future of UK GAAP", proposes that from 2012 almost everyone preparing statutory accounts in Ireland and the UK use International Financial Reporting Standards (IFRS) of one sort or another. To date, only listed companies in Ireland have had to use IFRS, and while others have a choice of using IFRS few have taken up this option. The majority of companies and organisations currently use Irish GAAP standards which are identical to UK GAAP.

Under the UK Accounting Board new proposals, there would be three versions of standards used by Irish companies. Publicly accountable entities such as listed companies and banks would use the current full suite of IFRS without any amendment. Everyone else, other than very small companies, will use a scaled down version of IFRS known as IFRS for SMEs which was published on 9 July 2009. Small companies will have a concession, for a few years at least, which will allow them to use a standard known as FRSSE.

If the ASB's proposals are implemented as currently drafted, Irish entities will be reporting under the new regime for accounting periods starting on or after 1 January 2012.

Other Developments

Although the 3rd Anti-Money Laundering Directive has not yet been implemented in Ireland, publication of the implementing legislation is imminent. The legislation is likely to repeal and replace existing legislation and should be enacted before the end of 2009. The IBF, in co-operation with other trade associations, is developing revised industry guidance which will have applicability to all financial services sectors.

ISRAEL

Activity of the Israeli economy in the second half of 2008 and the first few months of 2009 was influenced greatly by the world crisis. The turmoil in Israel was felt both in the financial system and in the real economy, but the effect of the crisis was less than in most Western countries.

The repercussions of the crisis resulted mainly in a marked reduction in exports and in private consumption, as well as in a sharp decrease in tax revenues. As a result of the decrease in activity of the economy and the increase in the government deficit, there was a slowing down in the rate of decrease of debt to GDP. Wages in the private sector fell and the reduction in unemployment was halted. Following the decrease in commodities prices worldwide and especially in oil prices, the rate of inflation in Israel decreased concurrently. In the face of the fall in interest rates in the U.S. and in Europe, the Bank of Israel reduced interest to the lowest rate in the country's history. The central bank also intervened in the foreign currency market and purchased a significant amount of dollars, as well as purchasing bonds on the open market in order to increase the liquidity of the economy.

Israeli financial institutions, led by the banks, showed resilience and stability, although they were hurt badly by the world financial crisis. In spite of the reduction in profits, none of the banks is in danger of collapse or bankruptcy. Prices of shares and corporate bonds fell significantly, but the main damage occurred to the non-bank credit market which became the focus of risk for the banking system and influenced the reduction of bank credit.

In response to the situation in the economy, the Knesset decided, at the end of 2008, on a number of steps to accelerate economic activity. Among other things, it was decided to expand investments in infrastructure, to enlarge the budget of the Office of the Chief Scientist (part of the Ministry of Industry, Trade & labor) and to increase professional training programs. In addition, it was decided to provide loans to assist small businesses, to set up investment funds for dealing with non-bank credit, and to provide tax breaks for foreign investors.

As an integral part of the plan for economic acceleration and in response to the world financial crisis, the Finance Minister decided to grant government guarantees to banks amounting to NIS 6 billion. The guarantees are intended to be used in the issue of deferred notes which will be recognized by the Supervisor of Banks as "Upper Tier II capital". This step was taken at the same time as aid was given to small businesses by means of non-bank credit. The guarantees are for ten years from the date of issue and the rate of the guarantee will commence at 95% and be gradually reduced. The banks are to pay a fee to the government for the guarantees. Because of the conditions stipulated by the government and the situation of the capital market, the banks have not yet utilized these guarantees. The conditions stipulated by the government were improved in the economic plan submitted in April 2009, and the amount of guarantees doubled to NIS 12 billion.

Concurrently with the Knesset's plan at the end of 2008, the Bank of Israel published a number of steps for improving the level of liquidity in the economy. The main steps taken were: reduction of the amount of sales of T-bills and the amount of money absorbed from the public, the addition of long-term monetary loans, and the lowering of the cost and increase of duration of tepo auctions to the banks.

The military operation in Gaza began towards the end of 2008 and lasted for about a month, leading to a large rise in government expenditure. In February, general elections were held, after which the Israeli government was replaced and a new government set up. One of the first actions of the government was the formation of an economic plan for the acceleration of the economy.

The new economic plan submitted in April 2009 by the Treasury is called: "The Containment and Breakthrough Plan - To Curb the Severe Effects of the Economic Crisis and Lead the Economy Back To A Growth Trajectory". It includes five components:

1. *Expanding credit and encouraging exports.* This component includes increasing government guarantees to banks, increasing aid to export industries and increasing non-bank credit.
2. *Promoting employment and curbing unemployment.* This mainly concerns reducing the number of foreign workers and the addition of professional training programs.

3. *Structural reforms in key sectors of the economy.* These are the Israel Land Administration, the Israel Electric Corporation and the ports. In addition, it is proposed to form urban police units.
4. *Taxes.* Reduction of income tax for employees and corporations, correction of tax distortions through the cancellation of exemptions and improving the tax collection system.
5. *Infrastructures and human capital.* In this area it is proposed to accelerate investment in several large infrastructure projects in the transportation field, aid to high-tech industries through expanding research budgets and investment in technology. In addition, a plan has been proposed to help returning scientists join in activity in the economy.

In July 2008, the Reform of Commissions on Commercial Banking Services came into force. The number of commissions was greatly reduced and all banks were obligated to use a uniform price list. Since the implementation of the reform began only in mid-2008, it is not possible to examine accurately the effects on the revenues of the banking system. However, based on the results of the second half of 2008, it appears that the effect on the system as a whole is not significant.

In August, the Commissioner of the Capital Market in the Treasury authorized the two largest banks in the country to begin giving pension advisory services to self-employed persons. As a result, the advantage given until then to the small banks, which have already been giving such advisory services for several months, was eliminated. However, the permit to give advisory services to salary-earners was postponed in the meantime until 2010. At the same time, the Israel Securities Authority tightened supervision of counselors in the banks and prohibited linking counselors' compensation to the revenues from giving advisory services.

In April 2009, the Anti-Trust Commissioner in the Treasury published a Report which determined that there were restrictive practices between the five large banking groups concerning the transfer of information relating to operating commissions. This determination was published following a prolonged investigation by the Anti-Trust Authority and hearings during which the banks were given the opportunity of presenting their arguments. Although the transfer of information between the banks is a restrictive practice prohibited under the Anti-Trust Law, this is a civil and not a criminal determination, representing *prima facie* evidence of the nature of the practices in question. The significance of this is that the public can use this determination in the framework of claims for damages; and, in fact, immediately on publication of the Report, several class actions were filed against the banks for very large amounts. If the courts accept these claims, the banks may suffer significant monetary damages.

At the beginning of 2009, two draft laws were proposed to divest the banks of ownership of credit card companies. The purpose of the laws is to increase competition in this sector. According to the proposal, the banks will gradually sell control of the credit card companies by 2012.

Activity in the Israeli capital market was also affected by the world crisis and obliged the Israel Securities Authority to make several changes. Most of the decisions were in the area of tightening supervision of the capital market and increasing efficiency.

In October 2008, permission was granted to persons to transfer savings from provident funds to pension funds. As a result of this transfer, investors lost the rights to cash in the whole amount of their savings and were left only with a monthly pension option.

At the end of last year, trading hours of the Tel-Aviv Stock Exchange were shortened by one hour. Trading commenced half an hour later and ended half an hour earlier.

Towards the end of 2008, a number of international agreements were signed with foreign exchanges. In October, a cooperation agreement was signed with the SSE Exchange in Shanghai. This followed the cooperation agreement with the Japanese investment company AIZAWA, which was signed several months earlier. In addition, Merrill Lynch International Co. was the first to receive the status of "foreign member" on the Israeli Exchange. This status enables the company's brokers to trade directly on the Tel-Aviv Stock Exchange, although their company is not a "full member" of the Tel-Aviv Stock Exchange.

Reflecting the process of globalization currently taking place in the Israeli capital market, the Commissioner of the Capital Market in the Treasury published a conversion table between Israeli and international ratings. This conversion table enables foreign investors to compare risks inherent in investment in local assets.

At the beginning of 2009, the Israel Securities Authority set up a special unit whose purpose is the supervision of financial instruments traded on the Exchange. In addition, the Authority broadened the supervision of real estate investments requiring the publication of information to help in the understanding of trends and changes occurring in the price of the asset.

The Exchange decided to begin trading in options on individual shares with the first commencing in March 2009, and the remaining options will start being traded gradually. This relates at the beginning to four options for shares of the two large banks and to companies included in the ten most traded shares on the Exchange. Trading rules for these options are similar to index options. They will be options with a European-type settlement which will expire on the day the index options expire.

At the end of March 2009, the Ratings Reform was launched, the main point of which is the regularizing and supervision of rating companies' activities. The companies will be obliged to register with the Israel Securities Authority, and various duties will be imposed on them whose aim is the reduction of conflicts of interest, ensuring professional integrity through the employment of trained and objective employees and managers, and increasing the transparency of the information and methodology which they rely on. The draft law includes not only credit rating companies but all companies engaged in rating such as for example the rating of funds.

In July 2008, the Commissioner of Insurance in the Treasury decided to adopt the Solvency II rules, as accepted by the European Union. In addition, the European Union timetable was adopted for the implementation of the guidelines in the second half of 2012. Insurance companies were requested already to include preparations for the implementation of the guidelines in their work plans. This includes organizational and computer preparations and allocating appropriate resources for implementing the plan.

ITALY

1. Significant market developments

The Italian banking system has increased its activity in the last 12 months: the increase in quality and quantity of the services offered to customers went hand in hand with the increase in loans and the range of conditions available.

At the end of 2008, the Italian banking system held 11.6% of the total banking assets of the 15 countries of the Eurozone, lagging only behind Germany and France. In December 2008, bank loans, as a percentage of Italy's gross domestic product, rose to about 100% from 90.5% in 2006. With respect to the largest European countries, Italian bank loans in December 2008 were about 50% of total assets (Spain's were 57.8%; Germany's 36.7%; Euro Area's 35.5%). Compared to European data, Italian loans go more to firms than to households, both as a proportion of the whole and on average: at the end of March 2009, loans to Italian firms accounted for 64.8% of total credit, compared with an average of 49.8% in the euro zone. Loans to families totalled 35.2%, compared with an average of over 50% in the euro zone. In particular, according to the latest data, banks have also increased lending to non-financial corporations (+4.1% annual change as at March 2009), lending for home purchases (+2% annual change as at March 2009) and consumer credit (+4.9% annual change as at March 2009).

At the end of 2008, the number of Italian banks was 799, with a decrease of 7 banks with respect to the same month in 2007. On the other hand, the number of branches increased in the last year (+917 branches at the end of 2008 with respect to the end of 2007 – from 33,229 to 34,146) as well as the number of POS (+122,430 units – from 1,141,610 to 1,264,040); moreover, the number of ATMs also increased (from 43,840 to 50,122).

2. Significant developments in the regulation and supervision of banks.

The most significant developments that have taken place during the period July 1, 2008 through June 30, 2009 are the following:

In the category pertaining to "*the regulation and supervision of banks*" we'd like to point out the following measures:

- Communication from the Bank of Italy of 19 February 2009 on the issue pertaining to governance and internal organization;
- Directive no. 2007/44/EC on the acquisition of holdings in banks has been partially implemented into Italian law, specifically referring to art. 14 of Law Decree no. 185 of 8 April 2008. With this measure, the 15% threshold with respect to non-bank firms' holdings in banks was repealed; Bank of Italy is now in the process of drafting the secondary legislation in order to implementing the Law Decree with reference to potential conflict of interest and operations with related parties;
- CICR (Interministerial Committee for Credit and Savings) resolution no. 277 of 29 July 2008 regulating risky activities and other conflicts of interest of banks and banking groups with respect to "associated entities", in accordance with the Consolidated Banking Law (these regulations shall apply after the Bank of Italy issues its supervisory provisions);

- Art. 13 of Law Decree no. 185 of 8 April 2008, implementing the EU regulatory framework on public tender offers into Italian law.

With regard to the category of "*the regulation and supervision of securities firms, insurance firms, commodities firms and other nonbank financial institutions*" we'd like to point out the following measures:

- Decree of the Ministry of Economy and Finance no. 29 of 17 February 2009 regulating non-bank financial intermediaries (in accordance with articles 106, 107, 113, and 115 of the Consolidated Banking Law), containing provisions aimed at limiting the range of activities that the above-mentioned firms may perform (granting loans, foreign exchange brokerage, providing payment services, acquisition of holdings);
- Provisions of the Bank of Italy of 14 May 2009 on non-bank financial intermediaries, also regulating the methods for enrolling and canceling firms operating in the financial sector from the relevant lists, the methods for verifying that the requirements imposed on company executives and shareholders of firms operating in the financial sector are met, as well as new disclosure requirements with respect to company executives and firms operating in the financial sector.

With respect to the category pertaining to Anti Money Laundering, Ministerial Decree of 12 August 2008 was issued, identifying those non-EU and foreign countries imposing equivalent obligations to those set out in Directive 2005/60/EC of the European Parliament and Council of 26 October 2005 regarding the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, which envisages monitoring that such obligations are met.

The list contained in the above-mentioned measure will be regularly updated on the basis of available information at the international level, information resulting from assessment reports with respect to national money laundering and terrorist financing prevention systems adopted by the Financial Action Task Force on Money Laundering (FATF), regional task forces similar to FATF, the International Monetary Fund or the World Bank, as well as any other updated information provided by interested countries.

In the category pertaining to "*Regulation of derivatives and securities products, including requirements relating to disclosure, margin, listing on exchanges and registration*", we would like to point out CONSOB's (the Italian Stock Exchange Authority) Communication no. 9019104 of 2 March 2009 on the duty of the intermediary to act fairly and transparently in the distribution of illiquid financial products.

Other measures:

- Regulation no. 16763 of 29 December 2008 issued by CONSOB, implementing Legislative Decree no. 179 of 8 October 2007, concerning out-of-court settlement of disputes between investors and authorized firms regarding the provision of services, investment activities and additional services;
- Provisions of the Bank of Italy of 18 June 2009, implementing Resolution no. 275 of 29 July 2008 of CICR (Interministerial Committee for Credit and Savings), regulating out-of-court settlement of disputes that have arisen with customers with respect to financial and banking services and transactions, in accordance with art. 128-*bis* of Legislative

Decree no. 385 of 1 September 1993 (these regulations shall apply after the Bank of Italy issues its supervisory provisions);

- Class Action: the date of entry into force of the provisions set out in art.140-*bis* of Legislative Decree no. 206 of 6 September 2005 (Consumer Code), due to the numerous problems that the current wording of the provisions may entail with respect to its interpretation and implementation, was postponed for the first time (by Law Decree no. 207 of 30 December 2008) to 1 July 2009 and it is currently in the process of being postponed again.

2.1. The regulatory framework with respect to regulatory capital

In January 2009, the Bank of Italy implemented an option granted by the *Capital Requirements Directive* (CRD); in its third updated version of Circular letter no. 263 of 27 December 2006 "*New regulations for the prudential supervision of banks*", the Italian regulator exempted financial instruments issued by another bank or financial company and held in the regulatory trading book from the obligation to deduct them from the regulatory capital. The exemption from the abovementioned obligation shall apply provided that specific operational and organizational requirements envisaged by the Bank of Italy are met.

2.2. IAS/IFRS

On 6 February, 2009 the Bank of Italy, together with the Italian Stock Exchanges authority (CONSOB) and the insurance authority (ISVAP) published a document on "*Disclosure in financial reports on the going concern assumption, financial risks, tests of assets for impairment and uncertainties in the use of estimations*", to draw the attention of the management and control bodies and managers in charge to the need to ensure that the financial statements' disclosure reports the impact of the crisis on the company's profits and losses, assets and liabilities and on the financial position; special attention was paid to operating and strategic decisions: financial institutions shall now disclose any adjustments made to adapt their strategy because of the crisis.

3. SEPA AND THE PAYMENT SERVICES DIRECTIVE

3.1. SEPA

The creation of a Single Euro Payments Area (SEPA) aims to enable all citizens, corporates and public administrations, regardless of their location, to make and receive payments in euro under the same basic conditions, rights and obligations and based on the same standards, in all SEPA countries (whether cross-border or within national boundaries).

The European Payments Council (EPC) is the European banking industry's decision-making and coordinating body for the creation of SEPA, who defines, with the help of the national banking communities, the schemes, the standards and the frameworks on the basis of which the new SEPA core payment services are offered (credit transfer, direct debit and card payments).

In line with the Roadmap defined by the EPC, from January 2008, banks started offering the SEPA Credit Transfer (SCT) and to carry out the activities aimed at making payment cards, ATMs and POSs SEPA compliant. The SEPA Direct Debit Card and B2B (SDD) will instead be launched in November 2009, when the implementation of the Payment Services Directive will be completed in all Member states.

At a national level, ABI (Italian Banking Association), in order to guide and monitor the Italian migration to SEPA, has launched the SEPA Project by creating an ad-hoc organization. The top level of the organisational structure is the National Migration Committee co-chaired by ABI and the Bank of Italy and composed by representatives from the main categories of final users of payment instruments (corporates, public administration, SMEs, consumers). Within the banking sector, the Executive Committee of ABI and a Steering Committee, as well as a number of technical working groups, are supporting the implementation of the SEPA Project.

Additionally, in order to enhance the interaction with the main stakeholders, a SEPA Consultation Forum has been created where ABI, the coordinators of the banking system working groups and the representatives of the different stakeholders meet to discuss and analyze issues related to technical aspects of the new SEPA services and possible market strategies.

In 2008, the banking community organized several meetings with the representatives from the main Corporate Associations to analyse how to provide complementary services (Additional Optional Services – AOS) based on the SEPA schemes, and in particular on SDD. The development of these AOS would help to make the SEPA Schemes more suited in order to meet specific market requirements and therefore speed up the migration to SEPA services.

In 2008, in order to facilitate the adherence process, ABI continued to undertake the role of National Adherence Support Organisation (NASO) for SCT, providing an effective link between the Proposed Participants and the EPC. In 2009 it will also perform this role with respect to the adherence to the two SDD Schemes.

At the same time, given that the SEPA Schemes require IBAN as the sole bank account identifier, with the aim of encouraging a general and exclusive use of IBAN from January 2008**,** the dismissal of national codes and the adoption of IBAN was decided also for national credit transfers. Accordingly, Italian banks aiming to provide assistance to customers, and in particular to SMEs, corporates, utilities and public administrations, in updating their customer databases by replacing domestic account numbers with valid IBANs, have provided an electronic procedure allowing a massive updating of customer records with those of banks to quickly replace the "old" bank account details in customer records. This solution has proved to be extremely effective and has significantly increased the use of IBAN by all customers.

Moreover, considering the importance of keeping all the stakeholders informed about the changes that SEPA brings and of promoting the new payment services, the banking system has put in place several activities and instruments to satisfy the different communication and training needs.

3.2. PAYMENT SERVICES DIRECTIVE

As the schemes defined by the EPC represent the means through which to deliver the new payment instruments within SEPA, the Payment Services Directive (PSD) represents the legal framework that will allow us to remove legal obstacles to SEPA, guaranteeing the same rights and obligations in relation to the provision and use of payment services throughout the EU.

Following the adoption of the PSD by the European Union Council on November 13, 2007 and its publication in the Official Journal of the European Union on December 5, 2007, a special Committee, in which the Italian Ministry of Economy and Finance, the Italian Central Bank and ABI participate, was created to make the implementation process more efficient and to ensure that the PSD will enter into force on November 1, 2009.

ABI has pursued its specific project aimed at identifying the impact of the PSD on banking procedures and services, and at the international level it is involved in the activities carried out by the "PSD Implementation Expert Group" set up by the European Banking Federation to analyse the issues concerning the interpretation and implementation of the rules set out in the PSD and to ensure, as much as possible, a harmonised implementation of the rules by all Member States.

As foreseen by the implementation process, the Italian Ministry of Economy and Finance launched, in June 2009, a public consultation on the draft law that will implement Title IV of the PSD in Italy.

3.3. TARGET2

In May 2008, the migration from TARGET to TARGET2 – the Real Time Gross Settlement System for the euro, managed by the Eurosystem, was successfully completed.

TARGET2 is used for the settlement of central bank operations, large-value euro interbank transfers as well as other euro payments. It provides real-time processing, settlement in central bank money and immediate finality. Three Eurosystem central banks – the Banca d'Italia, the Banque de France and the Deutsche Bundesbank – jointly provide the single technical infrastructure, the Single Shared Platform (SSP) of TARGET2, and operate it on behalf of the Eurosystem.

By 31 December 2008 a total of 747 direct participants had opened an RTGS account in TARGET2; over the year, the system processed an average daily volume of 370,000 transactions, representing an average daily value of over 2.6 trillion euro.

TARGET2's performance has been satisfactory and smooth since its launch and also during the financial turmoil; the usage of the new features introduced to manage liquidity (e.g. payment prioritisation, liquidity reservation, direct debit) has confirmed the adequacy of the TARGET2 specifications with regard to the participants' expectations.

The T2 platform will also be used for the new single securities settlement system at the EU level, so-called TARGET 2-Securities (T2S). (*See below*)

3.4. TARGET 2-SECURITIES

In July 2006, ECB launched a project to create a single securities settlement system at the EU level, so-called TARGET 2-Securities (T2S). The new system, integrated with the TARGET2 platform, aims to create an instrument that favours the integration of national settlement systems across Europe, connected through a network of coordinated national central securities depositaries, aimed at offering a centralized settlement service for all transactions performed within the euro area.

The new system entails a gross settlement system for all those transactions in euro-denominated financial instruments; transactions regarding securities are settled using accounts held with national depositaries, while transactions in cash are settled via TARGET2 cash settlement system.

The project was launched following a feasibility study with regard to the new system, which analyzed its technical features, specifically regarding T2S' future costs as well as the fact that national systems may participate in this project on a voluntary basis.

Following the approval of the User Requirements and the Economic Impact Analysis, in July 2008, ECB formally requested national depositaries to participate in the project, taking market needs and the distressed market conditions into consideration to identify sustainable solutions for launching the system. The majority of national central depositaries confirmed their participation in the project and their willingness to collaborate with ECB.

In September 2008, ECB issued an action plan regarding the second phase of the TARGET2-Securities project; it outlined progress made as well as the steps to be taken and it essentially confirmed the governance structure of the project's implementation phase.

