

# CLIFFORD CHANCE

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## **Working Group on Euro Risk-Free Rates publishes letter on potential replacement rates for GBP and JPY LIBOR**

The Working Group on Euro Risk-Free Rates has [written](#) to the EU Commission regarding the potential designation of statutory replacement rates for GBP LIBOR and JPY LIBOR.

The Working Group supports an alignment of the approach taken for tough legacy contracts under EU law with that adopted by the UK, which is the use of a synthetic LIBOR for GBP and JPY LIBOR referencing contracts and the adoption of specific legislation providing legal certainty to contracts linked to synthetic LIBOR. An alignment would provide a consistent approach for all tough legacy contracts, but the Working Group also recognises that it would create certain challenges within the legal framework of the EU Benchmark Regulation (BMR), compared to the legislative solution pursued in the UK.

The Working Group is of the view that within the remit of the EU BMR, full legal certainty can only be achieved with the designation of a statutory replacement rate. To ensure alignment with the UK approach, the Working Group has considered several options to designate a replacement rate, all of which create certain challenges in terms of either full alignment with the UK approach or operational aspects (including the fact that there is no certainty whether synthetic LIBOR will continue to be published after the end of 2022).

The Working Group is open to further discussion on the most appropriate approach, and its letter highlights the importance of having certainty about relevant action as soon as practicable, so that market participants can focus on the deliverables required to achieve a successful transition away from GBP and JPY LIBOR.

## **CCP Recovery and Resolution Regulation: ESMA consults on draft RTS and guidelines**

The European Securities and Markets Authority (ESMA) has launched [six consultations](#) on draft regulatory technical standards (RTS) and guidance for

its central counterparty (CCP) recovery mandates under Regulation (EU) 2021/23 (the CCP Recovery and Resolution Regulation).

ESMA's consultation papers relate to the following:

- draft RTS on the following subjects:
  - the safeguards for clients and indirect clients (Article 63(2));
  - the requirements for independent valuers, the methodology for assessing the value of the assets and liabilities of a CCP, the separation of the valuations, the buffer for additional losses to be included in provisional valuations and the methodology for carrying out the valuation for the purpose of the 'no creditor worse off' principle (Articles 25(6), 26(4) and 61(5));
  - the resolution colleges (Article 4(7)); and
  - the content of CCP resolution plans (Article 12(9)).
- draft guidelines on the following subjects:
  - the methodology to value each contract prior to termination (Article 29(7)); and
  - the application of the circumstances under which a CCP is deemed to be failing or likely to fail (Article 22(6)).

Comments are due by 24 January 2022. ESMA intends to publish final reports by Q2 2022.

### **EMIR: ESMA consults on CCP investment practices for highly liquid financial instruments**

ESMA has launched a [consultation](#) examining the potential extension of the list of financial instruments eligible for investments by EU CCPs under Article 85(3a(e)) of the European Market Infrastructure Regulation (EMIR), including EU money market funds (MMFs).

The consultation paper aims to assess whether the scope of financial instruments which are considered highly liquid with minimal market and credit risk should be extended and, more specifically, if MMFs authorised under the EU Money Market Funds Regulation (MMFR) should be included in this list.

Comments are due by 24 January 2022. ESMA intends to publish final reports by Q2 2022.

### **ESMA publishes final report on RTS on clearing and derivative trading obligations and benchmark transition**

ESMA has published its [final report](#) on the clearing and derivative trading obligations to accompany benchmark transition.

The report sets out proposed draft RTS amending the scope of the clearing and derivative trading obligations for OTC interest rate derivatives denominated in EUR, GBP, JPY and USD, as part of the transition to alternative benchmarks. The report also presents a timeline for when these changes should come into effect.

ESMA proposes to:

- remove interest rate derivative classes referencing GBP and USD LIBOR from both the clearing and derivative trading obligations;

- remove interest rate derivative classes referencing EONIA and JPY LIBOR from the clearing obligations; and
- introduce interest rate derivative classes referencing €STER, SONIA and SOFR to the clearing obligations.

The draft RTS have been submitted to the EU Commission for endorsement.

## **ESMA publishes preliminary report on EU carbon market**

ESMA has published its [preliminary report](#) on the EU carbon market.

