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EBA publishes results of 2018 stress test

The European Banking Authority (EBA) has published the results of its EU-wide stress test, which included 48 banks from 15 EU and EEA countries, relating to around 70% of total EU banking sector assets.

The test considered the aggregate impact of an adverse scenario and measured the difference between the starting CET1 ratios under the IFRS 9 restated positions of the banks and CET1 ratios projected at the end of the stressed period. Overall, the EBA identified an aggregate impact of -395bps on participants' CET1 fully loaded capital ratio (-410bps on a transitional basis) with an aggregate CET1 capital ratio of 10.1% (10.3% on a transitional basis) by the end of 2020.

The EBA did not set a defined pass or fail threshold for participants, and the results of the stress test are intended to assist competent authorities in assessing banks' ability to meet applicable prudential requirements under the stress scenario as well as providing an input for the Pillar 2 assessment of banks.

Benchmarks Regulation: Commission Delegated Regulations published in Official Journal

Ten EU Commission Delegated Regulations supplementing the Benchmarks Regulation (EU 2016/1011) have been published in the Official Journal. The Delegated Regulations set out regulatory technical standards specifying:

- the procedures and characteristics of the oversight function (Delegated Regulation (EU) 2018/1637);
- the internal oversight and verification procedures of a contributor that the administrator of a critical or significant benchmark has to have in place when input data is contributed from a front office function (Delegated Regulation (EU) 2018/1638);
- the elements of the code of conduct to be developed by administrators of benchmarks that are based on input data from contributors (Delegated Regulation (EU) 2018/1639);
- the governance and control requirements for supervised contributors (Delegated Regulation (EU) 2018/1640);
- the information administrators of critical or significant benchmarks must provide on the methodology used to determine the benchmark and the

procedures for internally reviewing, approving and making material changes to the methodology (Delegated Regulation (EU) 2018/1641);

- the criteria to be considered by competent authorities when assessing whether administrators of significant benchmarks should apply certain requirements (Delegated Regulation (EU) 2018/1642);
- the contents of, and cases where updates are required to, the benchmark statement to be published by the benchmark administrator (Delegated Regulation (EU) 2018/1643);
- the minimum content of cooperation arrangements with competent authorities of third countries whose legal framework and supervisory practices have been recognised as equivalent (Delegated Regulation (EU) 2018/1644);
- the form and content of the application for recognition with the competent authority of the Member State of reference and of the notification to the European Securities and Markets Authority (ESMA) (Delegated Regulation (EU) 2018/1645); and
- the information to be provided in applications for authorisation and registration (Delegated Regulation (EU) 2018/1646).

The Delegated Regulations will enter into force on 25 November 2018 and will apply from 25 January 2019.

BRRD: ITS on provision of information for resolution planning to repeal Commission Implementing Regulation (EU) 2016/1066 published in Official Journal

Commission Implementing Regulation (2018/1624) laying down implementing technical standards (ITS) with regard to procedures, standard forms and templates for the provision of information for the purposes of resolution plans for credit institutions and investment firms under the Bank Recovery and Resolution Directive (BRRD) has been published in the Official Journal. The ITS repeal Commission Implementing Regulation (EU) 2016/1066.

Since the adoption of Implementing Regulation (EU) 2016/1066, resolution authorities have gained experience in resolution planning and the Commission now deems it necessary to update the minimum set of templates for the collection of information for resolution planning purposes. Given the extent of the necessary amendments, the Commission views it as preferable, for reasons of legal certainty and clarity, to repeal the Regulation and publish new ITS.

The ITS will enter into force on 27 November 2018.

EU Council adopts Regulation on mutual recognition of freezing and confiscation orders

The EU Council has adopted the Regulation on the mutual recognition of freezing and confiscation orders, following the conclusion of trilogue negotiations with the EU Parliament and EU Commission.