The operating phase of the project aims to smooth out the differences among national clearing and settlement systems and, in accordance with the Code of Conduct for Clearing and Settlement and the provisions set out by the Giovannini Working Group, it paves the way for integration of clearing and settlement systems at an international level. The TARGET2-Securities system is expected to come into effect in 2013.

Since the launch of the TARGET2-Securities project, Italian banks have been in favour of the initiative and have strongly supported it, provided that representatives from the banking system actively participate in defining the new system's operating features.

4. The banks' capital position and the Government capital injection ("Tremonti bond")

In the context of the package to strengthen the capital of Italian banks, the Italian Government decided to subscribe subordinated debt instruments, to be counted as bank core tier 1 capital. Only fundamentally sound banks as determined by their credit default swaps spread level, their ratings and the additional assessment to be made by the Bank of Italy will be eligible for the recapitalisation. Capital endowment will be within 2% of the banks' risk weighted assets and in principle within a level of 8% of tier 1 capital.

The remuneration of the subordinated debt instruments changes depending on the intention of the bank. There are two price structures: the first one (a) has a lower interest rate in the short term but a higher redemption price; the second one (a-bis) has a higher interest rate in the short term but a more convenient redemption price. In the long term, the two price structures converge. In detail, the overall price structure is the following:

On 1st July 2009, with reference to 2008, 7.5% of the Initial Nominal Value. 8.5% should letter (a-bis) apply;

From 2009 onwards, the largest between:

(a) 7.5% in 2009 increased by 0.25% for each of the following four years and subsequently increased by 0.5% every two years until 15% in 2039 onwards; or, alternatively

(a-bis) 8.5% for 2009-2012, increased by 0.5% for each of the following four years and subsequently increased by 0.5% every two years until 15% in 2039 onwards; and

(b) 105% of the dividend in 2009, 110% of the dividend in 2010, 115% of the dividend in 2011–2017, and 125% of the dividend in 2018 and the following fiscal years; and

(c) from 2011 onwards, the average yields on the issuance of 30-year long-term Treasury bonds, increased by 300 basis points for 2011 and 2012, and by 350 basis points for 2013 and thereon.

The subscription is further subject to the adoption of the code of ethics by the Bank, as provided for by article 12, paragraph 5b), of Legislative Decree no.185. Notwithstanding the supervisory provisions issued by the Bank of Italy on 14th March 2008, the code sets limits to the remuneration of managers as well as marker players, including traders, aimed at ensuring a well-balanced, clearly defined remuneration scheme in its different components, which is consistent with the prudential management of the Bank and of the banking group, with their long-term objectives and their economic cycle. The code of ethics also lays down rules pursuant to common interest, additionally setting limits and conditions to an indemnity payment linked to withdrawal, for any reason, from the scheme.

The subscription of financial instruments is subject to the signing of a letter of intent by both the Bank and the Ministry of Finance, defined on the basis of a framework agreement between the Ministry and the Italian Banking Association (ABI) and regarding the overall credit availability to be granted both to families and small and medium-sized businesses, defined in view of the requirements for economic development, of the expected number of credit applications and of the need to ensure a prudential credit allocation.

Moreover, the letter of intent shall contain provisions on the bank's and the banking group's commitment, for example, with respect to:

(a) full credit availability, particularly with respect to small and medium-sized businesses, by maintaining, at least for the next three years, non-decreasing financial resources compared to the two-year period 2007-2008; (b) grants to strengthen the guarantee fund for funds allocated to small and medium-sized businesses.; (c) financial interventions to support families facing difficulties in repaying mortgage loan instalments that they obtained to purchase their primary residence; and (d) a dividend policy that fosters bank capitalisation.

JAPAN

Regulatory developments

Electronically Recorded Monetary Claims Act Comes Into Force

The Electronically Recorded Monetary Claims Act took effect on December 1, 2008. This new act established a new category of claims called *denshi-kiroku-saiken* (electronically recorded monetary claims), which assures safety and higher liquidity with respect to transactions using monetary claims. The act is expected to provide small and medium-sized companies other means to raise funds in addition to discount bills/notes, which are commonly used in current business payments.

Introduction of Framework Allowing Banks for Agency and Intermediary Businesses on Behalf of Foreign Banks

The "Act to Partially Amend the Financial Instruments and Exchange Act" (Amended FIEA), which was enacted in June 2008, broadened the scope of business permitted to banking groups and made other amendments to the Banking Law. and other regulations and, after reform of cabinet orders and ordinances in December 2008, came into force on December 12, 2008.

Such amendments included provisions concerning agency and intermediary businesses on behalf of foreign banks, enabling both Japanese banks and foreign banks to engage in agency and intermediary businesses (foreign bank agency service) on behalf of foreign banks as an incidental business when, in principle, so authorized. This amendment was made in part owing to existing regulations not including all agency and intermediary businesses on behalf of foreign banks as permissible businesses of banks (or the branch offices of foreign banks), and in order to avoid impeding the efficient financial services to domestic firms that conduct business on an international level or preventing foreign banks from entering into Japan's financial and capital markets.

Amended Financial Functions Strengthening Law Enacted and Comes Into Force

The "Act to Partially Amend the Act on Special Measures for Strengthening Financial Functions and the Act on Special Measures for Promotion of Organizational Restructuring of Financial Institutions" (Amended Financial Functions Strengthening Act) was enacted on December 12, 2008 and came into force on December 17, 2008. The Financial Functions Strengthening Act is a law that was enacted in August 2004 for the purpose of sound and efficient operations of the business of financial institutions through recapitalization and other measures in order to strengthen the financial functions of financial institutions, etc. in advance of the removal of blanket deposit insurance in April 2005.

This amendment, which was the second amendment following the first that took place in June 2008, (1) extended the periods for the investment in shares by the government, (2) revised the requirements for the investment in shares, and (3) reorganized provisions related to the establishment of new special measures for recapitalization of central cooperative financial institutions.

Act to Partially Amend the Act on Financial Institutions', Limits for Share Holdings Enacted and Comes Into Force

The "Act to Partially Amend the Act on Financial Institutions,' Limits for Share Holdings" was enacted on March 4, 2009 and came into force on March 10, 2009.
The Act was created in response to the "Immediate Policy Package to Safeguard People's Daily Lives" announced by the government in December 2008 and has as one of its purposes the resumption of the purchase of shares by the Banks' Shareholdings Purchase Corporation.

Funds Settlement Law Enacted

The "Law on Funds Settlement" (Funds Settlement Law), which allows businesses other than banks to also provide fund transfer services, was enacted on June 17, 2009. The Law enables businesses other than banks to conduct fund transfer transactions, and also contains other provisions, such as expanding the scope subject to regulation for prepaid payment services both of card-type and internet-type, as well as covering central counterparty systems between banks.

Amended FIEA Enacted

The "Act to Partially Amend the Financial Instruments and Exchange Act, etc." (Amend FIEA) was enacted on June 17, 2009. The Amended FIEA includes the introduction of a registration system for credit rating agencies and the establishment of an alternative dispute resolution system in the financial sector.

Market developments

Bank of Japan Conducts U.S. Dollar Funds-Supplying Operations against Pooled Collateral

The Bank of Japan established "Principal Terms and Conditions for U.S. Dollar Funds-Supplying Operations against Pooled Collateral" on September 18, 2008 with the aim of further facilitating money market operations and maintaining the smooth functioning of the money market as well as ensuring stability in financial markets in view of the possible impact of recent liquidity pressures in the U.S. dollar money market on the liquidity of the yen money market. The Terms and Conditions state that the duration of loans shall be determined for each loan and that the measures shall be effective until January 30, 2009. Moreover, the effective period of the measures was extended on September 29, 2008 and February 19, 2009, resulting in the effective period being extended to October 30, 2009.

Mitsubishi UFJ Financial Group, etc. Obtains U.S. Financial Holding Company Status

On October 7, 2008, Mitsubishi UFJ Financial Group, Inc. (MUFG) and its subsidiaries, The Bank of Tokyo-Mitsubishi UFJ, Ltd. (BTMU) and Mitsubishi UFJ Trust and Banking Corporation, as well as BTMU's subsidiary UnionBanCal Corporation, obtained the Financial Holding Company (FHC) status under the U.S. Bank Holding Company Act from the Board of Governors of the Federal Reserve System (FRB), effective October 6, 2008. By obtaining the FHC status, MUFG's group companies are able to pursue comprehensive investment banking activities in the U.S.

Bank of Japan Conducts Outright Purchases of CP and Corporate Bonds

The Bank of Japan decided to establish "Principal Terms and Conditions for Outright Purchases of CP" on January 22, 2009 with the aim of ensuring stability in financial markets as well as facilitating corporate financing by conducting appropriate money market operations, and to conduct outright purchases of CP by March 31, 2009. Moreover, on February 19, 2009, the duration of purchases under these measures was extended to September 30, 2009.

In addition, the Bank of Japan decided to establish "Principal Terms and Conditions for Outright Purchases of Corporate Bonds" on February 19, 2009, and to conduct outright purchases of corporate bonds by September 30, 2009.

Bank of Japan to Resume Purchases of Shares Held by Financial Institutions

The Bank of Japan decided to amend the Stock Purchase Guidelines on February 3, 2009, and to resume purchases of shares held by financial institutions. To further promote efforts aimed at reducing the shares held by financial institutions in view of overcoming the non-performing loan problem and securing financial system stability at the time in 2002, the Bank of Japan decided to conduct stock purchases from financial institutions and other initiatives in October 2002 and purchased a cumulative total of roughly 2 trillion yen by the end of September 2004.

In recent years, the persistent strains in the global financial and capital markets are having adverse effects both in terms of credit intermediation and management of financial institutions by inducing a plunge in stock prices and other factors. Under such circumstances, as a measure to reduce market risk associated with stockholdings of financial institutions, the Bank of Japan has decided to resume stock purchases from financial institutions to support financial institutions' future endeavors to reduce shareholding risks.

Administrative and Financial Reforms

Reform of Government Financial Institutions for New Structure

October 1, 2008 saw the establishment of the Japan Finance Corporation (JFC), which is wholly-owned by the government. The JFC was established though the merger of the National Life Finance Corporation; the Japan Finance Corporation for Small and Medium Enterprise; the Agriculture, Forestry and Fisheries Finance Corporation of Japan; and the Japan Bank for International Cooperation (International Financial Operations) in a reorganization of government-affiliated financial institutions in correlation with the enactment of five government financial institution reform related laws around June 2007. In addition, the Development Bank of Japan and the Shoko Chukin Bank were also converted into a special company (a joint-stock company pursuant to a special act) on the same date.

Moreover, the Japan Finance Organization for Municipal Enterprises, whose investors are local governments, was established on August 1, 2008, succeeding the rights and operations of the Japan Finance Corporation for Municipal Enterprises in correlation with its dissolution on October 1, 2008. In correlation with amendments to laws, the Japan Finance Organization for Municipal

Enterprises was reorganized into the Japan Finance Organization for Municipalities on June 1, 2009, resulting in expanding its scope of lending as well as improving lending conditions.

Governmental Measures for Financial System Stability

As domestic measures in Japan for coping with the financial crisis, the government and ruling parties compiled “Measures to Counter Difficulties in People’s Daily Lives” on October 30, 2008, under which “(2) Reinforcing Financial and Economic Stability” is presented and implemented as one of the priority areas of the nine specific measures.

Listed under “(2) Reinforcing Financial and Economic Stability” as one of the “Measures to Stabilize Financial and Capital Markets” are active efforts to ensure the stability of international financial and capital markets. Another is the implementation of measures necessary for ensuring the stability of domestic markets, which involves strengthening restrictions on short selling and flexible enforcement of limits on bank’s shareholdings. Another is the utilization and improvement of the “Act on Special Measures for Strengthening Financial Functions” (Financial Functions Strengthening Act), which involves consideration of a possible increase in the government’s capital participation in view of the smooth financial intermediation. The amended act was enacted in December.

Other measures listed include support for efforts toward more appropriate accounting for financial instruments, more flexibility in capital adequacy requirements for banks, measures to enhance the transparency and reliability of securitized financial products as well as efforts to reinforce the function of secondary markets of securitized products, and measures to provide liquidity to financial institutions. In addition, concerning the taxation of financial and securities transactions, the measures involve the creation of an environment which is friendly to personal investors by integrating and simplifying financial income taxation systems.

Furthermore, also listed under “(2) Reinforcing Financial and Economic Stability” as one of the “Measures to Support Small and Medium-Sized Enterprises” is total of an additional 21 trillion yen for increasing the line of emergency guarantees provided by Credit Guarantee Corporations and the limit on loans provided by government-affiliated financial institutions. Another is exercising the responsibility of the Shoko Chukin Bank and Development Bank of Japan in response to financial crises. Another is strengthening the financial intermediary functions of private financial institutions, which involves keeping track of and requesting the smoother lending and investing of money.

On December 19, two months after the “Measures to Counter Difficulties in People’s Daily Lives,” the Ministerial Meeting on Economic Measures (a meeting that includes all cabinet ministers as members) decided on the “Immediate Policy Package to Safeguard People’s Daily Lives” to cope with the ever-deteriorating economy. The Immediate Policy Package’s “Measures for Stabilizing Financial Markets and Supporting Corporate Financing” include matters on a further increase in the government’s capital participation under the Financial Functions Strengthening Act, the utilization and strengthening of the Banks’ Shareholdings Purchase Corporation and the provision of liquidity by the Bank of Japan. In addition, listed as a measure for supporting the financing of medium-sized and large enterprises is an increase in the line of credit for the Japan Finance Corporation's crisis response operations to support financing through the Development Bank of Japan and the Shoko Chukin Bank.

While the scope of application of the "Act on Financial Institutions', Limits for Share Holdings," which was amended as part of the measures against financial crises, encompasses "banks" (as defined in the Banking Law, the term "bank" means a person who operates a banking business under the license of the Prime Minister) and other financial institutions (which include the business offices (branch offices) of foreign banks), the financial institutions subject to the "Law on Special Measures for Strengthening Financial Functions" is limited to "those with a head office located within the jurisdiction where this Law is effective."

LATVIA

1. REGULATORY AND MARKET DEVELOPMENTS IN LATVIAN FINANCIAL SYSTEM

During the period from July 1, 2008 through June 30, 2009, considerable amount of regulatory initiatives have been passed in Latvia.

Some legislative initiatives were related to the transposition of the EU Directives while others were triggered by the financial crisis.

- **Reinsurance Law** came into force on July 16, 2008. The aim of adoption of the Reinsurance Law was to transpose into Latvian law the Directive 2005/68/EC on reinsurance, in particular requirement for ensuring a uniform reinsurance undertaking supervisory framework within the European community. Reinsurance Law provides for the supervision of reinsurers by setting requirements for taking-up and pursuit of the business of reinsurance in the Republic of Latvia, as well as extending their activities in other European Union Member States.
- To streamline requirements for the acquisition and increase of a qualifying holding in financial sector entities according to EC Directive 2007/44/EC, **amendments to the Credit Institution Law**, **Law on Insurance Companies and Supervision Thereof, Law on the Financial Instruments Market, Law on Investment Management Companies and Reinsurance Law** were adopted on March 13, 2009.

- **Amendments to the Law on the Financial Instruments Market** to transpose Directive of the European Parliament and of the Council on the exercise of voting rights by shareholders of companies whose shares are admitted to trading on a regulated market have been drafted and submitted for interinstitutional consultation.

- **Regulations on the Capital Adequacy Assessment Process** were approved by the FCMC Board on March, 20, 2009. Regulations specify supervisory expectations for ICAAP under Pillar II of Basel II and provide guidance on assessment of the capital for risks not covered by Pillar I capital requirements.

- **Regulations on Assessment of Asset Quality and Provisioning** were approved by the FCMC Board on March 25, 2009. Regulations upgrade supervisory treatment of banks' loan loss provisioning methodology and practices. The document stipulates the procedure and responsibilities of banks' management for ensuring sound valuation of assets carried at amortized cost. Loan loss provisions are recognized in the financial statements in accordance with the International Accounting Standards (IAS). In cases when prudential provisions exceed those acceptable under the IAS, the difference is deducted from own funds.

The following measures are taken to strengthen financial stability:

- **The Deposit Guarantee Law** was amended three times during the period. In October 2008, a state guaranteed compensation to the clients of the Latvian banks and credit unions (both to natural and legal persons) was increased from EUR 20 000 to EUR 50 000 (LVL 35 000).
- In February 2009 the amendments to the **Deposit Guarantee Law** were made to provide for the speed-up of the payout procedure for guaranteed depositors from 3 months to 20 working days, to clarify the definition of deposit inaccessibility, as well as to establish the principles for the involvement of the government funds in case the amount accumulated in the deposit guarantee fund falls short of the compensation due to the guaranteed depositors.

- Additional amendments to the **Deposit Guarantee Law** were passed on June 4, 2009 to provide for the risk based approach in calculation of banks' contributions to the deposit guarantee fund and the right to temporarily increase contributions to replenish the deposit guarantee fund after the payouts.
- On December 12, 2008, the Parliament adopted the authorities' proposal for **Economic Stabilization and Growth Revival Program**. The program is based on maintaining the existing peg of the national currency lats (LVL), which will remain as a key policy anchor going forward. The program aims to address the financial sector's vulnerabilities, correct fiscal imbalances and improve competitiveness while maintaining the narrow-band exchange rate. It includes an immediate and sustained fiscal consolidation, a comprehensive bank resolution strategy, strengthened crisis management capacity of regulatory authorities, comprehensive structural reforms, as well as other important measures.
- On December 18, 2008, the Parliament passed **the Law on Bank Takeover**, which sets the legal framework for bank takeovers by the state. According to this Law, bank takeover is permissible in exceptional cases, when the stability of the banking system of Latvia and the smooth operation of payment systems is seriously threatened or could be threatened if the bank takeover would not take place and the bank therefore is not or would not be able to comply with the requirements regulating banking activities determined by the law. The regulations for determining the fair compensation to be granted to the bank shareholders or the bank were adopted on February 10, 2009.

- The following laws are also in force as from February19**,** 2009 **- The Law Amendments to the Credit Institutions Law** introduces new restructuring measures for troubled banks by appointing a temporary administrator with a wide range of powers to administrate the bank; **The Law Amendments to the Financial and Capital Market Commission Law** strengthens the Financial and Capital Market Commission's supervisory powers when adopting resolutions and taking corrective measures regarding distressed market participants; **The Law Amendments to the Civil Procedure Law** reduces hearing time of bank insolvency and liquidation matters up to 7 days instead of 15.

- **Amendments to the Consumer Protection Law** enable the banks' clients to require debt maturity and currency restructuring of outstanding loans in market conditions.
- The **Government Debt Restructuring Strategy**, the aim of which is to support creditworthy borrowers with temporary solvency problems and avoiding disruptions to the market, is in the pipeline.

On June 11, 2009 the law **Amendments to the Insolvency Law** aiming to improve corporate insolvency regime to facilitate workouts between viable enterprises and their creditors was passed. The law lowers the voting threshold for approving the legal protection proceedings (LPPs) plan from two thirds to a simple majority, allows the LPPs plan to accord priority repayment status to creditors providing fresh money, extends the term of the LPPs from one year to two years, establishes out-of-court legal protection proceedings, etc.

- The effectiveness of the personal bankruptcy framework also had been improved by lowering administrative costs and thresholds for initiating proceeding. To provide for the effective application of the new procedure **Amendments to the Civil Procedure Law** have been drafted in May 2009.

2. FINANCIAL SUPPORT SHEME

- On December 22, 2008, the European Commission has approved under the EC Treaty state aid rules a Latvian support scheme to stabilize financial markets by providing guarantees to eligible banks to ensure their access to financing. (**State aid N 638/2008)** Based on the European Commission’s decision, the Government on February 3, 2009 approved the **Procedure for issuing and supervision of guarantees for bank loans**. The main objective of the regulation is to establish a procedure whereby the Minister of Finance will be entitled to issue guarantees in the name of the State for liabilities of banks registered in Latvia in order to reduce general economic risks, avoid social and economic crisis, or minimize the impact thereof, and to ensure availability of financing in the event of extraordinary situations.

The main provisions of the procedure are as following:

-Beneficiary – all banks (excluding branches of the banks registered outside Latvia), which are fulfilling capital adequacy and liquidity requirements.

-Guarantees may be issued in respect of existing loans with a maturity of no more than 3 years, and in respect of loans taken for refinancing these loans with a maturity of no less than 6 months and no more than 3 years. Guarantees do not apply to interbank deposits, subordinated liabilities and collateralized liabilities.
- charge for the provision of guarantees consists of a credit risk margin based on five-year CDS spreads of largest euro area banks with rating A – 0.448%, a processing fee - 0.5% and an annual servicing fee – 0.1% from outstanding amount of the government guaranteed loan
- Together with the application for a guarantee, a bank's shareholder should confirm the readiness to pledge at least 51% of a bank's shares.

- Currently the negations between the Latvian Government and the European Commission are going on prolongation of the guarantees scheme approved by the European Commission in December 2009 (**State aid N 638/2008)** for 6 months starting from July 1, 2009.

LUXEMBOURG

Key legal changes occurring during the period under review included the following:

- Draft law introducing international accounting standards.

- Draft law concerning payment services, the activities of electronic money institutions and securities settlement systems

  The main aim of the draft law is to transpose into national law directive 2007/64/EC of 13 November 2007 relating to payment services in the internal market.

- Draft law concerning the squeeze-out and the sell-out on the securities of public limited companies by shares admitted or having been admitted to trading on a regulated market

- Law of 29 May 2009 amending law amended 5 April 1993 on the financial sector

  The law transposes into national law parts of the directive concerning 2009/14/EC on 11 March 2009 on the deposit-guarantee schemes as regards the coverage level and the payout delay.

- Law of 29 May 2009 transposing Directive 2006/46/EC of 14 June 2006 amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings and amending law amended of 17 June 1992 regarding accounts of financial institutions.

THE NETHERLANDS

1. MiFID

The European Markets in Financial Instruments Directive (MiFID) was implemented into Dutch legislation on 31 October 2007. As a follow-up to implementing MiFID, the Authority for the Financial Markets (AFM) – the Dutch supervisory authority responsible for the conduct of business rules – published an interpretation on inducements rules for banks and other financial institutions providing investment services in mid-2008. This interpretation is not in all respects in line with the Committee of European Securities Regulators' (CESR) recommendations on inducements. Discussions between the AFM and industry have also taken place on how to best apply the MiFID rules in relation to best execution.

