FINANCIAL SERVICES REGULATION

Exchange – International Newsletter

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INTRODUCTION

WELCOME

DLA Piper's Financial Services International Regulatory team welcomes you to the twentieth edition of 'Exchange - International' - an international newsletter designed to keep you informed of regulatory developments in the financial services sector.

This issue includes updates from GLOBAL, EUROPE, FRANCE, HONG KONG, the UK and the USA.

In particular the French section has a very good overview of the new French banking law implementing new separation requirements for trading activities and also new resolution requirements. We also cover the amendments to the UK ring-fencing legislation.

Please click on the links below to access updates for the relevant jurisdictions.

Our aim is to assist you in providing an overview of developments outside your own jurisdiction which may be of interest to you. In each issue we will also focus on a topic of wider international interest. In this edition, "In Focus" looks at the recently proposed Banking Reforms in the UK.

Please click on the links below to access updates for the relevant jurisdictions.

Your feedback is important to us. If you have any comments or suggestions for future issues, we would be very glad to hear from you.

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If your colleagues would like to be added to our mailing list to receive future client alerts or newsletters, please email amanda.alldrick@dlapiper.com with their contact details. For recent publications, legal updates and an overview of our Litigation & Regulatory capabilities please see our global website.

CONTACTS

Editor

Michael McKee
London
T +44 20 7153 7468
michael.mckee@dlapiper.com

Gavin Punia
London
T +44 20 7153 7072
gavin.punia@dlapiper.com

Europe

Dr. Mathias Hanten
Frankfurt
T +49 69 271 33 381
mathias.hanten@dlapiper.com

US

Jeffrey L. Hare
Washington D.C.
T +1 202 799 4375
jeffrey.hare@dlapiper.com

GLOBAL

FSB POLICY RECOMMENDATIONS ON SHADOW BANKING

On 29 August, the Financial Stability Board (**“FSB”**) published its final policy recommendations that aim to strengthen the oversight and regulation of the shadow banking system. The policy recommendations take into account comments from the consultation process carried out at the end of 2012. Shadow banking covers entities performing bank-like activities which fall outside the scope of traditional banking regulations, such as hedge funds, money market funds and special purpose entities.

The recommended policies aim to assist national authorities in overseeing the shadow banking sector as well as identifying systematic risks and strengthening regulation over this section. In an overview of the policy recommendations published 29 August, the FSB focus on the following five key areas:

- Mitigating the spill-over effect between the regular banking system and the shadow banking system;
- Reducing the susceptibility of money market funds to contagious investor "runs";
- Assessing and aligning the incentives associated with securitisation;
- Dampening risks and pro-cyclical incentives associated with secured financing contracts such as repos and securities lending that may exacerbate funding strains in times of "runs"; and
- Assessing and mitigating systemic risks posed by other shadow banking entities.

The FSB hope to start a peer review process of national implementation of this framework by 2015.

EUROPE

EXCHANGE TRADED DERIVATIVES TRADE REPORTING UNDER EMIR DELAY U-TURN

The European Market Infrastructure Regulation (**"EMIR"**) came into force in August 2012 and imposes a number of requirements on derivative contract counterparties, central counterparties and trade repositories. One of the key requirements is an obligation to report all derivatives contracts to trade repositories. On 8 August this year, the European Securities and Markets Authority (**"ESMA"**) published a report recommending the postponement of the proposed start date for reporting by one year to January 2015.

However, at the end of September the European Commission (**the "Commission"**) signalled they would not follow ESMA's advice to delay the reporting implementation date. For derivative traders this would mean having to comply with the new reporting rules in under five months, as opposed to the expected 18 months of preparation time. The EC officially have until the end of November to either accept or reject ESMA's proposal but the reluctance already shown has worried market participants about the possibility of a fast approaching reporting deadline.

FINAL ESMA GUIDELINES AND OFFICIAL TRANSLATIONS ON KEY CONCEPTS OF THE AIFM DIRECTIVE

The Alternative Investment Funds Managers Directive (**"AIFMD"**) aims to introduce a harmonised regulatory framework across the European Union (**"EU"**) for EU-established managers of alternative investment funds. Published in July 2011, the deadline for implementation by member states was 22 July 2013.

The purpose of these guidelines is to ensure a uniform application of the concepts set out in AIFMD. Authorities to whom the guidelines apply should show compliance by incorporating the guidelines into their supervisory practices.

Any authorities who are not compliant should notify ESMA, giving reasons for non-compliance or stating whether their practices do comply or whether they intend to comply with the guidelines.

EUROPEAN COMMISSION PUBLISHES FINAL VERSIONS OF LEGISLATIVE PROPOSALS RELATING TO ITS PAYMENTS LEGISLATIVE PACKAGE

On 24 July 2013 the Commission published a 'payments legislative package' which includes the Commission's proposals for a revised Payment Services Directive (**"PSD2"**) and a new Regulation on interchange fees for card-based payment transactions. PSD2 hopes to make internet payments cheaper and safer for retailers as well as consumers.

The original Payment Services Directive (**"PSD1"**) was implemented on 10 November 2009. PSD1 aimed to harmonise legislation on payment services throughout the European Economic Area, create a system of products that would allow cross-border payments to be as secure as domestic payments and also to provide more protection for users of payment services. These aims are all found in PSD2 which widens the scope of this legislation to some third party payment service providers.

EBA PUBLISHES FINAL DRAFT RTS ON CLOSE CORRESPONDENCE FOR OWN-ISSUED COVERED BONDS

On 30 September the European Banking Authority (**"EBA"**) published its final draft Regulatory Technical Standards (**"RTS"**) on close correspondence between the fair value of an institution's covered bonds and the fair value of it's assets. These standards have been created to relate to the institution's own credit risk under Article 33 of the Capital Requirements Regulation. If adopted as regulations by the Commission the RTS will be directly applicable throughout the EU. The Commission has until 1 January 2014 to decide whether to endorse the standards as regulations. The Commission seek to adopt draft technical standards with few amendments if possible.

EBA CONSULTATION ON TRADING BOOK RISKS

The European Banking Authority launched a consultation on how to assess whether the specific risk of debt instruments in the trading book is sufficiently "material" to trigger an evaluation by the competent national authority. Comments should be submitted on or before October 15, 2013.

ESMA APPROVES COOPERATION AGREEMENTS WITH GLOBAL COUNTERPARTS

ESMA has approved seven cooperation arrangements between EU securities regulators and their global counterparts with responsibility for the supervision of alternative investment funds, including hedge funds, private equity and real estate funds. Memoranda of Understanding with authorities from the Bahamas, Japan, Malaysia, Mexico and the United States, including the US CFTC, have been approved. The agreements allow for the exchange of information, cross-border on-site visits and mutual assistance in the enforcement of supervisory laws. See also the US SEC press release. A number of cooperation agreements have previously been approved with other countries.