The new Regulation will provide mutual recognition for freezing and confiscation orders, meaning that judicial decisions taken in one EU Member State will normally be directly recognised, and enforced, by another Member State; only a limited number of grounds for non-recognition and non-execution are available under the Regulation. The Regulation includes a deadline of 45 days for the recognition of a confiscation order and in urgent cases a deadline of 48 hours for the recognition and 48 hours for the execution of freezing orders. The new rules also relate to:

- confiscation in criminal matters;
- standardisation of certificates and procedures; and
- victims' rights to compensation and restitution.

The Regulation will start to apply 24 months after its publication in the Official Journal.

ECON Committee agrees stance on proposed Regulation on cross-border payment and currency conversion charges

The EU Parliament's Committee on Economic and Monetary Affairs (ECON) has agreed its position on the EU Commission's proposal on charges on cross-border payments in the EU and currency conversion charges. The ECON Committee has agreed with the Commission that charges should be aligned for cross-border payments within the EU and charges for domestic payments made in a Member State's currency. The proposal also includes new rules on transparency of currency conversion costs for both bank transfers and card-based transactions.

The ECON Committee has also proposed that:

- information on currency conversion options should be offered free of charge;
- points of sale and ATMs should always provide the option of paying in the local currency;
- customers should be able to block or switch to alternative currency conversion services; and
- currency conversion rates should those valid at the start of the transaction.

The proposal will be considered in trilogue negotiations after the EU Council has agreed its negotiating stance.

ECON Committee agrees stance on proposed crowdfunding framework

The EU Parliament's Committee on Economic and Monetary Affairs (ECON) has agreed its position on the EU Commission's proposal for a crowdfunding framework. The proposed framework sets out rules for European crowdfunding service providers (ECSPs) aimed at helping them function smoothly across borders and in the internal market. It specifies, amongst other things, that:

- ECSPs must give investors clear information about the financial risks and charges related to their investment, including insolvency risks, project selection criteria and the default rates of all the projects offered on the ECSP's platform;
- there must be restrictions placed on ECSPs to limit their ability to participate financially in the crowdfunding offers on their platforms; and

- ECSPs must ensure clients are able to file complaints against them free of charge, provide a standard complaint template and keep a record of all complaints received and the measures taken.

The ECON Committee also agreed on two changes to the EU Commission's proposals, namely that:

- the regulation should cover crowdfunding offers up to EUR 8,000,000 rather than EUR 1,000,000; and
- the authorisation of prospective ECSPs should be carried out by the national competent authority (NCA) in its Member State rather than by the European Securities and Markets Authority (ESMA).

The proposal will now be considered in trialogue negotiations with the EU Commission and Council.

PRIIPs: ESAs consult on proposed changes to key information document

The European Supervisory Authorities (ESAs) have issued a consultation paper on targeted amendments to the Delegated Regulation covering the rules for the Key Information Document (KID) for Packaged Retail and Insurance-based Investment Products (PRIIPs).

On 1 October 2018, the ESAs wrote to the EU Commission setting out their intention to make proposals to support legislative changes to avoid the possibility of duplicating information requirements for investment funds from 1 January 2020, and to tackle key issues that have arisen since the implementation of the KID. In particular, the consultation paper addresses amendments to the information regarding investment products' performance scenarios. The proposals are made in the context of the ongoing discussions between the European co-legislators on the application of the KID by certain investment funds as well as the timing of a wider and more comprehensive review of PRIIPs, which was due this year.

In addition, when deciding upon the nature of their final recommendations following this consultation in January 2019, the ESAs will take into account the feedback from respondents to this consultation and the latest information of the political discussions on the application of the KID by certain investment funds and the timing of the wider review.

Comments are due by 6 December 2018.

ESAs consult on guidelines on cooperation and information exchange for AML/CFT supervision purposes

The ESAs have launched a public consultation on draft guidelines on cooperation and information exchange between competent authorities supervising credit and financial institutions for the purposes of anti-money laundering and countering the financing of terrorism (AML/CFT) supervision.