The report responds to a request made by the EU Commission to ESMA for a preliminary analysis of European emission allowances (EUAs) and derivatives on EUAs.

The report presents an overview of the financial regulatory environment for the carbon market under MAR, MiFID2 and EMIR and the tools available to securities supervisors to fulfil their responsibilities. The report also provides an analysis of price evolution and volatility in EUAs and derivatives on EUAs.

ESMA identifies that:

- the number of counterparties holding a position on EUA futures has tended to increase since 2018 in all categories of counterparties, in relatively homogeneous proportions in line with the observed expansion of the EU Emissions Trading System market;
- open positions are to a large extent, and almost evenly, held by investment firms and credit institutions on the one hand and by non-financial counterparties on the other hand, while the remaining percentage of open positions, held by investment funds and other financial counterparties, remains relatively low; and
- the breakdown of open positions between the various categories of counterparties does not appear to have significantly changed since 2018 and is broadly in line with the expected functioning of the market, where non-financial entities buy EUA futures to hedge their carbon price exposure, while financial counterparties act as intermediaries to facilitate trading and provide liquidity to the market.

ESMA intends to deliver its final report following in-depth analysis to the EU Commission in early 2022.

## **EBA reports on impact of net stable funding ratio on precious metals markets**

The European Banking Authority (EBA) has published a [report](#) on the possible impact of the net stable funding ratio (NSFR) on the functioning of the precious metals markets.

The report is intended to assess whether it would be justified to reduce the required stable funding factor for assets used for providing clearing and settlement services or for financing transactions of precious metals. It discusses the impact of the introduction of the NSFR on the market for precious metals and analyses the impact of possible modifications of the prudential treatment of physically traded commodities under the NSFR.

The EBA reports that banks started to comply with the new liquidity requirements well in advance of their entry into force. During the period 2011–2019, banks analysed in a Basel Committee on Banking Supervision quantitative impact study cleared the shortfall of stable funding needed to

comply with the NSFR. In the same period there is no evidence that this adjustment had an impact on the precious metals market.

The amount of physically traded commodities reported by banks was found to be negligible when compared with the market volumes. Also, the requirement for stable funding generated by these assets is limited in comparison with the total amount of required stable funding, and a reduction of the weighting factor assigned to these assets would have limited impact on banks and, in particular, would not make the NSFR less stringent.

### **Investment firms: EBA consults on SREP guidelines and Pillar 2 add-ons RTS under IFD**

The EBA has launched [two consultations](#) on draft guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and on draft RTS on Pillar 2 add-ons under the Investment Firms Directive ((EU) 2019/2034) (IFD).

The consultation on the draft guidelines (EBA/CP/2021/35), jointly developed with ESMA, sets out the process and criteria for the following main SREP elements:

- business model analysis;
- assessment of internal governance and investment firm-wide control arrangements;
- assessment of risks to capital and adequacy of capital to cover these risks; and
- assessment of risks to liquidity and funding and adequacy of liquidity resources to cover these risks.

The draft guidelines also provide clarifications on the monitoring of key indicators, on the application of SREP in the cross-border context, and on the use of supervisory measures.

The consultation on the draft RTS on the determination of additional own funds requirements (EBA/CP/2021/34), which should be read together with the draft SREP guidelines, proposes a number of indicative qualitative metrics to support competent authorities in the identification, assessment and quantification of material risks and elements of risks not covered or not sufficiently covered by own funds requirements set out in Article 11 of the Investment Firms Regulation (IFR).

Both consultations will be the subject of a public hearing on 18 January 2022 and close on 18 February 2022. The finalisation of the draft RTS and communication to the EU Commission is intended by 30 June 2022.

### **Securitisation Regulation: ECB consults on notification of securitisation transaction guide**

The European Central Bank (ECB) has launched a consultation on a [draft guide](#) on the notification of securitisation transactions.

This follows the ECB's decision in May 2021 to ensure that directly supervised banks comply with the requirements for risk retention, transparency and resecuritisation for all securitisations, which are set out under Articles 6, 7 and 8 of the EU Securitisation Regulation.

