

Legal Headwinds: Quarterly Report – Q4 2017

Legal Headwinds focuses on key legal and regulatory developments relevant to clients operating in the FI, asset management and insurance sectors in the UK, the Netherlands, Hong Kong, Singapore and China and in the Life Sciences sectors in Belgium, France, Germany and the UK. We also cover significant developments more generally within the EU.

Rather than being a retrospective analysis, the report looks at future developments this quarter and beyond (based on information available as at 30 September 2017) and it is not intended to be exhaustive. Those issues which have a hyperlink in the 'Headwind Topic' column are accompanied by more detailed topic summaries on elexica.

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This document has been created using the following criteria:

Priority: Red, Amber and Green




Region: UK; The Netherlands; Belgium; Germany; France; EU; Hong Kong; PRC; Singapore and Global

Relevant Sectors: Financial Institutions; Asset Managers; Technology Media and Telecoms and Life Sciences.



Relevant Subsectors: Financial Institutions: Wholesale Banks; Retail Banks and other consumer credit providers; Fin-tech; Wealth and Insurance. Asset Managers: Hedge funds; Institutional managers; Private equity; Sovereign wealth; Service Providers and Private Clients.

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Base Erosion and Profit Shifting (BEPS)		Modernisation of aspects of international tax rules intended, in part, to limit opportunities for cross-border strategies to reduce taxation by multinationals	Work continues on implementing OECD's recommendations of October 2015, including adoption of Multilateral Convention to implement tax treaty related aspects and review of taxation of digital economy (see "BEPS: taxation of digital economy")	OECD Action Plan contains timetable for implementation of recommendations continuing beyond 2017	All	All	R




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<i>Bond Connect</i>		<p>With effect from 21st June 2017, The People's Bank of China (PBOC) has unveiled a new Hong Kong-Mainland collaboration connecting their bond markets while centralizing RMB payment, clearance and settlement activities to appointed custodians, settlement banks and payment system</p> <p>Eligible foreign investors include: Overseas registered commercial banks, securities companies, fund management companies, asset management companies; investment products lawfully issued by the aforementioned institutions; funds and other mid- and long-term institutional investors approved by the PBOC</p>	Bond Connect became live on 3 rd July 2017. It currently only allows foreign investors to access cash bonds in the China's Interbank Bond Market (CIBM), accessed via Hong Kong – known as Northbound trading	Bond Connect anticipates widening the scope of transactable bonds to government bonds, financial bonds and corporate bonds. Southbound trading is expected to begin when "demand is enough", noted a PBOC official. Offshore trading platforms including Bloomberg and others will join Tradeweb to become the Access Platforms to the CIBM in time	Financial Institutions Asset Managers	Wholesale Wealth Insurance All	R
<i>Carried forward loss relief</i>		UK Government to remove some restrictions on use of carried forward losses but limit to 50% amount of profit that companies can offset through losses carried forward. Restriction will only apply to profits in excess of £5m calculated on group basis. Legislation to implement changes was published in Finance (No 2) Bill 2017		Changes expected to be introduced with retrospective effect generally from 01 April 2017	All	All	R
<i>Client assets</i>		Amendments to MiFID (MiFID2) of relevance to client assets		MiFID2 & MiFIR requirements apply from 03 January 2018	Financial Institutions Asset Managers	All All	R






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<i>Client assets</i>		<p>Amendments to MiFID (MiFID2) of relevance to client assets</p> <p>FCA consultation CP16/19 on MiFID2 implementation closed 04 January 2017. FCA confirmed its final policy in July 2017 in PS17/14. Final rule changes set out in Conduct, Perimeter Guidance and Miscellaneous Provisions (MiFID2) Instrument 2017 (FCA 2017/39)</p>			<p>Financial Institutions</p> <p>Asset Managers</p>	<p>All</p> <p>All</p>	R
<i>Companies Act changes to reduce regulatory burden and to improve the ease of doing business</i>		The Ministry of Finance (MOF) and the Accounting and Corporate Regulatory Authority (ACRA) propose certain legislative amendments to simplify requirements for companies to hold annual general meetings and file annual returns		<p>The Companies (Amendment) Act 2017 has introduced an inward re-domiciliation regime in Singapore. The regime has yet to be implemented although it was initially expected to be implemented within H1 2017</p> <p>The Companies (Amendment) Act 2017 will also simplify the timelines for holding of annual general meetings and for filing of annual returns as well as introduce a new annual general meeting exemption for qualifying private companies. It is expected that the amendments on the above will come into effect in Q1 2018</p>	All	All	R





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Corporate governance		<p>FRC report on developments in Corporate Governance and Stewardship</p> <p>11 January 2017, FRC published its report on developments in corporate governance and stewardship in 2016. FRC will monitor how companies adhere to proposals on corporate culture set out in its July 2016 report and how boards are discussing culture in the boardroom. Culture Coalition (collaboration with CIMA, City Values Forum, IBE, IIA and CIPD) is also considering areas of future focus, including reporting on values, behaviours and benefits of having company purpose wider than profit; and changing nature of leadership</p>			All	All	R
Corporate governance		<p>UK Stewardship Code</p> <p>03 August 2017, FRC announced that some Tier 3 signatories of UK Stewardship Code had been removed and that Tier 3 Category has been removed</p>		FRC to consider possible revisions to Stewardship Code in 2018	All	All	R
Corporate governance		<p>Beneficial Ownership-changes to PSC regime</p>	<p>26 June 2017, new regulations came into effect which amend the persons with significant control (PSC) regime to meet UK's obligations under Fourth Money Laundering Directive for Member States to maintain central register of corporate beneficial ownership information</p> <p>Main changes to the PSC regime are:</p> <ul style="list-style-type: none"> UK companies with shares trading on prescribed markets, including AIM, brought within scope of regime for first time from 24 July 2017 and no longer exempt from requirement to keep PSC register; and From 26 June 2017, reporting companies/LLPs to update PSC register within 14 days of becoming aware of any 		All	All	R



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			relevant change and to notify Companies House within 14 days of PSC register being updated. Any company or LLP that has updated its PSC register at any time before 26 June 2017, but has not yet notified the change to Companies House (for example by filing Confirmation Statement) had to notify Companies House of this change by 10 July 2017				
Corporate governance		Board diversity	09 November 2016, Hampton-Alexander report published on improving female representation at executive level in FTSE 350 companies. Recommendations of Hampton-Alexander report to be followed now	FTSE 350 companies target of 33% of women on boards by 2020	All	All	R
Corporate governance		Board diversity	Amendments to Disclosure Guidance and Transparency Rules require certain main market companies to include a diversity policy in their corporate governance statement for financial years beginning on or after 01 January 2017		All	All Large listed companies	R
Data protection		Proposed revision of EU data protection framework		EU General Data Protection Regulation (GDPR) will enter into effect on 25 May 2018 National laws which supplement the GDPR in relation to individual EU Member States (as contemplated in the GDPR itself) are being drafted (including the UK Data Protection Bill, which was published in September 2017) Employers should review policies and practices to ensure that processing employees' data is compliant with the GDPR	All	All	R
Dispute resolution		Launch of Business and Property Courts title	Statements of case and other court documents to start using new name from 02 October 2017		All	All	R
Dispute resolution		Possible introduction of new law making commercial organisations criminally liable for failing to prevent economic crimes including fraud, false accounting and money laundering Consultation period for Call for Evidence closed on 31 March 2017	Response to Call for Evidence expected	Proposed new offence to make corporations criminally responsible where they fail to take reasonable steps to prevent economic crimes by their employees or agents. Proposed that offence will apply to foreign as well as UK corporations	All	All	R


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<i>Dispute resolution</i>		<i>Corporate offence of failure to prevent tax evasion</i>	Criminal Finances Bill 2017 (Commencement No.1) Regulations 2017 brings new offence into operation from 30 September 2017	Businesses involved in tax planning advice and corporate structuring to review compliance policies to avail of “reasonable prevention measures” in event of allegation of facilitating tax evasion	All	All	R
<i>Employment</i>		The State Council has reduced the level of the employer unemployment insurance contribution.	According to notice issued jointly by Ministry of Human Resources and Social Security and Ministry of Finance (approved by the State Council), on 24 March 2017, the unemployment insurance contribution rate for those provinces with the rate at 1.5% has been reduced to 1% from 1 January 2017. This policy will be effective until 30 April 2018	The contribution rate from 30 April 2018 onwards will be determined by the State Council based on factors including economic and social conditions, strength of employment market and unemployment fund performance	All	All	R
<i>Employment</i>		A unified work permit system has been implemented in China, according to which, foreigners are classified into three categories (A – Top Talents, B – Professional Talents and C – Normal Staff) Categorisation is done via a “points-based” system whereby foreigners are ranked based on, among others, their educational background, work experience and Mandarin proficiency Besides, new residence permit application program has been introduced, which will further streamline the processes for residence permits applications, and is intended to encourage foreigners in certain categories to work in the PRC for a relatively longer time	The new system has come into effect country-wide from 1 April 2017. There is no restriction on issuing work permits for Type A applicants, work permits to be issued to Type B will be based on market needs, while foreigners who fall under Type C will be subject to a quota control, which is subject to local demands To encourage quality foreign talent, the following policies have been implemented in respect of Category A applicants: <ul style="list-style-type: none"> simplifying application documents; allowing applications for work permits without applicant leaving China; and lifting age restriction. The Ministry of Public Security announced a new residence permits application program to target four types of foreigners: top-notch foreign talent; long-term foreign workers in the PRC; Chinese with foreign nationality; and graduates from PRC and foreign universities		All	All	R
<i>Employment</i>		The Beijing High People's Court and Beijing Municipal Labour Arbitration Commission released a joint guidance to clarify the rules applicable to employment disputes The joint guidance touches on issues in relation to the termination of employment	The joint guidance was published on 24 April 2017 and is now in effect Employers may be cautious in using the legal ground of “major change” when conducting any unilateral termination in Beijing		All	All	R



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		contracts, as well as those regarding annual leave entitlements and calculation of remuneration. One of the most important changes is a narrowing of the “major change” ground of termination. This is often relied on by employers in a redundancy situation, but may now be less useful					
Employment		<p>Jiangsu and Guangdong Provinces issued new opinions respectively regarding highly disputable labor and employment issues</p> <p>On 3 July 2017, Jiangsu Labor Dispute Arbitration Committee issued a meeting summary regarding their aligned opinions on issues relate to employment relationship confirmation, employment contract performance, termination, and etc.</p> <p>On 19, July 2017, Guangdong Supreme Court issued answers to several labor and employment issues, including employment relationship confirmation, relocation related termination and etc.</p> <p>In particular, both opinions touch upon issues regarding whether it is allowed for the employer to ask for compensation from employees for losses caused by the employees’ deliberate action or gross negligence</p>	Companies may consider adding certain clauses in the employment contract template or internal rules regarding how to deal with losses caused by employee’s deliberate action or gross negligence		All	All	R
Employment		PRC has changed its system for granting <u>working visas</u> to foreign graduates	Shanghai has also issued detailed implemental rules regarding the requirements for foreign graduates to apply for work visa in Shanghai. The implemental rules took effective on 1 July, 2017 and will be effective till 30 June, 2020		All	All	R





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		<p>Since 6 January 2017, graduates (foreigners) with master's degrees or above, awarded from Chinese universities or from "well-known" foreign universities (which universities qualify as "well-known" is not yet known), are now eligible for a Z (working) visa immediately after graduation. Previously two years of postgraduate work experience was required</p> <p>There will be quotas for foreign graduates and they will vary between provinces and regions, depending on local demand</p> <p>On 21, September 2017, the Ministry of Education, the Ministry of Finance and the National Development and Reform Commission jointly issued a list of well-known universities (though arguable), which may be one of the references when granting working visas for foreign graduates</p>					
Employment		<p>The PRC has introduced new restrictions on the hiring of former civil servants</p> <p>On 26 May 2017, The Organisation Department of the Central Committee of the Communist Party, the Ministry of Human Resources and Social Security, the State Administration for Industry and Commerce, and the State Administration of Civil Service jointly published new guidelines on the hiring of former civil servants</p> <p>The new guidelines, for the most part, repeat what the PRC Civil</p>	The guidelines have retrospective effect from 28 April 2017		All	All	R




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		<p>Servant Law already provide. Some points, however, have been clarified</p> <p>For example, the scope of companies that former civil servants are restricted to work for has now been expanded, and civil servants resigning from their positions are required to inform government authorities of civil servant's future career plans. If deemed unsuitable, government may reject civil servant's resignation</p>					
Employment		<p>The Ministry of Human Resources and Social Security has issued two new labour arbitration rules.</p>	<p>Two new rules involving labour arbitration have been issued:</p> <ul style="list-style-type: none"> Rules on the Handling of Arbitration Cases Involving Labour and Personal Disputes; and Rules of Arbitration Organisations for Disputes over Labour and Personnel. <p>Both rules to have effect from 1 July 2017.</p> <p>Effect of rules is that arbitration procedures and settlement of disputes have been simplified. It also allows parties to apply to an arbitral commission or mediation institute to formally approve a settlement agreement reached in private. Previously, only cases involving an arbitral tribunal could be recognised as an official mediation agreement</p>		All	All	R
Employment		<p>The Supreme People's Court and the Supreme People's Procuratorate jointly issued the "Interpretation of Several Issues Regarding the Applicable Law in Criminal Cases of Citizens' Personal Information", which, among others, clarifies the definition of personal data for purposes of PRC Criminal Law</p>	<p>The interpretation came into effect on 1 June 2017, and will mean that employers may need to review their policies to ensure that they are compliant with law</p>		All	All	R