The guidelines propose the creation of AML/CFT colleges of supervisors and set out the rules governing their establishment and operation. In particular, AML/CFT colleges should be set up whenever three or more competent authorities from different Member States are responsible for the AML/CFT supervision of the same credit or financial institution and its establishments, and the frequency and intensity of each AML/CFT college should be determined on a risk-sensitive basis.

As information available to AML/CFT supervisors may also be relevant for prudential supervisors and vice versa, the guidelines propose gateways to ensure that prudential supervisors can participate as observers in AML/CFT colleges, and that information from AML/CFT college meetings is available to colleges of prudential supervisors.

Where the conditions for setting up an AML/CFT college are not met, the guidelines propose that supervisors will continue their cooperation and information exchange on a bilateral basis and formalise this process.

Comments are due by 8 February 2019.

ESMA renews product intervention measure for binary options and CfDs

The European Securities and Markets Authority (ESMA) has agreed to renew its prohibition of the marketing, distribution or sale of binary options to retail clients under Article 40 of MiFID for a further three month period from 2 January 2019. The prohibition has been in effect since 2 July 2018.

ESMA has reviewed the need to extend the intervention measure and concluded that there remains a significant investor protection concern related to the offer of binary options to retail clients and elected to renew the measure on the same terms as the previous renewal that applied from 2 October 2018.

ESMA intends to adopt the renewal measure in the coming weeks. The measure will then be published in the Official Journal and will apply from 2 January 2019 for a period of three months.

ESMA proposes regulatory change to support Brexit preparations of counterparties to uncleared OTC derivatives

ESMA has published a final report with draft regulatory technical standards (RTS) proposing to amend the three Commission Delegated Regulations on the clearing obligation under the European Market Infrastructure Regulation (EMIR). The draft RTS propose, in the context of the UK's withdrawal from the EU, to introduce a limited exemption in order to facilitate the novation of certain non-centrally cleared OTC derivative contracts to EU counterparties during a specific time-window. The amendments would only apply if the UK leaves the EU without the conclusion of a withdrawal agreement (a no deal scenario).

The draft RTS allow UK counterparties to be replaced with EU ones without triggering the clearing obligation. This limited exemption is intended to ensure a level playing field between EU counterparties and the preservation of the regulatory and economic conditions under which the contracts were originally entered into.

The window for the novation of non-centrally cleared OTC derivative contracts which fall under the scope of the amending regulation would be open for twelve months following the withdrawal of the UK from the EU. However, ESMA has stated that counterparties can start repapering their contracts ahead of the application date, making the novation conditional upon a no-deal Brexit, given the conditional application date of the amending regulation.

The draft RTS have been submitted to the EU Commission for endorsement, and they are subject to the scrutiny of the EU Parliament and of the Council.

ESMA has indicated that the European Supervisory Authorities (ESAs) are currently considering a similar approach to facilitate the novation of legacy contracts to EU counterparties considering that novation may also trigger the application of bilateral margin requirements.

As regards non-centrally cleared OTC derivative contracts, these measures will be the only regulatory measures the ESAs intend to propose to help address the legal uncertainty raised by the withdrawal of the UK from the EU and to ensure a level-playing field between EU counterparties.

Brexit: SIs under the EU (Withdrawal) Act for 5 – 9 November 2018

HM Government published new draft statutory instruments (SIs) under the EU (Withdrawal) Act 2018 last week.

The draft Bank of England (Amendment) (EU Exit) Regulations 2018 v and the draft Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2018 have been laid for sifting. SIs going through the sifting process are considered by a committee in the House of Commons and the House of Lords, which determine the suitability of the 'negative procedure'. The sifting end dates for these instruments are 26 and 23 November 2018 respectively.

The draft Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018, the draft Payment Accounts (Amendment) (EU Exit) Regulations 2018, and the draft Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2018 have been laid before Parliament.

The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 (SI 2018/1149) have been made.