The non-binding guide clarifies the information that the ECB expects directly supervised banks acting as originators or sponsors of securitisation

transactions to provide. The ECB expects banks to follow the guide for all securitisation transactions issued after 1 April 2022. The ECB intends to update the guide as needed to reflect relevant developments in the regulation and supervision of securitisations.

Comments are due by 5 January 2022.

## **FSB Plenary discusses financial system vulnerabilities and its 2022 work programme**

The Financial Stability Board (FSB) Plenary has [held a hybrid meeting](#) in Basel to discuss vulnerabilities in the global financial system, review issues of particular relevance to the emerging market and developing economies (EMDEs) and agree the FSB's work programme for 2022.

Key current vulnerabilities identified in the meeting relate to the rise in indebtedness across sovereigns, non-financial corporates, and households in response to COVID-19. The FSB is concerned that rising interest rates and greater divergence of economic and financial conditions between advanced economies and EMDEs could further expose vulnerabilities.

The FSB also discussed the implications of accelerating digital innovation, including the rise in use of cryptoassets, for financial stability and EMDEs in particular. It believes COVID-19 has accelerated the trend toward digitalisation of financial services. The FSB intends to provide an updated assessment of the financial stability implications of cryptoassets to the G20 in February 2022.

The main priorities agreed for the FSB's 2022 work programme include:

- international cooperation and coordination in financial authorities' response to COVID-19;
- enhancing the resilience of the non-bank financial intermediation (NBFi) sector and follow-up to the FSB's Holistic Review of the March 2020 market turmoil;
- containing the risks from the use of crypto technology while harnessing the benefits;
- assessing and addressing financial risks from climate change; and
- finalising and monitoring implementation of the post-2008 crisis reforms.

## **Sustainable finance: Basel Committee consults on principles for effective management and supervision of climate-related financial risks**

The Basel Committee on Banking Supervision (BCBS) has launched a [consultation](#) on its principles for the effective management and supervision of climate-related financial risks.

The consultation is intended to promote a principles-based approach to improving risk management and supervisory practices in relation to climate-related financial risks and includes 18 proposed principles providing guidance to banks on effective management of climate-related financial risks and to prudential supervisors on prudential regulatory and supervisory requirements.

Comments are due by 16 February 2022.

## **IOSCO consults on revised principles for regulation and supervision of commodity derivatives markets**

The International Organization of Securities Commissions (IOSCO) has launched a [consultation](#) on its revised principles for the regulation and supervision of commodity derivatives markets.

The principles, originally published in September 2011 in response to the G20 Leaders' 2010 Seoul Declaration, aim to ensure that the commodity derivatives markets continue to facilitate price discovery and hedging, while remaining free from manipulation and abusive practices.

IOSCO is seeking feedback on whether:

- the revised principles reflect the changes, trends and activities in the commodity derivatives markets over the last decade since the publication of the original principles in 2011;
- there are areas that are missing and/or merit IOSCO consideration; and
- the principles continue to serve as a sound framework for the regulation of the commodity derivatives markets.

Comments are due by 17 January 2022.

## **CPMI consults on payment system operating hours to enhance cross-border payments**

The Committee on Payments and Market Infrastructures (CPMI) has launched a [consultation](#) on extending and aligning payment system operating hours for cross-border payments.

The report forms part of the G20 cross-border payments programme and focuses on the operating hours of real-time gross settlement (RTGS) systems which are considered key to enhancing cross-border payments. The CPMI believes that extending RTGS operating hours across jurisdictions could help address current obstacles, increase the speed of cross-border payments, and reduce liquidity costs and settlement risks.

The consultation proposes three potential 'end states' which are:

- increasing operating hours on current operating days which, if undertaken by multiple jurisdictions, would help close daily gaps in RTGS operating hours, primarily on standard working days given that most jurisdictions' RTGS systems close on weekends and public holidays;
- extending operations to additional days on which many RTGS systems do not currently operate, which would help close the gaps created by holidays and weekends; or
- extending operating hours to 24/7, which would likely require substantial operational changes but would largely remove frictions caused by gaps in opening times.

Comments are due by 14 January 2022.