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<i>Employment</i>		Employers with 250 or more employees required to publish information on equal pay transparency. Further information is available here		Employers required to have taken snapshot of all data on 05 April 2017 and publish metrics by April 2018	All	All	R
<i>EU FATCA (see also the Foreign Account Tax Compliance (FATCA) item below)</i>		Council of the EU has adopted Directive to extend scope of mandatory automatic exchange of information between EU tax authorities Automatic exchange applies from 2017 (or 2018 in the case of Austria) in respect of relevant payments in 2016 (2017 in the case of Austria)			All	All	R
<i>FCA competition initiatives in the financial services markets</i>		CMA investigation into investment consultancy advice market FCA consultation on provisional decision to refer investment consultancy services to CMA closed on 28 July 2017 FCA made referral on 14 September 2017. CMA launched investigation the same day. CMA published Statement of Issues on 21 September 2017		CMA to continue to gather evidence from market participants. Market investigation expected to conclude in March 2019	Asset Managers	All	R
<i>Foreign Account Tax Compliance Act (FATCA), the Common Reporting Standard and international automatic exchange of information</i>		Impact of US Foreign Account Tax Compliance Provisions (FATCA) and other developments in relation to international exchange of information on financial institutions, including Common Reporting Standard Implementation of CRS continues with “early adopter” jurisdictions requiring financial institutions to report to them on reportable investors and their investments and exchanging that information in 2017		Other jurisdictions which have signed up to CRS to implement reporting requirements and exchange information in 2018	Asset Managers Financial Institutions	All All	R


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<i>Hong Kong Manager-In-Charge regime</i>		<p>In December 2016, the SFC released a circular setting out new requirements in relation to senior management of SFC licensed corporations, including but not limited to a requirement to identify and report information, on an ongoing basis, of one or more "Manager-In-Charge of Core Function(s)" ("MIC") to manage and be accountable for each of eight "Core Functions" within the licensed firm, and clarifying liabilities and conduct expected of senior management of licensed firms, ie board, responsible officers ("RO") and the MIC</p> <p>The SFC has issued a set of FAQs on new regime and is organising workshops to introduce new features of SFC Online Portal for submitting information on MIC and organisational charts. All SFC licensed firms were required to provide the SFC with information on their MIC and organisational structure by 17 July 2017</p>	MICs of "Overall Management Oversight" function and "Key Business Line" function who are not already RO must have submitted an application for approval to become an RO by 16 October 2017		Asset Managers	All	R
<i>Insurance Act 2015</i>		The Insurance Act 2015 (IA 2015) permits insurers to contract out of many of its provisions, subject to strict requirements	Insurers need to develop wordings and/or procedures to ensure that IA 2015 s.17 transparency requirements are met when seeking to contract out – see our article here		Financial Institutions	Insurance	R
<i>Insurance Regulation</i>		EIOPA issued its "Final Report on the proposal for Guidelines on facilitating an effective dialogue between competent authorities supervising insurance undertakings and statutory auditor(s) and the audit firm(s) carrying out the statutory audit of those Undertakings" on 12 December 2016	Guidelines on facilitating an effective dialogue between competent authorities supervising insurance undertakings and statutory auditor(s) and audit firm(s) carrying out statutory audit of those Undertakings are now applicable		Financial Institutions	Insurance	R


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<i>Legal Entity Identifiers, Unique Transaction Identifiers and Unique Product Identifiers</i>		New European rules will mandate both EU and non-EU market participants to obtain an LEI in order to trade or clear	Under the European Market Infrastructure Regulation (EMIR), EU trade repositories will be obliged to reject trade reports that do not contain an LEI – from 01 November 2017	Markets in Financial Instruments Directive and Regulation (MIFID II/MIFIR) will require investment firms to obtain an LEI from their clients prior to providing a service that would result in a transaction reporting obligation – from 03 January 2018	Financial Institutions	All	R
<i>Legal Entity Identifiers, Unique Transaction Identifiers and Unique Product Identifiers</i>		New rules in Chapter 6 of the Disclosure Guidance and Transparency Rules (DTRs), require all issuers of securities admitted to an EU regulated market to have an LEI	All issuers of securities admitted to the Main Market of the London Stock Exchange whose home state is the United Kingdom, will be required to supply an LEI when filing regulatory announcements – from 01 October 2017		Financial Institutions	All	R
<i>Life Sciences</i>		<p>Belgian Act on various health-related matters:</p> <ul style="list-style-type: none"> New EFPIA-like transparency obligation extended to “any economic actor” (i.e. Belgian and foreign pharmaceuticals, medical devices and veterinary products companies) New definition of distributors of medical devices in line with upcoming Medical Device Regulation. Retailers of medical devices not bound by obligations specific to distributors Reimbursement basis of medicinal products combining several active ingredients decreased in certain circumstances Legal framework created for companies responsible for installation, maintenance and removal of medical devices in the context of home-based care Changes in legal provisions creating framework for a self-sufficiency programme which will be set up through 		Some provisions of Act entered into force on 01 January 2017. Others will require adoption of a Royal Decree before entering into force	<p>Life Sciences</p> <p>Pharmaceutical Industry, Medical Devices industry, Healthcare facilities</p>	<p>All</p> <p>Hospitals, homecare providers, MAHs, distributors and importers of medicinal products for human and veterinary use, and manufacturers and distributors of medical devices, producers and distributors of blood-derived products</p>	R



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		<p>public tender for plasma-derived products (albumin, immunoglobulin)</p> <ul style="list-style-type: none"> New provisions enhancing traceability of human corporal material Concept of diagnostic orientation test introduced into Belgian law as new category of technical service to be performed by persons outside the clinical environment <p>New criminal sanctions and opportunities for settlement with health authorities</p>					
Life Sciences		<p>New royal decree regulating psychotropic, narcotic and stupefying substances</p> <ul style="list-style-type: none"> Decree lays down new rules for authorisation procedures which must be obtained from FAMHP when psychotropic, narcotic and stupefying substances listed in annexes of Decree are <u>imported</u>, <u>exported</u>, <u>transported</u>, <u>manufactured</u>, <u>produced</u>, <u>possessed</u>, <u>sold</u> or <u>offered</u> in sales, <u>provided</u>, <u>issued</u> or <u>acquired</u> (in Belgium) by legal and natural persons. Except for issuance of magistral formulae and without prejudice to applicable legal provisions on psychotropic, narcotic and stupefying substances and medicinal products, Decree bans the supply, import, export or transport, of products included in Annexes which are not packaged in a tamperproof outer packaging 		<p>Former authorisation procedures were replaced on 06 September 2017. However, authorizations granted by FAMHP under previous regime remain valid until their date of expiration</p> <p>With regards industrially prepared medicinal products, obligation to package products listed in Annexes in a tamperproof outer packaging only applies as of 09 February 2019</p>	Life Sciences Pharmaceutical Industry, Healthcare facilities	<p>All Healthcare professionals Healthcare organisations MAHs for medicinal products for human or veterinary use, Importers, Manufacturers and distributors of medicinal products for human or veterinary use Persons engaged in brokering activities in medicinal products for human or veterinary use</p>	R


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		Decree applies to medicinal products (for human and veterinary use) if they include one or several substances listed in annexes of Decree, with a few exceptions such as: (i) medicinal products <u>acquired</u> or <u>possessed</u> legally in Belgium (unless they are listed in Annex IIA of the Decree), and (ii) homeopathic medicinal products					
<i>Life Sciences</i>		<p>Sunshine Act</p> <ul style="list-style-type: none"> Direct and indirect transfers of value ("ToV") in cash or in kind between companies subject to disclosure ("Companies") and healthcare professionals ("HCPs"), healthcare organisations ("HCOs"), patient associations ("PAs") or in the context of research & development activities ("R&D"), must (i.e. legal obligation) be disclosed on www.betransparent.be (the "Platform"). HCP's consent is no longer required to process data; however, information on processing remains mandatory The location of Company's registered office or place of business is irrelevant; Sunshine Act applies to Companies all over the world. In addition, non-EU Companies interacting with HCPs, HCOs, PAs or in R&D activities are required to disclose their ToV via and on behalf of (i) a related company located in the EU or, failing that, (ii) a legal representative located in the EU. 	<p>First Reference Period to collect data on and keep track of the ToVs, HCPs, HCOs, PAs and R&D activities: calendar year 2017 (1 January 2017 – 31 December 2017)</p> <p>Q4: It has been confirmed that Belgian and foreign Companies will not have to appoint a specific security advisor in order to collect and process the HCPs' personal data including their national registry number where applicable (BPC deliberation NR no. 46/2017 of 13 September 2017)</p> <p>However, Companies remain bound by obligation to inform HCPs when their personal data are collected, in line with the Belgian data protection laws and, as of 25 May 2018, article 13 of the EU GDPR</p>	<p>First upload by 31 May 2018, first publication by 30 June 2018</p> <p>Deadline extension (only) for companies in the veterinary sector: first Reference Period is calendar year 2018, first upload by 31 May 2019 and first publication by 30 June 2019</p>	<p>Life Sciences</p> <p>Pharmaceutical Industry</p> <p>Medical Devices Industry</p> <p>Healthcare Facilities</p>	<p>MAHs for medicinal products for human or veterinary use, importers, manufacturers and distributors of medicinal products for human or veterinary use, persons engaged in brokering activities in medicinal products for human or veterinary use, Distributors, retailers and manufacturers of medical devices.</p>	R

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		<ul style="list-style-type: none"> If no transfers of value have been made during a given Reference Period, Companies remain bound by disclosure obligation (i.e. they still have to file a report, stating that no values covered by the Sunshine Act have been transferred). <p>The Sunshine Act provides for fines in case of non-compliance: 1,200 EUR to 90,000 EUR (without distinction between legal or natural persons)</p>					
Life Sciences		<p>Guidance on clinical data publication (Policy 0070) by European Medicines Agency ("EMA")</p> <p>EMA published on 22 September 2017 a guidance document regarding the publication of clinical data for medicinal products</p> <p>The document can be found here</p> <p>It includes a Q&A part, specifications on the submission of clinical reports, their anonymization and the identification and redaction of commercially confidential information in the reports.</p> <p>The document replaces old guidance document of 12 April 2017. Major changes have been made in Chapter 1, 2 and 5. These changes (and also minor changes) are listed here</p>	Document will be discussed during an EMA webinar on 4 December 2017		Life Sciences	All	R
Life Sciences		Trade Secrets Directive (EU) 2016/93 Council of the EU has adopted Trade Secrets Directive in order to harmonise the law on		<p>Directive to be implemented in domestic legislation by 09 June 2018</p> <p>For information on local implementation please</p>	Life Sciences	All	R



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		<p>trade secrets across EU Member States.</p> <p>Directive affects businesses operating cross border in the EU by creating a minimum standard of harmonisation. It introduces an EU wide definition of a trade secret and requires that protection is given to trade secrets revealed in the course of legal proceedings.</p> <p>Directive only protects a trade secret if it has been subject to 'reasonable steps' to keep it secret. Businesses should review and document procedures they use to protect confidential information, so as to be able to demonstrate that 'reasonable steps' have been taken</p>		refer to the relevant country entry for Trade Secrets Directive (EU) 2016/93	Industry		
Life Sciences		<p>Order n°2017-49 dated 19 January 2017, related to benefits granted by the companies manufacturing or commercializing health products or services -</p> <p>Under Article L. 4113-6 of French Public Health Code ("FPHC"), it is prohibited for companies producing or marketing at least one product reimbursed by the French social security to provide HCPs, students and associations representing them, with direct or indirect benefits in cash or in kind. Some exceptions are provided – such as any agreement concluded with HCPs and the support of hospitality costs for the attendance of HCPs to scientific events -, subject to prior opinion of the relevant professional board. These provisions are known as "anti-gift law"</p>		Order will enter into force at a date defined by decree, which is not published yet, and at the latest on 01 July 2018	Life Sciences	All	R



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		<p>“Anti-gift” law has been broadly amended by new Order. Article L. 4113-6 will be replaced by Articles L. 1453-3 and seq. of FPHC</p> <p>If general prohibition is kept, scope is extended, regarding recipients, in particular to associations of HCPs, whatsoever their purpose, including learned societies, and public servants</p> <p>Even if “benefit” is not defined by law (as it is the case to date), Order provides a list of elements which do not constitute “benefit”, among which the proceeds of the use or the assignment of IP related to health products, the commercial benefits (rebates, discounts...) as part of supply agreements</p> <p>New regulation also provides a limitative list of exceptions, which includes current ones but is extended to grants provided to recipients. However, “normal relationships”, which traditionally cover impromptu meals and hospital meeting and are not submitted to the prior opinion of the relevant board, are deleted from new framework</p> <p>Furthermore, the prior control of the admitted benefits is strengthened, as the prior opinion of the professional board is replaced by either the prior authorization of these boards (or an administrative authority) or a prior declaration, depending on</p>					