For information on all draft SIs under the EU (Withdrawal) Act published last week, visit http://www.gov.uk and www.legislation.gov.uk.

Brexit: BoE writes to EU systems designated under the Settlement Finality Directive

The Bank of England's (BoE's) Executive Director for Financial Market Infrastructure, David Bailey, has written a Dear CEO letter on the BoE's temporary Settlement Finality Directive (SFD) designation regime after the UK's withdrawal from the EU. The letter follows up on the communication on 24 July 2018, which outlined the process for offering UK settlement finality protection to EU systems designated under SFD. HM Government has now published a guidance draft version of the Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2018, which will amend the Settlement Finality Regulations (SI 1999/2979) in order to provide the BoE with the powers to grant permanent designation to non-UK, including EU, systems that are not governed by UK law.

The letter provides further detail on the temporary SFD recognition regime and sets out questions and answers, including:

- what will the 'steady state' regime for UK settlement finality designation look like post-Brexit;
- the circumstances in which a system may wish to apply for UK SFD designation; and

- how to apply for temporary SFD designation in advance of applying for 'steady state' designation.

The BoE encourages EU systems to provide an early indication of their intention to use the regime, prior to the legislation coming into force, and invites EU systems to fill in an online survey. The BoE will update EU systems when the legislation has come into force.

Consob amends its regulation on issuers

The Commissione Nazionale per le Società e la Borsa (Consob) has amended its Regulation no. 11971/1999 (as amended) on issuers by means of two resolutions (no. 20261/2018 of 10 October 2018 and no. 20649/2018 of 30 October 2018; information also available in English).

In particular, these provisions focus on:

- the amendments concerning the implementing provisions of the definition of issuers of listed 'SME' shares referred to in article 1, paragraph 1, letter w-quater.1) of the Italian Financial Act (Legislative Decree no. 58/1998) and widespread issuers – these amendments concern the criteria for the calculation of capitalisation and turnover; the disclosure requirements to which issuers must adhere in relation to the acquisition or loss of the classification of SME; and the procedures for publication of the list of SMEs; and
- the parameters envisaged by art. 89-quater of the regulation on issuers, representing the risk for the correctness and completeness of financial information disclosed to the market, for the purposes of identifying the set of listed issuers whose documents are subject to audit.

The two resolutions are in the process of being published in the Italian Official Gazette.

Capital Markets Board of Turkey considers introduction of new mandatory tender offer exemption

The Capital Markets Board of Turkey (CMB) has published a draft amendment to the Tender Offerings Communiqué (No. II-26.1) which would introduce a new exemption from mandatory tender offers (MTOs).

If the draft amendment is adopted without any changes, public companies will be able to apply to the CMB to be exempted from carrying out an MTO if, as a result of a capital increase, a change in the management control occurs during the public offering of the shares (after the existing shareholders exercise their pre-emptive rights). Following such a request, the CMB may grant an exemption from carrying out a mandatory tender offer.

Comments on the draft amendment are due by 23 November 2018.

FSC proposes capital market reform

The Financial Services Commission (FSC) has proposed capital market reform initiatives aimed at facilitating financing for innovative companies through capital markets. The key initiatives include:

- diversifying and facilitating the fundraising options for start-ups and venture companies – details of this initiative will be outlined in December 2018 and a proposal to revise the Capital Markets Act will be submitted to the National Assembly in the first quarter of 2019;