## **FCA publishes rules for legacy use of synthetic LIBOR rates and no new use of USD LIBOR**

The Financial Conduct Authority (FCA) has published a [draft notice](#) and [feedback statement](#) (FS21/11) regarding its decision on permitting legacy use

of synthetic LIBOR rates, and a notice regarding its decision to prohibit new use of USD LIBOR.

This follows a consultation launched in June 2021 on the FCA's proposal to use its Article 23D(2) powers, introduced through amendments to the UK Benchmarks Regulation under the Financial Services Act 2021, to ensure an orderly wind-down of the six sterling and Japanese yen LIBOR settings. FS21/11 indicates that most respondents were supportive of the FCA's proposed approach, and sets out the FCA's feedback to the responses.

The FCA has published a draft notice with the FCA's decision on permitting legacy use of the six sterling and Japanese yen LIBOR settings designated as an Article 23A benchmark under Article 23C. The FCA has decided to allow temporary use of synthetic sterling and yen LIBOR rates in all legacy LIBOR contracts, other than cleared derivatives, that have not been changed at or ahead of end-31 December 2021. The synthetic rates will not be available for use in any new contracts.

The FCA intends to give a final form of the notice to ICE Benchmark Administration on 1 January 2022. The notice will take effect at 00:01 on 1 January 2022.

The FCA has also published a final notice on its decision that use of USD LIBOR will not be allowed in most new contracts written after 31 December 2021.

### **UK MiFID: FCA publishes amendments to near-final Investment Firms Prudential Regime rules**

The FCA has published a new [webpage](#) summarising amendments that have been made to the original text of the near-final Investment Firms Prudential Regime (IFPR) instrument (FCA 2021/38) originally published in the FCA's July 2021 policy statement on implementation of the IFPR (PS21/9).

The FCA states that there have been no changes to the substantive content of FCA 2021/39, which was also published in PS21/9.

The FCA also notes that a small number of final rules may be further amended in its forthcoming policy statement responding to its third and final consultation paper on the IFPR (CP21/26).

### **UK CRR: PRA publishes policy on domestic liquidity sub-groups**

The Prudential Regulation Authority (PRA) has published a policy statement ([PS26/21](#)) containing its final policy on domestic liquidity sub-groups (DoLSub) and providing feedback to responses received to its consultation (CP19/21).

Respondents to CP19/21 were generally supportive of the PRA's proposals, but raised a number of concerns and requests for further clarification, which the PRA has set out in chapter 2 of PS26/21.

PS26/21 makes amendments to the:

- glossary, liquidity (CRR), and internal liquidity adequacy assessment parts of the PRA Rulebook (Appendix 1); and
- statement of policy 'Liquidity and Funding Permissions' (Appendix 2).

Where certain conditions are met on the availability, distribution, management, and monitoring of liquidity, the Capital Requirements Regulation (CRR) allows the PRA to waive the application of liquidity requirements at the level of an



individual firm and to permit a firm to form a DoLSub. Where a DoLSub permission is granted, PRA requirements apply at the level of a DoLSub on the basis of the consolidated situation of its members, rather than applying to member firms individually. HM Treasury will revoke this provision from 1 January 2022.

The implementation date for the policy changes resulting from PS26/21 will be 1 January 2022. The policy is intended to take effect at the same time as HM Treasury's revocation of the relevant parts of the CRR.

### **UK CRR: PRA publishes table of rules corresponding to revoked onshored provisions**

The PRA has published a [table](#) setting out whether and, if so, how its rules correspond to onshored provisions of the Capital Requirements Regulation (CRR) revoked by HM Treasury.

The Financial Services Act 2021 grants HM Treasury (HMT) the power to revoke provisions relating to certain matters of the onshored CRR and instruments made under the CRR. The PRA is able to make rules in relation to these revoked matters and in relation to certain standards recommended by the Basel Committee on Banking Supervision (BCBS).

The Financial Services Act states that any reference to a revoked provision, from before it was revoked, in any enactment should be treated as a reference to the corresponding CRR rule as set out in the PRA's table.

### **BoE consults on amendments to FPC framework on O-SII buffer**

The Bank of England's (BoE's) Financial Policy Committee (FPC) has launched a [consultation](#) on amendments to its framework on the other systemically important institutions (O-SII) buffer.