2. Basel II

Directive 2006/48/EC, together with Directive 2006/49/EC, is the translation of the new Basel framework agreement for prudential supervision of credit institutions and investment firms (Basel II) into European legislation. The Directive is known as the Capital Requirements Directive (or CRD for short) and came into effect on 1 January 2007 for deposit taking firms and certain types of investment firms. The articles of the Directive have been transposed into the **Financial Supervision Act** *(Wet financieel toezicht* or *Wft)*, whereas the annexes have been incorporated in the form of supervisory rules. Provisions have been made for a phased introduction of the revised rules. Institutions which opt for applying the simple approaches to credit risk and operational risk may have switched to the new framework on 1 January 2007. The Directives also give institutions the possibility of continuing to apply the old rules based on Basel I during 2007. From 1 January 2008 institutions may apply the advanced IRB approach for credit risk and the advanced approach for operational risk. 1 January 2008 is also the last date by which institutions must have switched to the revised rules. Within the scope of the Wft, the Dutch Central Bank (DnB) – the supervisor responsible for prudential regulation in the Netherlands – will be responsible for the implementation of Basel II in supervisory regulations and practices. Dutch banks emphasize the importance of an efficient European supervision structure and a single point of contact in national and European frameworks.

Many amendments on the CRD have been discussed in 2008 and during spring 2009. They'll come into force before the end of 2010.

3. The Supervision Act for the Financial Sector (Wft)

The Supervision Act for the Financial Sector came into effect on 1 January 2007. The Wft heralds a major change in banking supervision in addition to the new capital adequacy rules. The Act incorporates almost all existing Acts of the different parts of the financial sector, such as in relation to securities trading, granting of credit, the deposit guarantee scheme and financial intermediaries. At the same time the new Act restructures and improves all existing Acts. It arranges the mandates of the two supervisory bodies – the DnB and the AFM – on prudential supervision and conduct of business supervision, respectively.

4. Payments Services Directive (PSD)

In December 2007, the European PSD was officially published. All European Union (EU) and European Economic Area (EEA) Member States are required to transpose it into national legislation by 1 November 2009 at the latest.

A bill was submitted to the lower chamber of the Dutch Parliament on 20 March 2009. The PSD will be primarily implemented in the Dutch Financial Act *(Wet op het financieel toezicht)* and the Dutch Civil Code (*Burgerlijk Wetboek*). In addition, the licensing eligibility requirements and the obligations to provide information will be set out in a governmental decree. The Directive and subsequent local legislation will have a considerable impact on contracts and contract structures, the provision of information to customers and the processing of payments. The total cost for the industry is estimated to be in the range of €130-150 million at the outset and €30-40 million on an ongoing basis.

5. Best Practice Transparency Structured Products

In consultation with the AFM, the NVB drafted best practices in 2007 regarding transparency in information on structured products and regarding product approval procedures of structured products. Guiding principles include the development of a flourishing structured products industry in the Netherlands, characterized by a sufficient measure of transparency, proper information and service, and the prevention of excesses. Dutch banks are strongly recommended to follow these best practices.

6. Single Euro Payments Area (SEPA)

On 28 January 2008, SEPA went live with the introduction of the SEPA Credit Transfer. In the coming years new payments instruments will be introduced and the harmonization will gradually be completed, until, eventually, there will no longer be any difference between domestic and cross-border euro payments in the European Union. One current (checking) account will be sufficient to make payments across the Eurozone. SEPA will apply to enterprises, retailers and other points of sale, as well as to individual consumers. The ongoing integration of the non-cash retail payment system follows the introduction of the Euro in 2002, which harmonized the cash payment system for everyone in the Eurozone.

For the Netherlands the migration to SEPA is especially challenging because the Dutch payment system is already very efficient and boasts low costs and prices compared to other European countries. The legal framework for SEPA was introduced by the Payment Services Directive. In June 2009 a revised SEPA Migration Plan for the Netherlands was published. More information can be found on **www.sepanl.nl**.

7. Code of Conduct on Mortgage Lending

As of 1 January 2007, a new Code of Conduct on Mortgage Lending has come into force. A table is included in which the borrowing capacity of consumers is calculated, based on housing cost percentages of the National Institute for Household Budget Information (NIBUD). These percentages correspond with different rates of interest and different levels of income. Application of these requirements by financial advisors is obligatory. The code is now being monitored by the AFM.

8. The Financial Information Leaflet

Since 1 July 2002, providers of complex financial products are obliged to provide a Financial Information Leaflet (*Financiële Bijsluiter*). The Financial Information Leaflet describes the characteristics of the product and therefore gives a simple overview of its advantages and disadvantages. The NVB recommends Dutch banks to thoroughly check their complex products against a need to provide a Leaflet to consumers, as well as ensuring compliance with the relevant laws.

9. Consumer Credit Directive

The European Consumer Credit Directive came into force last year. The Directive focuses on transparency and consumer rights. The Directive sets requirements for standard information for advertising, pre-contractual information and contractual information to be included in credit agreements (Standard European Consumer Credit Information), right of withdrawal without any reason within a period of 14 days after conclusion of the contract, early repayment of the credit and the creditor's right to compensation and calculation of an annual percentage rate of charge (representing the cost of the credit). Member States are required to transpose the Directive into national law before 12 May 2010.

10. Review Deposit Guarantee Scheme

The Deposit Guarantee Scheme (*Deposito Garantie Stelsel: DGS*) covers, among other things, savings deposits, joint accounts, and current accounts. The DGS is part of the prudential supervisory framework and guarantees the interests of account holders up to a maximum of €100.000 for each account holder. This used to be an amount of €40.000 (and a deductible €2000 for co-insurance), but as a result of the financial turmoil the Dutch Government decided in October 2008 to raise this level. In 2009 the EU Commission will decide whether or not to establish an adapted/uniform protection level in Europe. Meanwhile, the Dutch Ministry of Finance has announced the desire to move from the current ex-post financing to ex-ante financing.

11. Administrative Costs

The NVB and the Dutch Ministry of Finance still consider the reduction of corporate administrative costs and "red tape" as a priority. While good progress is being made on paper, financial institutions have met extra administrative requirements in practice, which result in an increasing burden. Before creating new information obligations, the government should carefully consider the major sources of weakness of the present set-up without introducing unnecessary administrative burden for enterprises. Supervisory authorities should examine whether better implementation of the current rules by the supervisory authorities would sufficiently address the shortcomings. Authorities should align their information requests with the internal procedures and the information already available in the companies.

12. User Mobility

The importance of mobility of consumers has long been recognized by the Dutch banking community – the Interbank Switch-Support Service (ISSS) was introduced in the Netherlands in 2004. The service has been subsequently formally evaluated by the Ministry of Finance, with positive findings. In early 2008 the European Commission, with the goal of facilitating customer mobility of payments relations in all EU Member States, requested the European banking industry to develop, via self-regulation, rules for the case when consumers wish to switch payments relations domestically. The dialogue between the European Banking Industry Committee (EBIC) has resulted in the adoption of the EBIC Common Principles for Bank Account Switching. These principles will make it easier for consumers to switch their current account from one bank to another within their own Member State. As the EBIC Common Principles are regarded as minimum requirements, the more advanced ISSS continues to apply domestically and in doing so a more rigorous benchmark remains in place in the Netherlands.

13. Microfinance in the Netherlands

The Microfinance Council in the Netherlands, set-up in 2007, is working on increasing the knowledge of and support for initiatives towards microlending to small and start-up entrepreneurs in the Netherlands. NVB Chairman Boele Staal is a member of this Council. The Council's task is to bring together government bodies, financial institutions, centers of expertise and other organizations active in the field of small and start-up entrepreneurship to engage in microfinance in the Netherlands. The Council also aims at facilitating access to and increase knowledge of existing and new initiatives for small and start-up entrepreneurs. Finally, the Council advises members of government on how to improve policy implementation in respect to microlending to small and start-up entrepreneurs. Besides the new advisory council, there will also be a center of expertise for microfinance in order to make expertise more accessible.

The Ministry of Economic Affairs has set up a project where business support services are offered locally, but the credit facilities are managed centrally to create larger volumes at lower costs. This project started in 2009 and is financed with a public-private partnership, where a public subsidy of €800.000 is complemented with an injection of €1.2m in working capital from ING, Rabobank and Fortis. To refinance lending, the Dutch Ministry has given an interest-free loan of €15m.

With this new model the Netherlands is trying to overcome the previous fragmentation of the sector and the problems related to small scale initiatives: high costs, low efficiency and difficulty in accessing funds. Even with larger networks the challenge of reaching financial sustainability remains.

14. Law on Prevention of Money Laundering and Terrorist Financing (Wwft)

The third EU Anti-Money Laundering Directive has been transposed into Dutch law on 1 August 2008. In this new legislation the identification requirements (*Wet identificatie dienstverlening)*, the anti-money laundering law (*Wet ongebruikelijke transacties)* and CDD requirements are incorporated in one act – the Act on the Prevention of Money Laundering and Terrorist Financing (Wwft).

This Act introduces a so called 'risk-based approach', whereby entities subject to the Wwft are required to adapt their practices and processes to the assessed level of money laundering and financing of terrorism risks. Moreover, new items are introduced, such as rules around Politically Exposed Persons (PEP) and Ultimate Beneficial Owners (UBO).

15. Securities Book-Entry Transfers Act

A proposal to amend the Securities Book-Entry Transfers Act (*Wet giraal effectenverkeer)* was recently published by the Dutch Ministry of Finance. Its objective is to widen the scope of this acts application to all freely transferable securities held by any investment firm licensed to maintain securities accounts in the Netherlands for clients. A second objective is to bring about a further dematerialisation of securities.

16. Cross-Border M&A Directive

The Netherlands is about to implement the so-called European Cross-Border M&A Directive, adopted in the wake of, amongst other things, the takeover by ABN AMRO Bank of the Italian lender, Banca Antonveneta. This Directive addresses the lack of transparency, clarity and harmonization in the supervisory approval process. By introducing a closed list of criteria for assessing potential mergers the scope for political interference is drastically reduced.

One of the consequences is that the authority over big mergers in the Netherlands will be transferred from the Ministry of Finance to the DNB.

17. Consolidated Supervision in the Netherlands

On 23 July the DnB published a new policy stating the approach taken towards consolidated supervision. Consolidated supervision focuses on the Dutch financial institution which is part of a group that covers all requirements laid out in the Basel II Framework. There are two ways of consolidation; one is downwards, whereby financial daughter companies (subsidiaries) are to be fully consolidated (with a few exceptions). The other is upwards; in this scenario consolidated supervision is performed at the level of the parent company. Then there are three possibilities:

1) where the parent company is also Dutch, then the Dutch supervisor is responsible for supervision;

2) where the parent company is located within the European Economic Area (EEA), article 3:275 of the Dutch Financial Supervision Act states the different possibilities of the Dutch supervisor's responsibility for consolidated supervision of the parent company; but

3) where the parent company is located outside the EEA. The Dutch supervisor comes to an agreement with the supervisor of the third country on the basis of whether the level of supervision in that third country is considered to be equal (which is already the case with the Swiss and American supervisors).

18. Covered Bonds

On 1 July 2008 the Dutch Covered Bonds Decree came into effect. Basically, the objective of this covered bond regulation was the promotion of a level playing field in Europe, increase international recognition and gain full status for Dutch covered bonds. The set-up of the Dutch Covered Bond Decree approach is (i) principle-based, so that the framework provides maximum flexibility and fits in with the set-up of the bonds already issued on a contractual basis;
and (ii) creates two legally recognized categories of covered bonds. Firstly, covered bonds that solely meet the UCITS criteria and secondly, covered bonds that fall under the scope of both the UCITS and CRD directives. This broader set-up of the present Covered Bonds Decree should in principle give the Netherlands the flexibility it needs in a rapidly changing market environment, so

that optimal funding and balance sheet management decisions could be taken. Within this framework the creation of a legal covered bonds category that solely meets the UCITS criteria is vitally important for the Dutch institutions.

19. Restore Trust (financial turmoil)

In 2008 the consequences of the international financial turmoil led to the following developments in the Dutch market:

- The active state involvement in the Dutch sector:
    - Capital injections for individual banks
    - State guaranteed issuance of medium term debt arrangements (up to €200 billion)
    - Full ownership of Fortis Bank Netherlands by the State
- An emergency regime for Icesave (Dutch branch of Landsbanki) and Indover leading to the activation of the deposit guarantee scheme and to the increase of the coverage limit to 100.000 Euro.

The political discussion in the Netherlands focused on the roles and responsibility of the banks and in particular on remuneration policies. The Nederlandse Vereniging van Banken established an independent Advisory Committee on the Future of Banks in the Netherlands. This Committee was chaired by Cees Maas and published recommendations to restore trust in April 2009 (http://www.nvb.nl/scrivo/asset.php?id=290353).

NORWAY

1. Description of significant developments for the financial sector

The Norwegian parliament authorised in October 2008 the Ministry of Finance to exchange government securities with collateral in or in return for Norwegian covered bonds in amounts up to a total of NOK 350 billion, the government swap arrangement. Counterparties are commercial and savings banks.

The Norwegian parliament decided in February 2009 to establish a State Finance Fund with a capital of NOK 50 billion. The purpose for this Fund will be to provide tier 1 capital to financially sound Norwegian banks in order to strengthen the banks' core capital and to improve their lending capacity. Condition will be set to make sure that the supply of capital is used to increase lending. The EFTA Surveillance Authority has approved the State Finance Fund as an allowed state aid measure.

The Norwegian parliament also decided in February to establish a State Bond Fund with a capital of NOK 50 billion. The objective of the State Bond Fund is to contribute to improved capital market liquidity by investing in a diversified manner at fair market prices in fixed income instruments issued by Norwegian companies. The fund will invest both in the primary and secondary market. Considering the structure of the market and operational risk considerations, investments would be dominated by bonds with low to moderate credit risk. The funds shall be invested according to a specific investment sector distribution to ensure risk diversification: 25-65 percent in banks and financial institutions and 35-75 percent in other, non-financial enterprises, including industry. The Fund shall invest on market-based terms.

The Government has increased the capital of Kommunalbanken (the local government funding agency), it has increased the scope of GIEK (the central government export credit agency) and has offered state loans to Eksportfinans (the credit institution for export financing).

The Norwegian Capital Requirements Regulation was amended in December 2008 in such a way that state guarantees issued in favour of credit institutions as part of temporary crisis measures, shall be disregarded as state guarantees. This means that a claim on a credit institution guaranteed by the state, as part of temporary measures shall be regarded as if there were no state guarantee.

The Norwegian parliament adopted in June 2008 amendments in the Mutual Funds Act which implies that it will be allowed to establish special funds (hedge fund and private equity funds). The new Act has not entered into force.

A new law on money laundering came into force 15 April 2009. The new law is based on the third money laundering directive (2005/60/EC).

As from July 2008, accepting commission or other remuneration for insurance broking from an insurance provider was no longer permitted. The prohibition is incorporated in the Act on Insurance Mediation. The Insurance Activity Act contains a similar ban on insurers paying commission to insurance brokers.

Glitnir Bank Norway was the Norwegian subsidiary of the Icelandic financial services group Glitnir Bank hf. On 7 October 2008 parent company funding of Glitnir Bank Norway ceased, prompting the Norwegian Banks' Guarantee Fund to make a liquidity guarantee worth NOK 2 billion available to the bank the following day. This was subsequently expanded to NOK 5 billion. Twenty banks in SpareBank 1 Gruppen took over the Glitnir Bank Norway on 21 October, and received requisite license on 4 December 2008. The bank changed name to BNbank ASA on 12 January 2009.

On 12 October 2008 the Norwegian branch of Kaupthing Bank hf. was placed under public administration by the Ministry of Finance. The decision encompassed Kaupthing's banking and securities business in Norway. On the same evening Kredittilsynet appointed an administration board to take charge of the wind-up of the Norwegian operation. By mid-November almost all deposits below NOK 2 million had been transferred to other banks or redeemed.

Islandsbanki had just established a branch in Norway when the crisis struck, and it was rapidly shut down without any noticeable effect on the Norwegian market.

All three areas were settled orderly, with no run on the banks and without government intervention, with the exception of a government intermediary guarantee for those deposits that were supposed to receive cover from the Icelandic deposit guarantee scheme.

2. Governmental programs to stabilize the financial system and provide financial support

Non-domestic banks (bank subsidiaries and branches) with operations in Norway are eligible to participate in the swap arrangement with the government. The State Finance Fund will provide tier 1 capital to sound Norwegian banks (inclusive bank subsidiaries). The State Bond Fund will invest in fixed income instruments issued by Norwegian companies (inclusive bank/nonbank subsidiaries).

PORTUGAL

Main Developments

The worsening and generalization of the turmoil in the financial markets in the second half of 2008 followed by a further weakening of economic activity and a sharp fall in commodity prices created a background that led to successive reductions of interest rates (through ECB) along with increasing indications signaling difficulties for Portuguese banks in accessing wholesale funding, as a consequence of the generalized loss of confidence and the increase in counterparty risk.

The subsequent state measures taken to restore depositors' confidence and to support suitable funding of banks translated essentially in the Portuguese case in the transitory increase in the level of guaranteed deposit up to 100,000€ and, since there was a sense of lack of confidence among market participants that prevented the regular funding of institutions, in the adoption of a few extraordinary measures aimed at guaranteeing new bank issuance of debt securities and even, if needed, the recapitalization with public funds of banks in trouble.

Along with these extraordinary measures, other steps have been taken to improve capitalization of banks – a minimum level of 8 percent for core tier 1 capital was recommended to be reached until September 2009 – and to reinforce requirements on procedures of internal control. Further, a closer and more coordinated action of supervisors (presently, there is a three-pronged system model – banking, insurance and capital markets are watched by separate supervisors) has been put in place.

Corporate governance has also attracted the attention of authorities and so some measures have been taken reinforcing current requirements, as establishing, for example, that

- entities classified as of public interest (namely issuers of securities traded in an organized market, deposit-taking banks, unit trusts, insurance companies and pension funds) be subject to the legal models of management and supervision bodies or

- that the management and supervision members of banks have higher profiles in terms of qualifications and independence (a recommendation in the case).

Since the scope of supervision by Banco de Portugal was extended in 2007 to include the watching of market conduct by banks, more requirements on transparency in the relations with clients have been introduced and a substantially increased intervention by authorities exercised, namely

- requiring advertising on financial instruments to be subject to rules that are particularly stringent on those considered as complex, once they need a prior approval by the authority responsible for its supervision and

- forbidding the collection of any commission on the renegotiation of loans for own house purchase.

Governmental programs to stabilize the financial system and provide financial support

As part of a concerted European plan, the Portuguese government took several measures to stabilize the financial system and provide financial support, as follows:

- **guarantees on new bank issuance of debt securities**

  Provision of state guarantees to the issue of securitized debt by Portuguese banks, to an upper limit of 20 billion euros, set out in Law no. 60-A/2008 and specified in Executive Order no. 1219-A/2008. This is a temporary measure and will remain in force until the end of 2009. These guarantees cover all credit institutions with registered head office in Portugal which are facing temporary liquidity constraints even though they satisfy the minimum solvency requirements. The guarantee is available only after scrutiny by the Banco de Portugal and the Portuguese Treasury and Government Debt Agency (the Instituto de Gestão de Tesouraria e do Crédito Público) and depends on the contribution of the institution to the financing of the economy and on the needs and conditions or the financing. Excluded from consideration are issues in foreign currency, issues of subordinated debt and interbank money market operations. Maturity on the debt issues guaranteed by the State must, in principle, be between 3 months and 3 years (the maximum limit can be extended to 5 years based on a reasoned proposal from Banco de Portugal). A 50 b.p. commission has to be paid to the State debt of less than one year. If the maturity on the proposed issue is more than one year, banks have to pay in addition the premium on the bank's own credit default swap at 5 years, if it does not exist, the premium of a representative sample of banks. If the guarantees are called in, that is, if the bank involved defaults, the State can convert the debt into capital and have a direct role in the bank's management. The features of the scheme are very similar overall to those adopted in other European countries.

- **Recapitalization of the banking system**

  Also within the framework of the concerted European action plan, the government took additional measures to underpin the stability of the financial system. The package included a recapitalization plan for credit institutions headquartered in Portugal, up to a total of 4 billion euros. This is a temporary measure in force until the end of 2009, defined in Law no. 63-A/2008. Its main purpose is to ensure that Portuguese banks have the necessary conditions to shore up their solvency ratio, against a background of persisting problems in wholesale debt markets and in the light of the terms set out by Banco de Portugal, where it is recommended that the Tier I capital ratio should be above 8 per cent as and from September 2009. (This measure is a recommendation of Banco de Portugal. Since is not compulsory, it can be therefore be applied flexibility, in the light of specific circumstances for each institution or financial group, reflecting for instance the risk profile or regulatory capital quality of each institution.) The basis for the capitalization can be any financial instrument eligible as Tier 1 capital and it implies a series of requirements relating to the management of the institutions which benefit from this support measure. Under the provisions of the law, the public disinvestment should occur within three years (in exceptional circumstances and if market conditions so justify, this can be extended to five years). Certain procedures relating to practical application of the law were set down in Executive Order no. 439-A/2009. These included the specific nature of request for access to public funds, which should include a clear statement of the contribution of the funds requested for the economy's financing and a repayment plan that guarantees substitution by instruments eligible as original own funds whose quality is on a par or superior. The Executive Order also stipulates the return of the public investment, along with the rights and duties to which the beneficiary is subject.

Since these measures were announced, banks have requested public guarantees for debt issues, as access to financing in the wholesale markets remained constrained, especially for medium and long term-term maturities. Up to the end of April 2009 Portuguese banks issued around 4.5 thousand million euros within the scheme, less than a quarter of the total that was made available.

The risk premium on the bonds issued under this scheme hinges fundamentally on the country's sovereign risk. The spreads for Portuguese banks are relatively high, with the Portuguese Republic's rating lower than the rating for other countries with issues of government guaranteed bank debt. According to the replies of Portuguese banks to the Bank Lending Survey, the government measures that are part of the concerted action plan have to some extent eased access to financing in the market.

In some countries, the banks have also used the recapitalization funds to bolster their solvency, and have drawn on a substantial portion of the amounts allotted to the funds. Since the onset of the crisis, there have also been operations involving nationalizations and the injection of capital into the system outside the scope of the recapitalization plans. Up to now, no Portuguese bank has made use of the fund, though there have been a number of increases in capital through private investors.

In the midst of the crisis, the Portuguese government also increased the maximum cover for the deposit guarantee fund. This moved from 25,000 to 100,000 euros per depositor and per institution, and will stay in force until December 2011 There was in addition, a substantially reduction in the legal defined period for redemption of deposits.