- introducing a new scheme of Business Development Company (BCD), a specialised investment company to invest in unlisted companies – BCD is similar to a special-purpose acquisition company (SPAC) where the company first raises funds through its initial public offering (IPO) before identifying an investment target. Details of this initiative will be announced in the first quarter of 2019;
- broadening and diversifying the 'professional investors' criteria – the qualifying criteria for professional investors will be extended to include individuals who have investment experience and can afford financial losses or those with expertise in securities markets, e.g. bankers, lawyers, accountants, angel investors etc. Details of this initiative will be announced in December 2018 with an amendment proposal for the enforcement decree of the Capital Markets Act;
- reshaping the regulatory framework for private equity funds (PEFs) – the FSC will abolish the current 10% rule that divides PEFs from hedge funds. Both PEFs and hedge funds will be brought under a single regulatory scheme with eased restrictions on fund management. The FSC will introduce a new scheme of institutions-only PEFs (tentatively named) which raise funds only from institutional investors. Retail investors will be allowed to invest indirectly in institutions-only PEFs through funds of funds;
- easing IPO regulations to provide more flexibility to IPO advisors in pricing and allocation of shares – corresponding to this greater autonomy, IPO advisors will be held more accountable for due diligence. Details of this initiative will be announced in the first quarter of 2019;
- reinventing KONEX as a pre-Kosdaq incubating market specialised in helping KONEX-listed firms move to the Kosdaq market. Details of this initiative will be announced in November 2018; and
- securities firms specialised in financing small and medium enterprises (SMEs) will only be required to register for business – the minimum capital for business will be lowered to KRW 500 million, with a limited scope of business such as brokerage service for private offering or trading unlisted stocks.

MAS and Bank Indonesia establish bilateral financial arrangement

The Monetary Authority of Singapore (MAS) and Bank Indonesia have established a bilateral financial arrangement of USD 10 billion. The arrangement is intended to enable the two central banks to access foreign currency liquidity from each other, if needed, to preserve monetary and financial stability.

The bilateral financial arrangement, which will be in place for one year, comprises the following two agreements:

- a new local currency bilateral swap agreement that allows for the exchange of local currencies between the two central banks of up to SGD 9.5 billion or IDR 100 trillion (approximately USD 7 billion); and
- an enhanced bilateral repo agreement of USD 3 billion that allows repurchase transactions between the two central banks to obtain USD cash using US Treasuries, Japanese Government Bonds and German

Government Bonds as collateral. This is an increase from the current size of USD 1 billion.

MAS responds to feedback received on strengthening process for determining SGS and MAS bills closing prices

The MAS has published its responses to the feedback it received on its December 2017 consultation paper on strengthening the process for determining Singapore Government Securities (SGS) and MAS bills' closing prices. The key proposals set out in the consultation paper included:

- enhancing the closing prices methodology;
- improving the governance and controls of the closing prices determination process; and
- providing guidance to primary dealers (PDs) on their obligations in the closing prices determination process.

Amongst other things, the MAS has clarified its proposals as follows:

- PDs may adjust executable dealer-to-client (D2C) prices with an adjustment function to be included as contributions, subject to the guidance set out in section 3 of the Governance Framework;
- D2C prices which lead to request-for-quotes may be used as contributions, subject to the guidance set out in section 3 of the Governance Framework;
- all eligible transacted prices will be included in the calculation methodology for SGS bonds without trimming;
- in relation to T-Bills and MAS Bills, submissions or contributions (Option 1A (Interpolation – SGS bonds methodology) as set out in the consultation paper) will be the approach used to determine the closing yield of bills maturing before the 4-week benchmark;
- the MAS will incorporate the basket of bills approach, whereby contributions can be based on a pre-defined basket of bills for the benchmark tenors and the shortest-dated bill;
- the MAS has developed attestation language in consultation with PDs and prior to implementation of the new framework, the MAS will engage with PDs to determine the types of inputs (contributions and submissions) PDs will provide to the MAS, and the applicable attestation that each PD needs to provide;
- the MAS will continue to undertake the roles of Administrator and Calculation Agent for closing prices; and
- the MAS will work with PDs to ensure that there is sufficient time provided to prepare for the transition to the enhanced framework. The MAS will also update market participants and stakeholders ahead of the transition period and implementation.