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		the amount of the agreement / benefit, which will be define by decree. The refusal of authorization will be an administrative decision, which may only be challenged before the relevant administrative court, while the current negative opinion issued by a board is not binding on the companies					
Life Sciences		<p>Intellectual Property (Unjustified Threats) Act 2017 reforms existing law on threats provisions and extends to trade marks and designs the exception in patent cases for threats made to a primary actor. The exception means that rights holders will not incur liability for making an unjustified threat to "primary actors" (e.g. manufacturers or importers of infringing goods)</p> <p>Act provides a 'safe harbour' that allows a rights holder to communicate with a secondary actor in certain situations by introducing the concept of 'permitted communications' being communications made for a permitted purpose that contain information necessary for that purpose.</p> <p>Act also introduces a provision preventing threats actions from being brought against professional advisers who act on instructions and identify their client in the communication</p>	Act fully comes into force on 01 October 2017		All	All	R
Life Sciences		Europe's new Unitary Patent (a single unitary patent right covering all participating Member States of the EU) and new Unified Patent Court (UPC)	<p>When it opens the UPC will have jurisdiction not only over new unitary patents but also over existing European patents which have not been opted out of its jurisdiction</p> <p>Existing licence, R&D and collaboration</p>	UPC had been on track to start in December 2017, with a sunrise period for opting out patents from its jurisdiction starting in September 2017. This was delayed by the UK general election called in June 2017 and a private challenge to the UPC system before the German Constitutional Court	All	All	R


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			agreements should be reviewed and, if possible, amended accordingly in light of new UPC regime. Future licences, R&D and collaboration agreements should take account of the new regime	UPC is now expected to open and the first unitary patents expected to be granted in 2018			
<i>Life Sciences Regulation</i>		<p>Medical Device Regulation</p> <p>EU adopted new EU rules improving safety of medical devices for benefit of patients while preserving a timely access to innovative healthcare solutions</p> <p>Inter alia, the following issues are covered:</p> <p>All medical device manufacturers selling in Europe will need to establish risk management systems and quality management systems</p> <p>Major changes to clinical evidence requirements</p> <p>Major labeling changes, particularly obliged UDI label</p> <p>New regulatory roles for economic operators (manufacturers, authorised representatives, importers, distributors)</p> <p>MDR scope is expanded to include new product lines</p> <p>New classification rules and stricter classification principles</p> <p>Changed role for Notified Bodies</p> <p>Authorized Representatives' liability increases</p> <p>Regulation came into force on 25th May 2017</p>		<p>New rules will apply from 26th May 2020</p> <p>Several transitional provisions are upcoming starting 6 month after entry into force</p> <p>Please see our comments on UK entry for EU Medical Device Regulation 2017/745 regarding impact of Brexit</p>	Life Sciences	<p>All</p> <p>Manufacturers of medical devices, authorised representative, importers, distributors</p>	R
<i>Life Sciences Regulation</i>		<p>Clinical Trials Regulation (aims at replacing Directive 2001/20/EC)</p>		Regulation expected to come into application in 2019. To a large extent Directive EU 2001/20/EC will be repealed when Regulation will be in force. A transition period (allowing continuing application, for a limited duration, of provisions of Directive	Life Sciences	<p>All</p> <p>Sponsors, institutions, investigators,</p>	R





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>Regulation will harmonise and develop EU legislation on clinical trials ("CT") through an extensive Regulation (compared with current – summary – Directive 2001/20/EC)</p> <p>Introduction of new concepts, as for instance low-intervention clinical trials, for investigational medicinal products which are authorised</p> <p>New application procedure: only through the online EU portal</p> <p>CT conducted outside EU will have to comply with requirements (at least) equivalent to those applicable in EU if they are referred to in a CT application</p> <p>New harmonised procedure to assess CT applications (joint assessment by all Member States concerned, followed by a separate assessment by each Member State concerned)</p> <p>New controls from European Commission to ensure enforcement and supervision of the Regulation</p> <p>Regulation defines strict deadlines to assess CT applications and a single list of documents to be compiled and submitted for each application</p> <p>Ethics committees will be involved in CT assessment procedures in accordance with local laws but within the timelines set forth at EU level</p>		<p>2001/20/EC) is provided with regard to CT requests made before or shortly after (maximum 12 months) entry into force of Regulation</p> <p>Please see our comments on the UK entry for EU Clinical Trial Regulation 2014/536 regarding impact of Brexit</p>		CROs	





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		Reporting procedures are simplified to avoid identical information being submitted separately to different bodies and local authorities by sponsors					
<i>Life Sciences Regulation</i>		<p>In-vitro-Diagnostic Device Regulation (replaces In-Vitro Diagnostic Devices Directive)</p> <p>EU adopted new EU rules improving the safety of medical IVD devices for the benefit of patients while preserving a timely access to innovative healthcare solutions</p> <p>Inter alia, the following issues are covered:</p> <ul style="list-style-type: none"> Significantly more IVD manufacturers have to engage Notified Bodies as part of their conformity assessment procedures New regulatory roles for economic operators (manufacturers, authorised representatives, importers, distributors), New performance evaluations New requirements concerning distribution issues Classification changes Responsible Person for Regulatory Compliance necessary Class D scrutiny Point of Care- / self-tests Stricter allowances for "homebrew" IVDs <p>Regulation came into force on 25th May 2017</p>		<p>New rules will apply from 26th May 2022</p> <p>Several transitional provisions are upcoming, starting 6 months after entry into force</p> <p>Please see our comments on UK entry for EU Medical Device Regulation 2017/745 regarding impact of Brexit</p>	Life Sciences	<p>All</p> <p>Manufacturers of medical IVD devices, authorised representative, importers, distributors</p>	R







Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Life Sciences Regulation</i>		Public consultation on draft implementing act for Medical Device Regulation and In Vitro Diagnostics Regulation	First implementing act and its annex on the Codes for the designation of Notified Bodies in the field of medical devices and in vitro diagnostics is open for feedback until 25 October 2017 The draft can be found here	Act is of clear importance for Notified Bodies and shall apply as of 26 November 2017	Life Sciences Medical Devices industry	Primarily Notified Bodies but also all economic operators in the field of medical devices	R
<i>Market Abuse Regulation (MAR)</i>		Revision of scope of MAD (MAR/CSMAD) (including provisions relating to manipulation of benchmarks)		Provisions in MAR referring to OTFs, SME growth markets, emission allowances or auctioned products based thereon, to apply from introduction of MiFID2 (now 03 January 2018)	Financial institutions Asset managers Energy and infrastructure	All All	R
<i>Markets in Financial Instruments Directive (MiFID)</i>		Post-implementation review of MiFID and possible amendments (MiFID2), including introduction of EU regime on recording/ retention of telephone calls and electronic communications (in particular minimum retention period of five years)	On-going adoption of Level 2 measures by European Commission and subsequent scrutiny by European Parliament and Council On-going adoption of Level 3 measures	MiFID2 and MiFIR requirements to apply from 03 January 2018 National competent authorities to start collection of transaction data by 03 January 2018 Systematic internalisers (SI) to comply with the SI transparency regime by 01 September 2018	Financial Institutions Asset Managers	Wholesale Banks Retail Banks and other consumer credit providers Insurance All	R
<i>Markets in Financial Instruments Directive (MiFID)</i>		Proposed changes to FCA rules with implementation of MiFID2	Commodity derivatives position limit exemptions application to be available from FCA on Connect from October 2017 FCA to publish feedback to CP6 on MiFID2 implementation by November 2017 Notifications of cross-border service passports to be submitted by 02 December 2017 to enable FCA to send on to relevant EEA regulators by 03 January 2018	MiFID2 and MiFIR requirements to apply from 03 January 2018 FCA market data processor (MDP) entity portal to be available for production environment from 03 January 2017	Financial Institutions Asset Managers	Wholesale Banks Retail Banks and other consumer credit providers Insurance All	R







Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Markets in Financial Instruments Directive (MiFID)</i>		Proposed changes to PRA rules with implementation of MiFID2		01 January 2018: proposed implementation date for proposals in CP43/16	Financial Institutions Asset Managers	Wholesale Banks Retail Banks and other consumer credit providers Insurance All	R
<i>Markets in Financial Instruments Directive (MiFID)</i>		Implementation Act MiFID II	Pending before parliament (<i>Eerste kamer</i>)	Entry into force expected on 03 January 2018	Financial Institutions Asset Managers	Wholesale Banks Retail Banks and other consumer credit providers Insurance All	R
<i>Markets in Financial Instruments Directive (MiFID)</i>		Implementation Decree MiFID II	Draft in preparation	Entry into force expected on same date as entry into force of Implementation Act MiFID II	Financial Institutions Asset Managers	Wholesale Banks Retail Banks and other consumer credit providers Insurance All	R
<i>Markets in Financial Instruments Directive (MiFID)</i>		Implementation Regulation MiFID II	Draft in preparation	Entry into force expected on same date as entry into force of Implementation Act MiFID II	Financial Institutions Asset Managers	Wholesale Banks Retail Banks and other consumer credit providers Insurance All	R



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Money laundering</i>		Fourth EU Money Laundering Directive	MLD4 takes effect across the EU on 26 June 2017		Financial Institutions Asset Managers	All All	R
<i>Money laundering</i>		<i>Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations take effect</i>	The new regulations took effect from 26 June 2017, implementing the EU's Fourth Money Laundering Directive	Following a debate in Council, the proposed Fifth Money Laundering Directive awaits a first reading in the Parliament. Proposed draft Directive would lower the threshold to define ownership of companies from 25% to 10% in line with the US, require countries to create lists of PEPs and require firms to provide details of the UBOs of all accounts to a central register	All	All	R
<i>Money laundering</i>		Implementation Act MLD IV	Pending before parliament (<i>Tweede Kamer</i>)	As implementation deadline has not been met, entry into force is expected to be as soon as possible	All	All	R
<i>Money laundering</i>		Implementation Decree MLD IV	Legislative proposal has been sent to Council of State (<i>Raad van State</i>) for advice	As implementation deadline has not been met, entry into force is expected to be as soon as possible	All	All	R
<i>Money laundering</i>		Implementation Act UBO Registration MLD IV	Draft in preparation	As implementation deadline has not been met, entry into force is expected to be as soon as possible	All	All	R
<i>Narrative reporting</i>		Disclosure of non-financial information in annual report	For financial years beginning on or after 01 January 2017, certain large companies have to include in their strategic report a non-financial information statement with information to the extent necessary for an understanding of company's development, performance and position relating to, as a minimum; environmental matters, employees, social matters, respect for human rights and anti-corruption and anti-bribery matters These rules implement the EU Directive on disclosure of non-financial information 26 June 2017, EU Commission adopted guidelines for companies on disclosure of environmental and social information which are intended to assist companies when making their disclosures and make it easier to compare information. The guidelines are not, however, compulsory		All	All Certain large listed companies	R




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Narrative reporting</i>		Payment practices and policies statement	Regulations requiring large private and quoted companies and limited liability partnerships to publish half-yearly reports on their payment practices and policies came into effect in April 2017 and apply to financial years beginning on or after 06 April 2017		All	All Large private and quoted companies and LLPs	R
<i>Narrative reporting</i>		Remuneration reporting	15 August 2016, the GC100 and Investor Group published a revised version of Directors Remuneration Reporting Guidelines which apply now		All	All	R
<i>Narrative reporting</i>		IA guidelines on viability statement	Guidelines published in November 2016 which set out institutional investors' expectations regarding viability statements which premium listed companies have to prepare under the UK Corporate Governance Code. To be considered when publishing financial statements in 2017		All	All Premium-listed companies	R
<i>Narrative reporting</i>		Financial Reporting Lab report on disclosure of dividends	4 October 2017, second report published which provides guidelines on policy and practice around disclosure of dividends in financial reports - to be considered for annual reports in 2017/2018		All	All	R
<i>Narrative reporting</i>		Gender pay gap reporting	Regulations which require companies with at least 250 relevant employees on a snapshot date (05 April 2017 and subsequent anniversaries) to publish information about gender pay gaps came into force on 06 April 2017	First set of information to be published by 05 April 2018	All	All Companies with at least 250 employees	R
<i>New Work Pass Cards</i>		In line with Singapore's smart nation initiative, the Ministry of Manpower (MOM) has introduced a new work pass card which includes a QR Code In addition, the MOM released a mobile application which will enable Work Pass information to be retrieved by scanning the QR Code	The card will be issued to new work pass holders in phases, starting with those in the marine shipyard and construction sector from 15 September 2017	Work permit holders in other sectors - excluding the domestic sector - will be issued the new cards from January 2018	All	All	R




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Notifications under the Representative Notification Framework (RNF)</i>		<p>The MAS proposes to streamline the RNF and apply notification requirements only in respect of representatives who serve retail customers</p> <p>Under proposal, financial institutions will not be required to submit notifications for their representatives who serve only non-retail customers as such customers are generally better able to protect their own interests</p>	The consultation period will close on 27 October 2017		Financial Institutions Asset Managers	All All	R
<i>OTC derivatives</i>		Regulation of OTC derivatives, central counterparty clearing and reporting requirements (EMIR)		<p>From 21 December 2018 clearing obligation for G4 currency for IRS: Category 3 FCs and AIFs that are NFC+, which are not included in Categories 1 or 2 – from 21 June 2019 (originally 21 June 2017); Category 4 NFC</p> <p>From 09 August 2019 clearing obligation for EEA currency IRS: Category 3 FCs and AIFs which are NFC+ which are not included in Categories 1 or 2 – 21 June 2019 (originally 09 February 2018); Category 4 other NFC+ which do not fall into Categories 1, 2 or 3</p> <p>From 09 May 2019 clearing obligation for CDS: Category 3 FCs and AIFs which are NFC+ which do not fall in Category 1 or 2 – 21 June 2019 (originally 09 February 2018); Category 4 other NFC+ which do not fall into Categories 1, 2 or 3</p> <p>Until 16 August 2018 - pension scheme exemption from central clearing requirements – (originally 16 August 2017)</p>	Financial Institutions Asset Managers	All All	R