ROMANIA

The period under review saw progress in Romanian banking legislation. Main developments were related to the following:

(a) The harmonisation of the legislative framework with the provisions of the Directive No.2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and assessment criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector. Also, the banking legislation was enhanced in order to strengthen the National Bank of Romania's remedial powers in relation to credit institutions in distress.

(b) The harmonisation of the regulatory framework for the authorisation and for changes in the credit institutions situation with the new provisions of the banking legislation.

(c) The gradual review of some regulations which are relevant in the context of the developments recorded on the local and international financial markets, such as those related to own funds, classification of loans and provisioning and supervision of liquidity.
In the context of the actual financial crisis, the National Bank of Romania issued a new regulation on the classification of loans and placements as well as the setting-up, regularisation and use of specific provisioning for credit risk, and an order on the reporting of the exposures classification realised from loans/placements and the specific provisioning for credit risk. The task of this new regulatory framework is the gradual alignment of the national regulations to the international financial reporting standards (IFRS) in case of the regime of the guarantees associated to credits overdue for more than 90 days, in the process of setting up of provisions.

(d) The completion of the reporting framework of some prudential indicators.

The main objectives of the regulation activity of the National Bank of Romania for 2009 are as follows:

(a) Transposition into the National Bank of Romania regulations of the recommendations made by the Committee of European Banking Supervisors (CEBS) within the guidelines issued, by finishing in the first stage those projects being in an advanced stage at the end of 2008, being, respectively: (i) the regulation on the internal management framework, the internal processes of the assessment of capital adequacy to risks, and conditions for outsourcing of the credit institutions' activities; (ii) the regulation on implementation, validation and assessment of the internal rating-model-based approach for credit institutions; (iii) the regulation on the implementation, use, validation and assessment of the advanced assessment approach in order to establish capital requirements for operational risk and approval of using such approach by credit institutions.

(b) The gradual review of some regulations which are relevant in the context of the developments recorded on the local and international financial markets. In this context, the regulations taken into account are those related to classification of loans and provisioning, the calculation of own funds, liquidity.

(c) The amendment/completion of the prudential regulation framework taking into account the developments recorded at the *acquis communautaire* level.

The regulation and supervision of non-bank financial institutions

The measures imposed on the banking system in order to ensure a sustainable growth rate for the non-government credit, especially in foreign currencies, were also applied to non-bank financial institutions.

Law no.93/2009 on the non-bank financial institutions (published in *Monitorul Oficial al României,* No.259 of 21 April 2009), replacing the former legislative framework (title I of the Government Ordinance No.28/2006), aimed at correlating the regime applicable to non-bank financial institutions with the recent amendments in the regulatory framework of the credit institutions and with the updates in provisions on corporate governance regime set up by the general legislation on the commercial companies.

Anti-money laundering developments

Following the reviewing of the *acquis communautaire* in the AML/CFT field, the domestic legal framework was amended (***Government Emergency Ordinance no.53/2008 for the amendment and completion of Law no.656/2002***, published in *Monitorul Oficial al României,* No.333 of 30 April 2008; ***Government Decision no.594/2008 regarding the approval of the Regulation for bringing into force Law no.656/2002***, published in *Monitorul Oficial al României,* No.444 of 13.06.2008).

The restructuring of the legal framework determined the necessity to replace the secondary legislation in the field. In this respect, NBR issued the ***Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention*** (published in *Monitorul Oficial al României,* No.527 of 14 July 2008), which provides the banking specific details necessary for the new legal framework implementation, including FATF recommendations' particulars.

Deposit Guarantee Scheme

Government Emergency Ordinance no.80/2009 (published in *Monitorul Oficial al României,* No.449 of 30 June 2009) transposes *Directive 2009/14/CE amending Directive 94/19/EC on deposit-guarantee schemes* in the national legislation, amending ***Government Ordinance no.39/1996 regarding the setting up and the operation of the Deposits Guarantee Fund in the Banking System***.

The ordinance primarily aims at harmonizing the national legislative framework in the field with the EU movements as regards the coverage level and the payout delay. A closely related objective of the recent ordinance is strengthening the Romanian deposit insurance system (RDGF) by:

assigning the NBR the competences to check if the conditions provided by law for deposits unavailability related to credit institution's inability to repay a deposit due to its financial circumstances are fulfilled, and

providing the access of the Romanian deposit insurance fund to a government loan in order to supplement, when necessary, its existing resources.

Developments in the accounting regulation field

The Accounting regulations applicable to credit institutions were amended and supplemented by ***National Bank of Romania Order no.7/2008*** (published in *Monitorul Oficial al României,* No.620 of 25 August 2008), taking into consideration the need to ensure a unitary accounting treatment for the specific operations performed by non - bank financial institutions, as well as the regulation of the annual financial statements forms, applicable to the Bank Deposit Guarantee Fund and the compliance with the requirements of the Ministry of the Public Finances.

In order to facilitate a better understanding of the accounting regulations applicable to credit institutions and to improve the text of the origin act (*National Bank of Romania Order no.5/2005, as subsequently amended and supplemented*), National Bank of Romania issued the ***Order no.13/2008 approving the Accounting regulations according to the European Directives, applicable to credit institutions, non - bank financial institutions and the Bank Deposit Guarantee Fund*** (published in *Monitorul Oficial al României,* No.829 of 24 December 2008), applicable starting with the financial year 2009.

National Bank of Romania drew up a new semi-annual accounting reporting framework, applicable to credit institutions, non-bank financial institutions and the Bank Deposit Guarantee Fund (***National Bank of Romania Order no.8/2008***, published in *Monitorul Oficial al României,* No.620 of 25 August 2008) which replaces the origin act (*Order no.999/3/2003, as subsequently amended and supplemented, repealed by Order no.2448/3/2008*) and ensures the inclusion of the Bank Deposit Guarantee Fund in the scope of the semi-annually accounting reporting framework.

In order to take in the national regulation the amendments issued by the Committee of European Banking Supervisors (CEBS) to the standardized consolidated financial reporting framework (FINREP) in July 2007, as well as to include in the methodological rules the CEBS answers to FINREP implementation questions, approved and published on CEBS website, National Bank of Romania issued the ***Order no.5/2008 amending and supplementing Order no.6/2007 regarding the consolidated financial statements according to IFRS requested to credit institutions for prudential supervision purposes*** (published in *Monitorul Oficial al României,* No.602 of 12 August 2008).

Considering the need to correlate the reporting framework FINREP adapted at individual level with CEBS amendments to FINREP, as well as to exclude Romanian branches of credit institutions having their head offices in other Member States from the scope of this reporting framework, National Bank of Romania issued the ***Order no.12/2008 amending and supplementing Order no.13/2007 regarding FINREP individual financial statements, applicable to credit institutions*** (published in *Monitorul Oficial al României,* No.811 of 4 December 2008).

In order to ensure the continuity of information reported to the National Bank of Romania by the Romanian branches of credit institutions having their head offices in other Member States, in the context of the exclusion thereof from the scope of FINREP reporting framework, National Bank of Romania drew up the forms for the periodic reports including statistical information of financial – accounting nature and the methodological rules regarding the preparation and use thereof, applicable to Romanian branches of credit institutions having their head offices in other Member States (***National Bank of Romania Order no.14/2008***, published in *Monitorul Oficial al României,* No.15 of 8 January 2009).

SINGAPORE

BANKING

2008

MAS issued Banking (Amendment) Regulations 2008 under Banking Act (Chapter 19) which took effect on 11 August 2008

Section 31 of the Banking Act restricts the bank's equity investment in any single company to 2% of its capital funds and is intended to limit concentration risks in the banks' equity portfolio investments.

MAS included a new paragraph 6A in the Banking Regulations that exempts any equity investment acquired or held by banks' in the course of price stabilization activities under the Securities and Futures (Market Conduct) (Exemptions) Regulations, subject to certain conditions.

MAS issued a revised MAS Notice 613 on Minimum Liquid Assets for Banks Incorporated in Singapore which took effect on 31 July 2008

MAS issued a revised MAS Notice 613 which applies to all banks incorporated in Singapore. It sets out:

- A list of assets approved as 'liquid assets' and the conditions for such approval;
- Valuation approach when computing the minimum liquid assets to be held;
- Relevant frameworks (namely, general, specific and basic);
- Minimum amount of Tier 1 assets;
- Utilization of liquid assets; and
- Submission of liquidity returns.

MAS also issued Notice 758 to align the qualifying liabilities used for complying with the minimum cash balance requirement, with that under MAS Notice 613.

2009

MAS issued Banking (Credit Card and Charge Card) (Amendment) Regulations 2009 under Banking Act (Chapter 19) which took effect on 1 March 2009

MAS issued the following in relation to the Banking Regulations under credit card and charge card:

Regulation 6:	Refinement to provide better clarity on the maximum credit limit and overall credit limit. Credit granted by affiliated entities would also be aggregated in determining whether the credit limit is exceeded.
Regulation 7:	Refinement to provide better clarity on the issuing of credit card or charge card to an individual.
Regulation 9:	Amended to state disclosure requirements of finance and late payment charges in clear and conspicuous manner to cardholder
Regulation 6A:	Added new regulation stating the requirements pertaining to merger or consolidation of, or acquisition by card issuer. Should the cardholder's aggregate outstanding amount or total outstanding unsecured amount exceeds his maximum credit limit or overall credit limit respectively, the card issuer is required to take steps to ensure he ceases to be in excess of the maximum or overall credit limit.
Regulation 9A:	Added new regulation stating the requirements in the credit checks with credit bureau. Financial institutions are required to conduct comprehensive checks with the credit bureau before granting each new credit card, charge card, or unsecured credit facility, as part of their rigorous credit risk assessment processes.

MAS issued revised notices on Unsecured Credit Facilities to Individuals for Banks (Notice 635) and Merchant Banks (Notice 1109) which took effect on 1 March 2009

The revised notices set out the requirements that a bank would have to comply with when granting unsecured credit facilities to an individual, whether as an individual or as a joint borrower with any other individual. The changes concern the following:

- Minimum annual income requirement;
- Exclusion from unsecured credit facilities;
- Maximum amount of unsecured credit facilities;
- Merger or consolidation of, or acquisition by, bank, etc.;
- Solicitation;
- Disclosure of finance and late payment charges; and
- Credit checks with credit bureau.

MAS issued a MAS Notice 759 on Collection of Statistical Returns for Credit Cards under Banking Act (Chapter 19) which took effect on 1 July 2009

MAS issued MAS Notice 759, stating the requirements of a bank to prepare quarterly statistical returns on their credit cards business. This is applicable to all card issuers in Singapore.

MAS issued a MAS Notice 760 on Collection of Statistical Returns for Unsecured Credit Facilities under Banking Act (Chapter 19) which took effect on 1 July 2009

MAS issued MAS Notice 760, stating the requirements of a bank to prepare quarterly statistical returns on their unsecured credit facility business. This is applicable to all banks in Singapore.

MAS issued a circular on Endpoint Security and Data Protection on 20 March 2009

The risk management responsibility of the Board and senior management will increase and intensify commensurately with the scale and complexity of the computer technology, networks, systems, mobile computers and portable storage devices their institutions deploy to provide better customer service and faster access to customer data, financial transactions, account details and other confidential information.

MAS expects all financial institutions to implement appropriate security solutions to address the risk of data theft, data loss and data leakage from endpoint devices, customer service locations and call centres, whether domestic, overseas or under outsourcing arrangements. Confidential customer information stored in all types of endpoint devices should be properly protected with strong encryption. A definitive plan containing specific implementation dates should be formulated to achieve these security targets.

MAS issued Banking (Amendment) Regulations 2009 under Banking Act (Chapter 19) which took effect on 19 January 2009

MAS issued regulations clarifying that Singapore-based banks may enter into Murabaha interbank placements and offer Ijara Wa Igtina financing. These changes enabled the financial institutions offering Islamic finance a wider range of instruments in their management of liquidity and in their matching of assets and liabilities.

MAS issued the Guidelines on the Application of Banking Regulations to Islamic Banking in May 2009 and Banking (Amendment) (No. 2) Regulations 2009 under Banking Act (Chapter 19) which took effect on 7 May 2009

The Guidelines consolidated the various regulations and clarifications which MAS has issued, and offered specific information on the regulatory treatment of various Islamic structures. This set of Guidelines provided greater clarity and certainty for financial institutions intending to offer or are currently offering Islamic banking products in Singapore.

MAS adopts the same regulatory approach towards Islamic and conventional banks, and clarified how its admission framework, regulatory framework and capital framework would apply to Islamic banks.

MAS' approach to the regulating of Islamic products is to look through the form of the Islamic products to assess the economic substance and risks involved and use that assessment as the basis for regulation. Where Islamic products are similar to conventional products in economic substance and risks, the same regulatory treatment is accorded.

MAS also issued two regulations clarifying that Singapore-based banks may enter into Diminishing Musharaka financing and Spot Murabaha transactions.

MAS issued a Directive to Merchant Banks on Involvement in Trade on 12 June 2009

The revised Directive includes additional arrangements where a merchant bank may carry on the business of purchasing and selling assets. The revised Directive allows merchant banks to enter into various Islamic finance transactions, namely Murabaha interbank placements, Diminishing Musharaka financing and Spot Murabaha transactions, subject to the conditions in the Directives. The merchant bank is required to notify MAS prior to, or within 14 days after, the commencement of such business.

MAS issued a consultation paper on Proposed Revisions to the MAS Notices on the Prevention of Money Laundering & Countering the Financing of Terrorism on 21 May 2009

Singapore will ratify the United Nations Convention Against Corruption (UNCAC) by end 2009. The objective of the proposed amendments in the consultation paper are to align Singapore's requirements on customer due diligence on politically exposed persons with the UNCAC provisions as well as to improve clarity on the requirements pertaining to simplified customer due diligence and performance of customer due diligence measures by intermediaries.

MAS issued a consultation paper on Proposed Amendments to MAS Notice 639 on 3 June 2009.

MAS Notice 639, issued pursuant to Section 29 of the Banking Act, limits a bank's exposures to any counterparty or group of related counterparties to 25% of the bank's regulatory capital. In computing its exposures, a bank may also recognize the effect of credit risk mitigation subject to operational requirements that closely follow those set out in MAS Notice 637 on capital adequacy requirements for banks incorporated in Singapore.

For the purpose of complying with the 25% limit, a bank may disaggregate its exposures to entities that are under common control where it is established that these entities are financially independent based on a set of objective criteria set out in the Notice. MAS proposed to clarify situations in which certain criteria need not be satisfied for purposes of determining whether the entities are financially independent.

In addition, refinements would be made to the conditions and operational requirements for recognizing certain credit risk mitigation techniques to update relevant sections of the Notice that make reference to similar provisions in MAS Notice 637, which has been revised to align with Basel rules.

SECURITIES, FUTURES & FUNDS MANAGEMENT

2008

MAS issued Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations which took effect on 1 August 2008.

MAS implemented a licensing regime for REIT managers on 1 August 2008. The regulations were made to set out the licensing and conduct of business requirements applicable to REIT managers, as well as the transitional provisions for existing REIT managers, who were conducting REIT management business before 1 August 2008.

2009

MAS issued Securities and Futures (Exemption from Requirements to Hold Representative's License) Regulations 2009 which took effect on 16 February 2009

Under this new regulation, the holder of a representative's license to deal in securities and whose principal holds a capital markets services license to trade in futures contracts shall be exempted from the requirement under Section 83(1) of the SFA to hold a representative's license to trade in futures contracts if he trades only in extended settlement contracts, structured warrants or both, subject to the compliance with the specified conditions.

MAS issued Securities and Futures (Financial and Margin Requirements of Capital Markets Services License) Regulations 2009 which took effect on 1 March 2009

MAS added a new regulation 24B to the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations.

Regulation 24B specifies the conditions under which the holder of a securities financing license are exempted from complying with regulation 24 in respect to securities financing provided to a customer with regards to his subscription of any shares pursuant to an initial public offer, a rights issue or in exercise of an option given under an employee share option scheme.

MAS issued Securities and Futures (Prescribed Securities) Regulations 2009 which took effect on 20 April 2009

MAS amended the definition of "securities" in the Securities and Futures Act ("SFA") to include debentures of a listed real estate investment trust ("REIT") and the right, option, derivative or right under a contract for differences in respect of any such debentures of a listed REIT. Any offer of these instruments must be subject to the same offering regime under Part XIII Offer of Investments, Division 1 Shares & Debentures of the SFA. Accordingly any dealings in these instruments are subject to the insider trading provisions under the SFA.

MAS issued Securities and Futures (Offers of Investment) (Shares and Debentures) (Amendment) Regulations 2009 which took effect on 19 June 2009

MAS amended the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 as follows:

Regulation 2:	New definitions set out in relation to ASEAN Offerings of shares and debentures and common prospectus disclosure standards issued by ASEAN Capital Markets Forum for such ASEAN Offerings
Regulation 8:	References made to the prescribed prospectus disclosure requirements for ASEAN Offerings of shares and debentures
Fourth Schedule:	Refinement to definitions for better clarity
New Seventeenth Schedule:	Prescribed particulars to be included in a prospectus for an ASEAN offering of shares
New Eighteenth Schedule:	Prescribed particulars to be included in a prospectus for an ASEAN offering of debentures

*MAS issued a circular on **TREATMENT OF REFINANCING UNDER THE AGGREGATE LEVERAGE LIMIT** to all REIT Managers & Trustees approved under Section 289 of the Securities & Futures Act on 9 January 2009*

MAS clarified how the refinancing of maturing debt of Real Estate Investment Trusts ("REITS") would be treated under the borrowing limits in the Property Fund Guidelines (the "Guidelines") in Appendix 2 of the Code on Collective Investment Schemes. MAS confirms that an increase in the aggregate leverage arising from a decline in property values due to any revaluation exercise does not constitute a breach of borrowing limits. Refinancing of existing debt is also not construed as incurring additional borrowings.

MAS expects REIT managers to provide the Authority with information on the value of property portfolio, amount of borrowings and aggregate leverage as of 31 December 2008 or whenever a revaluation exercise is conducted.

*MAS issued a circular on **TRUSTEE'S RESPONSIBILITY FOR SAFE CUSTODY OF ASSETS OF A COLLECTIVE INVESTMENT SCHEME ("CIS")** to all holders of a capital markets services license in respect of fund management & Trustees approved under section 289 of the Securities and Futures Act (Cap. 289) on 22 May 2009*

The trustee of an authorized collective investment scheme is responsible for the safe custody of the scheme's assets but it may delegate this function to a third-party custodian. Nonetheless, any provision in a trust deed or in any contract shall be void if it has the effect of exempting a trustee from liability for breach of trust where the trustee fails to exercise the degree of care and diligence required of a trustee. The trustee therefore has oversight functions over the custodian and does not absolve itself of responsibility by appointing a custodian.

MAS expects all trustees to exercise due care and skill in appointing any third-party custodian and keeping an active review of all custodian arrangements to ensure all potential risks to the safekeeping of customers' assets are addressed.

MAS issued a circular on ***MAS (Freezing of Assets of Persons - Democratic People's Republic of Korea) Regulations 2009*** *to all trustees approved under section 289 of the Securities and Futures Act (Cap. 289)] on 22 June 2009*

MAS requires all licensed / registered financial institutions to confirm with the Authority whether they have business relations or dealings with any of the designated persons as stated in regulation 6 of the DPRK Regulations which came into operation on 10 June 2009.

MAS issued a consultation paper on Review of the Regulatory Regime Governing the Sale and Marketing of Unlisted Investment Products on 12 March 2009

The proposals were formulated based on MAS' review of the sale and marketing of unlisted investment products after the current global financial crisis led to the failure of several structured notes in Singapore. Some of the main proposals are as follows:

(i) Issuers will be required to prepare a short, user-friendly Product Highlights Sheet to promote more effective disclosure. In addition, requirements for ongoing disclosure and fair and balanced advertising will be strengthened.

(ii) FIs will be required to undertake an enhanced product due diligence process before selling new investment products.

(iii) Representatives will be required to enhance the quality of information obtained from their customers. They will be required to provide customers with more details in their basis for recommendation and set out more clearly in a formal document why the products are suitable for them.

(iv) A new category of "complex investment products" will be introduced, and subject to enhanced regulatory requirements. FIs will only be able to sell a complex investment product to customers when they give customers advice on whether it is suitable for them. The prospectus, Product Highlights Sheet, and all marketing and advertising materials of complex investment products will carry health warnings.

(v) MAS' powers to investigate and take regulatory action will be strengthened through several measures, including the introduction of a civil penalty regime under the Financial Advisers Act (FAA).

MAS issued a consultation paper on Mandatory AGM Requirements for REITs on 26 May 2009

The proposed amended guidelines will apply to all REITs which are regulated as Collective Investment Schemes (CIS) in Singapore. Under the proposal, REITs will be required to hold AGMs once every calendar year and not more than 15 months from the last preceding AGM, with effect from 1 January 2010. This means all REITs will have held an AGM by 31 Dec 2010. In line with SGX's rule on the timing of AGMs for other listed issuers, REITs will have to hold their AGMs within 4 months from their financial year end.

The following were considered in mandating AGMs for REITs:

(i) Mandatory AGMs will enhance corporate governance for REITs by providing an important channel for communication between REIT managers and unit holders, and for REIT managers to be more accountable to unit holders.

(ii) AGMs will provide a regular opportunity for REIT managers to seek general mandates from unit holders for issuance of new units and thus accord greater flexibility for equity raising.

MAS issued a consultation paper on Proposed Amendments to the 6th Schedules of the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005 on 29 May 2009

MAS is making amendments to the Securities and Futures (Offer of Investments) (Collective Investment Schemes) Regulation 2005 to effect changes in the regulatory regime for restricted schemes. The new regime will comprise a notification framework implemented through an online platform called CISNet. Offerors will be required to make annual declarations that information offered on the scheme remains true and correct. Offerors who fail to make the annual declaration would have to stop offering the scheme in Singapore. CISNet will also enable offerors to amend the annual declaration dates to allow those managing more than one scheme to consolidate their annual declaration dates.

MAS issued a consultation paper on the Securities and Futures (Licensing and Conduct of Business) Regulations and the Financial Advisers Regulations on 16 June 2009

MAS proposed to:

- Remove the requirement for relevant licensed representatives to notify MAS of the place where the registers of their interests in securities are kept. Instead, principal companies would be required to maintain records of the place(s) where the registers of their representatives' interests in securities are kept;

- Align the definition of "customer assets" between the Securities and Futures Act and the Securities and Futures (Licensing and Conduct of Business) Regulations;

- Extend Licensing exemptions for dealing in securities to persons who trade for the account of related corporations;

- Clarify that the Licensing exemptions for dealing in securities, trading in futures contracts and leveraged foreign exchange trading for the account of related corporation(s), the account should belong to and be maintained solely for the benefit of the related corporation.