Federal Reserve Board issues final rule concerning new supervisory rating system for large financial institutions

The Federal Reserve Board (FRB) has announced the finalization of a new supervisory rating system for large financial institutions. The new rating system will apply to all domestic bank holding companies and non-insurance, non-commercial savings and loan holding companies with USD 100 billion or more in total consolidated assets, which is a change from the USD 50 billion threshold originally proposed. The new system will also apply to US intermediate holding companies of foreign banking organizations with USD 50 billion or more in total consolidated assets as proposed.

The FRB's supervisory program for large financial institutions focuses on capital, liquidity, and the effectiveness of its governance and controls. In each of those areas, supervisors will use the new rating system to assign a confidential rating to the firms.

For bank holding companies with less than USD 100 billion in total consolidated assets, the FRB will continue to apply its existing rating system. The existing rating system will also be adopted for non-insurance, non-commercial savings and loan holding companies with less than USD 100 billion in total consolidated assets.

The final rule will become effective on 1 February 2019.

Federal agencies propose amendments to enhanced prudential standards framework for large US banking organizations

The US banking agencies have, pursuant to the Economic Growth, Regulatory Relief, and Consumer Protection Act, issued two notices of proposed rulemaking that would establish a revised framework for applying prudential standards to large US banking organizations based on their risk profile:

- a proposal by the Federal Reserve that would tailor the application of prudential standards to US bank holding companies; and
- a proposal that would be issued jointly by the Federal Reserve, the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC) that would tailor the application of the agencies' capital and liquidity rules to large US banking organizations.

The proposals would establish a revised framework for applying prudential standards to large US banking organizations based on four categories of standards that are intended to reflect the risks of each category:

- Category IV: Most US banking organizations with USD 100 billion to USD 250 billion in total assets;
- Category III: US banking organizations with USD 250 billion or more in assets, or with at least USD 100 billion in assets that exceed certain risk thresholds;
- Category II: US banking organizations with very significant size (USD 700 billion or more in total assets) or cross-jurisdictional activity (USD 75 billion or more); and
- Category I: US global systemically important bank holding companies (GSIBs).

The revised prudential standards framework would significantly reduce regulatory compliance requirements for firms subject to Category IV standards, modestly reduce requirements for firms subject to Category III standards, and largely keep existing requirements in place for firms subject to Category I and II standards. The Federal Reserve has indicated that it intends to release proposed amendments to the prudential standards for foreign banking organizations in the near future. Comments on the proposals will be accepted until 22 January 2019.

APRA proposes to increase loss-absorbing capacity of authorised deposit-taking institutions to support orderly resolution

The Australian Prudential Regulation Authority (APRA) has published a discussion paper on proposed changes to the application of the capital adequacy framework for authorised deposit-taking institutions (ADIs) to support orderly resolution in the event of failure.

The Australian Government's 2014 Financial System Inquiry (FSI) recommended APRA implement a framework for loss absorbing and recapitalisation capacity in line with emerging international practice, sufficient to facilitate the orderly resolution of Australian ADIs and minimise taxpayer support.

APRA proposes an approach on loss-absorbing capacity that is intended to be simple, flexible and designed with the distinctive features of the Australian financial system in mind, and which has been developed in collaboration with the other members of the Council of Financial Regulators. The key features of the proposals include:

- for the four major banks – increasing total capital requirements by four to five percentage points of risk-weighted assets; and
- for other ADIs – likely no adjustment, although a small number may be required to maintain additional total capital depending on the outcome of resolution planning.

As ADIs will be able to use any form of capital to meet increased total capital requirements, APRA anticipates that the bulk of additional capital raised will be in the form of Tier 2 capital. APRA expects the proposed changes marginally to increase each major bank's cost of funding – incrementally over four years – by up to five basis points based on current pricing. This is not expected to have an immediate or material effect on lending rates.

APRA proposes that the increased requirements will take full effect from 2023, following relevant ADIs being notified of adjustments to total capital requirements from 2019.

In addition to the proposals outlined in the discussion paper, APRA intends to consult on a framework for recovery and resolution in 2019, which will include further details on resolution planning.