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Proposal to implement a minimum leverage ratio requirement of 3% for Singapore-incorporated banks</i>		<p>The MAS is proposing amendments to MAS Notice 637 on Risk Based Capital Adequacy Requirements for Banks Incorporated in Singapore to introduce a minimum leverage ratio requirement of 3%</p> <p>Technical enhancements are also proposed on capital treatment of equity investments and definition of default under Internal Ratings Based Approach for credit risk</p> <p>Consultation period closed on 25 August 2017</p>			Financial institutions	Wholesale Banks and Retail Banks and other consumer credit providers	R
<i>Reform of the UK's substantial shareholdings exemption</i>		<p>UK Government will adopt reforms to the substantial shareholdings exemption to broaden its scope and add a new wider exemption for the direct or indirect holdings of qualifying institutional investors</p> <p>Legislation is included in the Finance (No 2) Bill 2017</p>		Legislation is expected to have retrospective effect from 01 April 2017	All	All	R
<i>Regulation of benchmarks following LIBOR rate-setting revelations</i>		<p>EU Benchmarks Regulation establishing legislative framework regulating production and use of indices serving as benchmarks</p>	<p>European Commission to adopt delegated acts, to apply from 01 January 2017</p> <p>European Commission to adopt Level 2 measures</p> <p>ESMA to adopt Level 3 measures</p> <p>FCA expected to publish policy statement and final rules following consultation on Handbook changes to reflect application of CP17/17, "Handbook changes to reflect the application of the EU Benchmarks Regulation" in October 2017</p> <p>UK government to legislate to provide FCA, as the competent authority under Benchmarks Regulation, with supervisory, disciplinary and investigatory powers in relation to benchmark administrators and others; to introduce sanctions</p>	Benchmarks Regulation to apply from 01 January 2018	<p>Financial Institutions</p> <p>Asset managers</p>	<p>Wholesale Banks</p> <p>Retail Banks and other consumer credit providers</p> <p>Insurance</p> <p>Hedge funds</p> <p>Institutional managers</p> <p>Service providers</p>	R


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
			for breach of Benchmarks Regulation; and to make any necessary changes to give effect to authorisation, registration, endorsement and recognition regimes				
Regulatory capital		Forthcoming amendments to Basel Accord (Basel 3)		Deadlines for phased implementation of December 2010 and January 2013 amendments can be found here	Financial Institutions	Wholesale Banks Retail Banks and other consumer credit providers	R
Regulatory capital				Large exposures framework, revised market risk framework to take effect, and revised liquidity coverage ratio to reach full implementation on 01 January 2019	Financial Institutions	Wholesale Banks Retail Banks and other consumer credit providers	R
Regulatory capital		Amendments to EU regulatory capital regime (CRD 4)	<p>CRD 4 Level 1 and Level 2 provisions – phased implementation in line with Basel 3</p> <p>European Commission to consider EBA draft RTS and ITS</p> <p>EBA to submit draft RTS to European Commission on relevant indicator under accounting standards (31 December 2017)</p> <p>EBA to submit draft RTS to European Commission on eligible collateral within CRM framework (2017)</p> <p>EBA to submit draft RTS to European Commission on conditions for conditional guarantees (2017)</p> <p>EBA to submit draft ITS to European Commission on principles for business line mapping (31 December 2017)</p> <p>European Parliament and Council to (i) adopt proposed Regulation amending CRR relating to securitisation reforms; and (ii) consider CRR II Regulation and CRD V Directive</p> <p>European Commission to publish legislative proposal for new prudential framework for</p>	<p>EBA draft RTS and ITS to be adopted by European Commission and published in Official Journal</p> <p>NSFR and leverage ratios likely to apply from 01 January 2018</p> <p>European Commission to submit legislative proposal to make amendments to CRD IV relating to BCBS' reviews of risk-weighted assets (RWAs) and the operational risk framework</p> <p>CRD 4 Level 1 and Level 2 provisions – phased implementation in line with Basel 3 until 01 January 2019</p>	Financial Institutions	Wholesale Banks Retail Banks and other consumer credit providers	R




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
			investment firms EBA to produce report under Article 506 of CRR relating to Article 178 (Credit risk – definition of default) by 31 December 2017				
<i>Regulatory capital</i>		Proposed legislation and changes to PRA handbook to implement CRD 4		SRB to apply to RFBs and certain building societies from 01 January 2019	Financial Institutions Asset Managers	Wholesale Banks Retail Banks and other consumer credit providers All	R
<i>Remuneration</i>		UK implementation of remuneration aspects of CRD IV On 3 May 2017 the FCA published their final rules and guidance to help firms understand the rules that apply to their remuneration policies and practices In June 2017 the PRA updated the Remuneration Policy Statement and published their associated guidelines following their consultation which closed in August 2016	Remuneration structures should comply with the EBA Guidelines for awards in respect of performance year 2017 – policies and processes should be adapted accordingly		Financial Institutions Asset Managers	Wholesale banks Retail Banks and other consumer credit providers Institutional managers	R





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Remuneration		<p>The FCA has opened further consultation on Insurance Distribution Directive ("IDD"), following on from CP17/7 and CP17/23</p> <p>New consultation covers changes to FCA's rules relating to requirements for life assurance distribution businesses concerning inducements, suitability and appropriateness, and disclosure</p> <p>In addition the consultation deals with conflicts of interest, product and oversight governance, changes to the Perimeter Guidance, and regulatory processes for all insurance distribution businesses</p> <p>The FCA's first consultation paper (CP 7/17) covers organisational and conduct of business requirements for insurance and reinsurance undertakings and contains proposals that affect their remuneration policies and practices.</p> <p>The proposed new rules complement the PRA's remuneration rules under Solvency II. The consultation closed on 5 June 2017</p>	<p>The consultation closes on 25 November 2017</p> <p>Companies should begin preparation and it would be advisable to conduct a GAP analysis in advance of the IDD coming into force</p>	<p>The UK is required to comply with the IDD by 23 February 2018 and the FCA expects proposals in CP to take effect from that date, so requirements affecting remuneration policies are likely to be in force from performance year 2018</p>	<p>Financial Institutions</p> <p>Asset Managers</p>	<p>Wholesale banks</p> <p>Retail Banks and other consumer credit providers</p> <p>Insurance</p> <p>Institutional managers</p>	R



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Remuneration		The FCA has confirmed that the remuneration provisions in MiFID2 and in Article 27 of the MiFID delegated regulation will be implemented through a new remuneration code in SYSC 19F, which will apply from 3 January 2018	<p>MiFID firms should consider whether variable pay is assessed in a way which prevents employees being conflicted with a client's best interests</p> <p>MiFID firms should conduct gap analysis to help assess and sign off on compliance with MiFID 2 remuneration requirements</p>	MiFID remuneration rules will apply to all <i>"relevant persons with an impact, directly or indirectly, on investment and ancillary services provided by the investment firm, or on its corporate behaviour, regardless of the type of clients, to the extent that the remuneration of such persons and similar incentives may create a conflict of interest that encourages them to act against the interests of any of the firm's clients"</i> . The FCA has confirmed that this includes partners and directors of firms	All	All	R
Remuneration		Amendments to Investment Association ("IA") remuneration principles which were updated last year for 2017	<p>For 2017, the IA has advised that AGM's should consider:</p> <ul style="list-style-type: none"> the level of remuneration awarded to Executive Directors and their justification; that Shareholders require retrospective disclosure of bonus targets so that they can ensure that there is an appropriate link between pay and performance. Members expect following: <ul style="list-style-type: none"> Financial Targets; Personal and Strategic Performance Targets; any up and coming Remuneration Policy renewal votes due at their 2017 AGM; use of Committee discretion, they may wish to fully outline the circumstances, reasons and outcomes of the use of discretion; where there is a large disparity in Executive Director pension provision compared to that provided to general workforce, justifications for the differences <p>Clarification from ESMA and European Commission awaited on interpretation of "closed period"</p>		All	All	R
Remuneration		UK implementation of remuneration aspects of Solvency II	Category 1 and 2 firms with accounting reference date of later than 31 December 2016 to submit completed Remuneration Policy Statement template no later than 10 months after the end of the preceding financial year		Financial Institutions	Insurance	R



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Remuneration</i>		Official rate of interest on employment-related loans reduced to 2.5% There was a reduction of the official rate of interest on employment-related loans from 3% to 2.5%, with effect from 6 April 2017	To the extent that interest charged on an employment-related loan is less than official rate, a notional benefit arises that is chargeable to tax subject to certain exceptions		All	All	R
<i>Restricting tax deductions for interest</i>		To implement OECD's BEPS recommendations, the UK Government will introduce a Fixed Ratio Rule limiting corporation tax deductions for net interest expense to 30% of a group's UK earnings before interest, tax, depreciation and amortisation (EBITDA)	Draft legislation was included in the Finance (No 2) Bill 2017	Legislation is expected to have retrospective effect from 01 April 2017	All	All	R
<i>Retail structured products</i>		New horizontal legislation to apply to Packaged Retail Insurance-based Investment Products (PRIIPs) with respect to product disclosure		Amending Regulation (EU) 2016/2340 of 14 December 2016 amending PRIIPs as regards the date of its application to apply from 01 January 2018 European Commission to review PRIIPs Regulation by 31 December 2018 Long stop date: 31 December 2019 – end of transitional period for UCITS	Financial Institutions Asset Managers	All All	R
<i>Retail structured products</i>		Financial Conduct Authority (FCA) proposed changes to disclosure rules in the FCA Handbook to reflect the direct application of PRIIPs Regulation	FCA consultation CP17/32 Chapter 6 on proposed approach to personalised projections in the context of the PRIIPs Regulation – closes 02 October 2017 FCA consultation CP17/32 Chapter 3 on the proposed enforcement approach to breaches of the PRIIPs Regulation – closes 01 November 2017	In May 2017 the FCA published its policy statement (PS17/6) on amendments to disclosure requirements in FCA Handbook to reflect introduction of the PRIIPs Regulation. Rules enter into force on 01 January 2018	Financial Institutions Asset Managers	All All	R




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Securities Financing Transactions Regulations</i>		EU Securities Financing Transactions Regulation (SFT Regulation) establishing a safer and more transparent financial system by placing additional requirements on counterparties to SFTs	European Commission to submit report to European Parliament and Council of the EU on progress in international efforts to mitigate risks associated with SFTs on 13 October 2017	<p>Reporting to trade repositories under SFT Regulation commences 2018-2019 (exact dates depending on adoption of technical standards)</p> <p>ESMA to submit report to European Parliament, Council of the EU and European Commission on efficiency of SFT Regulation reporting obligation in 2019</p> <p>ESMA to start publishing an annual report on aggregate SFT volumes by type of counterparty and transaction based on the data reported to it in 2019</p> <p>Having consulted ESMA, European Commission to submit report to European Parliament and Council of the EU on effectiveness, efficiency and proportionality of obligations in SFT Regulation in 2020</p> <p>ESMA to submit report to European Commission on fees charged to trade repositories under SFT Regulation in 2020</p> <p>Having consulted ESMA, European Commission to submit report to European Parliament and Council of the EU on application of supervisory fees in 2020/2021</p>	Financial institutions Asset managers	Wholesale banks All	R
<i>SFC circulars on irregularities and deficiencies in asset management practices</i>		<p>The SFC issued two circulars to licensed corporations engaged in asset management business, on 31 July 2017 and 15 September 2017 respectively. The SFC expects the board and other senior management (including the Managers-In-Charge of Core Functions) of all asset managers to maintain adequate oversight of their firm's business activities</p> <p>Investigation by the SFC revealed that many private funds and discretionary accounts were concentrated and illiquid, with interconnected investments. The first circular (31 July 2017)</p>	The SFC, more generally, uses circulars as an opportunity to remind asset managers of their obligation to report to the SFC any material breach, infringement or non-compliance with the market misconduct provisions of the SFO which they reasonably suspect may have been committed by their clients		Asset Managers	All	R




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>highlighted the importance of:</p> <ul style="list-style-type: none"> acting in best interests of integrity of the market; risk management, including managing liquidity risk to minimise losses; and acting fairly so as to avoid conflicts of interest between asset managers or their investors and listed companies into which funds are invested. <p>The second circular (15 September 2017) highlighted various issues noted amongst asset managers in general as opposed to those just engaged in managing open-ended private funds and discretionary accounts</p>					
<i>Trial Measures for the Security Review of Network Products and Services</i>		<p>The Chinese central bank (People's Bank of China), together with six ministries, issued a notice (Notice) on 4 September 2017 confirming that initial coin offerings (ICOs) are considered a type of unauthorised public financing activity, and therefore requiring these activities (within mainland China) to stop immediately</p> <p>Bitcoin trading platforms were subsequently ordered to cease operation</p>		There is a possibility that the government may issue guidance on licensing requirements in relation to ICOs, however timing is uncertain	Technology, Media and Telecoms	All	R
					Financial Institutions	All	
					Asset Managers	All	
<i>UK Listing Rules; Disclosure Guidance and Transparency Rules</i>		Investment and corporate banking: prohibition of restrictive contractual clauses		Rules banning investment firms from entering into written agreements with a provision that gives them a right to provide future primary market and M&A services to their client take effect on 03 January 2018	All	All	R

Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>UK Listing Rules; Disclosure Guidance and Transparency Rules</i>		Changes to DTRs	<p>DTR 7.2.8R requires issuers to disclose their diversity policy in corporate governance statement for financial years beginning on or after 01 January 2017 unless they fall within certain exemptions</p> <p>From 01 October 2017, issues must have a legal entity identifier (LEI) and must provide the LEI when filing regulated information and classify the regulated information using the classes set out in a new Annex to DTR 6.</p> <p>These rules are to enable searches for information on the European electronic access point (EEAP) by LEI, home Member State or type of regulated information. The EEAP will be a web portal accessible through ESMA's website which will provide fast access to, and make available to end users, all regulated information filed by issuers under the TD</p>	EEAP due to be available from 01 January 2018	All	All	R
<i>Workplace Safety and Health Act</i>		<p>Against a climate of increased enforcements under the Workplace Safety and Health Act (WSHA), the MOM issued a public consultation on 28 June 2017 on proposed amendments to the WSHA</p> <p>Proposed amendments include (i) allowing the commissioner to make public a detailed incident learning report and (ii) increasing the applicable fine to S\$50,000 (from S\$20,000 currently)</p> <p>Public consultation exercise closed on 25 July 2017</p>		MOM response to feedback received is awaited	All	All	R
<i>Additional Measures Accounting Organisations Act</i>		Governance and supervision of accountancy organisations; board of managing directors can no longer appoint accountants	Pending before parliament (<i>Eerste Kamer</i>)	Entry into force to be effected by Royal Decree	All	All	A




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Asset management regulation and point-of-sale transparency</i>		<p>The Securities and Futures Commission of Hong Kong ("SFC") launched a consultation on 23 November 2016 proposing various enhancements to asset management regulation and point-of-sale transparency including amending: (A) the SFC's Fund Manager Code of Conduct to codify existing requirements and practices relating to (i) securities lending and repurchase agreements, (ii) custodian / safe custody of fund assets, (iii) liquidity risk management, and (iv) disclosure leverage; and (B) the SFC's Code of Conduct for licensed persons to better address potential conflicts of interest in sale of investment products</p> <p>Consultation ended on 22 February 2017</p>		The SFC is to issue consultation conclusions and indicate timing for implementation of proposals (if any)	Asset Managers	Hedge funds Institutional managers Sovereign wealth Service providers	A
<i>Bank crisis management and resolution</i>		Reforms to PRA recovery and resolution framework	PRA to publish policy statement specifying when firms will be expected to comply with new supervisory statement – Q4 2017		Financial Institutions	Wholesale Banks Retail Banks and other consumer credit providers Fin-tech Wealth	A
<i>Capital Markets Union</i>		Capital Markets Union (CMU), a long-standing objective of the European Union, is at heart of the single market and intended to help businesses tap into more diverse sources of funding (away from dependence on bank lending), make markets work more efficiently and offer investors and savers more opportunities to invest in wider	<p>European Commission consultation on how to improve post-trade services used in financial transactions, including clearing, settlement and collateral management closes on 15 November 2017</p> <p>European Commission consultation on development of secondary markets for non-performing loans (NPLs) closes on 20 October 2017</p>	European Commission CMU Action Plan sets out building blocks for putting integrated Capital Markets Union, encompassing all Member States, into place by 2019	Financial Institutions Asset Managers	All All All issuers of, investors in and other market participants	A


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		asset classes	<p>European Commission expected to adopt legislative proposal specifying conflict of laws rules for third party effects of transaction in securities and claims – Q4 2017</p> <p>European Commission expected to publish recommendation on private placements – Q4 2017</p> <p>European Commission to publish communication on EU corporate bond markets – Q4 2017</p> <p>European Commission expected to adopt legislative proposal on prudential treatment of investment firms – Q4 2017</p> <p>European Commission to assess case for EU licensing and passporting framework for FinTech activities – Q4 2017</p> <p>High level expert group on sustainable finance to deliver final report and recommendations for reforms – by end of 2017</p> <p>European Supervisory Authorities to report to Commission on transparency of fees and net performance of long-term retail and pension products – by end of 2017</p>			in relation to capital markets products, in particular equities, corporate bonds and securitisations	


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Capital Markets Union</i>		New Regulation to modernise and overhaul Prospectus regime		<p>Prospectus Regulation (EU) 2017/1129 published in Official Journal on 30 June 2017, will enter into force on 20 July 2017 and apply (with some exceptions) from 21 July 2019</p> <p>Level 2 measures expected to be developed during 2017 and 2018</p> <p>ESMA technical advice to be delivered to European Commission by 31 March 2018 on (i) format and content of the prospectus (ii) EU growth prospectus and (iii) scrutiny and approval</p>	<p>Financial Institutions</p> <p>Asset Managers</p>	<p>All</p> <p>All</p> <p>All issuers of, investors in and other market participants in relation to capital markets products, in particular equities, corporate bonds and securitisations</p>	A
<i>Corporate governance</i>		05 April 2017, House of Commons BEIS Committee published report in response to inquiry on corporate governance, which focused on executive pay, directors' duties and boardroom composition, including worker representation and gender balance in executive positions	<p>UK Government due to respond to BEIS Committee report</p> <p>Recommendations from report will be considered by FRC in its review of UK Corporate Governance Code UK expected late in 2017</p>	Government intends to lay draft legislation before March 2018. Reforms to apply to financial years beginning on or after June 2018	All	All	A
<i>Corporate governance</i>		<p>FRC review of UK Corporate Governance Code</p> <p>16 February 2017, FRC announced a review of the UK Corporate Governance Code which is 25 years old this year. This review will also consider changes to the Guidance on Board Effectiveness and the Strategic Report, take account of FRC's reports on corporate culture and succession planning. FRC will also consider guidance for nomination committees</p>	Consultation expected later in 2017		All	All	A






Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Corporate governance</i>		Executive Remuneration UK Government response to Green Paper on corporate governance reforms and to House of Commons BEIS Committee Report on Corporate Governance sets out proposed reforms relating to executive remuneration	FRC to consider recommendations on changes to executive remuneration in House of Commons BEIS Committee Report on Corporate Governance in its review of UK Corporate Governance Code UK expected later in 2017	Government to legislate to require companies to report on ratio of CEO pay to the average pay of UK workforce in 2018 Investment Association to maintain public register of listed companies where 20% or more of shareholders vote against executives' remuneration and to keep a record of what those companies say they are doing to address shareholder concerns	All	All	A


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Corporate governance		<p>Stakeholder engagement</p> <p>26 September 2017, ICSA and IA published guidance on board engagement with employees and other stakeholders, intended to help company boards think about how they understand and weigh up interests of key stakeholders when taking strategic decisions</p> <p>18 January 2017, PLSA Corporate Governance Policy and Voting Guidelines 2017 published and apply</p> <p>March 2017, PIRC Shareholder Voting Guidelines 2017 published and apply</p> <p>12 May 2017, Pre-emption Group published report monitoring market practice on implementation of its Statement of Principles, including an appendix of best practice for issuers to follow when applying for disapplication authority or undertaking issue of shares</p> <p>27 July 2017, Pre-emption Group issued press release confirming no change to overall limit of 10% disapplication authority following increase to 20% in exemption from obligation to publish prospectus under Prospectus Regulation – see “Prospectus Regulation and Prospectus Rules”</p>		If necessary, ICSA/IA guidance will be updated following the UK Government's corporate governance reforms, expected to come into effect in June 2018	All	All	A


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Corporate governance</i>		Board diversity 02 November 2016, Parker Review interim report published on board diversity. Deadline for response to interim report was 28 February 2017	Final report awaited		All	All	A
<i>Corporate offence of failing to prevent tax evasion</i>		UK Government to introduce new corporate offence of failing to take reasonable steps to prevent facilitation of tax evasion	The new criminal offence to come into force on 30 September 2017		All	All	A
<i>Cybersecurity</i>		European Commission proposal for EU Network and Information Security Directive, as part of proposed European Cybersecurity Strategy "Directive on Security of Network and Information Systems" ("NIS Directive") was adopted by European Parliament on 06 July 2016 and entered into force on 08 August 2016		Member State have 21 months from 08 August 2016 to transpose "NIS Directive" into their national laws, and additional six months to identify "operators of essential services"	All	All	A
<i>Dispute resolution</i>		Changes to how disclosure is conducted	Pilot scheme for new proposed disclosure regime expected to be launched for cases in London Business and Property Courts <i>Significant changes expected to rules on disclosure under CPR Part 31 in 2017</i>		All	All	A
<i>Dispute resolution</i>		<i>Simplified and expedited procedure</i> for resolution of commercial and business cases which can be fairly tried on basis of limited disclosure and oral evidence Streamlined directions aim for judgment within a year of issue of proceedings. Availability of faster and less costly dispute resolution process for appropriate commercial and business cases. <i>20 cases progressing through Shorter Trial Scheme</i>	Shorter and Flexible Trials Pilot Schemes (commenced on 01 October 2015) continues to run	Extended deadline for Shorter and Flexible Trials Pilot Scheme, now to end October 2018. Shorter Trials Scheme likely to become permanent, Flexible Trials less certain to continue	All	All	A





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Employment		<p>Local court in Shenzhen, Guangdong Province issued a decision and viewed Restricted Stock related disputes as one kind of labor disputes in September, 2017, first case in China</p> <p>Generally, Restricted Stock related disputes are excluded from labor disputes and the parties are usually required to file the case with courts hearing corporate or commercial disputes</p> <p>This is the first case in China in which a labor court accepted restricted stock related disputes as a labor dispute. According to the judges, they took the following three factors into consideration when determining the nature of the case: the reason for the employee to receive such Restricted Stock; the conditions for the sales of the stocks and whether the benefit from the sales of the stocks is deemed as part of the employee benefits</p>	In general the time limit for trialling a labor dispute is shorter than the time limit for trialling a commercial or contractual dispute. This may impact on trial strategies for employees' restricted stock related disputes		All	All	A



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Employment		<p>The Legislative Council is considering an amendment bill to the Employment Ordinance, which proposes to introduce a real right of reinstatement or re-engagement for employees who are unreasonably and unlawfully dismissed</p> <p>In short, the bill aims to:</p> <ul style="list-style-type: none"> (i) remove the requirement under current law that the court or Labour Tribunal must seek an employer's agreement before making an order for reinstatement or re-engagement (an "Order"); (ii) introduce an additional penalty of HK\$72,500 payable to an employee by an employer for failure to comply with an Order; (iii) specify that the wilful non-payment of such a further sum in (ii) above without reasonable excuse will be a criminal offence; and (iv) clarify the re-engagement obligations of an employer, its successor and any associated company. 	The amendment bill was gazetted on 16 June 2017, and is currently being studied by a committee	After the committee completes its review of the amendment bill, it will be debated in the legislature, with possible further amendments, before its enactment	All	All	A




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Enhanced regulatory safeguards for investors</i>		<p>The MAS will enhance its regulatory framework for safeguarding investors' interests. Enhancements are fairly wide ranging – for instance, touching on market misconduct regulatory requirements and collective investment schemes</p> <p>The Securities and Futures (Amendment) Bill 2016 was passed by Parliament on 09 January 2017 and published in the Government Gazette on 17 February 2017</p>		Amended SFA is anticipated to come into force soon	Financial Institutions Asset Managers	All All	A
<i>European System of Financial Supervision (ESFS) reform - ESRB</i>		European Commission review of operation of ESFS, mandate and effectiveness of European Systemic Risk Board (ESRB)	<p>Feedback on European Commission's legislative proposal due eight weeks after legislature proposal made available to all EU languages</p> <p>European Parliament and Council of the EU to scrutinise legislative</p>	Political agreement on, and publication in OJ of, level 1 text of regulation amending ESRB, to enter into force before end of current legislative term in 2019	Financial Institutions Asset managers	Insurance All	A
<i>FCA competition initiatives in the financial services markets</i>		<p>Investment banking and corporate banking services market study FCA's first market study in wholesale market – focuses on choice of banks and advisers, limited transparency, and bundling and cross-subsidisation</p> <p>Final report published on 18 October 2016</p> <p>Policy Statement published on 27 June 2017, proposing ban on contractual clauses that restrict competition without being clearly beneficial to clients</p> <p>Consultation Paper published on proposed changes to IPO process on 01 March 2017</p>	Consultation on IPO process closed on 1 June 2017. Depending upon the feedback received, Policy Statement on IPO process expected in Q4 2017	Ban on restriction clauses comes into effect on 03 January 2018	Financial Institutions	Wholesale Banks	A
<i>FCA competition initiatives in the</i>		Asset management market study	Further policy statements and updates to the Handbook expected following consultation		Financial Institutions	Insurance	A

Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>financial services markets</i>		Interim report published 18 November 2016 containing extensive remedies. FCA received significant level of feedback from industry participants. Final report published on 28 June 2017 Consultation on proposed remedies in relation to fund governance, risk-free box profits and share class switching closed on 28 September 2017			Asset Managers	All	
<i>FCA competition initiatives in the financial services markets</i>		Competition in mortgage sector Terms of reference for market study published 12 December 2016	Market study ongoing. Interim report due in summer 2017, not yet published	Final report to be published in early 2018	Financial Institutions	Retail Banks and other consumer credit providers	A
<i>Financial Resources Rules</i>		On 24 July 2017, the SFC published consultation conclusions on the proposed regulatory capital regime for licensed corporations involved in OTC derivatives activities and other proposed changes to the Securities and Futures (Financial Resources) Rules (FRR) The SFC will implement the regime proposed in the consultation paper subject to certain modifications, including: <ul style="list-style-type: none"> reducing the minimum capital requirements for fund managers' central dealing desks which meet certain conditions; extending the transitional period for full compliance with the new FRR requirements from 6 months to 1 year; and introducing an internal models approach 		The SFC will now proceed to implement the new regime as described in the consultation conclusions The SFC is to issue consultation conclusions on the additional FRR proposals and indicate timing for implementation of the proposals (if any)	Financial Institutions Asset Managers	All All	A