MAS issued a Policy Consultation on Draft regulations pursuant to the Securities and Futures Act and the Financial Advisers Act on 23 June 2009

MAS proposed issuing new Regulations and amending certain existing Regulations to support the amendments set out in the Securities and Futures (Amendment) Act 2009 and Financial Advisers (Amendment) Act 2009.

The existing Regulations have provisions setting out the factors which MAS shall have regard of when determining whether a chief executive officer or director of a capital markets services license holder or licensed financial adviser has failed to discharge the duties of his office. In this regard, MAS proposed to add to the current provisions, such that MAS would also have regard to whether the chief executive officer or director has put in place compliance function and arrangements commensurate with the nature, scale and complexity of the business.

- The Securities and Futures (Markets) Regulations issued pursuant to the SFA is also proposed to be amended. The amendments are intended to streamline various ad hoc notification obligations for approved exchanges and recognized market operators. The consolidation of some of these notification obligations into periodic reports is to ease administrative burden.

Summary of Key Changes to the Securities and Futures Act ("SFA")
(Passed in Parliament but not yet in effect)

1. Capital Markets Licensing and Business Conduct

1.1 Continuing Licensing Regime for Corporate Licence Holders

Under the current SFA, capital markets services ("CMS") licence holders have to renew their licences every three years. The amended SFA introduces a continuing licensing regime for licence holders where licence holders will not have to renew the licences, to reduce administrative burden. MAS retains the power to revoke the licenses, if necessary.

1.2 Representative Notification Framework

Currently, only representatives of CMS licence holders need to apply for a licence from MAS to conduct regulated activities. This is not a requirement for representatives of financial institutions exempted from holding a CMS licence, such as banks and insurance companies.

MAS has decided to place representatives of both CMS licence holders and persons exempt from holding a CMS licence under the same regime. This is done by introducing a Representative Notification Framework, under which all financial institutions will have to notify MAS when they intend to employ someone to conduct a regulated activity. The financial institution will be responsible for ensuring and certifying to MAS that their representatives are fit and proper. Financial institutions and their directors can be held liable for making false or misleading statements. As part of this Framework, MAS will maintain a public register of representatives on its website.

Representatives will fall into 3 categories (appointed, provisional and temporary). Appointed representatives would have passed all the requisite exams, while provisional representatives would have yet to pass the requisite exams but would be allowed to act as representatives for a limited period of time.

1.3 Control of Take-over of CMS Licence Holders

MAS introduced a new requirement for potential controllers of a CMS licence holder who will need to obtain MAS' approval before entering into arrangements that could give them effective control of such licence holders. MAS will also have powers under certain circumstances, to order persons to relinquish effective control, or stop a person from being a party to an arrangement that could result in the person obtaining effective control.

2. Prohibition Order Regime

2.1 Under the SFA, MAS can issue prohibition orders to CMS licence holders and their representatives. This is to help ensure that only suitable persons conduct regulated activities. However, there are gaps as MAS is not able to issue prohibition orders to other persons. This will be remedied under the Bill. MAS will be empowered to issue prohibition orders to the following additional persons:

(i) exempt financial institutions and their representatives;

(ii) persons previously licensed or exempted from holding a CMS licence by MAS;

(iii) persons who were previously an appointed, provisional or temporary representative;

(iv) an officer or ex-officer of a CMS licence holder or exempt CMS licence holder; and

(v) persons convicted of conducting regulated activities illegally.

2.2 Under the SFA, MAS may issue prohibition orders where MAS believes a person has contravened the SFA, or when a person has been convicted of an offence involving fraud or dishonesty. The revised Act provides MAS additional grounds for issuing prohibition orders. MAS will be able to issue prohibition orders to persons who have been ordered by the court, or who have entered into a civil penalty settlement agreement with MAS, to pay a civil penalty for market misconduct. Prohibition orders can also be issued to persons who have been removed, at MAS' direction, from the office or employment of a CMS licence holder. MAS will also be able to ban persons issued with prohibition orders from directly or indirectly managing or influencing the business of CMS licence holders or exempt CMS licence holders. For example, MAS will be able to prevent a person from acting as a director or being a substantial shareholder of these financial institutions.

3. Market Misconduct Enforcement Framework

3.1 Corporate Derivative Liability

The revised SFA introduces a new concept of attributed liability for market misconduct offences. Currently, a company may not be liable when its employees commit market misconduct. For example, if an employee of an asset management company engages in insider trading using company funds, the company would be liable only if the employee was a director or a secretary of the company, or a person employed in an executive capacity. A company may therefore avoid liability by delegating decisions to lower level employees. The amendments address this by making a corporation, partnership or limited liability partnership liable in certain circumstances. Where it is proven that the market misconduct by an employee, officer, partner or manager has been committed with the consent or connivance of an entity, the entity may be subject to criminal liability. Civil penalty liability would be imposed where the entity has, through its negligence, failed to prevent or detect the employee's market misconduct.

3.2 Disgorgement by Persons who Benefit from Contravening Trades Conducted on their Behalf

The revised SFA also introduces a new remedy for affected investors of trades that contravene the market conduct provisions of the SFA. A person who is not party to such illegal trades may sometimes benefit from the profits made. For example, a broker may have used a client's trading account without the client's permission to conduct insider trading. The profits from this illegal trade are credited to the client's account. The broker as the contravening party is liable to affected investors for losses incurred. However, he is not in possession of the profits made. It is the client that has the profits. The client should not be allowed to keep the profits, even though he was not party to the market misconduct. To do so would mean depriving affected investors of an opportunity to recover their losses. The new remedy will allow MAS or affected investors to apply to court to order a person not privy to the illegal trade or market misconduct to disgorge any gains made from the illegal trades. The gains will be paid into court which will then assess all affected investors' claims and distribute the sum equitably. However, a court will have the discretion not to order disgorgement if the court considers that the circumstances make it unfair to do so.

4. Notification of Changes in Shareholdings of Directors, Chief Executive Officers and Substantial Shareholders and Offers of Investments

4.1 Notification of Changes in Shareholdings of Directors, Chief Executive Officers and Substantial Shareholders

The legal obligations for reporting of interests by directors and substantial shareholders of listed Singapore-incorporated companies currently reside in the Companies Act and the SFA. Under the Companies Act, directors and substantial shareholders are required to notify the listed company of their interests and changes in interests. The listed company is in turn required under the SGX Listing rules to disseminate such information to investors via SGXNET announcements. There are also parallel obligations for directors and substantial shareholders under the Companies Act and the SFA respectively to notify the Singapore Exchange Limited (SGX).

The revised SFA streamlines and consolidates all notification requirements for directors and substantial shareholders in relation to their interests in listed corporations in the SFA.

Directors and substantial shareholders will need to report their interests or changes in interests to the listed corporation, which in turn will inform investors of any such changes. The notification requirement is extended to any CEO who is also not a director. The current obligation for directors and substantial shareholders to separately notify the SGX will be removed. While these amendments streamline the current requirements, they will not reduce the amount of information disclosed to the market and investors. To enhance investors' protection, the requirements to notify changes in interests will also be extended to all foreign-incorporated companies with a primary listing on the SGX. Similar amendments have been made to the disclosure requirements for interests in listed business trusts (BTs) and real estate investment trusts (REITs). For REITs and BTs, there will be an additional requirement for substantial shareholders of the manager of a BT or REIT to notify the manager when his shareholdings in the manager reaches or crosses (either above or below) the thresholds of 15%, 30%, 50% and 75%.

5. <u>Lowering Minimum Investment Threshold Amount for Prospectus Exemption</u>

Currently, offers of investment must be accompanied by a prospectus unless the offer is made in reliance on any one of the available exemptions. Amongst others, the SFA allows offers to be made without a prospectus if the minimum investment amount for the offer is at least S$200,000. This means that each and every investor must invest at least S$200,000 for each transaction before the offer can be made without a prospectus. The revised SFA will lower the minimum investment amount to S$100,000.

6. <u>Enhancements to the Real Estate Investment Trusts ("REIT") Regime</u>

The revised SFA will put in place procedures to govern mergers and privatisations of REITs. An offeror making a general offer for units in a REIT can compulsorily acquire the units of the dissenting minority. The offeror can do so if he has obtained acceptances of 90% or more of the units offered. Minority unit holders will also be able to require an offeror to acquire their units if the offeror has acquired 90% or more of the total units in the REIT. Similar amendments will be made for business trusts in the Business Trusts Act.

The revised SFA also introduces a new provision to protect REIT unit holders. A REIT unit holder will be able to apply to court for an order to seek judicial redress in cases of oppression, unfair discrimination or prejudice. This remedy is currently available in the Companies Act and the Business Trusts Act.

7. <u>Definition of "Securities" and "Futures Contract"</u>

The definitions of "securities" and "futures contract" will be amended to give MAS the power to prescribe or exclude products as securities. The purpose is to allow MAS to bring new products within its regulatory ambit under the SFA in a timely manner.

Summary of key changes to the Financial Advisers Act ("FAA")
<u>(Passed in Parliament but not yet in effect)</u>

1. **<u>Changes to Licensing Regime</u>**

1.1 **Continuing Licensing Regime for Corporate Licence Holders**

The regime and rationale in paragraph 1.1 on "Summary of Key Changes to SFA" are also applicable to financial advisers pursuant to FAA.

1.2 **Representative Notification Framework**

The framework in paragraph 1.2 on "Summary of Key Changes to SFA" are also applicable to representatives of licensed financial advisers and representatives of financial institutions exempted from holding a financial adviser's (FA) licence, such as banks.

2. **<u>Prohibition Order Regime</u>**

Under the FAA, a person issued with a Prohibition Order ("PO") is not allowed to conduct regulated activities under the FAA. The revised FAA will extend the PO regime to empower MAS to issue POs to prohibit a person from taking part directly or indirectly in the management, or becoming a director or substantial shareholder of a FA licence holder.

3. **<u>Definition of "Securities" and "Futures Contract"</u>**

This is the same as the proposed changes set out in paragraph 7 in "Summary of Key Changes to SFA" to allow MAS to bring new products within its regulatory ambit under the FAA in a timely manner.

<u>INSURANCE</u>

<u>2008</u>

MAS issued a consultation paper on Proposed Revisions to the RBC Risk Requirements on Outstanding Premiums from Brokers, agents and Other Counter-Parties on 1 Dec 2008

Outstanding premiums are a source of credit risk for insurers and long outstanding premiums generally carry a higher risk of payment default by the counterparties. MAS expects insurers to have in place adequate credit risk management policies and procedures to manage these credit risk exposures. Risk requirements in the form of credit risk factors are prescribed as part of the Risk Based Capital ("RBC") framework to ensure that insurers set aside the necessary financial resources to buffer potential losses from uncollectible premiums.

Noting that a number of insurers have outstanding premiums of up to one year and beyond, MAS has proposed to revise the existing credit risk factors to address the higher default risk of long outstanding premiums.

MAS issued a consultation paper on Proposed Policy Positions on the Definition of "Singapore Policy" for Policies Purchased by Individuals on 31 Dec 2008

The current definition of "Singapore policy" was crafted more than 20 years ago and MAS is reviewing its relevance with developments in Singapore. Currently, a life insurance policy or accident and health policy is defined as a Singapore policy if, at the date of issue of the policy and (if the policy was issued before then) at the date of the establishment of the insurer's register of Singapore policies, the policy owner's address is or was an address in Singapore.

MAS has proposed to revise the definition of a "Singapore policy" for life and accident and health insurance policies as well as for personal general insurance policies sold to individuals to one that is based on residency of the policyholder. Policies sold to residents of Singapore would be classified as "Singapore Policy".

Separately, MAS has amended the First Schedule of the Insurance Act with effect from 31 Mar 09 to clarify that policies covering cargo shipped directly from one overseas destination to another without transiting in Singapore should not be deemed as Singapore policies, even if the policy owner is a resident or permanent establishment in Singapore. MAS will continue to review the definition of "Singapore policy" as it applies to general insurance policies.

2009

MAS issued a consultation paper on Proposed Amendments to the Definition of Carrying on Insurance Business on 11 May 2009

MAS has proposed that the definition of "Carrying on Insurance Business" to be amended to reduce the ambiguities in the scope of coverage of the current definition of "carrying on insurance business". MAS is proposing to update and align the definition of "carrying on insurance business" with the common law principle of the assumption of insurance risk or the undertaking of insurance liability.

MAS is also proposing to amend the Insurance Act to clarify its policy intent in respect of the definition of "solicitation" of insurance business and the extent of solicitation allowed.

Summary of Key Changes to the Insurance Act ("IA")
(Passed in Parliament but not yet in effect)

1. Nomination of Beneficiaries Framework

1.1 Choice to nominate

The current IA does not contain provisions for the nomination of beneficiaries to the proceeds of an insurance policy. The new framework is introduced to govern the nomination of beneficiaries in respect to insurance policy proceeds. It allows the insurance policy owners to choose whether or not to make nominations. If they choose to nominate, they then have the option of making either a revocable or an irrevocable nomination. Nominations can be made at any time while the policy is in force.

1.2 Revocable nominations

The policy owner will be able to unilaterally change his nomination at any time under the revocable nomination. Any payout from the insurance policy made while the policy owner is alive will be paid to him; payouts will only be made to the beneficiaries upon the policy owner's death. Hence, the policy owner is able to use these monies to meet his financial needs should there be payout benefit from the policy in events of policy owner's illness or disability. Parent or guardian of minor beneficiaries can give discharge for payments received from insurers. Any legal entity may be nominated in a revocable nomination.

Irrevocable (trust) nominations

A statutory trust in favor of the beneficiaries will be created in an irrevocable nomination. Once it is created, the policy owner will lose all rights and control over the insurance policy concerned. In exchange, the trust will protect the policy proceeds against claims from the policy owner's creditors. Only the policy owner's spouse and/or children can be nominated as the beneficiaries. An irrevocable nomination can only be changed with the consent of all beneficiaries or a trustee who is not also the policy owner, even if the family circumstances change. Once a nomination is made, all payouts from the policy made during the policy owner's lifetime or after his death will go to the beneficiaries. Parent or guardian of minor beneficiaries can give discharge for payments received from insurers. They can also give consent on minor's behalf for revocation of nomination as well.

1.3 Scope of nomination of framework

Nominations are allowed only in respect of life policies and accident and health insurance policies with death benefits affected on the policy owner's life. The nomination framework will not apply retrospectively.

1.4 Insurance policies paid for with Central Provident Fund ("CPF") monies

Insurance policies purchased under the CPF investment scheme and dependants' protection scheme will be eligible only for revocable nominations to align with CPF board's policy that members must retain complete ownership of their retirement funds as long as they are alive. Annuities purchased under the Minimum sum scheme will be carved out from the nomination framework while annuities purchased under the Minimum sum plus scheme will be deemed no different from any other insurance policy as they are paid for with cash.

2. Insurable interest requirement

Effective 1 March 2009, the IA has been amended to allow life insurance policies to be issued in respect to trusts where insurable interest would have been recognized between two parties within the trust structure. The law will allow a 'see through' of the trust to determine whether the insurable interest requirement is satisfied.

SOUTH AFRICA

Significant developments in the financial sector

Financial Sector Charter

Despite the extension to 31 August 2008 for the alignment of transformation charters to the Broad-Based Black Economic Empowerment Act, the Financial Sector Charter ("FSC") was still not gazetted as a statutory Code. The FSC now in its fifth year was implemented in good faith and with considerable cost to the banking industry. With representatives from labour and community on the Charter Council continuing to refuse to endorse the Charter based on the ownership provisions of 10% direct ownership and 15% indirect ownership which do not align with the dti Codes of 15% direct ownership and 10% indirect ownership, the FSC is unlikely to be gazetted with significant reputational risk to the process undertaken. Financial institutions have to comply with the dti's generic Codes; however they remain committed to the FSC targets for access and empowerment financing, and will deliver on these whilst continuing negotiations to gazette the FSC with the new government.

The National Payments System and Competition in the Banking Sector

The Banking Enquiry Report has been released with a total of 28 recommendations. The Report is being considered by a multi-department steering committee, led by National Treasury. The committee will develop Government's response to the recommendations. A number of the recommendations are being addressed voluntarily by the individual banks and collectively through The Banking Association South Africa.

Companies Act

The new Companies Act no. 17 of 2008 will abolish the proposal for the use of "widely held" and "limited interest" and retain the popular reference of Proprietary Limited (Pty Ltd) and Limited (Ltd), introducing Incorporate (Inc.) for a personal liability company, SOC Ltd for state-owned companies and NPC for non-profit companies. In addition, words in any language irrespective of whether or not they are commonly used or contrived together with a number of punctuation marks and symbols are now permitted in company names.

The Companies Act also introduces a new provision for business rescue similar to the Chapter 11 bankruptcy provision in the U.S. Business rescue shifts the focus to provide protection against creditors and provides a general moratorium on legal proceedings against the company. The business rescue practitioner however must develop a business plan within 20 days of being appointed. The practitioner may, amongst others cancel or suspend entirely, partially or conditionally any provision of an agreement to which the company is a party at the commencement of the business rescue period, other than an agreement of employment. A strong imperative from the government in this context is the retention of jobs, rather than the early liquidation of companies. The implementation of the Act is delayed pending the release of the draft regulations for comment.

FATF Mutual Evaluation Report

The Financial Action Task Force published a generally favorable mutual review of South Africa's Anti-Money Laundering and Combating the Financing of Terrorism measures during March 2009. Of the forty recommendations and nine special recommendations, South Africa was rated compliant on 9 recommendations, largely compliant on 14 recommendations, partially compliant on 19 recommendations and non-compliant on a total of 7 recommendations. The compliance with international standards is higher than acknowledged in the review as the use of guidance notes by regulators, which are not enforceable in law, adversely affected the ratings. Local financial institutions, however, are inclined to treat guidance notes as if they are regulatory edicts.

Electronic Settlement of Money Market Instruments

Strate, the authorized Central Securities Depository for the electronic settlement of all financial instruments in South Africa, piloted the first-ever electronic issue and settlement of a money market security in November 2008. With more that R500 billion worth of money market instruments in issue the "dematerialisation" will transform the market into a fully electronic environment allowing enhanced straight-through processing. In the dematerialized environment all money market securities would not only be issued, cleared and settled electronically real time on a gross principal-to-principal basis, but beneficial ownership will be recorded and updated in the central depository kept by Strate. Coupon and maturity payments will also be settled electronically.

Settlement risk would be largely mitigated through custodians committing to the settlement of their clients' trades prior to the initiation by the settlement system of the real time, final and irrevocable settlement through the South African Reserve Bank.

UNIDROIT

Strate is working towards the endorsement of an international Convention designed to improve the legal framework for securities holding, transfer, and securities lending and borrowing.

The Convention, known as the "Draft Convention on Substantive Rules regarding Intermediated Securities", aims to promote internal soundness and cross-border system compatibility by providing the basic legal framework for the modern intermediated securities holding system.

The UNIDROIT project, driven by its member states (of which South Africa is a member) through an international committee of governmental experts, was finalized in September 2008.

The draft Convention applies to transparent and non-transparent systems of uncertificated holdings through intermediaries ultimately connected to the Central Securities Depository ("CSD"). Intermediaries may include banks, brokers, financial institutions and the CSD.

Foreign Currency Reserves

Between July 2008 and April 2009, the gross gold and foreign exchange reserves declined by approximately US$900 million from US$35.0 billion to US$34.1 billion. Over this period, the purchases of foreign exchange in the market by the South Africa Reserve Bank (SARB) for the purposes of building reserves slowed down compared to previous years, given volatility in global financial markets and heightened risk aversion. Valuation adjustments also had a marked impact on the USD value of reserves, as the country's reserves are diversified. The international liquidity position, or net reserves, declined from US$34.2 billion to US$33.4 billion over the same period, despite borrowed reserves being reduced further from US$0.9 billion to US$0.6 billion. During May 2009, however, both gross and net reserves increased by over US$1.0 billion, largely reflecting valuation adjustments and the proceeds of government's recent international bond issue, an element of which was placed on deposit at the SARB. This deposit will in future be used to pay government's foreign currency obligations.

Consumer Protection Act

The impact of the new Consumer Protection Act no. 68 of 2008 on the financial sector has been softened with a carve out for consumer protection measures already included in the National Credit Act and Financial Advisory and Intermediary Services Act. The implementation of the Act is delayed pending the release of the draft regulations for comment.

Data Privacy

The South African Constitution entrenches a right to privacy, subject to a breach by a law of general application. A number of new Acts have dealt with the question of data privacy in their narrow contacts, e.g. the National Credit Act and the Consumer Protection Act. However the absence of internationally comparable data privacy laws in South Africa has had an impact on the free flow of data necessary for international business activities, particularly from the EU to South Africa. The Law Reform Commission is undertaking a review of the legislation that would ensure that international best practices are adopted thereby facilitating reciprocal exchange of data whilst protecting the disclosure of personal information of South African citizens both locally and abroad.

Environmental Protection

The draft amendment to the Waste Management Bill contains a clause that makes the financier responsible for any costs to the environment caused by inappropriate use of the land by the borrower. The Banking Association is engaging Government to review this clause.

National Debt Mediation Association

The National Debt Mediation Association has been established as a voluntary non-profit organisation designed to assist over-indebted consumers through debt mediation. As an alternative to the statutory provisions under the National Credit Act, a consumer experiencing financial difficulty would be considered to restructure his/her debt obligations with a broad spectrum of credit providers facilitated through a registered debt counsellor, affiliated with the NDMA, using an agreed set of restructuring rules. This voluntary process would provide the consumer with the ability to commit to a new payment plan that would enable the consumer to meet his/her remaining debt obligations at their original terms within a period of five years. The objective is to focus on rehabilitation of over-indebted consumers rather than relying on the liquidation option as first choice

Corporate Governance

The King Committee on Governance have released its draft Code of Governance Principles for South Africa ("King III"). This update of the existing principles was done to accommodate the changes in legislation since 2002, including the new Companies Act.

The King III Report addresses two (new) fundamental issues: business rescue and fundamental and affected transactions. However, by reason of the changes in the Companies Act, King III has included a section on fundamental and affected transactions to ensure that directors are aware of their responsibilities and duties in regard to mergers, acquisitions and amalgamations. The King III Code also aligns sustainable reporting introduced in King II with good corporate governance today.