FRANCE

FRENCH FINANCIAL AND BANKING REFORM

On 26 July 2013, the French legislator implemented financial and banking reforms by publishing a new law (the "**New Law**") modifying the provisions of the French monetary and financial code ("**MFC**"). The New Law (**I**) implements a separation of credit institutions' trading activity; (**II**) introduces new rules in connection with the prevention and the treatment of credit institutions' difficulties; (**III**) increases the powers of the French supervisory authorities and (**IV**) provides for new rules on high frequency trading, managers fees, regional authorities' ability to borrow, protection of individuals and against tax evasion and money laundering.

(I) Separation of credit institutions' trading activities

Several rules have been implemented to guarantee financial stability, solvency of credit institutions, the capacity of financial and mixed financial holding companies' to ensure the financing of the economy, as well as the prohibition of proprietary trading and the use of dedicated subsidiaries.

Interdiction of proprietary trading

Credit institutions, financial companies and mixed financial holding companies are prohibited from performing the transactions below. This applies when their trading in financial instruments exceeds certain thresholds set out by a forthcoming decree, other than by the intermediary of subsidiaries dedicated to these activities:

- trading in financial instruments which involve their own account;
- any transaction entered into by the credit institution for its own account with leveraged funds or other funds the features of which are set out by a forthcoming decree of the Ministry in charge of the Economy if the credit institution is not secured by a security interest.

However, the new provisions provide for several exceptions to such a prohibition:

- provision of investment services to the clients by way of counterparty operations for the purpose of addressing the clients' need for hedging, financing or investing;
- clearing of financial instruments;
- hedging of the risks of the credit institutions or the group (except in respect of the dedicated subsidiary mentioned above), in which case the hedging instruments must be economically related to identified risks;
- market making, it being specified that the Ministry in charge of the Economy can provide for a threshold beyond which the activities related to market making must be placed in the dedicated subsidiary;
- careful and healthy management of the working capitals of the group;
- investment transactions of the group.

It should be noted that the New Law provides for a specific definition of the terms "provision of investment services to the clients", "hedging", "market making", "investment transactions of the group" for the purpose of the abovementioned exceptions.

The definition of the term "hedging" is likely to be of concern to the industry. According to the New Law, "hedging" means "*the activity of a* [credit institution, financial company or mixed financial holding company] *which acts as counterparty in transactions on financial instruments in order to reduce its exposures to risks of any kind in connection with the credit and market activities. The instruments used for such hedging transactions shall be economically linked to the identified risks in accordance with the conditions set out in a decree of the ministry in charge of the economy*".

DEDICATED SUBSIDIARIES

The dedicated subsidiaries aforementioned must be licensed as investment companies or credit institutions. When the subsidiary is licensed as a credit institution, it is not entitled to receive any funds nor to provide any payment services to the clients whose deposits are guaranteed.

The subsidiaries must comply with several rules:

- they must be autonomously capitalised and funded, as though they do not belong to the group that controls them;
- they must individually, or on a consolidated basis, comply with standards of management to ensure their liquidity and solvency;
- they cannot carry out high frequency trading transactions and transactions in financial instruments in which the underlying asset is a raw agricultural commodity;
- they must use a business and trade name that is different to the group which controls them;
- their managers cannot be those of the company that controls them.

These subsidiaries will have to respect some management rules set out by decree of the Ministry in charge of the Economy. More generally, it is foreseen that a decree will set out the organisation and functioning requirements regarding credit institutions and their dedicated subsidiaries.

The New Law provides two dates for implementing the new rules:

- 1 July 2014: audit of the activities to be transferred;
- 1 July 2015: effective transfer of these activities.

The New Law settles the question of the impact of the implementation on the existing agreements entered into by the credit institutions: the transfer of the agreements cannot result in a modification, termination or early repayment of the underlying debts of such agreements.

(II) Implementation of banking prevention and resolution regime

The reform implements a new regime in respect of the prevention and the treatment of credit institutions experiencing difficulties.

The Resolution Board of the *Autorité de Contrôle Prudentiel et de Résolution*

The authority in charge of elaborating and enforcing the prevention and resolution measures which is currently the *Autorité de Contrôle Prudentiel* (French Prudential Supervisory Authority), will become the *Autorité de Contrôle Prudentiel et de Résolution* (French Prudential Supervisory and Resolution Authority, "**ACPR**").

In addition to the existing Board which has become the Supervisory Board and the Enforcement Commission, a special Resolution Board has been created. This Resolution Board is composed of, among others, the governor of the *Banque de France*, the general manager of the *Trésor*, the president of the *Autorité des Marchés Financiers* (the "**AMF**") and the president of the commercial and financial chamber of the judicial supreme court, the *Cour de cassation*.

The financial and banking reform grants new powers to the *Fonds de Garantie des Dépôts et de Résolution* (Guarantee Fund of Deposits and Resolution, the "**FGDR**") in relation to the prevention of the insolvency of credit institutions. The FGDR can, among other things, purchase all or part of the shares of the relevant institution or grant financing to the relevant institution.

Recovery, prevention and resolution measures

Credit institutions and investment companies (except for management companies exceeding a balance threshold which will be set by decree) must draw up and pass on to the ACPR a **preventive recovery plan** which sets out the contemplated measures to be undertaken in case of a material deterioration of their financial situation. Such a recovery plan cannot include any financial support by the French government or by the FGDR.

The ACPR establishes for the abovementioned credit institutions and investment companies a **preventive resolution plan** which sets out specific rules for applying the resolution measures. This plan is considered by the ACPR for a credit institution which is in default.

An institution is in default if there are objective elements evidencing that in the short term it is likely to be in one of the following situations: it does not comply with the capital requirements imposed for the license; it cannot satisfy its payment obligations immediately or in the short term; it requires exceptional support from the government unless such support is a capital grant or a public guarantee of the newly issued liabilities or is made as part of an initiative to respond to a wider deterioration in the economy.

Several resolution measures are set up, to ensure financial stability and can be taken against any credit institution or investment company. The ACPR has the ability to:

- request any information from regulated entities subject to its supervision, their directors, their auditors or their employees, which is useful for enforcing the resolution proceeding;
- revoke the position/role of any liable officer;
- decide the transfer of all or part of one or several branches of activity of the relevant entity;
- depreciate, cancel or convert the share capital and other liabilities in order to absorb the amount of the losses in accordance with a specific priority order set out in the New Law;
- request from the institution, subject to the resolution procedure, the issuance of new shares or other instruments related to its capital requirements;
- limit or prohibit the exercise of certain transactions by the institution;

The issue price of the new shares or of other instruments related to the capital requirements of the institution subject to the resolution proceeding, as well as the sale or transfer price of the shares and of other assets, are determined by an expert but, in case of emergency, the ACPR can make such determinations itself.

Such resolution measures can be taken on a temporary basis without necessarily requiring an adversarial procedure.

It should be noted that any contractual provision according to which the appointment of an interim administrator by the ACPR is deemed to be an event of default will be null and void. In addition, as from the enforcement of the resolution proceeding, the contractual provisions providing for the termination or set-off of the financial obligations cannot be enforced.

(III) Extension of the supervisory authorities' powers

Both the AMF and the ACPR see their powers enhanced, as well as the *Haut Conseil de stabilité financière* ("**HCSF**"). The New Law also provides for further regulation of French clearing houses.