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>benchmarking to latest standards set by Basel Committee on Banking Supervision.</p> <p>The SFC further consulted on a number of modified and additional FRR proposals such as adding four mainland commodity exchanges to list of specified exchanges under the FRR. Consultation ended on 23 August 2017</p>					
<i>Industry-wide borrowing limit for unsecured credit</i>		<p>The MAS proposes to disallow financial institutions from granting new unsecured credit facilities or credit limit increases to individuals whose outstanding unsecured debt already exceed 12 times their monthly income</p> <p>The consultation period closed on 31 October 2016</p>		MAS response to feedback on the consultation paper awaited	Financial Institutions	Retail Banks and other consumer credit providers	A
<i>Insurance Distribution Directive</i>		Implementation Act IDD	Legislative proposal has been published. Pending before parliament	Deadline for implementation (and expected entry into force) is 23 February 2018	Financial Institutions	Insurance	A
<i>Life Sciences</i>		<p>Act on clinical trials in medicinal products for human use</p> <ul style="list-style-type: none"> Local implementation of Clinical Trials Regulation ('CRT') laying down specificities from Belgian law perspective CT dossiers may be filed in Dutch, French, German or English With regards local bodies and authorities, Act: <ol style="list-style-type: none"> Provides that FAMHP ('Federal Agency for medicines and health products') is national contact point for Belgium in the sense of CTR, FAMHP may communicate in English with 		<p>Act will come into force when EU CTR enters into force (i.e. in 2019)</p> <p>In practice, FAMHP already accepts CT dossiers submitted in accordance with EU CTR, even though it has not yet entered into force</p>	<p>Life Sciences</p> <p>Pharmaceutical industry</p> <p>Healthcare facilities</p>	<p>MAHs for medicinal products for human use</p> <p>Manufacturers of medicinal products for human use</p> <p>Hospitals</p>	A


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>sponsors established abroad</p> <ol style="list-style-type: none"> Regulates operation and organisation of Ethics Committee in line with CTR Creates an independent College (as part of the SPF Public Health) to liaise with Ethics Committees (for various purposes: compliance with the CTR and respect of national provisions, quality control, administrative support) <ul style="list-style-type: none"> Any CT authorisation requires prior positive advice of both FAHMP and Ethics Committee Enhanced protection of participants in clinical trials (including in relation with liability and insurance of sponsor(s)) Local procedures for (i) CT authorisation and (ii) authorisations in case of substantial CT modification, notably in terms of validation, evaluation, consolidation and decision process <p>Act also: (i) provides various local requirements including regarding manufacturing / labelling / packaging of medicinal products, inspections and controls (ii) sets up an administrative recourse for the sponsor with Healthcare Minister, (iii) determines applicable criminal sanctions, (iv) imposes financial contributions (for submitting an application for a CT and for extending or modifying it)</p> <p>Additional rules can be adopted</p>					



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		by Royal Decree(s) in relation with some of the above					
Life Sciences		<p>List of authorised Food for Special Medical Purposes (FSMP)</p> <ul style="list-style-type: none"> List of FSMP authorised in Belgium pursuant to the royal decree of 18 February 1991 has been updated on 26 July 2017. 	Official list is available in French here and in Dutch here		Life Sciences	Pharmaceutical Industry, Medical Devices industry, Healthcare facilities	A
Life Sciences		<p>Two royal decrees on human body material were published on 22 August 2017</p> <p>Together, the decrees implement the EU directive 2015/565 of 8 April 2015 as regards certain technical requirements for the coding of human tissues and cells and the EU directive 2015/566 of 8 April 2015 as regards procedures for verifying equivalent standards of quality and safety of imported tissues and cells</p>		<p>Both decrees published on 22 August 2017 will enter into force on <u>01 February 2018</u></p> <p>Second decree provides that some provisions from (i) Act of 18 December 2016 laying down various health provisions and (ii) act of 19 March 2013 laying down various health provisions, which relate to import and coding of human body materials used for the purpose of human application, will also enter into force on <u>01 February 2018</u></p>	Life Sciences	Pharmaceutical Industry, Healthcare facilities	A
Life Sciences		<p>EU Clinical Trials Regulation 2014/536 (CTR) entered into force on 16 April 2014 and is expected to apply at some point in 2019. It is not yet known whether it will apply before or after Brexit Day</p> <p>If CTR applies before Brexit Day, it should automatically be transferred into UK law under the European Union (Withdrawal) Bill. However, whilst EU and UK legal frameworks would be harmonised, there are likely to be practical difficulties, e.g. providing</p>		<p>European Union (Withdrawal) Bill has successfully passed its second reading (in UK House of Commons) suggesting that its proposed solution, of ensuring that any EU legislation in force and applying on the day UK exits EU ('Brexit Day') will automatically become UK legislation, will become a reality</p> <p>UK Government will need to address:</p> <ul style="list-style-type: none"> whether it will implement as law those provisions under CTR which are in force but do not apply on Brexit Day; and practical steps that will need to be agreed and taken in advance of Brexit Day to ensure any transferred legislation can function properly 	Life Sciences	All	A



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>access to centralised EU portals under CTR, and the impact of the UK becoming a “third country” under CTR for UK based sponsors of EU trials</p> <p>If CTR applies after Brexit Day, it would not automatically be transferred into UK law. Depending on UK Government’s approach, clinical trials may continue to operate under existing UK laws implementing the EU Clinical Trial Directive. However, this may pose practical issues given that the existing legislation also relies on UK not being a “third country” and reporting on an EU wide level</p>		<p>Progress of European Union (Withdrawal) Bill should be monitored, alongside any announcements from UK Government on its proposed approach to clinical trials and medical device regulation post-Brexit</p>			
Life Sciences		<p>EU Medical Device Regulation 2017/745 (MDR) entered into force on 27 May 2017, but will only have direct application across the EU in May 2020 (in order to allow for a 3 year transition period - the related EU In Vitro Diagnostics Regulation 2017/746 will apply from May 2022 to allow for a 5 year transition period)</p> <p>European Union (Withdrawal) Bill provides that any EU Regulation will only be transferred into UK law to the extent that it is ‘in force and applies’ immediately before Brexit Day. Whilst MDR will be in force on Brexit Day, most of its provisions will not apply such that they will not (in due course) become UK law, unless UK otherwise provides that they will. Assuming UK Government adopts equivalent legislation, practical matters such as access to and use of central EU database will need to be</p>		<p>Please see our comments in the UK entry for EU Clinical Trial Regulation 2014/536 regarding the impact of Brexit</p>	Life Sciences	All / Medical Devices	A








Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		addressed					
Life Sciences		The bulk of new Association of British Healthcare Industries Code of Ethical Business Practice (ABHI Code) enters into force on 01 January 2018 (implementing key elements of recently revised MedTech Europe Code of Ethical Business Practice)		<p>New ABHI Code includes:</p> <p>(i) provisions prohibiting direct sponsorship for healthcare professional (HCP) attendance at third party organised educational events (subject to certain exceptions), which come into force on 01 January 2018. There is a transition period (ending 31 December 2018) after which ABHI members must have ceased direct support of HCPs in accordance with rules of the ABHI Code</p> <p>(ii) provisions requiring member companies to document and disclose all payments related to educational grants made to healthcare organisations (HCOs) based, or registered, in Europe. Data gathering for payments relating to educational grants made to HCOs will begin in 2018, with grants being publicly disclosed on an annual basis from 01 January 2019</p>	Life Sciences	All / Medical Devices	A
Life Sciences		<p>The EU has adopted the Trade Secrets Directive (EU) 2016/93 in order to harmonise the law on trade secrets across the EU Member States. Directive sets a minimum level of protection for trade secrets across the EU</p> <p>It is not yet clear whether UK will pass any implementing legislation; UK law already provides broadly same level of protection as is required under Directive through existing law on breach of confidence</p> <p>Biggest difference between existing UK law and the regime envisaged in the Directive is the introduction of a definition of what qualifies as a protectable trade secret. Directive requires Member</p>		<p>UK must implement Directive by 09 June 2018 (this is unaffected by the outcome of the 'Brexit' referendum)</p> <p>Although UK does not currently have a standalone definition of 'trade secret', the scope of information that UK common law recognises as protectable as confidential information is broadly the same as the scope of information covered by the definition in the Directive. UK courts may well consider that it is sufficient for them to apply the new definition when determining breach of confidence (trade secrets) cases after the 09 June 2018 without any need for separate implementing legislation</p> <p>Directive only protects a trade secret if it has been subject to 'reasonable steps' to keep it secret</p> <p>Businesses should review and document the procedures that they use to protect their confidential information, so as to be able to demonstrate that 'reasonable steps' have been</p>	All	All	A



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		States to provide protection for information that: (i) is secret, in the sense that it is not generally known among, or readily accessible to, persons within the circles that normally deal with the kind of information in question; (ii) has commercial value because it is secret; and (iii) has been subject to reasonable steps by the holder of the information to keep it secret		taken			
<i>Life Sciences IT</i>		Draft bill for amendment of "BSI-Kritisverordnung" Determines regulations for critical infrastructures in healthcare, finance, insurance, transport and traffic sectors to improve IT security		Hearings are to be settled to revise and improve draft bill	Life Sciences Pharmaceutical industry	All Healthcare facilities being governed by the law as critical infrastructures	A
<i>Market review into supply of indirect access to payment systems</i>		Market review by Payment Systems Regulator concerning supply of indirect access to payment systems and competition in the payments sector Final report, published on 21 July 2016, found that, although competition in the supply of indirect access appears to be producing good outcomes, there are specific concerns as regards the quality of access, limited choice and barriers to switching. PSR published access and governance report on payment systems 2017 on 09 March 2017		Monitoring of further improvements in access by PSR as detailed in the access and governance report on payment systems 2017	Financial Institutions	All	A




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Money Market Funds Regulation</i>		Regulation applicable to Money Market funds (MMFs) established, managed or marketed in EU, imposing requirements in respect of, inter alia, authorisation, investment policies, internal credit quality; risk management; valuation, external support and transparency and reporting requirements	ESMA to continue to develop level 2 and level 3 measures under MMF Regulation	21 July 2018 Money Market funds Regulation applies	Financial institutions Asset managers	Wholesale banks All	A
<i>Money laundering</i>		Proposal for a new Directive to introduce a “failure to prevent” offence in relation to money-laundering	The EU Council may consider the Proposal of the EU Commission for a new Directive	The <i>Proposal</i> is at a very early stage. If adopted by the EU, Member States will have two years to transpose its provisions into national law. The UK will no longer be part of the EU by the time the Directive is adopted but the UK Government may choose to implement a similar offence, so as not to be out of step with the rest of Europe	Financial Institutions Asset Managers	All All	A
<i>Narrative reporting</i>		Guidance on strategic report	15 August 2017, FRC published a consultation on proposed amendments to its guidance on the strategic report. Comments are due by 24 October 2017		All	All	A
<i>Narrative reporting</i>		Financial Reporting Lab report on digital reporting	Published on 02 May 2017. Expresses views on characteristics would like in any future (digitally enabled) system of corporate reporting. Lab will host roundtables in 2017		All	All	A
<i>Narrative reporting</i>		Financial Reporting Lab project on risk and viability reporting	Project started in May 2017	Report expected in time for December 2017 year end annual reports	All	All	A
<i>Narrative reporting</i>		IA Guidance on long term reporting	09 May 2017, IA published guidance on long term reporting. Follows on from IA’s statement in November 2016 in which it called for companies to cease reporting quarterly and refocus reporting on a broader range of strategic issues Guidance sets out IA members’ expectations and IA will monitor compliance by analysing annual reports for years ending on or after 30 September 2017		All	All Premium listed companies, other companies encouraged to adopt guidance	A
<i>Narrative reporting</i>		FRC discussion paper on role of auditors and preliminary announcements	27 April 2017, to stimulate a discussion about use and value of preliminary announcements in the UK and auditors’ role. Comments invited by 23 June 2017. Response awaited		All	All	A







Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Open-ended fund companies ("OFC")</i>		<p>On 28 June 2017, the SFC launched a two month consultation on proposed rules and code for new open-ended fund companies (OFCs) to be established in Hong Kong. Consultation ended on 28 August 2017</p> <p>The consultation set out the SFC's proposed Securities and Futures (Open-ended Fund Companies) Rules (OFC Rules) and Code on Open-ended Fund Companies (OFC Code), which include requirements relating to the OFC's formation, its key operators, ongoing maintenance, termination and winding-up, and will be applicable to all OFCs</p> <p>On 23 June 2017, the Hong Kong Government published the Inland Revenue (Amendment) (No. 4) Bill 2017 to provide for a profits tax exemption in respect of certain privately offered OFCs</p>		<p>Consultation conclusions on the OFC Rules and OFC Code are pending</p> <p>It is currently expected that the new OFC regime will be implemented in Q2 2018, and OFC Rules, OFC Code and profit tax exemption will become effective upon commencement of the OFC regime, subject to the legislative process.</p>	Asset Managers Financial Institutions	All All	A
<i>Partnership taxation consultation</i>		<p>UK Government to introduce changes to aspects of tax treatment of partnerships and LLPs to ensure profit allocations to partners are fairly calculated for tax purposes</p> <p>UK Government published a consultation response document in September 2017</p>		Changes expected to be introduced in Finance Act 2018	Asset Managers	All	A