Eligibility for Financial Assistance Programmes

In South Africa, local branches of internationally headquartered banks must comply with stringent requirements that include local branch capital and restrictions that limit off-shore investments.

The South African Reserve Bank ("SARB") emergency liquidity assistance programmes apply only to domestically incorporated and authorised banks, whose failure might have systemic implications.

It would not normally be the policy of the SARB to offer such assistance to branches of foreign banks operating in South Africa, cognisant of the fact that the liquidity of a branch cannot be readily divorced from that of the bank as a whole. It therefore follows that the Head Office of a branch, supported if necessary by home country assistance, is expected to provide sufficient funding to enable its South African branch to meet its obligations. In the event that such assistance was not possible, there would be no alternative but for the branch to close its South African operations. Under such circumstances, the SARB would consider whether to invoke its powers vested by Section 69 of the Banks Act to appoint a curator to take control of the affairs, business and property of the branch in South Africa.

With due observance of the above, there are three circumstances where the SARB might provide financial assistance to a branch of a foreign bank:

- For the purposes of normal liquidity accommodation in special circumstances, foreign collateral of equivalent standing to those eligible for daily repos may be accepted to provide liquidity to a foreign Bank branch operating in SA. (e.g., central Govt paper of most countries of the OECD).
- The SARB might swap SA Rands for US Dollars held by the branch if no suitable counterparty can be found in the market.
- The SARB might provide urgently required bridging finance on a secured basis to a branch pending the branch's receipt of funds from its Head Office, subject to the assurance and confirmation of the home country's supervisor.

In practice, notwithstanding the international financial crisis, and the ensuing deterioration in the conditions of the domestic financial markets and banking sectors, this has not created any severe instability in the domestic financial system.

The SARB has not embarked on any out-of-the ordinary liquidity management operations and interbank markets continue to function as normal, both in terms of prices (typically interest rates) and volumes.

SPAIN

The legislative activity that has taken place in Spain since the preparation of the previous report has largely been as a result of the need to respond to the financial and economic crisis and to transpose applicable European Directives.

Laws enacted to respond to the current economic crisis basically correspond, with respect to financial matters, to the agreements adopted by European Union bodies as from October 2008.

With respect to this latter category, the following laws have been enacted to tackle the economic crisis:

- Royal Decree-Law 6/2008 of 10 October, which created the Fund for the Acquisition of Financial Assets.

- Royal Decree-Law 7/2008 of 13 October, on Urgent Financial and Economic Measures related to the Concerted Action Plan of Countries in the Euro Zone.

- Royal Decree-Law 3/2009 of 27 March, on Urgent Tax, Financial and Insolvency Measures in response to the development of the economic situation. This Decree-Law introduced a reform of the Spanish Insolvency Law of 2003 to, *inter alia,* facilitate banks' endeavours to refinance companies in difficulties.

- Royal Decree-Law 9/2009, of 26 June, on Banking Restructuring and Strengthening own funds of credit institutions. This Decree-Law creates the "Fund for the ordered banking restructuring", with legal personality, as an instrument for the Bank of Spain and The Ministry of Economy and Finance for Restructuring the Spanish Banking System.

Regarding the laws passed for the transposition of European Directives, special mention should be given to the Law 3/2009 of 3 April, on Structural Modifications to Mercantile Companies. This Law incorporates Directive 2005/56/EC of the European Parliament and of the Council, of 26 October 2005, on cross-border mergers of limited liability companies and Directive 2007/63/EC of the European Parliament and of the Council, of 13 November 2007, on the requirement of an independent expert's report in the event of a merger or division of any public limited liability companies.

With regard to measures which are strictly within a national scope, the most important law enacted over the last year is Law 2/2009 of 31 March, regulating the execution of mortgage loan contracts with consumers (not including those granted by credit institutions, given that the mortgage loan activity of credit institutions is governed by specific legislation) and intermediation services for the execution of loan or credit contracts.

Finally, on the tax area, the most important new legislation has been Law 4/2008 of 23 December. This removed the burden payable in respect of Capital Gains Tax (in effect, abolishing Capital Gains Tax itself), generalised the system of monthly returns of Value Added Tax (VAT) and introduced other tax changes that, within other fields, have initiated a process that simplifies the reporting obligations of non-resident investors in public debt and other financial instruments issued in Spain.

In terms of regulatory instruments, the most important is Royal Decree 716/2009 of 24 April, which implements legal provisions relating to financial instruments in the mortgage market (basically, mortgage-backed securities, bonds and mortgage participations).

SWEDEN

1. Swedish Economy

The Swedish GDP has showed a sharp decrease from mid 2008 to mid 2009 and is minus 4 percent by 1 July 2009. However, the forecast for 2010 is optimistic and the National Institute of Economic Research believes that Sweden will reach 0 percent growth by 2010. Also the unemployment rate has shown very negative development since mid 2008. Sweden has a sharp increase in unemployment for the period from 6 percent to almost 10 percent. The National Institute of Economic Research believe that the unemployment rate will continue to increase further to around 12 percent in 2010.

The government budget balance has been developing very weakly for the last year. From a plus of some SEK 100 billion end 2008 to a negative budget balance of some SEK 200 billion by end 2009. Part of the explanation for the fast decline is that the unemployment benefits have increased dramatically over the past year. However, the National Institute of Economic Research expect the balance to recover somewhat in year 2010.

The Swedish Central Bank closely follows the development of the consumer price index. The objective of the Swedish Central Bank is to have an inflation of 2 percent on a yearly basis +/- 1 percent. However, by mid 2009 the inflation was down to 0 percent and we even had a period of deflation during this summer. For 2010 the Swedish Central Bank is expecting inflation to increase somewhat.

Concerning the three months, interest rates for treasury bills have had a sharp decrease for the past nine months from 4.5 percent to 0.25 percent in mid 2009. From a historic perspective this sharp decrease in interest rates for treasury bills has never been seen in the Swedish economy.

2. The Banks' Results and Key Figures

This description focuses on the four major commercial banks in Sweden. They jointly represent about 80 percent of the market. These major banks are becoming increasingly dependent on markets other than the Swedish market, and they have considerable activities in markets outside Sweden.

Market Developments

The Swedish banks have been affected by the global financial crisis, but to a lesser extent than many other banks at the international level. One reason why the effects are more limited to the Swedish banks is that they have largely avoided investing in various forms of structured products whose value has declined sharply.

The major banks' profitability has been under pressure during the last four-quarters due to increased credit losses and the decline of net results. The profit before loan losses has increased to around SEK 90 billion, but at the same time net loan losses have increased to around SEK 25 billion by end of the first-quarter 2009. A central issue is of course how the loan losses will develop during the near future. Also the banks' earnings have increased during the period to around SEK 190 billion by end first-quarter 2009 due to increased volumes. The increase in earnings is mainly due to higher net interest income and higher net results of financial transactions.

The decline in profitability is largely due to increases in the major banks' loan losses. In mid 2008 net loan losses were 0.20 percent of the loan portfolio and by mid 2009 the level has increased to some 0.80 percent, which is a rather sharp shift during the last year. On a yearly basis, banks expected the net loan losses to be around 0.5 percent of the loan portfolio over a business cycle. The provision ratio for impaired loans have decreased somewhat from mid 2008 until now, but on the other hand both the gross impaired loans and net loan loss level have increased sharply from mid 2008 until mid 2009.

The Swedish Central Bank has in their latest financial stability report, which is produced on a semi-annual basis, a number of scenarios for the expected loan losses for the major Swedish banks for 2009 and 2010. In the main scenario, the central bank expected the Swedish banks to show total loan losses of around SEK 170 billion in 2009 and 2010. These loan losses will affect the four banks differently. From a geographical point of view most of the losses are considered to affect the loan portfolios in the Baltic States (31 percent), Sweden and the other Nordic countries equally (27 percent in each area) and other countries (14 percent). It is important to note that the banks are still expected to show net profits after loan losses for both year 2009 and 2010.

Lending

Growth in lending to both households and companies have declined during the past year from 15 percent for companies and 11 percent for households mid 2008 to around 9 percent for both companies and households in mid 2009. We understand that the decrease in growth has continued during the summer. In the net mortgage lending 2/3 of the lending is for houses while 1/3 of the lending represents apartments.

Lending from the four major Swedish banks divided geographically in March 2009. The exposures are of course very closely linked to the strategy of each bank. The exposures in Handelsbanken are dominated by the exposures to Swedish customers 70 percent, Nordic countries 20 percent and others countries 10 percent. In Nordea 25 percent of the exposures are related to Sweden, 60 percent to Nordic countries and other countries 15 percent. The exposures in SEB are closely related to Sweden by 45 percent, Nordic countries 15 percent, the Baltic States 12 percent and others 28 percent (e.g. Germany). In Swedbank the exposures are dominated by Swedish customers by 75 percent, the Baltic States 20 percent and other countries 5 percent.

On an aggregate level the Swedish major banks have 7 percent of their exposures to the Baltic States.

Capital Adequacy Ratios

Three of our four major banks have during late 2008 and in the beginning of 2009 issued share capital to strengthen their capital base. Swedbank was the first bank to issue share capital in 2008. The issue was SEK 12 billion. After that SEB issued SEK 15 billion in early 2009. Also Nordea issued new capital of EUR 3 billion in the spring 2009.

The tier I capital ratios in the four major banks by end March 2009 are the following. Swedbank 9 percent, Nordea 10 percent, SEB 11 percent and Handelsbanken over 8 percent. From an international perspective we therefore believe it is fair to say that all the major Swedish banks are well capitalised.

As previously mentioned the Swedish Central Bank did some stress tests on the Swedish banks in their first financial stability report for 2009, covering expected loan losses for 2009 and 2010. In their most severe scenario the major Swedish banks are expected to lose a total of SEK 300 billion in two years. However, even after those expected losses all the major Swedish banks will show a tier I capital ratio over 4 percent, which is the legal requirement for tier I capital.

Household Savings

The household debt in relation to disposable income has continued to increase during the period and is by mid 2009 almost 150 percent, which from a historical point of view very high. At the same time the interest ratio has continued to decrease and is now down to 4 percent in the beginning of 2009 which is a very low level and it has decreased even more in the last couple of months.

The total savings for households has declined in the second half of 2008. This is partly due the sharply falling prices of shares in the stock exchanges for that period. This has lead to the fact that households have become more cautious with their savings, meaning that they save more money in deposits. By end 2008 the Swedish households hold 40 percent of the savings in deposits and 30 percent in insurance savings. The rest of their savings was related to funds, shares, bonds and cash.

3. Governmental Programs to Stabilize the Financial System and Provide Financial Support

In Sweden a number of measures have been taken to stabilize the financial system and provide financial support during second half of 2008 and first half of 2009. The institutions eligible for measures are parent companies or subsidiaries in Sweden with Swedish and/or foreign owners. However, the different measure does not cover foreign branches operating in Sweden. The measures include the following:

- In September 2008 the National Debt Office and the Swedish Central Bank support the liquidity situation in the major banks, e.g. by auctions of Treasury bills.

- In October 2008 the Government issued a "package" of measures including, the deposit guarantee scheme, which extended the scope (all kind of deposits) and scale up to SEK 500,000 (before 250,000) per person and bank. The Swedish Central Bank granted a loan of SEK 5 billion to Kaupting Bank Ltd. to be used to pay Swedish depositors in Kaupting Edge. Further, in October a state guarantee for borrowing was launched. It was limited to SEK 1500 billion with a charge for short and long term borrowing by institutions. So far one major bank has used it and also some other credit institutions. The programme runs until October 2009. The Government also launched a stability fund. A fund to finance government measures to support the financial system. The size of the fund is to be 2.5 percent of GDP within 15 years. The fund should be financed by the state, the deposit guarantee fund and with yearly fees from the banks.

- In February 2009 the Government launched a capital infusion programme. By the programme financially strong banks can obtain a government capital infusion. The programme is limited to SEK 50 billion. The state can participate in two ways; either by an issue in the market whereby the State can participate with maximum 70 percent of the issue at ordinary market terms, or the State can participate in a targeted issue on specific terms. So far the State has bought SEK 5.6 billion in new shares in Nordea. The programme runs until February 2010.

Besides what has been already mentioned, the Swedish Central Bank has substantially decreased the repo rate during the past 6-9 months from 4.5 percent down to 0.25 percent. This has positively affected all the major banks' costs for financing. Now we face a more stable situation for the financing of the major banks then 6-9 months ago.

SWITZERLAND

Swiss Financial Market Supervisory Authority (FINMA)

On 1 January 2009 the Federal Act on the Swiss Financial Market Supervisory Authority (Financial Market Supervision Act, FINMASA) came into force. This act created a single supervisory authority known as FINMA to ensure harmonized and consistent surveillance of the financial market and financial intermediaries authorized to do business in Switzerland. FINMA supersedes the Swiss Federal Banking Commission and is henceforth the regulator of banks, brokers, stock exchanges, insurance companies and collective investment vehicles. With regard to preventing money laundering it is the supervisory authority for all financial intermediaries doing business in Switzerland which are subject to the Federal Act on the Prevention of Money Laundering in the Financial Sector.

The FINMASA regulates the organization of the FINMA and creates several instruments for efficient supervision. In particular, the FINMA may suspend the professional activities of an employee of a financial intermediary for up to five years should he or she be found guilty of seriously violating financial market legislation. FINMA may also confiscate gains resulting from serious violations of supervisory provisions. In order to conduct its investigations more efficiently, FINMA may appoint independent and suitably-qualified persons as investigating agents. The revocation of licenses, withdrawal of recognitions and cancellation of registrations remain as ultimate sanctions for intermediaries which have seriously violated supervisory provisions.

The FINMASA also harmonized provisions on offences and sanctions as provided by different laws regulating organization, duties and activities of different participants in the Swiss financial market and it provides specific rules governing cooperation with foreign supervisory authorities.

Financial crisis stabilization package

On 16 October 2008 the Swiss government, together with the Swiss National Bank (SNB) and the Swiss Federal Banking Commission (now FINMA) announced a package of measures to strengthen Switzerland's financial system and counter certain negative effects of the financial crisis. Immediate measures were announced to strengthen depositor protection by raising the value of assets protected from CHF 30,000 to CHF 100,000 (details in separate entry below). In addition, the government and the SNB announced two coordinated measures to strengthen the balance sheet of UBS, Switzerland's largest bank and the main Swiss banking victim of the U.S. subprime crisis. Firstly, the SNB created a special purpose vehicle (SPV) to which UBS could transfer illiquid securities and other troubled assets up to an amount not exceeding USD 60 billion. According to the SNB's agreement with UBS, UBS sold troubled assets to the SPV and provided equity capital of USD 6 billion to serve as a first protection against losses. The SNB financed the purchase of these assets by granting the SPV a secured long-term loan not exceeding USD 54 billion and taking control over the SPV. The aim was to relieve UBS of all relevant remaining risks stemming from problem-ridden segments of the credit markets. Secondly, the state strengthened UBS's capital base by subscribing to mandatory convertible notes to the amount of CHF 6 billion. In August 2009, the notes were converted to shares and sold to private investors. Hence, except for the SNB, the Swiss government no longer has a stake in UBS AG or any other bank in response to the financial crisis.

Basel ll, capital adequacy and the leverage ratio

Switzerland implemented Basel II on time according to the timetable recommended by the Basel Committee on Banking Supervision. The basic provisions of Basel II took effect at the beginning of 2007. The more sophisticated approaches (IRB Internal Ratings Based Approach and AMA Advanced Measurement Approaches) had to be implemented by the beginning of 2008. Switzerland has transposed Basel II into national legislation in line with the requirements of the Basel Committee (as well as with the European Union). By international comparison, the Swiss implementation actually goes beyond the requirements of Basel ll because the Swiss Financial Market Supervisory Authority (FINMA) demands an additional 20% buffer (Pillar 2) on top of the original requirements. Banks not fulfilling the 120% mark will be placed by the FINMA on a "watch list".

The Swiss Bankers Association (SBA) supports the goals and concept of Basel II as well as the way in which it has been implemented in Switzerland. The SBA is convinced that the revision contributes favorably to the risk sensitivity of capital adequacy regulation.

Responding to the financial crisis, in December 2008 FINMA announced an agreement with Switzerland's two major banks - UBS and Credit Suisse - to set higher capital adequacy targets and introduce a leverage ratio. No changes are planned for Switzerland's other banks which already voluntarily maintain capital levels which on average are almost double the required minimum. With regard to UBS and Credit Suisse, two complementary instruments are at the heart of the new capital adequacy regime and must be complied with by the year 2013 subject to profits earned in future periods.

Firstly, the new capital target ratio for UBS and Credit Suisse will be in a range between 50% and 100% above the international minimum requirements (Pillar 1) of Basel II. This requirement is implemented within the context of Pillar 2 and aims at a counter-cyclical effect. In favorable periods the banks must increase their capital up to the target level of 200% (100% Pillar 1, 100% Pillar 2). These buffers will then be available to the banks during crises up to an intervention level of 150%.

Secondly, UBS and Credit Suisse will have to comply with a leverage ratio (nominal cap on debt, without risk-weighting) in addition to their risk-based capital adequacy requirements. The leverage ratio defines the proportion of core capital to total assets and will be set at a minimum of 3% at group level and 4% for the individual institutions. The segment of domestic lending activities is exempted from the leverage ratio.

The leverage ratio represents a totally different approach than that of Basel II. Whereas risk weighting and the enhancement of risk sensitivity is at the centre of Basel II, a leverage ratio does not use risk-weighting. From a conceptual perspective, the advantages (transparency) and disadvantages (asset substitution) of introducing a leverage ratio are far from clear.

Measures to strengthen depositor protection

Protection of creditors has top priority in Switzerland and in late 2008 the SBA worked closely with the Federal Department of Finance to work out modifications to the existing depositor protection scheme. This had become a matter of some urgency as other international financial centers had substantially enhanced their protection of bank deposits. On 19 December 2008 the Federal Banking Law was correspondingly amended. The core elements of the new provisions are:

- an increase in the maximum amount of secured ("privileged") deposits from CHF 30,000 to CHF 100,000 per depositor;
- an additional privilege of up to CHF 100,000 for claims to bank foundations and the treatment of vested benefits of such foundations as deposits from the pension plan holder or insured person (the privilege thus being counted not per foundation but per holder);
- an obligation for banks to hold assets to the amount of 125% of the privileged deposits in Switzerland;

- the speeding up of disbursement in the event of a bank failure by possible immediate payouts to depositors up to CHF 100,000 out of liquidity available at the insolvent institution (previously limited to CHF 5,000 per depositor);
- an increase in the system limit (i.e. the total amount covered by the scheme) from CHF 4 to CHF 6 billion.

These measures will remain in force at least until the end of 2010. The Federal Department of Finance has announced a project to radically review the Swiss deposit guarantee scheme *in toto* with a view to replacing the provisional measures at the beginning of 2011. The key amendment could involve a restructuring from the existing *ex post*-financed scheme of the SBA to the establishment of a pre-financed fund under the direct supervision of the Federal Department of Finance. The respective draft law will most likely be published in the fall of 2009.

Remuneration systems

On 6 March 2009 the Swiss Financial Market Supervisory Authority FINMA opened the consultation period for its proposed "Circular on Remuneration Systems" which will enter into force on 1 January 2010. The Circular will have a direct impact on the remuneration systems of the financial institutions regulated by FINMA. Its aim is to ensure that remuneration systems do not provide incentives to take inappropriate risks that could threaten the stability of financial institutions.

According to the proposal, financial institutions will have to structure their variable remuneration packages (bonuses) on a sustainable and long-term basis in line with economic profit while taking into account the costs related to all risks entered into. Furthermore, Boards of Directors will have to discharge their duties more carefully. They are responsible for the remuneration policy of the entire company and will have to disclose the company's remuneration policy in a remuneration report. The final regulation will be issued in the fall of 2009.

Switzerland and the OECD's Model Tax Convention

On 13 March 2009 the Swiss government announced that Switzerland is to take over the standard on the exchange of information set out in Article 26 of the OECD's Model Tax Convention. This means that Switzerland will extend international administrative assistance in tax matters to cover all tax offences, including tax evasion. In the past administrative assistance has been limited to cases of criminal tax fraud. Swiss legislation makes a distinction between tax *evasion*, which essentially means submitting an incomplete tax declaration, and tax *fraud*, which involves deliberate criminal intention to deceive the tax authorities by falsifying or forging documents.

States that have implemented OECD Article 26 agree to the exchange of information upon request, but not to the automatic disclosure of information. This generally means that the country seeking information must produce a substantiated request and provide concrete evidence of wrongdoing by a specific, identified person using a particular bank account in Switzerland. So-called "fishing expeditions" (i.e. the indiscriminate trawling through bank accounts with a view to identifying possible tax evaders or criminals) remain ruled out.

The conditions for this administrative assistance will be clearly defined in double taxation agreements (DTAs) that Switzerland will now revise or renegotiate. As of March 2009, Switzerland had double taxation agreements with more than 70 countries. Switzerland aims to renegotiate all DTAs over time and to sign at least 12 by the end of 2009. A revised DTA with the U.S. was initialed on 18 June 2009, and will be signed in the fall of 2009. By late August 2009, a total of 13 DTAs have been revised. Contrary to what was widely thought and reported by the media, there will be no changes to Swiss legislation. Article 47 of the Swiss banking law codifying bank-client confidentiality remains intact so the privacy of clients not under suspicion will continue to be protected. The Swiss tax authorities' access to bank client information will remain limited to cases of criminal tax fraud.

TURKEY

Measures taken to address the negative effects of the global crisis on financial markets.

The impact of the global financial crisis on the financial sector in Turkey was limited due to the strong financial structure of the banking system and the efficient and timely measures taken by the Government and authorities to mitigate its consequences.

The Central Bank (CBRT) announced the measures for efficient operating of money markets.

The CBRT started to perform intermediary market transactions in order to maintain confidence in the FX repo market and increased its FX-denominated lending to banks.

The CBRT stood ready to initiate a floating exchange rate regime as well as FX sales auctions (whose rules were announced in advance) in the event of excessive exchange rate volatility.

In order to strengthen exports, the CBRT increased the export rediscount credit limit granted to banks to USD 1 billion on December 5, 2008, and ease-of-use was brought to these credits.

In addition, in order to minimize the negative effect of the financial problems relating to FX liquidity, on December 12, 2008 the FX required reserve ratio was decreased by 2 points to 9 percent from 11 percent, which resulted in additional FX liquidity in the banking system amounting to USD 2.5 billion is provided to our banking system.