The FPC has decided to review the framework earlier than required in order to consider information on how the framework operates that has become available during the COVID-19 pandemic. The FPC is proposing to amend its framework to:

- change the metric used to determine O-SII buffer rates from total assets to the UK leverage exposure measure; and
- recalibrate the thresholds used to determine O-SII buffer rates to prevent an overall tightening or loosening of the framework relative to its pre-COVID level.

The proposals aim to ensure that the framework still addresses the key systemic risk intended by the FPC, that is a distressed ring-fenced bank or large building society disrupting the supply of credit to the real economy. According to the FPC, this should be achieved by excluding from the framework central bank reserves, which grew significantly during the pandemic but do not reflect a bank's potential to disrupt the credit supply. The proposals also introduce into the framework committed but undrawn credit facilities. The FPC notes that experience during the pandemic suggests that these can form an important part of the credit supply in stress.

The proposals would come into effect in time for the Prudential Regulation Authority (PRA) to assess rates under a revised framework in December 2023 and would apply from January 2025.

Comments are due by 15 February 2022.

## **BaFin sets medium-term objectives for its supervisory practice**

In order to comply with its task of ensuring the functionality, stability and integrity of the German financial centre and protecting the collective interests of consumers through preventive supervision, the German Federal Financial Supervisory Authority (BaFin) has published [ten medium-term objectives](#) for the years 2022 to 2025 regarding its supervisory activities. In doing so, BaFin intends to create a clear and transparent basis for forward-looking and effective supervisory work. When setting these objectives, BaFin oriented itself around the risks in the financial sector.

The objectives focus on the following areas: stability and security, operative resilience, problem companies in terms of business models or deficient governance, money laundering prevention, consumer protection, market supervision, sustainability, innovation, modernisation and courageous supervisory culture and human resources development.

BaFin aims to make significant progress in all ten areas over the next four years. Therefore, BaFin will define in separate supervisory focal points the specific ways in which it intends to implement these strategic goals. Together with the underlying risk analysis, these focal points will be published on an annual basis.

## **Japanese FSA publishes principles relating to model risk management**

The Financial Services Agency (FSA) has published a [document](#) setting out its expectations as a list of principles for model risk management, following the feedback received to its June 2021 consultation.

The document is intended to clarify the FSA's approach to model risk management, thereby catalysing further development of the model risk management practices in the industry. It emphasises the 'three lines of defence' approach as a way of promoting effective review and challenge.

The principles set out in the document will be applicable not only to global systemically important banks (G-SIBs) headquartered in Japan and domestic systemically important banks (D-SIBs) designated by the FSA, but also to foreign G-SIBs' subsidiaries in Japan that have obtained approval from the FSA for the use of a model for regulatory purposes. Insurance companies are not subject to the principles. In addition, financial institutions which have a large amount of contract transactions from high frequency trading companies are not included in the scope.

The FSA expects firms to have regard to the following principles in building and implementing a model risk management framework:

- governance – the board of directors and senior management should establish a robust framework of comprehensive model risk management that should be commensurate with the firm's characteristics, risk profile, nature of model risk, and tolerance for model risk;
- model identification, model inventory and model risk rating – firms should identify models, record them in a model inventory, and assign a risk rating to each of the models;
- model development – firms should have in place a sound model development process and they should adequately develop model documents and carry out model testing;

- model approval – firms should have a robust process of model approval at various stages of a model lifecycle;
- ongoing monitoring – when a model goes into use, the model should undergo ongoing monitoring by the 'first line of defence' to confirm that the model is performing as intended;
- model validation – as an integral element of review and challenge by the 'second line of defence', models should be subject to independent validation;
- vendor products and use of external resources – firms using vendor products or external resources should have adequate controls in place over the use of those products and external resources; and
- internal audit – as the 'third line of defence', internal audit functions should assess the overall effectiveness of the model risk management framework.

### **MAS revises Form 22A on Notice of Commencement of Business as Registered Fund Management Company**

The Monetary Authority of Singapore (MAS) has [revised](#) its existing Form 22A on Notice of Commencement of Business as a Registered Fund Management Company.