Autorité des Marchés Financiers

The AMF is now entitled to request from certain entities (such as authorised investment service providers, entities authorised to provide custody or administration of financial instruments or central securities depositories) any documents or information, whatever their form, which is useful for the purposes of exercising supervision. The AMF investigators and auditors' powers are enhanced, for instance in case of services delivered via Internet for which AMF investigators are entitled to use a false identity without being criminally liable in this respect.

Autorité de Contrôle Prudentiel et de Résolution

The ACPR is now granted the mission to ensure the elaboration and implementation of the banking crisis prevention and resolution measures, for the purpose of preserving financial stability, protecting depositors and avoiding or minimising public financial support.

The New Law reinforces the powers of the Secretary-General of the ACPR by enabling him to convene and hear any person subject to the supervision of the ACPR or any person whose hearing is necessary for the purpose of exercising its mission.

New obligations are imposed on credit institutions, investment companies, market undertakings and entities licensed to exercise the activity of custody or administration of financial instruments as well as insurance and reinsurance companies and mutual and provident societies according to which such entities must notify to the ACPR the appointment of their officers in charge and the appointment of any individuals directors. The ACPR is now entitled to refuse such appointments if it considers that such persons do not meet the conditions of integrity, competence and experience required by their position.

Macro-prudential supervision

The New Law reinforces the prerogatives of the *Conseil de Régulation Financière et du Risque Systémique* (Financial Regulation and Systemic Risk Council) which becomes the *Haut Conseil de stabilité financière*. The *Banque de France* together with the HCSF watches over the stability of the financial system and contributes to the enforcement of the resolutions of the council.

The HCSF ensures the cooperation and exchange of information between the institutions which it represents (such as the AMF and ACPR) and the cooperation with the supervision authorities of the other Member States and the relevant European institutions. It can address to the relevant European institutions any advice for the purpose of recommending the adoption of measures required to prevent any systemic risk threatening the financial stability of France. It can also require from the credit institutions and the investment companies additional obligations in relation to their capital requirements. Moreover, the HCSF can impose, for a specific credit institution or for all credit institutions, stronger capital requirements than the standards of management set out by the Ministry in charge of the Economy.

Clearing houses

The New Law provides for a revised definition of a clearing house which includes the central counterparties as defined in article 2 (l) of the EU Regulation n°648/2012 (EMIR), the central counterparties and the trade repositories. They must also be licensed by the ACPR in consultation with the AMF and the *Banque de France*. Their operating rules are approved by the AMF.

The New Law adds new provisions in relation to deposits made by the payer to investment services providers, members of a clearing house or made by such members to a clearing house must take the form of a financial guarantee within the meaning of article L.211-38 of the MFC or any other form set out by the operating rules. In case of insolvency proceedings opened in France or any equivalent proceedings opened abroad, the creditors of the above-mentioned persons or creditors of the clearing house itself are not entitled to claim any right against the deposits which take the form of a financial guarantee.

In case of the opening of insolvency proceedings against a member of a clearing house or in case of any other event of default in respect of such a member, the clearing house can as of right and without any formality:

- transfer to another member the deposits made with such member and in relation to the positions taken by the non-defaulting clients;

- transfer to another member the positions registered with it for the account of the clients of such member together with the related deposits;
- take any other action authorised under its operating rules which are likely to limit or eliminate the risks to which it is exposed including, as the case may be, the liquidation of the assets and positions held by the defaulting member for the account of the client.

(IV) Other measures concerning high frequency trading, managers' fees, regional authorities, protections of individuals and tax evasion and money laundering

High frequency trading

The reform regulates high frequency trading by imposing several obligations on market operators. Firstly, any market operator using automated processing, generating, selling or purchasing stock from a France-based company must inform the AMF. Secondly, any market operator using automated processing must:

- implement traceability for any order sent to a regulated market;
- keep an element so that you can relate an order to the algorithms which have determined it;
- keep any algorithms used relating to orders transmitted to the markets, and transmit them to the AMF when it asks for them;
- implement internal procedures and mechanisms to ensure their organisation complies with traceability and custody requirements.

Thirdly, the market undertaking (Euronext) or the entity managing multilateral trade facilities must implement:

- procedures to ensure its systems have the capacity to manage large volumes of orders and messages, and allow an orderly negotiation process during fast markets.
- mechanisms to ensure continuity of the activities when systems unexpectedly fail;
- mechanisms to ensure the rejection of orders exceeding the volume and price thresholds it has set or incorrect orders. If there is an important fluctuation of the prices on a financial instrument on the market negotiations should be temporarily suspended or, exceptionally, annulled;
- procedures and mechanisms to ensure operators using automated processing do not disorder trading conditions or conduct that may involve market abuse to the competent authority of the regulated market. It must take measures, in particular relating to tariff, to limit the number of non-executed orders.

The AMF will set out conditions of application in its General Regulations.

Fees of managers in the banking industry

The fees of managers in the banking industry will now be capped, pursuant to conditions set out by a forthcoming decree of the Ministry in charge of the Economy.

The managers' bonuses can also be suspended during the time period of the appointment of an interim administrator, and an ailing bank is now forbidden to pay any bonuses or premiums to a dismissed manager.

Regional authorities

The New Law provides for a framework of borrowing conditions for French regional authorities. They can use bank loans, but some limits are now set out:

- when the loan concluded is denominated in foreign currency, a currency-to-euros swap must be entered into at the same time, hedging the total amount and the total time period of the loan, to ensure a full currency hedging of the currency risk;

- the variable interest rate indexation formula must meet criteria for simplicity and predictability of the financial charges of regional authorities (such criteria will be set out by decree);
- any banking-loan-based swap, derivative or financial contract entered into by the regional authority cannot fail to comply with the new regulation.

However, regional authorities do not have to comply with these rules if the contract they enter into (loan or financial contract) has the effect of reducing the risk associated with the loan or financial contract which has been entered into before the new financial and banking reform.

Protection of individuals

Bank charges and commissions will now be capped: a monthly maximum and a maximum for every operation will be set out by decree. The Ministry in charge of the Economy has announced, for the most "fragile" clients, a maximum of 4 euros by intervention and 20 euros per month. For the other clients, the thresholds announced are 8 euros and 80 euros.

All banks will now have to remit, as from their refusal of the opening of an account, a certificate of refusal to the applicant. This measure will facilitate the applicant's process to challenge this refusal before the *Banque de France*.

New minimum services are granted in favor of "fragile" persons who have been denied a bank account. All banks will now have the obligation to allow a specific offer to a natural person, not acting for professional reasons. Granted services mean at least two bank checks a month and appropriate services regarding their situation.

Finally, to ensure that any borrower can effectively choose their insurance (between the group insurance contract proposed by the bank, and an individual contract), the client will receive specific information regarding the cost of the bank insurance, expressed by a rate comparable to the credit rate. A standardised information document containing the most important information concerning the insurance offer will be sent to the client.