The Banking Regulation and Supervision Agency (BRSA) adopted certain measures aimed at preserving the financial strength of banks and containing the effects of abrupt changes in the financial asset prices on banks' capital. For this purpose, banks' 2008 dividend distributions were made subject to permission by the BRSA; a more flexible regulatory approach was taken to restructuring of loans and other receivables; financial assets were allowed to be classified under a different category; cash-flows sourced from FX-indexed financial instruments were included in assessing the adequacy of FX liquidity; and a minimum liquidity level was implemented level so as to meet sudden deposit withdrawals.

The Government sought ***authorization*** from the ***Parliament*** for increasing and determining for a period of two years the deposit insurance coverage. This amendment allowed for the Treasury's direct guarantee of insured deposits as the Savings Deposit Insurance Fund's (SDIF) own resources would not be sufficient to cover an unlimited guarantee of deposits. However, Parliament did not grant this authority, and the deposit insurance coverage has remained unchanged (maximum coverage is TL 50,000).

Regulatory developments related to the banking sector

The foreign exchange transactions tax rate was reduced to zero.

Credit institutions extending loans to organized industrial zones have been authorized to participate in the sale of the real property mortgaged to their names as a guarantee for collection of receivables.

The Communiqué About Foundations Founded in Accordance with the Provisions Of Turkish Civil Code, stipulating that foundations can make a deposit only in the prescribed financial institutions, was repealed. Article 16 (headed "Making Good Use of the Foundations' Funds") of the Regulation for Foundations requires foundations to use their assets in observance of the economic rules and risks and to deposit their cash to banks resident in Turkey.

On the subject of combating laundering of the proceeds of crime and financing of terrorism; banks' responsibility and liability have been re-regulated through subordinate clauses prepared by the Republic of Turkey, Financial Crimes Investigation Board (MASAK). In addition, laws and regulations relevant to the subject were completely renewed and were considerably converged with international standards.

With an amendment introduced to the Regulation About Deposits and Participation Funds Subject to Insurance, and the Premiums to be Charged by Saving Deposits Insurance Fund it became possible that banks with different risk valuations will pay different premiums for the purpose of establishing a fairer insurance premium tariff.

Paragraph 3, Article 711 of the Turkish Commercial Code was repealed, and the practice of giving "ban on payment" instruction by the drawer of a negotiable instrument to the bank was terminated. Regulations that decrease the operational costs of banks were adopted by the Decree No. 32 About Protection of the Value of Turkish Currency.

A regulation was adopted by the Banks Association of Turkey stipulating that interest rates announced in consumer loan advertisements and bank publications should be sufficiently informative to consumers and give the possibility to make comparisons between banks, and that they should clarify the costs to be born by customers.

Work previously initiated for the purpose of monitoring compliance with the ethical principles prescribed by the Banks Association of Turkey, and ensuring better understanding for the ethical principles, was completed, and the Ethical Commission was established for this purpose.

"Communiqué About the Procedures and Principles Regarding the Activities of the Representative Offices Opened in Turkey" was published for the purpose of improving the competition power of banks resident in Turkey, and establishing the procedures and principles regarding the opening of representative offices in Turkey by finance organizations resident abroad and the activities of such representative offices.

A standard for account numbers that complies with the International Bank Account Number (IBAN) standard was determined in Turkey, and coordination works were realized in order to ensure that banks start their applications in accordance with this standard. The "Communiqué About International Bank Account Number" was published in connection with these efforts.

Market Developments

The number of banks operating in Turkey was 49. Out of these, 4 were participation banks.

The number of deposit banks and development and investment banks decreased by 1 to 45 in 2008 compared with the end of 2007. With its Decision No. 2893 dated 13 November 2008, BRSA decided to terminate the activities of the Istanbul Branch of Unicredit Banca di Roma S.p.A. and authorized its voluntary liquidation. Out of the total number of 45 banks, 32 were deposit banks, and 13 were development and investment banks; 3 of the deposit banks were state-owned and 11 were private banks. There was 1 bank owned by the Saving Deposits and Insurance Fund (SDIF). The number of deposit banks with foreign capital participation that were 51 percent or more owned by non-residents was 17. Of the development and investment banks, 3 were state-owned banks, 6 were private banks and 4 were foreign banks.

The upward trend in the number of bank branches also continued in 2008 when negative effects from international markets started to be felt more strongly and also in first quarter of 2009. Total number of bank branches rose from 8,174 to 8,826 between June 2008-March 2009.
The number of bank employees also continued to increase in 2008 similar to the number of branches in the said period. The number of employees increased from 166,822 to 171,048.

UNITED KINGDOM

Key regulatory developments

Banking Act 2009 (what has happened)

The Banking Act[1] came into force on 21 February 2009. It builds on the powers first introduced by the Banking (Special Provisions) Act 2008, which was used to take Northern Rock into temporary public ownership in February 2008, and subsequently to resolve the failure of Bradford & Bingley in September 2008 and the UK subsidiaries (Heritable and Kaupthing Singer and Friedlander) of two Icelandic banks in October 2008. Historically, failures of UK financial institutions have been resolved through the bankruptcy regime which applies to ordinary corporates. The Banking Act changes this and introduces:

[1] The text of the Act is available here. The BBA's briefing on all the aspects of the Act is available here.

- a new Special Resolution Regime (SRR) to enable the Tripartite Authorities to keep part of a failing or failed bank in business by either (i) transferring it to a private sector purchaser, (ii) transferring it to a 'bridge bank' (a bank organized to assume the assets and liabilities of an insolvent bank), or (iii) transferring it into temporary public ownership;
- a new bank specific insolvency procedure for dealing with the termination of a failed bank; and
- a new bank administration procedure for use where there has been a partial transfer of business from a failing bank.

The Act requires that two conditions be met before the new SRR powers can be exercised: (i) the bank must be failing or likely to fail to meet its regulatory threshold conditions and (ii) it must be 'reasonably not likely' that action will be taken by or in respect of the bank to satisfy the regulatory threshold conditions. The FSA is tasked with determining whether these conditions are satisfied, although it is expected that the second condition will be considered by the FSA in consultation with the Bank of England and HM Treasury.

The Act also contains a range of other measures to amend the legal framework which governs the Financial Services Compensation Scheme (depositor protection regime), including the power for the government to enable 'pre-funding' of the scheme. The Bank of England is also given new powers, including a statutory financial stability objective (which has led to the creation of a new Financial Stability Committee to advise on financial system matters) and the formalist ion of the Bank's payment system oversight role.

<u>Turner Review (what will happen)</u>

In March, Lord Turner, the new Chairman of the FSA, published a landmark report setting out regulatory reforms the FSA believes need to be made in light of the financial crisis[2]. The Review identifies three underlying causes of the crisis – macro-economic imbalances, financial innovation of little social value and important deficiencies in key bank capital and liquidity regulations – concluding that these were underpinned by an exaggerated faith in rational and self-correcting markets.

It stresses the importance of regulation and supervision being based on a system-wide "macro-prudential" approach rather than focusing solely on specific firms. It recommends:

- Fundamental changes to bank capital and liquidity regulations and to bank published accounts;
- More and higher quality bank capital, with several times as much capital required to support risky trading activity;
- Counter-cyclical capital buffers, building up in good economic times so that they can be drawn on in downturns, and reflected in published account estimates of future potential losses;
- A central role for much tighter regulation of liquidity;

[2] The Turner Review is available here. The BBA's response to the subsequent FSA Discussion Paper is available here

- Regulation of "shadow banking" activities on the basis of economic substance not legal form: increased reporting requirements for unregulated financial institutions such as hedge funds, and regulator powers to extend capital regulation;
- Regulation of Credit Rating Agencies to limit conflicts of interest and inappropriate application of rating techniques;
- National and international action to ensure that remuneration policies are designed to discourage excessive risk-taking;
- Major changes in the FSA's supervisory approach, building on the existing Supervisory Enhancement Program (SEP), with a focus on business strategies and system wide risks, rather than internal processes and structures; and
- Major reforms in the regulation of the European banking market, combining a new European regulatory authority and increased national powers to constrain risky cross-border activity.

The Review distinguishes between those areas where the FSA has already taken action, those where the FSA can proceed nationally, and those where international agreement needs to be achieved. The contents of the Turner Review are currently the subject of an FSA Discussion Paper and should be expected to form the basis of the UK's regulatory structure going forward.

Remuneration

One area where the FSA is already moving forward is remuneration. In March, it published a Consultation Paper proposing a code of good remuneration practice that will affect all employees of the UK's largest banks and investment firms[3]. Its general principle, that their bonus policies should be consistent with effective risk management, is to be made a FSA rule. Compliance will require the remuneration policies of a major financial institution to be benchmarked against the following standards:

- Is the salary part of every employee's total remuneration package enough to enable a fully flexible bonus policy to be operated with no obligation to pay a bonus every year?
- Do its bonus pool calculations take account of the cost of capital employed and liquidity required with adjustments for current and future risk?
- Have the risk and compliance functions considered the adherence of each individual employee to effective risk management and compliance with the regulatory system?
- Has every employee deferred at least two thirds of any significant bonus, with a vesting period appropriate to the nature of the business and its risks?
- Is the payment of any deferred bonus linked to the future performance of the firm as well as that employee's division or business unit?

The new rule should be in force by 6 November 2009 and will influence this year's bonus round. The FSA is proposing transitional rules in relation to any employment contract that prevents compliance with this new rule. These will require affected employers to amend any employment contract that allows amendment as soon as possible and by no later than 31 December 2009. In all other cases, any non-compliant employment contracts must be amended or terminated by 6 November 2010.

[3] The FSA CP is available here. The BBA's response to the FSA CP is available here

Statutory Conduct of Business regulation for retail banking

On the 1st November 2009 the FSA Banking Conduct of Business Sourcebook (BCOBS) is introduced and replaces the Banking Code as the means of regulating retail deposit taking activities in the UK. BCOBS has been developed in conjunction with the FSA assuming responsibility as the competent authority for implementation of the Payment Services Directive in the UK.

BCOBS sets high level principles-based rules for the way in which banks deal with personal and micro-enterprise customers, both pre and post sale, when providing retail deposit products services. Industry Guidance will provide banks with examples of the ways in which the FSA rules can be met. The main focus of BCOBS is the provision of appropriate information to customers at the right time to allow them to make informed decisions and the need to ensure that banks treat customers fairly throughout the life of their relationship with the customer.

A consequence of the abolition of the Banking Code is that unsecured personal and small business credit will no longer be subject to conduct of business regulation beyond that required under the Consumer Credit Act. The industry is therefore working with stakeholders to develop a new self-regulatory approach for credit that will also be implemented on the 1st November 2009 and will run until a more formal and comprehensive approach to credit regulation is agreed.

Significant market developments

The financial turmoil has led to the most significant reshuffling of the industry for a number of years. Lloyds TSB has merged with Halifax Bank of Scotland to form the new Lloyds Banking Group. Abbey, a major subsidiary of the Santander Group, has acquired Alliance and Leicester and the deposit book of Bradford and Bingley (the remainder being taken into government ownership); the UK holdings will be united under the Santander banner over the next year.

There has also been significant change in the mutual sector: the Derbyshire and Cheshire and Catholic building societies have merged with the Nationwide, which has also acquired the branch network and loan book of the Dunfermline. The Scarborough has merged with the Skipton and the Britannia building society has merged with the Co-operative Bank.

A further important trend, and consequence of the financial turmoil, has been the withdrawal of some foreign institutions from the UK market. Notable examples of this include the UK subsidiaries of the Icelandic banks Heritable and Kaupthing Singer and Friedlander. Whilst the UK remains very much an international banking centre, the reduction of lending capacity has required the remaining institutions to fulfill government targets for lending to individuals and SMEs.

Crisis measures

The UK government has introduced the following measures in the past year to stabilize the financial system:

Capital injections

Amount	Eligible institutions	Injection instruments	Injection terms	Dividend Policy	Intervention conditions
£37bn initially (additional £19bn and £15.6bn injected into RBS and Lloyds, respectively)	Abbey Barclays RBS LTSB HSBC HBOS Nationwide Stand Chart	Initially in the form of both ordinary and preference shares.	12% coupon on preference shares for first 5 years LIBOR + 7% thereafter Callable after 5 years	No dividend on ordinary shares whilst Gov owned preference shares are outstanding	• Govt appointed Board members • No cash bonuses for Board • Bonus restrictions for Directors •Social commitments (e.g. Competitively priced mortgage lending) • Maintain 2007 'available' lending levels for mortgages/SMEs 18/01/09 - £5 bn preference shares in RBS converted into 'ordinary' shares (Provisional agreement on the 07/03/09 to convert Lloyds £4bn pref. Shares into Ordinary)

Credit guarantee scheme

Amount	Eligible institutions	Instruments	Fees & Accompanying Conditions	Term Availability Period
£ 250 bn	Substantial business in UK (at discretion)	CDs, CP, bonds, notes	50bp of the gross issuance plus 100% of the eligible Institutions median 5 year Credit Default Swap spread during the 12 months to Oct 07 2008	Up to 40 Months Dec 2009

Asset protection scheme

Eligible institutions	Eligible Assets	Fees Structure	Conditions
UK incorporated authorized deposit-takers with more than £25 bn of eligible assets (including UK subsidiaries of foreign banks)	•Corporate/ leveraged loans • Property loans (Commercial & residential) • Structured credit assets (inc. RMBS, CMBS, CLOs & CDOS) Eligible institutions may join Scheme until March 31, 2009. Duration of coverage will not be less than 5 years, and consistent with the tenor of the asset. Assets covered will also be 'ring-fenced' by the institution.	Participating Institutions must pay a fee, decided on a case-by-case basis, which can be satisfied by cash or issue of capital instruments by the institution (although not ordinary shares at this time). Participating Institutions must also cover a 'first loss' themselves. This will also be decided on a case-by-case basis. The government will cover 90% of the credit losses that exceed the "first loss" amount, with each participating institution retaining a further residual exposure of 10% of any credit losses exceeding this amount. This provides an incentive for participating institutions to minimize losses.	Participating Institutions will be required to enter into legally binding commitments to: • increase lending to creditworthy borrowers; • comply with FSA Code of Practice on remuneration policy; and • meet the highest international standards of public disclosure in relation to their assets

UNITED STATES

During the period under review, commencing July 1, 2008, developments in financial services regulation in the United States were driven to a significant extent by events as policymakers and supervisory authorities alike struggled to come to grips with the unprecedented stresses that brought the credit markets to a virtual standstill and threatened to usher in a second Great Depression. Through a series of *ad hoc* actions, which involved the exercise of extraordinary powers by both the Federal Reserve and the FDIC (see below), and ultimately required legislation authorizing the expenditure of up to $700 billion under the so-called "Troubled Assets Relief Program" ("TARP"), the immediate crisis was met and some degree of stability returned to the financial system, thereby permitting policymakers to turn their attention to addressing the underlying causes of the crisis.

The emergency decisions taken in the waning days of the Bush Administration constrained in a very real sense the policy options available to the Obama Administration. The new

Administration in large measure continued and extended the financial stabilization programs initiated by its predecessor (culminating in the TARP-funded federal rescue of General Motors and Chrysler). However, as some degree of stability began to be restored to financial markets the preoccupation with addressing the systemic crisis diminished in intensity, which permitted increased attention to be given to ways in which the emergency programs can be wound down and reliance on market mechanisms restored. In this connection, the Treasury Department on September 14, 2009 released a report on "The Next Phase of Government Financial Stabilization and Rehabilitation Policies".

In conjunction with this shift in emphasis, the Obama Administration during the summer of 2009 introduced a comprehensive legislative proposal to revise the U.S. financial regulatory system in ways intended to avoid the recurrence of the crisis (further discussed below). The proposal to date has received a mixed reception, and certain aspects, such as the proposed concentration of supervisory authority over systemically significant institutions in the Federal Reserve and the creation of a Consumer Financial Protection Agency, have evoked especially strong reactions, both in favor and against. Congressional action on financial services regulatory reform may be delayed until after the complex issues relating to health care reform have been resolved.

Responding to the Financial Crisis

Commencing in December 2007 with the Federal Reserve's announcement of its "Term Auction Facility" the United States Government has undertaken a variety of programs to stabilize the U.S. financial system. These actions have been undertaken by (i) the Treasury Department as part of the Troubled Asset Relief Program (TARP); (ii) the Federal Reserve, acting pursuant to the Federal Reserve Act, including in particular the authority granted in Section 13(3) of the Act "in unusual and exigent circumstances" to extend such credit as the Federal Reserves considers appropriate to individuals and institutions (other than depository institutions, which are eligible to borrow at the discount window under separate authority) that it determines are unable to secure adequate credit from other banking institutions; and (iii) the FDIC, acting pursuant to its authority under Section 13(c)(G)(4) of the Federal Deposit Insurance Act, which has been interpreted as enabling the FDIC to take action or provide assistance as necessary to avoid or mitigate systemic risks that would have serious adverse effects on economic conditions or financial stability (decisions under Section 13(c)(G)(4) are taken pursuant to a determination by the Secretary of the Treasury, in consultation with the President and with the approval of the FDIC Board of Directors and the Federal Reserve Board, that a systemic risk exists).

The discussion below identifies and briefly describes the various programs and summarizes the eligibility of the U.S. operations of foreign banking organizations ("FBOs") to participate in each program. Broadly speaking, unless otherwise noted, references to "U.S. operations of FBOs" in this discussion encompasses FBOs' U.S. branches and agencies, FDIC-insured depository institution subsidiaries and U.S. broker-dealer and other U.S. nonbank subsidiaries.

- **Treasury TARP-based Programs**

Capital Purchase Program ("CPP")

U.S. Treasury makes equity investments in qualifying financial institutions in exchange for non-voting preferred interests and warrants; executive compensation limits apply. The Institute argued strongly in favor of making FDIC-insured bank subsidiaries eligible for the program. It should be emphasized that the Institute and others successfully advocated that the TARP legislation include the U.S. operations of FBOs as eligible unless foreign government- owned. However, Treasury determined that U.S. bank subsidiaries of FBOs are ineligible for the CPP without exception by virtue of the fact that they are foreign-owned (whether or not by a foreign government).

Capital Assistance Program ("CAP")

U.S. Treasury makes equity investments in qualifying financial institutions based on results of "stress tests" in exchange for nonvoting convertible preferred interests; executive compensation limits apply. The program is intended to provide a capital buffer until replacement capital is raised from the private sector. As in the case of the CPP, U.S. operations of FBOs are ineligible for the CAP without exception by virtue of the fact that they are foreign-owned.

Public-Private Program for Legacy Assets: Legacy Securities Investment Funds

Investment funds are created to purchase legacy securities from eligible financial institutions. Equity funding is provided by private sector investors, with the U.S. Treasury making a matching contribution using TARP funds. Debt financing will be provided by Treasury on a non-recourse basis to the investment funds but secured by the legacy securities acquired by the funds. The investment funds also may obtain non-recourse financing from the Federal Reserve under the TALF program (described below). U.S. operations of FBOs are eligible to sell to the funds unless the FBO is "owned by a foreign government". The Institute has requested clarification of this exclusion.

Public-Private Investment Program for Legacy Assets: Legacy Loans Program ("LLP")

Investment funds are created to purchase legacy loans from eligible insured depository institutions. Equity funding is provided by private sector investors, with the U.S. Treasury making a matching contribution using TARP funds. Additional funding is provided through debt issued by the funds on a non-recourse basis that is guaranteed by the FDIC in an amount that provides in general for 6-to-1 leverage. The program was announced in March 2009. In June, the FDIC indicated that it would continue to develop this program by testing the LLP's funding mechanism through the sale of receivership assets, a step that is intended to allow the FDIC to be ready to offer the LLP to open banks as needed.

As announced in March, the LLP provided that FBOs' U.S. insured depository institution operations (branches and subsidiaries) would ineligible to sell legacy loans through the LLP without exception by virtue of the fact they are foreign-owned. The Institute requested the FDIC to eliminate this exclusion and treat at least FDIC-insured subsidiaries the same as their U.S.

domestic counterparts, an issue whose resolution has been postponed given the FDIC's decision to initiate the program solely with receivership assets.

Targeted Investment Program ("TIP")

Treasury will make investments in institutions that are deemed sufficiently important to the nation's financial and economic system that a loss of confidence in the firm's financial position could potentially cause major disruptions to credit markets or payments and settlement systems, destabilize asset prices or have other adverse consequences that could materially weaken overall economic performance. To date the only investments made under this program have been in Citigroup and Bank of America. U.S. operations of FBOs are not specifically excluded, but it is not expected that they will be considered eligible for TIP investments.

Asset Guarantee Program ("AGP")

Treasury will guarantee certain assets held by qualifying financial institutions. The set of insured assets is selected by the Treasury in consultation with the financial institution receiving the guarantee from assets originated before March 14, 2008. These determinations are made on a case-by-case basis. The program is meant for systemically significant institutions. Only Citigroup and Bank of America have been assisted. U.S. operations of FBOs are not specifically excluded, but it is not expected that they will be considered eligible to receive assistance under the AGP.

Program for Systemically Significant Failing Institutions ("PSSFI")

The program through which support has been extended to AIG, including financial assistance provided by the Federal Reserve under Section 13(3) of the Federal Reserve Act. No other institution has received support that has been designated as provided through the PSSFI. It is expected that support for any other systemically significant institution will be provided through one of the components of the Obama Administration's Financial Stability Plan, such as the TIP or the AGP. Not applicable since the program appears to be limited to AIG.

FDIC Programs

Temporary Liquidity Guarantee Program ("TLGP")

A program established by the FDIC pursuant to its "systemic risk" authority. The FDIC guarantees senior unsecured debt issued by eligible insured depository institutions (and their U.S. holding companies, if any) with a maturity of greater than 30 days (certain mandatory convertible debt issued on or after February 27, 2009 also is covered by the guarantee, subject to the FDIC's prior written approval). The guarantee is capped at 125 percent of all senior unsecured debt of an eligible issuer outstanding as of September 30, 2008 that is scheduled to mature before June 30, 2009. The FDIC is considering whether to end the program when scheduled on October 31, 2009 or to continue to make it available on a limited, emergency basis for an additional six months.

FDIC-insured depository institution subsidiaries of FBOs are eligible, as well as any intermediate U.S. holding company of such institution (but not the FBO itself as a global entity); FDIC-insured branches and all uninsured U.S. branches and agencies are ineligible. The FDIC has confirmed that the Debt Guarantee applies to U.S. dollar-denominated deposits in covered institutions that are owed to U.S. branches and agencies of FBOs (whether or not insured), but not to those owed to Edge corporations.