An additional declaration has been added to Section 5 (Declaration) of Form 22A. The additional declaration stipulates that the company is not relying on any other exemption under paragraph 5 of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations in respect of its business in fund management, and will not do so if the application (under Form 22A) is approved.

The revised Form 22A is effective as of 12 November 2021.

### **MAS enhances FinTech Regulatory Sandbox with Sandbox Plus**

The MAS has [announced](#) the launch of Sandbox Plus, an enhanced version of its FinTech Regulatory Sandbox framework, to further catalyse financial innovation and fintech adoption.

The MAS launched the FinTech Regulatory Sandbox in 2016 to encourage and enable experimentation with technology innovation to deliver financial products and services. The Regulatory Sandbox was enhanced with Sandbox Express in 2019 to provide firms with a faster option for market testing in pre-defined environments.

Sandbox Plus will take effect on 1 January 2022 and includes the following three enhancements:

- expansion of eligibility criteria to include early adopters of technology innovation – currently, a company is eligible for the sandbox only if no similar implementations were observed in Singapore. By expanding support beyond first movers to early adopters, the Sandbox Plus is intended to provide a more conducive environment for new technology innovations to gain broader traction in Singapore, and provide more options to consumers and businesses;
- streamlined application with financial grant – first movers of technology innovation can concurrently apply to enter the Regulatory Sandbox and receive a financial grant of up to SGD 500,000 at a 50% funding level, in a

single application. The grant is intended to help meet the cashflow needs of Sandbox Plus applicants and allow them to focus resources on technology innovation and market development while they are still in the Regulatory Sandbox; and

- participation in Deal Fridays – eligible applicants will be enrolled in the Deal Fridays programme, a platform for deal-making opportunities. The programme is intended to help sandbox companies access the external investor community, to benefit from the network, mentorship, and funding.

### **MAS and industry to launch technology and data sharing platform**

The MAS has [announced](#) that it will launch a platform named ChekFin to further enhance industry collaboration on technology and data sharing. The platform is a partnership among the ASEAN Financial Innovation Network, BCG FinTech Control Tower, and Affinidi, with the MAS as a founding partner.

ChekFin is a decentralised credentials platform intended to support partnerships between financial institutions and fintech firms thereby enabling financial institutions to obtain verified credentials of fintech firms, such as business references, awards they have obtained, and investor funding records. Subsequently, fintech firms can decide who they want to share their private credentials with.

With ten global financial institutions having signed up for ChekFin already, the platform is set to be launched in December 2021.

### **MAS and industry to pilot digital platforms for better data to support green finance**

The MAS has [announced](#) that it will collaborate with the industry to pilot four digital platforms under Project Greenprint, to address the financial sector's needs for good data on sustainability.

Project Greenprint was launched in December 2020 with a view to harnessing innovation and technology to promote a green finance ecosystem by supporting the mobilisation of capital, monitoring sustainability commitments, and measuring impact. The MAS observed that one of the key challenges faced in sustainability financing is the difficulty in accessing high quality, consistent and granular sustainability data. It believes that addressing these data gaps will enable financial institutions to direct capital towards sustainability projects in a more scalable way, effectively monitor their sustainability commitments, and quantify the risks and real-world impact of their portfolios.

The MAS intends to work with the industry to pilot the following common utility platforms, with the pilots expected to be completed in the second half of 2022:

- the Greenprint Common Disclosure Portal, which is intended to simplify the environment, social and governance (ESG) disclosure process by converting data inputs into different reporting frameworks as required under different jurisdictions and purposes;
- the Greenprint Data Orchestrator, which will:
  - aggregate sustainability data from multiple data sources, including major ESG data providers, utilities providers, and the Common Disclosure Portal, as well as other sectoral platforms and provide access to these key data sources; and

- enable new data insights to be generated through data analytics services to better support investment and financing decisions;
- the Greenprint ESG Registry, which is intended to:
  - record and maintain the provenance of ESG certifications accorded by certification bodies in different sectors as well as data and metrics that are verified by qualified third party auditors; and
  - provide financial institutions, corporates, and regulatory authorities with a single point of access to these certified data, and facilitate trusted data flows; and
- the Greenprint Marketplace, which will connect green technology providers in Singapore and the region to a community of investors, venture capital firms, financial institutions, and corporates to facilitate partnership, innovation and investments in green technology.