Tax evasion and money laundering

The reform further regulates tax evasion and money laundering by imposing on credit and financial institutions as well as companies exceeding a threshold, among others, annual reporting obligations for every country they are based in, including the: (i) name of the companies and nature of activity; (ii) net banking income and turnover amount; (iii) workforce; (iv) profit or loss before tax; (v) income tax payable by the companies; (vi) received public aid.

Please contact fabrice.armand@dlapiper.com for further information.

HONG KONG

HONG KONG MOVES TO CNH HIBOR FIXING

On 24 June 2013, the Treasury Markets Association (**"TMA"**) launched the CNH Hong Kong Interbank Offered Rate (**"CNH HIBOR"**) fixing to meet an increasing need for an offshore RMB interest rate benchmark for financial contracts to reference on. Sixteen banks are selected for contribution of interest rate quotes based on their activity levels in Hong Kong's offshore RMB market and Thomson Reuters is designated as the calculating agent for the computation and dissemination of the CNH HIBOR.

It is hoped that having the CNH HIBOR will enhance Hong Kong's status as an offshore trading centre, further promoting and developing international use of the yuan. As the yuan is strengthened, through increased cross-border use, Hong Kong will be able to match market competition from London, Singapore and Taiwan, the key to which is the launch of this benchmark rate. CNH HIBOR, using the average interest rates of the selected sixteen banks, will be transparent, boosting confidence among financial institutions. Yuan loans and investments products are expected to be used far more widely in the offshore market as a result of CNH HIBOR.

On 20 August 2013, the Hong Kong Monetary Authority (**"HKMA"**) issued the Code of Conduct for Benchmark submitters for CNH HIBOR as an annex to module CG-7 of Supervisory Policy Manual, which sets out the supervisory requirements on systems of control to be maintained by the benchmark submitters.

IMPLEMENTATION OF BASEL III IN HONG KONG

On 19 August 2013, the HKMA issued a set of standard templates (*Capital Disclosures Template*, *Transition Disclosures Template*, *Main Features Template* and *Illustration of the 3-Step Approach to Balance Sheet Reconciliation*) and associated explanatory text as a part of the Basel III implementation, to be used by locally incorporated authorised institutions for the purpose of making disclosure in relation to their capital base under the *Banking (Disclosure) (Amendment) Rules 2013*.

The templates were drawn up following consultation with two industry associations. In issuing these it is hoped they will contribute to the overall objective of Basel III which is to improve the banking sector's capability of surviving financial and economic stress. Under the templates authorised institutions will have to make interim and annual financial disclosures about their balance sheet on or after 30 June 2013.

Please contact harris.chan@dlapiper.com or adrian.elms@dlapiper.com for further information.

UK

FCA CONSULTATION ON CONSUMER CREDIT REGIME

On 3 October 2013, the Financial Conduct Authority (**the "FCA"**) published a detailed consultation paper on the proposed FCA regime for consumer credit (**"CP13/10"**). In March 2013 the FSA had published high level proposals on the same regime (CP13/7). CP13/10 sets out feedback received on the high level proposals, the FCA's responses to those as well as opening up areas for further consultation. The latest consultation paper also sets out a draft handbook and a timetable for the reforms.

In an accompanying press release the FCA set out the key elements of the proposed regime:

- Affordability checks for every credit agreement, ensuring that only consumers that can afford a loan can get a loan.
- All advertisements and other promotions must be clear, fair and not misleading. The FCA will have the power to ban misleading adverts.
- Firms that do higher risk business and pose a greater risk to consumers will face a tougher supervisory approach. Specific rules for the payday sector have been proposed such as limiting loan rollovers to two and that there should be clear risk warnings on all adverts and promotions about debt advice.
- Consumers will continue to have access to the Financial Ombudsman Service, but there are currently no plans to include consumer credit in the scope of the Financial Services Compensation Scheme. The FCA have said they will keep this under review.
- A robust authorisation gateway to ensure that any firm or individual authorised to do consumer credit business is fit and proper, and that firms have suitable and sustainable business models.
- Dedicated supervision and enforcement teams will crack down on poor practice, money laundering and unauthorised business. Firms that break the rules may face detailed investigations and tough fines.

The consultation is open until 3 December 2013. The FCA intends to publish its final rules and guidance in February or March 2014 before assuming responsibility for consumer credit on 1 April 2014 when the new rules will come into effect. The FCA will not enforce rule breaches before 1 October 2014 as long as firms are acting in line with existing guidance under the OFT or are complying with alternative legislation.

MOBILE BANKING AND PAYMENTS

In August 2013, the FCA issued an interim thematic review (TR13/6, "*Mobile banking and payments – Supporting an innovative and secure market*") highlighting the risks associated with the development and advancement of mobile banking and payments. It is important to recognise that the risks the FCA identified are not exclusive to mobile banking. The FCA is continuing to analyse mobile banking services to determine whether firms are treating their customers fairly and adhering to the FCA's expectations.

Mobile Banking

The technological advancement of smartphones has increased the popularity of mobile banking with consumers. In order to compete, there has been a rise in the number of firms offering a wider variety of mobile banking products. High Street banks, shops and mobile phone providers are investing huge amounts of money in developing new products and technology to allow the consumer to bank on the move.

The FCA's interim report defines mobile banking as a broad term which includes contactless payments, financial transfers and account monitoring via a mobile device such as a smartphone or tablet computer.

The interim report supports the continued innovation in this area but also aims to ensure customers have their interests protected and have access to products that meet their needs and expectations.

Risks

The report identifies six risks related to mobile banking, which are summarised below. The report makes clear that these risks have not yet caused problems for the consumer but have the potential to do so if they are not addressed.

- Fraud – there is the potential for fraudulent access to mobile banking accounts, not seen with regular banking accounts, which could result in the consumer being unable to access their money or make payments.
- Security – there is a risk of accidentally downloading software viruses while downloading mobile banking applications.
- Use of third parties – for successful mobile banking there is a reliance on a number of different bodies who specialise in the IT systems, technical expertise and detailed knowledge of the payments system. The increased number of companies involved in the payment of services or banking process not only complicate the system when trying to identify problems but also increases the likelihood of a problem occurring.
- Consumer awareness and understanding – the potential risk is that more mistakes and errors may occur with mobile banking such as the transfer of incorrect amounts or the transfer of money to an unintended recipient. The FCA believes that these errors could occur because this is a new service available to consumers as well as the practical impacts of mobile banking such as the small size of the screen and keypad.
- Technology risk/ interruption to service – the reliance on an uninterrupted service of mobile banking places pressure on banks to develop robust IT systems and controls.
- Anti-money laundering systems and controls – the verification of customer identities is reduced, particularly in situations where a mobile payment service is not linked to a customer's current account, which may increase the risk of financial crime.

The Future of Mobile Banking

It is the FCA's expectation that firms carrying out mobile banking services will consider the risks set out in the interim report and adapt their strategies and business models accordingly.

The FCA hopes that firms providing mobile banking services will test their IT systems for robustness as well as security and provide clear and fair information to customers in light of the fact that for many customers, mobile banking is a new concept. The FCA also hopes that firms will have a process to deal with customer complaints and queries in the most fair and reasonable manner, which would include the quick resolution of any payments made in error.