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Payment Services Directive reform, electronic payments, and interchange fee caps in MIF Regulation</i>		<p>New Payment Services Directive (PSD2) updates payment services regime, expanding geographical and currency scope, enhancing consumer protections and regulated activities. PSD2 is tailored to suit new services, such as internet and mobile payments</p> <p>PSD2 came into force across EU on 12 January 2016</p> <p>Capping interchange fees in Multilateral Interchange Fee Regulation (MIF Regulation) in force since 09 December 2015</p>	<p>EBA to publish guidelines for competent authorities on complaints of infringements of PSD2</p> <p>EBA to develop level 2 measures on applications for authorisation under Article 5(6)</p> <p>EBA to publish final report following consultation on EBA electronic central register under Article 15(4) EBA to publish draft Regulatory Technical Standards (RTS) on information provided by competent authorities to EBA under Article 15(5)</p> <p>EBA to publish final report following consultation on draft RTS relating to central contact point under Article 29(4)</p> <p>EBA Level 3 Guidelines on information to be provided in applications for authorisation by payment institutions under Article 5(5) to be published on EBA website</p> <p>EBA Level 3 Guidelines on security measures for operational and security risks of payment services under Article 95(3) to be published</p> <p>EBA to continue to develop Level 3 Guidelines on complaints procedure under Article 100(6)</p>	<p>EBA Level 3 Guidelines on assessing minimum monetary amount of professional indemnity insurance under Article 5(4) to come into effect on 13 January 2018</p> <p>EBA Level 3 Guidelines on incident reporting under Article 96(3) to come into effect on 13 January 2018</p> <p>Member States to implement PSD2 by 13 January 2018</p>	Financial Institutions	<p>Wholesale Banks</p> <p>Retail Banks and other consumer credit providers</p> <p>Fin-tech</p> <p>Wealth</p>	A
<i>Payment Services Directive 2</i>		Implementation Act PSD II	Council of State (<i>Raad van State</i>) to issue advice on legislative proposal	Implementation deadline of 13 January 2018 is not expected to be met. Implementation is not expected until spring 2018	Financial Institutions	<p>Fin-tech;</p> <p>Wholesale Banks;</p> <p>Retail Banks and other consumer credit providers</p>	A
<i>Payment Services Directive 2, electronic payments and interchange fee caps in MIF Regulation</i>		FCA review of guidance for current payment services regime to determine whether its 2009 Payment Services Approach Document and PERG 15 have kept pace with market developments in payment services, with a view to updating these for PSD2	<p>FCA to confirm approach to rules and guidance in light of outstanding EBA level 2 measures</p> <p>FCA to consider applications for authorisation and registration under HM Treasury's Payment Services Regulations 2017</p>	<p>13 January 2018 HM Treasury and FCA to have transposed PSD2 into UK law</p> <p>13 October 2018 firms intending to continue to operate beyond 13 January 2019 to have submitted complete application for re-registration under Payment Services Regulations 2017</p>	Financial Institutions	<p>Wholesale Banks</p> <p>Retail Banks and other consumer credit providers</p> <p>Fin-tech</p> <p>Wealth</p>	A



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Pension Fund Industry</i>		Qualified Recognised Overseas Pension Schemes "QROPS"	A reminder that transfers to QROPS to incur a tax charge of 25% (applicable to transfers requested on or after 9 March 2017) except where the individual has a "genuine need" to transfer their pension. The purpose of the charge appears to target individuals aiming to reduce their tax liabilities by transferring their pensions overseas		All	All	A
<i>Pension Fund Industry</i>		The Finance (No.2) Bill 2017 is to include measures withdrawn from the fast-tracked Finance Bill passed before the General Election	Measures to be introduced include: (1) the reduction in the Money Purchase Annual Allowance from £10,000 to £4,000 p.a. for those flexibly accessing defined contribution benefits; and (2) the income tax exemption of £500 of employer-arranged pensions advice each year.		All	All	A
<i>Pension Fund Industry</i>		The staged introduction of automatic enrolment obligations is coming to an end	Automatic enrolment obligations will apply from day 1 for new employers who establish their payroll on or after 1 October 2017		All	All	A
<i>Pensions tax allowances</i>		A reminder of the reduced Lifetime Allowance (now £1 million) and the Annual Allowance tapering (to as low as £10,000 for higher earners - those with relevant income of £150,000 + p.a.)	Consider implementing alternative remuneration strategies (e.g. cash in lieu of pension, tax relieved share plan alternative, and an excepted life assurance scheme if you provide death benefits under a registered scheme) for higher earners		All	All	A
<i>PRIPs</i>		Effectuation Act PRIIPs	Act published in Bulletin of Acts and Decrees on 21 June 2017 (Stb. 2017, 266)	Entry into force to be effected by separate Royal Decree	All	All	A
<i>PRIPs</i>		Implementation Decree PRIIPs	Counsel of State (<i>Raad van State</i>) has issued advice on legislative proposal		All	All	A


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Prospectus Regulation and Prospectus Rules</i>		<p>Prospectus Regulation</p> <p>Prospectus Regulation (which replaces the Prospectus Directive) came into force on 20 July 2017</p> <p>28 February 2017, European Commission asked ESMA to provide technical advice on a number of aspects of Prospectus Regulation. An updated version of the mandate was published on 01 June 2017</p> <p>ESMA has published three of the consultation papers with draft technical advice. Feedback on these consultations was due by 28 September 2017</p>	Certain provisions including two revised admission to trading exemptions, apply from 20 July 2017	<p>Most of Prospectus Regulation to apply to prospectuses approved on or after 21 July 2019</p> <p>ESMA to respond to Part 1 of mandate by 31 March 2018 and to Part 2 by 31 August 2018</p> <p>ESMA will publish final versions with advice in Q1 2018</p>	All	All	A
<i>Prospectus Regulation and Prospectus Rules</i>		Changes to Prospectus Rules	<p>Rule changes effective on 20 July 2017:</p> <p>A new prospectus will not be required for admission to trading of fungible securities representing less than 20% (up from 10% in the PD) of same class of securities already admitted to trading on same regulated market</p> <p>The current conversion/exchange exemption in the PD has been amended by the introduction of a cap so that no prospectus will be required on the admission of shares resulting from conversion or exchange of other securities, providing that those shares represent less than 20% of the shares of the same class already admitted to trading (over a 12 months period.)</p>		All	All	A


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Qualification test for senior management in Securities Companies</i>		<p>The Securities Association of China has published a qualification test targeting senior management regarding their knowledge of some 35 laws, regulations and measures</p> <p>The Notice was announced by the Securities Association of China on 12th June 2017</p>	The Notice came into effect on 1 st August 2017		Asset Managers	<p>Hedge funds</p> <p>Institutional managers</p> <p>Private equity</p> <p>Sovereign wealth</p>	A
<i>Regulatory capital</i>		Ongoing Basel Committee initiatives	<p>Final guidelines for revised Pillar 3 disclosure requirements to take effect from 31 December 2017</p> <p>Banks to implement standards on interest rate risk in banking book by 2018</p>	<p>Final adjustments to definition and calibration of leverage ratio to be made by 2017, with view to migrating to minimum capital requirements (Pillar 1) treatment on 01 January 2018</p> <p>Basel 3 securitisation framework to come into force in January 2018</p> <p>Net stable funding ratio (NSFR) to become minimum standard by 01 January 2018</p> <p>Adjustments to Additional Tier 1 Capital (AT1) to be fully in force by 01 January 2018</p> <p>Basel III common disclosure template to be used from 01 January 2018</p> <p>Capital conservation and countercyclical buffers to be fully effective from 01 January 2019</p>	Financial Institutions	<p>Wholesale Banks</p> <p>Retail Banks and other consumer credit providers</p>	A



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Remuneration		<p>HMRC and disguised remuneration</p> <p>HMRC has:</p> <ul style="list-style-type: none"> invited users to settle tax arising from disguised remuneration schemes published new guidance (Spotlight 39) on disguised remuneration: re-describing loans. Guidance highlights arrangements that in HMRC's view are not effective 	<p><u>RFC 2012 Plc</u></p> <p>Following the RFC 2012 Plc Supreme Court decision, HMRC has invited those using disguised remuneration scheme to register an interest in settling associated tax liabilities</p> <p>HMRC believes that the Supreme Court decision affects not only loans by employee benefit trusts, but also employer-finance retirement benefit schemes and contract loan schemes</p> <p><u>Spotlight 39</u></p> <p>Spotlight 39 refers to arrangements under which taxpayers declare that sums received under loan agreements from a disguised remuneration scheme are not loans because they hold the money in a fiduciary capacity</p> <p>HMRC has indicated that it is not possible to reclassify something in this manner where, in substance, it is a loan</p>	<p>Those who do register an interest may benefit from reduced interest charges and extended payment terms</p> <p>The only way of avoiding the new loan charge (introduced in the Finance (No.2 Bill 2017) is to either repay the loan or settle the liability with HMRC before 5 April 2019</p>	All	All	A




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Remuneration</i>		<p>The PRA updated its remuneration templates and tables</p> <p>On 6 June 2017, the PRA updated its remuneration rules <i>webpage</i> to inform firms it has updated a number of its remuneration policy statement (“RPS”) templates and tables, and additional notes have been added on buy-outs within the RPS tables</p> <p>Links to the updated RPS templates and tables are set out on the webpage under the heading "Self-assessment templates and tables"</p> <p>Note that RPS annex 1 (malus), RPS table 7 (malus) and RPS table 8 (MRTS: exclusions) have not been updated with submission deadlines and document references</p>			All	All	A


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Remuneration</i>		<p>Draft clauses for Finance Bill 2018 were published for consultation along with explanatory notes</p> <p>The draft clauses include:</p> <ul style="list-style-type: none"> a strengthening of the disguised remuneration legislation, including a Part 7a charge on loans which remain outstanding on 5 April 2019 a new close companies gateway to the disguised remuneration legislation new information provisions relating to the 2019 loan charge <p>The draft clauses relating to the gateway and were originally published for consultation in December 2016, but the changes were postponed in the Spring 2017 Budget. Amendments have been made to these provisions to reflect concerns of companies and advisers that the original draft legislation was too widely drawn and would catch normal commercial arrangements</p> <p>HMRC's accompanying technical note provides a number of examples to explain how the rules are intended to operate</p>		<p>The clauses will come into force on 6 April 2018</p> <p>HMRC intends to add detailed guidance on the new gateway to the Employment Income Manual</p>	All	All	A
<i>Restrictions on Assignment</i>		Prohibition of contractual restrictions on assignment	Department for Business, Energy & Industrial Strategy (BEIS) has laid draft regulations before Parliament which prohibit contractual restrictions on the assignment of specified contracts		Financial Institutions	Retail Banks and other consumer credit providers	A




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Retail Distribution Review</i>		Part of FCA's retail market strategy, seeking to improve consumer trust and confidence in retail investment industry		Phase 2 and 3 of Post-implementation Review of RDR, which will consider longer term implications of implementation, to be combined into single review with FAMR and released in 2019	Financial Institutions Asset managers	Insurance Hedge funds Institutional managers Service providers	A
<i>Ring-fencing and disclosures to consumers by non-ringfenced bodies</i>		Segregating retail banking activities from investment banking activities		UK's ring-fencing regime to start on 01 January 2019 Final rules on disclosure obligations to come into force at later date	Financial Institutions	Wholesale Banks Retail Banks and other consumer credit providers Wealth	A
<i>Senior Managers and Certification Regime – extension to all FCA solo-regulated firms</i>		<p>The Senior Managers and Certification Regime will be extended to all FCA solo-regulated firms in 2018</p> <p>On 26 July 2017, the FCA published a consultation paper on the extension of the Senior Managers and Certification Regime (SMCR) to all FCA solo-regulated firms (FCA CP17/25).</p> <ul style="list-style-type: none"> Proposing a reduced set of Senior Management Functions to apply to Core SMCR Firms who will not be required to prepare a Responsibilities Map, implement handover procedures or apply the concept of Overall Responsibility – Core regime to apply to all firms Enhanced regime to apply in addition to core regime for small number of firms Reduced set of rules to 	<p>Responses to the Consultation Paper are required by 3 November 2017</p> <p>Firms should be starting to create a project plan for implementation, and identify Seniors Managers and Certified Staff</p>	<p>The FCA have said that they will be issuing a consultation paper on the implementation of the regime in the coming months which will detail whether approved persons will automatically be converted to Senior Managers under the new regime</p> <p>The FCA will also consult separately on the impact of the regime on Appointed Representatives</p>	Financial Institutions	Wholesale Banks Retail Banks and other consumer credit providers Wealth Fin-tech	A



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>apply to small number of Limited Scope firms</p> <ul style="list-style-type: none"> Firms will take on responsibility for certifying that Certified Staff are fit and proper. APER section of Handbook to be replaced with Conduct Rules for all firms Application of Conduct Rules to a firm's regulated and unregulated financial services activity (including related ancillary activities) - a narrower application than for banks 					
<i>Senior Managers and Certification Regime-extension to insurance</i>		<p>The Senior Managers and Certification Regime will be extended to all regulated firms in 2018</p> <p>On 26 July 2017, FCA and PRA published the following consultation papers on the extension of the senior managers and certification regime (SMCR) to all regulated firms:</p> <ul style="list-style-type: none"> Individual accountability: extending the SMCR to all FCA firms (FCA CP17/25), together with a cost-benefit analysis for CP17/25 and CP17/26 Individual accountability: extending the SMCR to insurers (FCA CP17/26) Strengthening individual accountability in insurance: extension of SMCR to insurers (PRA CP14/17) 	<p>Responses to the consultation papers are required by 3 November 2017</p> <p>Firms should be starting to review the SMCR regime and identify (i) Senior Managers and (ii) Certified staff</p>	<p>The FCA have said that they will be issuing a consultation paper on the implementation of the regime in the coming months which will detail whether approved persons will automatically be converted to Senior Managers under the new regime</p> <p>The FCA will also consult separately on the impact of the regime on Appointed Representatives</p>	Financial Institutions	Insurance	A