The MAS has also indicated that it intends to work on two use case projects to facilitate green and sustainability-linked trade finance in the building and construction, and palm oil sectors, by using data from the Greenprint Data Orchestrator and ESG Registry.

### **MAS and BSP to pursue cross-border payment linkages**

The MAS and the Bangko Sentral ng Pilipinas (BSP) have [signed](#) an enhanced fintech cooperation agreement to facilitate interoperable payments between Singapore and the Philippines. The enhanced cooperation agreement:

- builds on the earlier 2017 agreement to broaden the scope of fintech collaboration and partnership between the two regulators;
- facilitates the linkage of both countries' real-time and QR payment systems, in order to provide instant, seamless and low-cost cross-border payments; and
- aligns with the G20's efforts to address existing frictions in global cross-border payments, and contributes to Association of Southeast Asian Nations' (ASEAN) goal of establishing regional payments integration by 2025.

The regulators have indicated that they will also explore multilateral interoperability of payment infrastructure projects, in keeping with regional efforts to establish further linkages within ASEAN and with countries outside the region.

### **Singapore and United Arab Emirates conclude cross-border digital trade financing pilot**

The MAS, Singapore's Infocomm Media Development Authority (IMDA) and the Financial Services Regulatory Authority (FSRA) of the Abu Dhabi Global Market (ADGM) have, in collaboration with commercial partners DBS Bank, Emirates NBD and Standard Chartered, [concluded](#) a cross-border digital trade financing pilot which harmonises the legal recognition of digital documents such as electronic bills of lading (eBLs) across both jurisdictions, and is intended to complement the larger global trade movement by the Group of Seven (G7) economies on adopting electronic transferable records in international trade.

The pilot used IMDA's TradeTrust framework to facilitate the transfer of electronic records between jurisdictions that have adopted the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Transferable Records (MLETR). DBS Bank, Emirates NBD and Standard Chartered collaborated with the IMDA, MAS and FSRA in this pilot, and used IMDA's TradeTrust to validate, review and transfer ownership of simulated eBLs.

The regulators have indicated that they will continue to collaborate, adopting an iterative approach, with the objective of encouraging businesses in both jurisdictions to phase out and switch from paper to digital documents as the mainstream practice to support trade finance.

### **ASIC consults on updated consumer remediation regulatory guide**

The Australian Securities and Investments Commission (ASIC) has launched a [public consultation](#) on its updated draft consumer remediation regulatory guide, which is intended to improve remediation across the financial services industry.

The updated draft regulatory guide sets out the framework under which licensees should conduct remediations to return money owed to consumers ensuring that all such remediations are conducted efficiently, honestly, and fairly.

The consultation on the updated draft regulatory guide is the second round of a two-part consultation process and incorporates feedback received on ASIC's December 2020 consultation entitled 'Consumer remediation: Update to RG 256 (CP 335)'. The guide has also been expanded to cover all financial services licensees, credit licensees and retirement service providers.

Comments on the consultation are due by 11 February 2022.

### **RECENT CLIFFORD CHANCE BRIEFINGS**

#### **Implementing the new EU rules on non-performing loans**

The new EU directive on credit servicers and credit purchasers will regulate the sale, purchase and servicing of non-performing loans originated by EU banks. The new regime will have a significant impact on trading, investment and securitisation transactions involving non-performing loans.

The new rules are expected to take effect by early 2024, but market participants will have to take steps to implement the new rules well before then.

This briefing paper discusses the new regime.

<https://www.cliffordchance.com/briefings/2021/11/implementing-the-new-eu-rules-on-non-performing-loans.html>

#### **The Google shopping European Court judgment and its wider implications**

On 10 November 2021, the General Court of the European Union upheld the finding of the European Commission that Google abused its dominant position by favouring its own shopping comparison service in its general search results.

This briefing paper discusses the judgment.

<https://www.cliffordchance.com/briefings/2021/11/the-google-shopping-european-court-judgment-and-its-wider-implic.html>

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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