The FCA will be testing a sample of firms providing mobile banking services to ascertain whether their objectives summarised in paragraph 4.2 are being met. The FCA hopes to produce a final report in the first half of 2014.

PRA TO IMPLEMENT FPC RECOMMENDATION ON RELAXING LIQUIDITY REQUIREMENTS

On 28 August, in a speech given by Mark Carney, Governor of the Bank of England, it was confirmed that the Prudential Regulation Authority (**"PRA"**) Board will implement the recommendations of the Financial Policy Committee (**"FPC"**), given in June, regarding how much liquidity should be held by banks and building societies. If a bank or building society meets the minimum seven per cent capital threshold, there will be a reduced level of required liquid asset holdings.

The FPC proposed that this would increase the supply of credit to the economy, freeing £90 billion of lending capacity. These relaxed regulations would mean that eight major banks and building societies could hold 80 per cent of incoming global liquidity. However, it is thought that a number of the banks may not wish to reduce their liquidity ratios if it means losing market confidence in the ability of the bank to meet its liquidity needs.

FCA REVIEW OF MEDIUM-SIZED FIRMS' PPI COMPLAINTS HANDLING

On 25 September the FCA published a press release identifying that while some firms are handling payment protection insurance (**"PPI"**) complaints as expected by the FCA, there are others that still pose significant issues. There were 18 medium sized firms reviewed and the FCA has highlighted five key issues that should be addressed:

- Overlooking the inadequate demands and needs assessment that took place at the time of sale in an advised sale;
- Overlooking the inadequate assessment in an advised sale of whether a single premium policy would meet the customer's demands and needs;
- Paying insufficient regard to poor disclosure of the limitations and exclusions of a policy at the time of sale;
- Not identifying poor disclosure of the cost of a policy at the time of sale; and
- Providing inadequate explanations of complaint decisions and redress offers.

While the FCA continue to review the complaint handling procedure of larger firms, they have recommended that one medium sized firm be further investigated as well as considering whether anymore should be referred to the FCA's enforcement division.

HIGH COURT CONCLUDES THAT CONTRACT FOR FOREX TRADING ACCOUNT WAS SPECIFIED INVESTMENT UNDER RAO

On 2 August the High Court considered whether a complaint concerning the contractual arrangements for a foreign exchange (**"forex"**) trading account fell within the jurisdiction of the Financial Ombudsman Service (**"FOS"**). The court concluded that arrangements between London Capital Group and Jeremy Shrubb fell within the scope of article 85 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (**"RAO"**) because the accounts sole purpose was to secure a profit/avoid a loss on the basis of fluctuations in the value of currency.

The Court decided that the exclusion under Article 85(2)(a) RAO did not apply as the contract specifically stated that London Capital would not arrange a "delivery" despite their argument that delivery amounted to crediting or debiting the defendants account. Consequently the complaint fell within the FOS' compulsory jurisdiction as Mr Shrubb had acquired rights under a contract which amounted to a specified investment.

REDRESS PACKAGE AGREED FOR CONSUMERS MIS-SOLD CPP INSURANCE PRODUCTS

On 22 August the FCA and Card Protection Plan Ltd ("**CPP**") reached an agreement that will form the foundations of the way redress will be paid to customers who were mis-sold card and identification insurance policies. The FCA has ordered compensation tallying £1.3 billion.

If approved by the High Court, high street banks and credit card issuers will establish a Scheme of Arrangement. This would mean that firms will pay money into the Scheme to meet redress payments, as and when claims are made.

The Financial Services Authority (**"FSA"**) was previously investigating CPP and in November 2012, CPP was fined £10.5 million as the FSA found that most customers did not need, and would not benefit from, paying for additional insurance cover as customers were already covered by the obligation of banks to reimburse them under the Consumer Credit Act.

FCA SPEECH ON ITS APPROACH TO SUPERVISING WEALTH MANAGEMENT AND PRIVATE BANKING FIRMS

On 2 July, the FCA Director of Supervision, Clive Adamson, gave a speech about the FCA's approach to supervising wealth management and private banking firms. The FCA recognises the complexities of businesses operating within this industry and Adamson outlined a number of key areas that firms should focus on. It was advised that firms should:

- Consider their oversight arrangements to ensure they are suitable for the nature, size and complexity of the firms in question;
- Record up-to-date relevant consumer information to ensure their individual portfolios continue to be suitable for them;
- Identify and manage conflicts of interest. The FCA will look, for example, at how many in-house products or products manufactured by an associate of the firm are held within individual portfolios, questioning whether this is right for the customer;
- Deliver the services customers have signed up for, agreeing upfront the exact nature of the service they will provide and how the customer will pay for this, and ensuring it is recorded in the client agreement signed at the start of the business relationship;
- Ensure that their customers' wealth is legitimately acquired;
- Ensure portfolios are consistent with customer objectives. The FCA want to understand why a particular portfolio has been built up if a firm's records are unclear; and
- Clearly set out their periodic reports, providing vital information to customers with discretionary accounts. The FCA expects reports to use appropriate benchmarks and adequately disclose relevant fees.

PRA CONSULTS ON IMPLEMENTING CRD IV

On 2 August the Prudential Regulation Authority (PRA) published a consultation paper ("**CP5/13**") on changes to its rules required to implement the EU's Capital Requirements Directive (CRD IV). While not affecting insurance firms, the new changes will affect banks, building societies and investments firms which are regulated by the PRA. CP5/13 sets out the PRA's policy decisions and proposals on implementing a number of aspects of CRD IV.

As the Capital Requirements Regulation is directly applicable to all member states CP5/13 is a paper on proposed rules under which discretion can be exercised. The deadline for comments has now closed, the PRA will publish a policy statement later in 2013. A new PRA rulebook will be moulded around the implementation of CRD IV, CP5/13 contains draft instruments for the rulebook.

ENFORCEMENT DECISIONS

FCA FINES INSURANCE INTERMEDIARY FOR COMPLAINT HANDLING FAILINGS

On 1 July 2013, the FCA published the final notice it had issued to Policy Administration Services Limited ("**PAS**"), fining it £2,834,700 for poor complaints handling between June 2009 and September 2011. The FCA found that PAS had failed to identify the root causes of recurring issues and put them right.

PAS is an insurance intermediary which administers mobile phone insurance policies sold by Phones 4u Limited ("**Phones 4u**"). During the investigation it was discovered that:

- PAS failed to record complaints;
- Complaints were not investigated fully or resolved appropriately or consistently; and

- Complaints about mis-selling were often rejected just because the customer had signed a Direct Debit form, but it was not clear why PAS thought this alone indicated a valid sale.

These failings meant that PAS was not treating customers fairly and was not complying with the regulatory reporting expected by the FCA. PAS has now employed a third party to review its complaints process as well as conducting their own review in order to identify customers that qualify for redress due to the loss they suffered.