Transaction Account Guarantee

A program established by the FDIC pursuant to its "systemic risk" authority. The FDIC guarantees through December 31, 2009 without limitation uninsured funds in non-interest-bearing transaction accounts held by eligible insured depository institutions. Both FDIC-insured depository institution subsidiaries of FBOs and FDIC-insured branches are eligible, but uninsured U.S. branches are not.

- **Federal Reserve Programs**

Term Asset-Backed Securities Loan Facility ("TALF")

A program established under Section 13(3) of the Federal Reserve Act. The Federal Reserve extends credit on a non-recourse basis to "Eligible Borrowers" that is secured by "eligible collateral" consisting of U.S. dollar-denominated cash (that is, not synthetic) asset-backed securities ("ABS"), for which underlying credit exposures must be auto loans, student loans, credit card loans, equipment loans, floorplan loans, insurance premium finance loans, small business loans fully guaranteed as to principal and interest by the U.S. Small Business Association, receivables related to residential mortgage servicing advances (servicing advance receivables) or commercial mortgage loans. All or substantially all of the credit exposures underlying eligible ABS must be exposures that are (1) for newly issued ABS, originated by U.S.-organized entities or institutions or U.S. branches or agencies of foreign banks and (2) for all ABS, made to U.S.-domiciled obligors or with respect to real property located in the United States or one of its territories.

U.S. operations of FBOs are Eligible Borrowers unless the FBO is "controlled by a foreign government". However, even such U.S. operation are eligible only if they are either (i) a U.S. branch or agency (whether or not insured), or (ii) an FDIC-insured depository institution subsidiary. Ownership of a 25 percent-or-greater voting interest results in "control" for these purposes.

Commercial Paper Funding Facility ("CPFF")

A program established under Section 13(3) of the Federal Reserve Act. The Federal Reserve lends to a special purpose vehicle (SPV) it has established to serve as a funding backstop to facilitate the issuance of term commercial paper by eligible issuers. Loans are made on a recourse basis, secured by all the assets of the SPV. The SPV purchases from eligible issuers three-month U.S. dollar-denominated commercial paper. The maximum amount of a single issuer's commercial paper the SPV may own at any time will be the greatest amount of U.S. dollar-denominated commercial paper the issuer had outstanding on any day between January 1 and August 31, 2008. The expiration of the CPFF has been extended from October 30, 2009 to February 1, 2010.

All U.S. issuers of commercial paper (SPVs and other entities) are eligible, including U.S. issuers with a non-U.S. parent. The Federal Reserve has clarified that the CPFF applies as well to commercial paper issued directly by U.S. branches and agencies of FBOs, but not to commercial paper issued by an FBO itself (or by any of an FBOs' non-U.S. affiliates).

Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility ("AMLF")

A program established under Section 13(3) of the Federal Reserve Act. The Federal Reserve lends on a non-recourse basis to U.S. depository institutions and bank holding companies (as well as their U.S. broker-dealer affiliates) to purchase asset-backed commercial paper from money market mutual funds issued on or after September 19, 2008. The expiration of the facility has been extended from October 30, 2009 to February 1, 2010.

U.S. depository institution subsidiaries, intermediate U.S. bank holding company subsidiaries and U.S. broker-dealer subsidiaries of FBOs, as well as U.S. branches and agencies of FBOs (whether or not insured), are eligible to borrow under the AMLF.

Money Market Investor Funding Facility

A program established under Section 13(3) of the Federal Reserve Act to extend credit to 5 special purpose vehicles (SPVs) created by money market funds managed or owned by a U.S. bank, insurance company, pension fund, trust company, SEC-registered investment adviser or a U.S. state or local government entity. Each SPV will purchase from the selling funds eligible money market instruments issued by 10 designated financial institutions (so that in the aggregate money markets instruments issued by a total 50 financial institutions will be included in the program). The SPVs will cease purchasing money market instruments on October 30, 2009.

Money market funds managed or owned by FBO-affiliated U.S. banks, trust companies, insurance companies and SEC-registered investment advisers are eligible. Most of the largest North American and European financial institutions are among those whose money market instruments have been designated as eligible

Term Auction Facility ("TAF")

The Federal Reserve auctions term funds of 28-day or 84-day maturity to depository institutions that are eligible to borrow under the primary credit discount window program. All advances are fully collateralized with an appropriate haircut.

U.S. depository institution subsidiaries and U.S. branches and agencies of FBOs may participate in the TAF, provided they are generally eligible to borrow at the Discount Window and have executed the Letter Agreement required under Operating Circular No. 10.

Term Securities Lending Facility

A program established under Section 13(3) of the Federal Reserve Act. The Federal Reserve lends Treasury securities to primary dealers for one month against eligible collateral, including Treasury securities, agency securities, agency mortgage-backed securities and highly rated private securities. The expiration of the facility has been extended from October 30, 2009 to February 1, 2010. Primary dealers are eligible regardless of whether they are foreign-owned.

Primary Dealer Credit Facility

A program established under Section 13(3) of the Federal Reserve Act. An overnight Federal Reserve loan facility that provides funding to primary dealers in exchange for a specified range of eligible collateral. The expiration of the facility has been extended from October 30, 2009 to February 1, 2010. Primary dealers are eligible regardless of whether they are foreign-owned.

Financial Regulatory Reform Initiatives

In June 2009 the Obama Administration released the details of its comprehensive financial regulatory reform proposal, which was soon followed by proposed implementing legislation. The legislative proposal is comprehensive in its scope and is intended to address the shortcomings and gaps in the regulatory structure that resulted in the financial crisis. Key aspects of the proposal are as follows:

- preserve the Federal Reserve's existing authority with respect to bank holding companies and the U.S. operations of internationally headquartered banks;
- give the Federal Reserve new consolidated regulatory and supervisory authority over financial institutions that are found to "pose a threat to our economy's financial stability based on their size, leverage, and interconnectedness to the financial system" ("Tier1 FHCs");
- impose on Tier 1 FHCs "stricter and more conservative prudential standards" (including higher standards on capital, liquidity and risk management) than those applied to non-systemically significant firms;
- eliminate the federal thrift charter and vest regulatory and supervisory authority over federally chartered/licensed depository institutions (including federal branches and agencies of international banks) in a new National Bank Supervisor
- regulate credit default swaps and all other OTC derivatives markets;
- create a special resolution regime for systemically significant institutions;
- create a new Consumer Financial Protection Agency with rulemaking, examination and enforcement authority with respect to consumer protection issues; and
- establish a Financial Services Oversight Council that would operate in place of the President's Working Group on Financial Markets.

In addition, the proposal calls for improved international regulatory standards and cooperation, including improvements to the Basel II risk-based capital framework, the addition of a non-risk based capital measure to limit the amount of leverage in the international financial system and strengthening the use of supervisory colleges.

Of particular significance to internationally headquartered financial institutions with U.S. operations, the proposal would direct the Federal Reserve, in consultation with the Treasury Department, to determine whether a foreign financial institution should be considered a Tier 1 FHC "based on whether [its] U.S. operations pose a threat to financial stability." The proposal states that in making such evaluations the Federal Reserve "could consider applying the criteria [for identifying a firm as a Tier 1 FHC] to the world-wide operations of the foreign firm" or it "could also choose to apply the criteria only to the U.S. operations of the foreign firm or to those operations of the foreign firm that affect the U.S. financial markets." The proposal directs the Federal Reserve to give "due regard" to the principle of national treatment and equality of competitive opportunity and applicable treaty obligations in making these determinations, but it does not specifically provide for consultation with home country authorities.

While enhanced capital levels are currently proposed for so-called "systemically important" financial institutions (Tier 1 FHCs) – such an institution could be an international bank or the parent company (if any) of an international bank – it should be recognized that over time there could be an indirect impact on a broader group of international banks. Moreover, the proposal in any case would, for the first time, directly apply the Gramm-Leach-Bliley Act's ("GLB Act") "well capitalized" standard to international banks that own a U.S. bank subsidiary (but do not have a U.S. branch or agency) and are so-called "financial holding companies" ("FHCs") as well as to the parent company (if any) of such an international bank.

Application of new capital standards, including elevated standards for Tier 1 FHCs under the Administration's proposal, to top-tier parent entities could be highly disruptive for internationally headquartered banking organizations and holding companies that are not currently subject to home country (or, indirectly, U.S.) capital standards. The Institute has urged that any new capital standards for top-tier parent entities be implemented only in tandem with the development of new Basel standards for systemically significant banking organizations that would apply at such a level, as would be consistent with the support expressed by the Administration for coordinated standards among global regulators. Similarly, the Institute has urged that leverage standards not be applied to international bank Tier 1 FHCs except in accordance with any coordinated Basel standard that may be adopted, particularly since international banks have not been subject to or managed to any such standard, as has been long recognized in the GLB Act's FHC process for international banks.

The Madoff Scandal

In December 2008 Bernard Madoff, a former Chairman of NASDAQ, admitted to operating the largest Ponzi scheme in history, which resulted in billions of dollars of losses to his clients. He was sentenced to a term of 150 years in federal prison in March 2009. He conducted the scheme over an almost 20-yer period, during which he successfully avoided detection by the SEC notwithstanding several inquiries into his operations by the agency following so-called "whistleblower" complaints. In September 2009, the SEC Inspector General issued a report that was extremely critical of the agency's actions in the matter. During the course of Congressional hearings on the Madoff scandal, the SEC likewise has been subject to serious criticism for its shortcomings in handling the matter.

Anti-Money Laundering/OFAC Developments

- **SAR Cross-Border Sharing Proposal**

Current guidance by the Financial Crimes Enforcement Network ("FinCEN") permits sharing of Suspicious Activity Reports ("SARs") by depository institutions (including the U.S. branches and agencies of international banks), broker-dealers and certain other types of financial institutions with domestic affiliates, as well as with head offices (in the case of a U.S. branch/agency) and controlling persons/parent companies, subject to a written confidentiality agreement, but not with affiliates. In March 2009 FinCEN issued for comment a proposal to expand this guidance to permit sharing with domestic affiliates that are themselves subject to a SAR regulation, but it would not permit sharing SARs with affiliates outside the United States.

The Institute's comment letter on the proposal suggested clarification of the types of U.S. domestic affiliates with which international banks' U.S. operations may share SAR information, and set forth a rationale for permitting sharing SAR information with affiliates outside the United States in ways that address FinCEN's concerns that such sharing may result in unwanted disclosure. The SAR cross-border sharing proposal has not yet been finalized.

- **OFAC Enforcement Guidelines**

On November 7, 2008, the Institute submitted its comment letter on the Economic Sanctions Enforcement Guidelines (the "Guidelines") issued by the Office of Foreign Assets Control ("OFAC"). The Guidelines, which were published for comment by OFAC on an "interim final" basis, implement the significant increase in the maximum penalties assessable by OFAC for violation of U.S. economic sanctions programs provided for in the International Emergency Economic Powers Enhancement Act of 2007. The Institute's letter expressed serious concerns regarding several key aspects of the Guidelines and urged OFAC to modify the Guidelines accordingly. The Institute's comments focused in particular on (i) the need to clarify the implications of OFAC's withdrawal of its January 2006 "Economic Sanctions Enforcement Procedures for Banking Institutions"; (ii) certain of the General Factors applied by OFAC when determining the degree of sanctions that should be imposed in a particular situation, including especially the need to incorporate into the Guidelines recognition of the difficulties that internationally headquartered banking/financial institutions encounter in their good faith efforts to comply with U.S. economic sanctions program requirements that conflict with applicable non-U.S. laws; and (iii) the approach taken in the Guidelines to determining the amount of civil monetary penalties that should be imposed in those cases where OFAC concludes such penalties are appropriate.

OFAC has not yet responded to comments received on the interim final Guidelines.

Other Regulatory Developments

- **Final Action on Intraday Overdraft Limits**

Over the last several years, the Institute and a group of interested member banks engaged in extensive discussions with the Federal Reserve regarding the disparity in treatment of FBOs as compared to domestic banks under the current Payments System Risk (PSR) Policy with respect to intraday overdrafts. For domestic banks, the amount of available intraday credit (as determined by a bank's "net debit cap"), and the deductible used to calculate fees for such credit, is based on 100 percent of their capital, whereas in the case of FBOs these amounts are based on not more than 35 percent of their worldwide capital – *i.e.*, the amount of unsecured intraday credit available to a domestic bank, and the size of its deductible, is almost three times greater than what is given to an FBO of comparable capital size and credit standing.

Addressing the serious concerns raised by the Institute and interested member banks, the Federal Reserve in December 2008 announced the following revisions to its PSR Policy: (i) eliminate the deductible applied to all intraday overdrafts, whether or not collateralized; (ii) increase the fee charged for unsecured intraday overdrafts from an annual rate of 36 basis points to an annual rate of 50 basis points; and (iii) permit banks to avoid intraday overdraft fees altogether with respect to intraday overdrafts that are collateralized by the discount window-eligible collateral. These revisions will be effective sometime during either the fourth quarter of 2010 or the first quarter of 2011 to provide the Reserve Banks time to implement required changes to their collateral management/monitoring systems and processes.

While on the one hand the Federal Reserve retained the differential treatment of FBOs vis-à-vis U.S. domestic banks, on the other hand it announced the following interim measures intended to enable FBOs that have a self-assessed net debit cap and either are FHCs or have a "SOSA 1" rating ("eligible FBOs") to calculate their net debit cap on the same basis as their domestic bank peers through the pledging of discount window-eligible collateral: (i) adoption of a streamlined procedure whereby eligible FBOs will qualify for a maximum amount of intraday credit from the Federal Reserve based on 100 percent of their worldwide capital (a "streamlined max cap"), *provided* that the amount that is based on more than 35 percent of their worldwide capital is collateralized by discount window-eligible collateral; and (ii) for those FBOs operating with a streamlined max cap, calculation of the deductible amount based on 100 percent of their worldwide capital, *provided* that the full amount of the deductible is likewise collateralized. The interim measures became effective on March 26, 2009. The streamlined max cap procedure will remain in place upon the effectiveness in 2010/11 of the revisions that are intended to encourage the voluntary collateralization of intraday overdrafts, at which time the deductible will be eliminated for all banks.

- **Proposed Interagency Guidance on Funding and Liquidity Risk Management**

In July 2009, the federal banking agencies, seeking to align U.S. supervisory principles with those endorsed by the Basel Committee in September 2008, issued for comment proposed interagency guidance on funding and liquidity risk management. In its comment letter on the proposal, the Institute requested clarification of how the guidance is intended to apply to the operations of internationally headquartered institutions that conduct banking activities in the United States through branches/agencies and/or U.S. depository institution subsidiaries and recommended that branches/agencies not be treated as "stand alone" entities for these purposes. In addition, the Institute emphasized the importance of consultation and coordination among home and host country supervisory authorities, and requested that such considerations be more explicitly incorporated into the guidance. Finally, the Institute requested clarification of supervisory expectations with respect to the testing of contingency funding plans.

The interagency guidance has not yet been finalized.

- **Basel II – U.S. Proposed To Adopt a Variation of the Standardized Approach**

In July 2008 the federal banking agencies announced their agreement on the proposed terms by which they would implement the standardized approach under the Basel II Capital Accord, including the basic indicator approach for operational risk. Under the proposal, banking organizations that are not "core banks", and therefore are not required under the U.S. risk-based capital rules to apply the most advanced approaches for credit and operational risk, would have the option to apply either the standardized approach or remain under the existing Basel I framework.

In its comment letter on the proposal, the Institute strongly supported optionality for U.S. banks, including U.S. bank subsidiaries of international banks, that either are not core banks or do not elect to be treated as core banks for purposes of applying U.S. Basel II. The Institute emphasized the importance for international banks that are subject to home country Basel II on a consolidated basis but that are not required and do not intend to apply the U.S. Basel II advanced approaches in the United States to have the flexibility to elect to continue to apply Basel I or to apply the proposed Basel II standardized approach to their U.S. subsidiary banks. the Institute also strongly supported giving core banks the option to use the proposed standardized framework, an approach that would be an especially appropriate means to address concerns regarding the treatment of those intermediate U.S. bank holding companies of international banks that have substantial U.S. securities (or other nonbanking) activities but relatively small U.S. banking activities.

Further action on the proposal in effect has been postponed in light of the exigencies of the financial crisis. The federal banking agencies are contemplating further changes to their Basel II requirements in light of that experience and in connection with the Basel Committee's consideration of enhancements to the international framework, and they are expected to address the question of adopting a standardized approach option in that context..

Tax Developments

- **Efforts to Obtain Relief for International Banks under Section 382**

The Treasury Department has issued guidance to domestic recipients of TARP assistance to the effect that the Government's acquisition of capital securities pursuant to the TARP will not result in an ownership change under Section 382 of the Internal Revenue Code and thus will not be taken into account in determining whether the institution's net operating losses, built-in losses and other tax attributes are subject to Section 382's limitation, which are designed to prevent trafficking in tax losses. The Institute and interested member banks are continuing their efforts to persuade the Treasury Department to extend to non-U.S. headquartered financial institutions that receive financial assistance from governmental authorities in their home country pursuant to their sovereign financial stabilization programs the same relief from the application of the section 382 loss limitation rules that it made available to U.S. financial institutions that received assistance from the U.S. Treasury.

- **The UBS Case**

In February 2009 UBS entered into a deferred prosecution agreement with the United States Government in connection with settlement of an investigation into whether the bank assisted U.S. clients in evading U.S. taxes in connection with its cross-border private banking business. As part of the deferred prosecution agreement, and in an unprecedented move, UBS, based on an order by the Swiss Financial Markets Supervisory Authority, agreed to provide the United States government with the identities of, and account information for, approximately 250 U.S. customers of its cross-border business. In addition, UBS agreed to exit the business of providing banking services to U.S. clients with undeclared accounts and to pay $780 million in fines, penalties, interest and restitution.

The day after the deferred prosecution agreement was entered into, the U.S. Government issued UBS a so-called "John Doe" summons demanding information on more than 50,000 unnamed U.S. clients with accounts in Switzerland and eventually went to federal district court to seek its enforcement. UBS contested the summons on the grounds, among others, that compliance with its terms would place UBS in violation of Swiss law and that the summons was contrary to the U.S.-Swiss Double Taxation Treaty, which required that information requests be targeted and that there must be a particularized basis to reasonably suspect a type of wrongdoing by the subject of the request (whereas the John Doe summons at issue was broad-based and nonspecific).

In an *amicus* brief filed in connection with the case, the Institute focused on the serious issue raised by the case: the importance of the United States honoring its treaty obligations and not taking measures, such as seeking enforcement of a summons, in circumvention of the specific terms of a treaty. The Institute in its brief argued that concern with adhering to treaty obligations is especially pronounced where, as in this case, complying with an information request would put the recipient internationally headquartered bank in the position of having to violate the laws of its home country in order to comply with the request. The brief emphasized as well that such actions run counter to the basic international law principle of comity, which counsels sovereigns to respect one another's laws and to refrain from attempting to apply their own laws to affect conduct abroad in ways that conflict with the laws of another nation.

The dispute ultimately was resolved in August without a court decision when UBS and the U.S. Government entered into a settlement whereby a procedure was agreed to enable the U.S. to seek information on more than 4,400 U.S. clients.

- **Developments Regarding Withholding Requirements and the "Qualified Intermediary" ("QI") Regime**

In October 2008 the IRS announced proposed amendments to the QI agreement and to guidance for external auditors of QIs. These proposed changes to the QI agreements and the external audit guidance follow in the wake of press reports, Congressional hearings and a Government Accounting Office study regarding perceived abuses and weaknesses in the QI regime and the need to take swift action to rectify these abuses and weaknesses by enhancing internal controls and the auditing process. The purpose of these amendments is to improve the QI program by ensuring QIs and their auditors comply with their obligations and responsibilities. The Institute submitted a comment letter making a number of technical suggestions designed to narrow the scope and cost of the proposed changes. In particular, the letter recommended that the IRS reconsider its potentially costly proposal to require that all non-U.S. external auditors of QIs associate a U.S. auditor with the audit. The proposed amendments have not yet been finalized.

Reflecting the increased spotlight on international tax compliance issues, both in the United States and abroad (as evidenced, for example, by discussions within the G-20), the Obama Administration during the summer of 2009 proposed legislation that would make important changes to the U.S. withholding and QI regime. Among the most significant proposals of relevance to internationally headquartered financial institutions are the following:

- A QI would be required to report all account holders that are U.S. persons; the Treasury Department would be given authority to require disclosure of accounts held in financial institutions that are under common control with a QI.

- U.S. source interest, dividends, etc. paid to a non-qualified intermediary would be subject to 30 percent reporting, with refunds to eligible holders.

- A refundable 20 percent withholding tax would be imposed on gross proceeds paid to non-qualified intermediaries located in jurisdictions that do not have a comprehensive income tax treaty with satisfactory exchange of information provisions.

- Reporting by any U.S. financial intermediary and any QI of transfers of more than $10,000 to or from a foreign bank, brokerage or other financial account on behalf of a U.S. person (or an entity in which a U.S. person owns, actually or constructively, more than 50 percent of the ownership interest), as well as openings of any such accounts

The Institute has been coordinating with other banking associations in addressing the concerns raised by the proposals and in late June organized an initial round of meetings in Washington with Treasury/IRS officials and senior staff of the Congressional tax writing committees to discuss the practical difficulties with the proposals. It is expected that considerable work on a coordinated basis will be required to continue to press the international banking community’s concerns on this subject with the Administration and Congress as the legislative process accelerates, and the support of all interested parties will be very helpful in addressing these issues. The proposed legislation remains under consideration in Congress as of this writing; the Institute understands that Congress is considering modifications to the proposed rules to address certain of the concerns expressed by the Institute and other groups affected by the proposals.

- **Foreign Bank and Financial Accounts Reports (”FBARs”)**

The increased focus on collecting taxes from U.S. taxpayers with accounts outside the country was evident as well in the issues arising in connection with FBAR filings. The FBAR is an annual report required from persons who maintain financial accounts outside the United States, as well as from individual who have only signature or other authority over such an account but no financial interest in the account. The latter requirement in particular poses a substantial compliance burden for financial institutions. Responding to industry requests, including those by the Institute, for additional guidance on FBAR filing requirements, the IRS in August extended the deadline for FBAR filings for those with signature or other authority over, but no financial interest in, an account to June 30, 2010.