APRA finalises prudential standard to combat cyber-attack threats

APRA has released the final version of its prudential standard focused on information security management.

The new 'Prudential Standard CPS 234 Information Security' is intended to improve APRA-regulated entities' resilience against information security incidents (including cyber-attacks), and their ability to respond swiftly and effectively in the event of a breach.

CPS 234 requires APRA-regulated entities to:

- clearly define information-security related roles and responsibilities;

- maintain an information security capability commensurate with the size and extent of threats to their information assets;
- implement controls to protect information assets and undertake regular testing and assurance of the effectiveness of controls; and
- promptly notify APRA of material information security incidents.

APRA published a discussion paper in March 2018 outlining the intended requirements of the new prudential standard. Following consultation with industry, APRA has published a response to submissions paper outlining the final form of the standard. Industry was generally supportive of the intent and direction of CPS 234, but APRA has agreed to make several amendments including clarifying requirements for information assets managed by third parties, and modifying the timeframes for notifying APRA of information security incidents and material information security control weaknesses.

ASIC consults on updated competence requirements for advice licensees

The Australian Securities and Investments Commission (ASIC) has launched a public consultation proposing to update 'Regulatory Guide 105 Licensing: Organisational competence' (RG 105) to support the professional standards reforms, which are intended to improve the education, training and ethical standards in the financial advice industry.

The proposals in the consultation paper titled 'Consultation Paper 305 Organisational competence requirements for advice licensees: Update to RG 105' (CP 305) are based on the existing draft guidance published by the Financial Adviser Standards and Ethics Authority (FASEA).

ASIC proposes to add to the existing options in RG 105 for demonstrating the knowledge and skills of responsible managers by introducing a new 'Option 6', which will reflect the higher education and training standards for financial advisers. ASIC also proposes that:

- advice licensees would be required to have at least one responsible manager who satisfies the new education and training standards;
- responsible managers who wish to satisfy the new education and training standards would have to pass the financial adviser exam, satisfy the degree requirement that apply to existing financial advisers, and meet the continuing professional development (CPD)requirements; and
- both new and existing responsible managers who wish to satisfy the new education and training standards would have until 1 January 2021 to pass the exam and until 1 January 2024 to satisfy the degree requirement.

The updated RG 105 setting out the new organisational competence requirements for advice licensees is expected to be released in early 2019.

Comments are due by 6 December 2018.

RECENT CLIFFORD CHANCE BRIEFINGS

Hong Kong Court challenges long-established practice of the Commissioner of Inland Revenue when dealing with an objection to tax assessment

A recent judgment from the Hong Kong Court of First Instance has challenged the long-established policies of the Inland Revenue Department and held that the Commissioner of Inland Revenue has a wide discretion when dealing with an objection to a tax assessment.

This briefing discusses the judgment.

https://www.cliffordchance.com/briefings/2018/11/hong_kong_court_challengeslong-establishe.html

Supreme Court Hears Oral Argument in Case Challenging International Organizations' Immunity from Suit

The US Supreme Court heard oral argument on 31 October 2018 in *Budha Ismail Jam v International Finance Corporation* (No 17-1011), which addresses the scope of international organizations' immunity from suit. The issue in *Jam* is whether international organizations enjoy virtually absolute immunity from civil suit in the United States, or whether they should have the same restrictive immunity as foreign sovereigns enjoy under the Foreign Sovereign Immunities Act (FSIA). Under the FSIA, notwithstanding their general immunity from suit, foreign sovereigns can be sued for conduct constituting 'commercial activity'. Allowing suit against international organizations, especially those involved in economic development activities, could dramatically increase those organizations' litigation and liability risk in the United States.

Jam marks the first time the Supreme Court has addressed this issue, and it poses significant implications for international organizations. A decision is expected in the first half of 2019.

This briefing discusses the case.

https://www.cliffordchance.com/briefings/2018/11/supreme_court_hearsoralargumentincas.html