TWO FIRMS FINED £7.2 MILLION FOR FAILING TO PROTECT CLIENT MONEY

On 2 September 2013 the FCA published a final notice issued to Aberdeen Asset Managers Limited and Aberdeen Fund Management Limited for failing to identify and protect client money that had been placed in Money Market Deposits with third party banks.

Wrongly identifying the money, a daily average of £685 million, meant that the client's money would not be clearly identifiable if the bank collapsed. Breaching the FCA's client money rules resulted in a fine of £7,192,500 for the companies.

FCA FINES AND BANS TWO INDIVIDUALS INVOLVED IN THE PROMOTION OF UCIS

On 16 August the FCA published a press release announcing that it had fined John Leslie and Jeffrey Bennett £28,000 each and banned them from performing accountable significant influence functions at any FCA-regulated firm.

In 2005 the pair's financial advisory firms assisted in the promotion of three Unregulated Collective Investment Schemes (**"UCIS"**) to retail investors in the UK. The investigation concluded that Leslie and Bennett had not exercised due care and skill in their role of distributing the prospectus. £30 million was invested which is now deemed to be worthless.

In June this year, the FCA banned the promotion of UCIS to the majority of retail investors within the UK.

FCA FINES RBS FOR SERIOUS TRANSACTION REPORTING FAILINGS

On 16 July 2013, the FCA published the final notice it has issued to The Royal Bank of Scotland plc and The Royal Bank of Scotland N.V. (together "**RBS**"), imposing a financial penalty of £5,620,300. The fine is for serious transaction reporting failings.

Between November 2007 and February 2013 RBS did not accurately report 44.8 million transactions. The use of incorrect reference codes meant it was impossible for the FCA to identify the counterparties to a transaction. RBS also failed to report an additional 804,000 transactions that it executed.

These reporting issues arose following the RBS takeover of ABN Amro Bank N.V.,M However the FCA thought that as RBS has considerable resources available they should have been able to overcome these issues. The FCA also considered this a very serious breach due to the fact that they provide clear guidance on accurate data reporting. The FCA stated in a press release that as well as fines, "firms can expect to incur the cost of resubmitting historically incorrect reports".

CLYDESDALE BANK FINED £8.9 MILLION FOR FAILING TO TREAT ITS MORTGAGE CUSTOMERS FAIRLY

On 26 September the FCA published a final notice it had issued to Clydesdale Bank for failing to clearly inform customers of their rights following the miscalculation of mortgage payments. For the 42,000 mortgages affected over half the customers suffered unexpected increases in their monthly repayments to make up for the shortfall created by the miscalculation.

The calculation error was corrected in 2010 but the FCA determined that Clydesdale had put their commercial interests above treating customers fairly when contacting customers about the miscalculation. Using the penalty scheme introduced in March 2010 Clydesdale were fined £8.9 million. This would have been higher had it not been for Clydesdale's redress scheme and their willingness to settle at any early stage of the FCA's enforcement process.

Tracey McDermott, the FCA's director of enforcement and financial crime said Clydesdale had "sought to pass all of the consequences on to its customers – expecting them to find the money to remedy mistakes which were entirely of Clydesdale's making…Firms must put the interests of customers at the heart of their business if we are to restore trust and confidence in financial services."

Please contact michael.mckee@dlapiper.com for further information.

UNITED STATES

US FINANCIAL REGULATORS RE-ISSUE PROPOSED SECURITISATION RISK RETENTION RULE

Six federal financial regulatory agencies (the OCC, Federal Reserve Board, FDIC, FHFA, SEC and HUD) issued a notice revising their previous April 20, 2011 proposed rule on risk retention in securitisation transactions. The new proposed rule, released on August 28, 2013, was jointly issued by the agencies, with the Secretary of the Treasury, as Chairperson of the Financial Stability Oversight Council, playing a coordinating role.

Under the Dodd-Frank Act, the agencies are responsible for issuing rules that would require securitisers to retain a minimum 5% interest in a securitisation, retaining so-called "skin-in-the-game" with respect to the assets that are securitised and removed from their respective balance sheets. The Dodd-Frank Act also provided an exception to the 5% risk retention rule where a securitisation was comprised entirely of Qualified Residential Mortgages (**"QRM"**). The proposed rule removes certain controversial provisions that were included in the previous rule, including the Premium Capture Cash Reserve Account (**"PCCRA"**) and certain requirements for QRM treatment.

Under the previous rule, the PCCRA provision would have required securitisers to fund a reserve account with the amount by which gross proceeds at closing of a securitisation exceeded the par value of the securities issued, referred to as excess spread. Securitisers would have been expected to offset losses over the life of the securitisation using the funds set aside in the PCCRA. Mortgage industry trade groups heavily criticised the PCCRA concept, which was not required under the Dodd-Frank Act, claiming that, by forcing them to insure investor losses with their profits on the transaction, it effectively removed the economic incentive for securitisation. The new proposed rule eliminates the PCCRA concept entirely.

To qualify for QRM treatment under the previous rule, a residential mortgage had to meet several criteria, including a requirement that the borrower make a 20% down-payment. Both mortgage industry and consumer protection groups protested this provision, arguing that it would severely constrict consumer credit and would bar first-time home buyers from obtaining a mortgage. The proposed rule aligns the definition of a QRM with the Consumer Financial Protection Bureau's definition of a Qualified Mortgage (**"QM"**) under the Ability-to-Repay rules issued in January 2013. Specifically, the proposed rule eliminates the 20% down payment requirement for QRMs. Instead, a loan that meets the underwriting and product feature criteria of a QM under the Ability-to-Repay rules qualifies as a QRM for risk retention purposes.

The agencies will accept comments on these and other provisions of the proposed rule until October 30, 2013.

FDIC REVISES DEFINITION OF DEPOSIT FOR FOREIGN BRANCHES OF US BANKS

Reacting to a September 2012 Consultation Paper issued by the UK's PRA, the Federal Deposit Insurance Corporation (**"FDIC"**) approved a final rule on September 10, 2013 (the "Final Rule") clarifying the treatment of deposits held in foreign branches of US insured banks (**"foreign branch deposits"**). The Final Rule becomes effective 30 days from the date it is published in the Federal Register.

Under the Federal Deposit Insurance Act (the **"FDI Act"**), the current statutory definition of deposit does not include foreign branch deposits unless those obligations (1) would be deposits if carried on the books and records of the bank in the US, and (2) are expressly payable at an office of the bank in the US. Traditionally, US banks have not provided for payment at an office in the US, and therefore, foreign branch deposits have not typically qualified as deposits for any purpose under the FDI Act, including deposit insurance. In addition, the FDI Act's depositor preference rules for bank failures state that any deposit liability must be paid ahead of general unsecured creditors of the bank, but does not define the term "deposit liability." Prior FDIC guidance interpreted the term by reference to deposit, meaning that the vast majority of foreign branch deposits did not receive any preference over general creditors.

In September 2012, the PRA published a Consultation Paper discussing national depositor preference regimes in countries outside the EEA. The Consultation Paper proposed to prohibit banks from non-EEA countries, including the US, from operating deposit-taking branches in the UK unless UK depositors received the same depositor preference as domestic (uninsured) depositors in a resolution of a failed bank. Among other methods to comply with this proposal, US banks could make their foreign branch deposits payable in the US, allowing them to qualify as deposits and receive depositor preference. This would have the result, however, of threatening the FDIC's Deposit Insurance Fund (the **"DIF"**) by extending deposit insurance to a large number of foreign branch deposits. According to the FDIC, foreign branch deposits have doubled since 2001 to total approximately $1 trillion today, with a significant percentage of these deposits located in the UK.

In order to resolve this issue, the FDIC adopted the Final Rule, which clarifies that foreign branch deposits are not insured deposits for purposes of the FDI Act regardless of whether they are payable at a US location. However, US banks are free to comply with the PRA's proposal, and any future similar proposals, by making foreign branch deposits payable in the US, thus allowing them to be treated as uninsured deposits and granting them depositor preference over general unsecured creditors, without compromising the FDI Fund.

Please contact Jeffrey.Hare@dlapiper.com for further information.

SEC AMENDS BROKER-DEALER FINANCIAL RESPONSIBILITY RULES AND ADDS RULES TO PROTECT INVESTORS

On July 31, the Securities and Exchange Commission announced adoption of amendments to its net capital, customer protection, books and records, and notification rules for broker-dealers, along with new rules intended to increase protections for investors with money and securities held by broker-dealers. The amendments include (i) new adjustments to net worth when calculating net capital; (ii) requiring certain capital contributions to be treated as liabilities; (iii) clarifying that insolvent broker-dealers must cease doing business and notify regulators; (iv) placing certain restrictions on cash bank deposits for purposes of the reserve requirement; and (v) requiring large broker-dealers to document risk management controls. These amendments will become effective 60 days after their publication in the Federal Register, which is expected shortly. The new rules call for broker-dealers that custody customer assets to file an annual "compliance report" with the SEC to verify that they are following applicable capital, customer protection, and account statement requirements, and to engage an independent public accountant to prepare a report based on examination of the compliance report. Broker-dealers that do not custody customer assets must file an annual "exemption report" and an independent public accountant must prepare a report based on review of statements in the exemption report. SIPC members also must file the annual reports with SIPC. Related amendments require a broker-dealer to file new quarterly "Form Custody" discussing its custody practices, and to allow the SEC or a self-regulatory organisation to review its accountant's work papers and discuss the findings with the accountant. The effective date for filing Form Custody and SIPC annual reports is December 31, 2013. The effective date for broker-dealer annual reports is June 1, 2014. See also Release No. 34-70072 (adopting release for amendments to financial responsibility rules) and Release No. 34-70073 (adopting release for new reporting rules).

BITCOIN SCHEME

The SEC sued Trendon T. Shavers and his company, Bitcoin Savings and Trust (**"BTCST"**) for defrauding investors in an alleged Ponzi scheme involving Bitcoin, a virtual online currency. The SEC alleges that Shavers offered and sold Bitcoin-denominated investments promising investors up to 7 percent weekly interest based on BTCST's Bitcoin market arbitrage activity while, in reality, BTCST was a sham and a Ponzi scheme. In conjunction with this enforcement action the SEC also issued an

investor alert warning investors about the dangers of investment scams involving virtual currencies promoted through the Internet. See SEC press release.

DISMISSAL OF DODD-FRANK ACT WHISTLEBLOWER SUIT IS AFFIRMED

The US Court of Appeals for the Fifth Circuit affirmed, on different grounds, the dismissal of a Dodd-Frank Act whistleblower lawsuit. An employee in GE's Jordan office claimed that he was fired when he raised concerns about possible Foreign Corrupt Practices Act violations and that the firing, in turn, violated the Dodd-Frank Act's whistleblower provisions. The Fifth Circuit held that the suit must be dismissed because plaintiff never reported the alleged violations to the SEC. The Court concluded that for an individual to be a Dodd-Frank Act whistleblower, he must provide information to the SEC. The Court thus rejected the SEC's recently adopted regulation construing the Dodd-Frank Act whistleblower provision to include those who do not report alleged violations to the agency. See *Asadi v. G.E. Energy (USA), LLC.*

Please contact edward.johnsen@dlapiper.com or wesley.nissen@dlapiper.com for further information.

IN FOCUS

UK BANKING REFORMS

AMENDMENTS TO THE TREASURY'S BANKING REFORM BILL

On 1 October 2013 Chancellor George Osborne set out 86 amendments to the HM Treasury's Financial Services (Banking Reform) Bill (**the "Bill"**). Following three years of consultations, the amended Bill aims to "deliver a stronger and safer financial system that supports the British economy, businesses and consumers". In the wake of the financial crisis, the 2012 LIBOR scandal forced public confidence in banks to an all-time low. The government recognised that the culture of UK banking needed to be reviewed and the proposed amendments mark "the government's plan for the biggest ever overhaul of the UK banking system". If approved, these amendments could become law in early 2014.

DEVELOPMENTS

The financial crisis of 2007-2008 forced the government to use over £60 million of taxpayers' money to bail out a number of banks. In June 2010 the Independent Commission on Banking (**the "ICB"**), a UK government inquiry, was set up to look at what reforms could be made in order to promote financial stability and increase competition. The ICB presented its recommendation to the government in September 2011 and it was subsequently announced that new legislation would be introduced to implement these recommendations. The most notable recommendation was to "ring-fence" retail and investments divisions of banks, safeguarding against risk. This is a key feature of the newly proposed Bill, discussed further below.

The Parliamentary Commission on Banking Standards (**the "Parliamentary Commission"**) was set up in July 2012 by the Government to review the draft legislation produced out of the ICB's recommendations. The Parliamentary Commission produced five reports, the final of which was published in June this year, highlighting key issues and proposing a number of changes to the draft legislation. The report's proposals are based on increasing individual accountability and corporate governance, encouraging competition and promoting long term financial stability. Based on the Parliamentary Commission's recommendations the government has made a large number of amendments to the Bill.

KEY AMENDMENTS

The amendments include a more stringent approval regime for senior managers as well as increasing their personal accountability. The FSMA approved persons regime has been amended to give regulators the power to make approvals subject to time limits or specific conditions. Regulators will also be able to take enforcement action against a senior manager where a regulatory breach occurs under their responsibility. The time limits for enforcement action against individuals will also be extended and regulators will have the power to subject employees in banks to the banking standard rules which currently only apply to approved persons.

The amendments' focus on individual accountability mean tougher regulation of senior bankers. The amendments create a new criminal sanction for "reckless misconduct in the management of a bank". It is hoped that the new offence will improve corporate governance standards and act as a deterrent as well as improving the general banking culture. The crime extends to senior managers who make decisions that lead to a bank's collapse or if they fail to prevent others from making those decisions. The offence will be judged using a test similar to that used for the corporate manslaughter offence. The person accused must have been aware that the collapse of the bank was a risk when making or allowing the decisions said to have led to the bank's collapse. A person found guilty of the offence is liable to an unlimited fine and could face up to seven years in jail.

In September 2011, the ICB called for an increase in ring-fencing the risk associated with some investment activities so that they could not impact on retail banking. The new

amendments implement these recommendations. Under the proposed Bill regulators will, subject to certain conditions, be able to split up an individual bank if they believe there is not appropriate ring fencing in place. These new reserve powers have been made with the hope of "electrifying" the ring fence. This concept has faced criticism from many, including the chief executive of the British Bankers' Association, Anthony Browne, who believes that this reform will lead to uncertainty resulting in less lending and investment.

Under the amendments, banks would also have to meet loss-absorbing debt requirements, imposed on systemic banks by the regulator. The proposed "Primary Loss-Absorbing Capacity" would comprise of regulatory capital and debt instruments that could absorb losses if a bank fails. The debt instruments would be "bailed-in" to stablilise a bank in trouble without the need to recourse to other bail outs, such as the taxpayers money used in 2007-2008.

SECTOR OVERHAUL

The government is seeking to make the financial system more responsive to consumers. As part of the amendments, the government have incorporated the Parliamentary Commission's proposal that the PRA promote competition within the industry. The PRA's primary objective is to ensure the financial safety of the firms it regulates. Promoting competition, specifically with the hope of reducing the dominance of the UK's four biggest lenders, will be a secondary objective. In addition, to increase competition a new service has been introduced to enable consumers to switch their current accounts within seven days. The service, under the supervision of the Payments Council, was launched on 16 September and more than 35,000 customers have already started to switch their accounts.

The Bank of England has also published a discussion paper proposing that, as of 2014, banks will face annual stress testing. Each year the Financial Policy Committee will envisage, based on fundamental threats, a number of scenarios they believe banks should be able to survive. The results of the tests will be made public in the hope of underpinning confidence in the banking system. It is hoped the stress test will ensure banks maintain a sufficient level of capital to cover any risk within their portfolio of loans. The tests will be judged on a bank-by-bank basis and would take into account a bank's own lenders policy to cover any shortfall.

It has been argued that there are dangers to publically stress testing banks. A bank which fails a stress test and is shown to be vulnerable to a downturn in the economy is likely to struggle to encourage self-investment. To combat this the proposals do suggest more capital should be raised, if required, by cutting bonuses and cancelling dividends. It is thought that stress testing could enhance a bank's prudential supervision, with a transparent system underpinning confidence. Following the financial crisis, the UK banking system has operated on a series of informal tests. While many countries do stress test their own banks (such as the United States and Japan), the proposals would exceed international standards. Banks have until 10 January 2014 to respond to the paper.

LOOKING FORWARD

The amended Bill will be scrutinised and debated line by line in the House of Lords, due to start 8 October, following which the House of Commons must approve any further amendments before it becomes law. Whether or not all 86 amendments are approved, it cannot be denied that the regulation of the UK banking system is facing a huge change.

CONTACT US

For further information, please contact:

ASIA

CHINA – HONG KONG

Harris Chan
Partner
T +852 2103 0763
harris.chan@dlapiper.com

Adrian Elms
Senior Associate
T +852 2103 0755
adrian.elms@dlapiper.com

AUSTRALIA

Warwick Painter
Partner
T +61 2 9286 8252
warwick.painter@dlapiper.com

Marianne Robinson
Consultant
T +61 2 9286 8017
marianne.robinson@dlapiper.com

EUROPE

AUSTRIA

Jasna Zwitter-Tehovnik
Partner
T +43 1 531 78 1025
jasna.zwitter-tehovnik@dlapiper.com

BELGIUM

Koen Vanderheyden
Partner
T +32 02 500 6552
koen.vanderheyden@dlapiper.com

Patrick Van Eecke
Partner
T +32 2 500 1630
patrick.van.eecke@dlapipercom

Emma Greenow
Account Director
T +32 2 500 1623
emma.greenow@dlapiper.com

CZECH REPUBLIC

Pavel Marc
Partner
T +420 222 817 402
pavel.marc@dlapiper.com

FRANCE

Fabrice Armand
Partner
T +33 1 40 15 24 43
fabrice.armand@dlapiper.com

Anne Maréchal
Partner
T +33 1 40 15 24 40
anne.marechal@dlapiper.com

GERMANY

Eyke Grüning
Partner
T +49 69 271 33 290
eyke.gruening@dlapiper.com

Dr. Mathias Hanten
Partner
T +49 69 271 33 381
mathias.hanten@dlapiper.com

Dr. Gunne W. Bähr
Partner
T +49 221 277 277 283
gunne.baehr@dlapiper.com

HUNGARY

András Nemescsói
Partner
T +36 1 510 1180
andras.nemescsoi@dlapiper.com

ITALY

Alessandro Corno
Partner
T +39 02 80 618 508
alessandro.corno@dlapiper.com

Marco Zechini
Partner
T +39 06 68 880 509
marco.zechini@dlapiper.com

NETHERLANDS

Paul Hopman
Advocaat
T +31 20 541 9952
paul.hopman@dlapiper.com

Rik Mellenbergh
Advocaat
Professional Support Lawyer
T +31 20 5419 850
rik.mellenbergh@dlapiper.com

NORWAY

Karl-Fredrik Lindblom
Of Counsel
T +47 24 13 16 46
karl.fredrik.lindblom@dlapiper.com

Camilla Wollan
Partner
T +47 24131 659
camilla.wollen@dlapiper.com

POLAND

Krzysztof Wiater
Partner
T +48 22 5407447
krzysztof.wiater@dlapiper.com

ROMANIA

Sabin Volciuc-Ionescu
Counsel
T +40 372 155 820
sabin.volciuc-ionescu@dlapiper.com

SLOVAKIA

Eva Skottke
Senior Associate
T +421 2 592 021 11
eva.skottke@dlapiper.com

Radoslava Rojkova
Senior Associate
T +421 2 592 021 14
radoslava.rojkova@dlapiper.com

SPAIN

Ignacio Gomez-Sancha
Partner
T +34 91 788 7344
ignacio.gomez-sancha@dlapiper.com

SWEDEN

Lina Williamsson
Senior Associate
T +46 8769 7910
lina.williamsson@dlanordic.se

UK

Elisabeth Bremner
Partner
T +44 20 7796 6230
elisabeth.bremner@dlapiper.com

Michael McKee
Partner
T +44 20 7153 7468
michael.mckee@dlapiper.com

UNITED STATES

US – CHICAGO

Wesley Nissen
Partner
T +1 312 368 3411
wesley.nissen@dlapiper.com

US – LOS ANGELES

Nicolas Morgan
Partner
T +1 310 595 3146
nicolas.morgan@dlapiper.com

US – NEW YORK

Edward Johnsen
Partner
T +1 212 335 4730
edward.johnsen@dlapiper.com

Matthew Yoon
Partner
T +1 212 335 4505
matthew.yoon@dlapiper.com

US – WASHINGTON D.C.

Luis Mejia
Partner
T +1 202 799 4572
lou.mejia@dlapiper.com

Jeffrey Hare
Partner
T +1 202 799 4375
jeffrey.hare@dlapiper.com

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