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		This will replace the Approved Persons regime for insurance intermediaries and SIMR for insurers. Senior Managers will still need to be approved by the FCA/PRA however Certified staff, those who may cause 'significant harm' to the firm, its customers or the market, will need to be certified as fit and proper by the firm. All staff apart from ancillary staff will need to comply with the Conduct Rules					
<i>Shadow banking</i>		Possible additional regulation and oversight of credit activity by non-banks (ie provision of sources of funding and alternatives to bank deposits which are not currently subject to the same levels of prudential regulation)	FSB to continue operating information-sharing process for oversight and regulation of shadow banking entities, designed to support August 2013 policy framework IOSCO to complete work on liquidity recommendations by end of 2017	FSB member authorities to implement the Framework, including the numerical haircut floors, by end 2018 IOSCO to complete work on leverage measures within funds by end of 2018 All aspects of Basel Committee on Banking Supervision (BCBS) supervisory framework for controlling large exposures (including exposures to shadow banking entities) due to be implemented by 01 January 2019	Financial institutions Asset managers	Wholesale banks All	A
<i>Short Selling Regulation</i>		Regulation creating pan-European short selling regime	ESMA consultation on evaluation of certain elements of Short Selling Regulation closes 04 September 2017 ESMA to submit final report on technical advice to European Commission by 31 December 2017		Financial institutions Asset managers	All All	A
<i>Short selling reporting requirements</i>		As part of the Securities and Futures (Amendment) Bill 2016 (see above), reporting requirements in connection with short selling will apply to market participants The MAS has opened for comments by the public the detailed short selling requirements as set out in the draft Securities and Futures (Short Selling) Regulations 2017, and the corresponding Guidelines		MAS response to feedback received on the consultation paper is awaited The Securities and Futures (Amendment) Act 2017 was passed by the Singapore Parliament on 9 January 2017 and assented to by the President on 10 February 2017 but has not yet come into operation The Guidelines and Regulations have not yet been made effective	Financial Institutions Asset Managers	All All	A




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		Consultation period closed on 27 January 2017					
<i>Singapore Securities and Futures Act – Part XIII – proposed amendment</i>		<p>In February 2015, the MAS sought feedback under proposed amendments to Part XII of the SFA. Amendments were intended to strengthen effectiveness of MAS' enforcement regime in deterring market misconduct</p> <p>The Securities and Futures (Amendment) Bill 2016 was passed by Parliament on 9 January 2017 and published in the Government Gazette on 17 February 2017</p>		The amended SFA is expected to come into force shortly	Financial Institutions Asset Managers	All All	A
<i>Strengthening compliance and management regulations over Securities Companies</i>		<p>The China Securities Regulatory Commission (CSRC) has published specific requirements for strengthening accountability in the management levels in Securities Companies and Securities Investment Management Companies, including:</p> <ul style="list-style-type: none"> • Eight overarching principles to protect investor interests and prevent conflict of interests; • Specific responsibilities for Board of Directors, Board of Supervisors, Senior Management and all relevant lower level managers in ensuring compliance; • Requiring the establishment of a Compliance Manager, being directly responsible to the Board of Directors and in charge of company-wide compliance activities • Providing for specific 	The Measure will come into effect on 1 st October 2017		Financial Institutions Asset Managers	All Hedge funds Institutional managers Private equity Sovereign wealth	A





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		management-targeted penalties for failure to comply with this Measure The measure was approved by the CSRC and announced on 6 June 2017					
<i>UK Listing Rules, Disclosure Guidance and Transparency Rules</i>		Primary Market Bulletin No 18	31 August 2017, includes feedback on changes proposed in Primary Market Bulletins No 16 and 17 and consultation on further changes to the Knowledge Base, including three new technical notes on sponsor obligations under the Listing Rules. Comments due by 11 October 2017.		Financial Institutions Asset Managers TMT	All All All	A
<i>UK Listing Rules, Disclosure Guidance and Transparency Rules</i>		FCA consultation paper on proposal for new premium listing category	Published on 13 July 2017, proposes new premium listing category for sovereign controlled companies (CP17/21). Consultation closes 13 October 2017		Financial Institutions Asset Managers TMT	All All All	A
<i>UK Listing Rules, Disclosure Guidance and Transparency Rules</i>		FCA discussion paper on effectiveness of UK primary market landscape (DP17/2) Published on 14 February 2017. DP17/2 provides a broad overview of the UK's current primary markets, the listing regime, the FCA's regulatory role and data that the FCA has collated relating to those markets. It seeks views on whether the existing categories of listing segments are sufficient	Consultation period under DP 17/2 closed on 14 May 2017. Response awaited		Financial Institutions Asset Managers TMT	All All All	A





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>UK Listing Rules, Disclosure Guidance and Transparency Rules</i>		FCA consultation paper on proposed enhancements to listing regime (CP17/4) Published on 14 February 2017, proposes changes to the premium listing rules in the Listing Rules which are technical enhancements rather than fundamental changes	Consultation period under CP 17/4 closed on 14 May 2017. Response awaited Rule changes expected H2 of 2017		All	All	A
<i>UK Listing Rules, Disclosure Guidance and Transparency Rules</i>		FCA consultation paper (CP17/5) on the availability of information in the UK equity IPO process. Published on 01 March 2017. Sets out FCA's proposals for improvements to the timing, sequencing and quality of information provided to market participants in the UK IPO process	Consultation period under CP 17/5 closed on 01 June 2017. FCA expects to publish policy statement outlining rule changes later in Q4 2017		All	All	A
<i>UK Takeover Code</i>		Proposed amendments to the Code Takeover Panel Executive published Practice Statement No. 31 on 07 July 2017 and withdrew Nos. 6 and 3 which are now incorporated in the new practice statement UK Takeover Panel published on 12 July 2017, proposed amendments to the Code relating to asset sales in competition with an offer and other matters. (PCP 2017/1) Consultation closed on 22 September 2017	19 September 2017, UK Takeover Panel published proposed amendments to the Code intended to assist the target company in responding to an offer and requiring offerors to provide more specific statements about their intentions for the target company and to publicise the extent to which they have actioned any post-offer intention statements they have made. (PCP 2017/2). Consultation closes on 31 October 2017		All	All	A





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Use of dealing commission</i>		Amendments to MiFID (MiFID2) of relevance to dealing commission, in particular proposal to further restrict the 'non-monetary benefit' exemption	On-going adoption of Level 3 measures	MiFID2 and MiFIR requirements apply from 03 January 2018	Financial Institutions Asset Managers	Wholesale Banks Retail Banks and other consumer credit providers Insurance All	A
<i>Use of UK SPVs for insurance linked securities issuance</i>		UK Government intends to introduce a new regime for UK insurance linked securities SPVs Draft regulations were published in July 2017	It is expected that the new regime will come into force from 31 October 2017		Financial Institutions	Insurance	A
<i>AIFM Directive</i>		Imposes EU wide regime for oversight of alternative investment funds and managers	Annex IV reporting period for quarterly reporting AIFMs with information to report ended on 30 September 2017 - reports must be submitted to regulators by 31 October 2017	European Commission to adopt, in due course, delegated acts permitting a marketing passport following receipt from ESMA of positive advice and/or a positive opinion in respect of given non-EEA jurisdiction(s)	Asset managers	All	G
<i>Anti-Money Laundering and Counter-Terrorist Financing law-amendments</i>		The HK Government has introduced a bill to amend existing AMLCFT law. If enacted in current form, definition of beneficial ownership will be increased from 10% to 25% ownership such that fewer entities will need to be identified and verified. Additionally, scope of law will be expanded to include solicitors, accounting professionals, real estate agents and trust and company service providers, and a licensing regime will be introduced for trust and company service providers (except Authorised Institutions and Licensed Corporations who provide trust and company services who are under the supervision of other regulators)		Bill is expected to become law on 1 March 2018	Financial institutions Asset managers	All All	G

Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Anti-Tax Avoidance Directive</i>		Council of the EU has adopted EU Anti-Tax Avoidance Directive to provide for consistent implementation of BEPS measures within EU		Directive to be implemented in domestic legislation of Member States by 31 December 2018	All	All	G
<i>Application of markets regime to OTC derivatives, extend the capital market services licensing regime to OTC derivatives and related amendments</i>		The MAS has issued draft regulations to support reforms brought into effect by the Securities and Futures (Amendment) Act 2017 relating to the OTC derivatives regulatory regime, as well as enhancing regulatory safeguards for retail investors, enhancing credibility and transparency of capital markets and strengthening MAS' ability to take enforcement action against market misconduct Consultation period closed on 02 June 2017		MAS response to feedback received on consultation paper awaited	Financial Institutions Asset Managers	All All	G
<i>Bank crisis management and resolution</i>		Global framework for resolution regimes for financial institutions	Ongoing work by FSB in relation to implementing key attributes	FSB to continue to monitor implementation of key attributes. FSB jurisdictions have agreed to undergo assessment of their bank resolution regimes on basis of assessment methodology	Financial Institutions	Wholesale Banks Retail Banks and other consumer credit providers Fin-tech Wealth	G
<i>Bank crisis management and resolution</i>		Directive 2014/59/EU establishing framework for recovery and resolution of credit institutions and investment firms (Bank Recovery and Resolution Directive (BRRD))	Ongoing legal debate regarding Article 55 and how contractual recognition of bail-in will be implemented in practice in relation to relevant liabilities governed by laws of non-EEA countries Proposed new date for EBA report on publication of administrative penalties by Member States on anonymous basis required by Article 112(4) of BRRD – 31 December 2017 (initially 03 July 2016) Deadline for EBA to submit report on implementation of paragraphs 1, 8, 9 and 10 of Article 4 of BRRD (simplified obligations for certain institutions) – 31 December 2017		Financial Institutions	Wholesale Banks Retail Banks and other consumer credit providers Fin-tech Wealth	G


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Bank Structural Reform</i>		Reform of UK banking system and promotion of competition and stability (based on Vickers report)		Legislation intended to come into force by start of 2019 Further decisions of English courts on detail of ring-fencing proposals of affected retail banks	Financial Institutions	Wholesale Banks Retail Banks and other consumer credit providers Fin-tech Wealth	G
<i>Banking Regulations and Banking (Corporate Governance) Regulations</i>		The MAS is consulting on proposed amendments to Banking Regulations and Banking (Corporate Governance) Regulations, which are necessary to support the amendments in Banking (Amendment) Act 2016 Consultation period closed on 10 March 2017		MAS response to feedback awaited	Financial Institutions	Wholesale Banks and Retail Banks and other consumer credit providers	G
<i>Basel III: Revised Standards on Pillar 3 disclosures</i>		The MAS proposes to amend MAS Notice 637 to implement requirements for Singapore-incorporated banks to be consistent with revised standards issued by the Basel Committee on Banking Supervision (BCBS) In addition, the MAS proposes to amend MAS Notices 651 and 653 in relation to disclosure frequencies such that they are in accordance with BCBS' revised standards Consultation period closed on 7 August 2017		MAS response to feedback received on the consultation paper awaited	Financial institutions	Wholesale Banks and Retail Banks and other consumer credit providers	G
<i>BEPS: Taxation of digital economy</i>		Both EU Commission and the Organisation for Economic Cooperation and Development (OECD) have issued proposals regarding the taxation of the digital economy	OECD's public consultation closes on 13 October 2017	OECD expected to publish interim report on taxation of digital economy to G20 in early 2018	All	All	G



Legal Headwinds: Quarterly Report – Q4 2017

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Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>significant amendments to Prospectus Regulation</p> <p>Omnibus 3 proposal, published by European Commission on 20 September 2017, if adopted in current form would result in some significant amendments to Prospectus Regulation (amongst others) and prospectus approval for certain non-equity securities, asset-backed securities and third country prospectuses falling within remit of ESMA rather than relevant NCA</p>		Proposals for legislation will now be discussed by European Parliament and Council of the EU	Managers	All issuers of, investors in and other market participants in relation to capital markets products, in particular equities, corporate bonds and securitisations	
Central Counterparty Clearing Houses (CCPs)		<p>CPMI-IOSCO has developed guidance on resiliency and recovery plans for financial-market infrastructures, including CCPs</p> <p>FSB has issued further guidance on the application of its Key Attributes of Effective Resolution Regimes to financial market infrastructures such as CCPs</p>		<p>Findings for CPMI-IOSCO review of CCP progress in addressing issues of concern in recovery planning, coverage of financial resources and liquidity stress testing (identified in CPMI-IOSCO level 3 assessment report of August 2016) to be published by end of 2017.</p> <p>CPMI-IOSCO to finalise framework for CCP supervisory stress testing following June 2017 consultation before end of H1 2018</p> <p>CPMI-IOSCO to undertake follow-up work on good practices for auctions of defaulting clearing member positions in CCP default management processes and recovery, by end of 2018.</p> <p>FSB to monitor consistency of implementation of Key Attributes with expectations set out in its guidance on CCP resolution and resolution planning</p> <p>FSB to continue further work on financial resources to support CCP resolution to determine whether there is need for any additional guidance by end of 2018</p> <p>FSB to consider whether further guidance is needed on treatment of CCP equity in resolution and, if appropriate, develop guidance by end of 2018</p>	Financial Institutions Asset Managers	All All	G



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
				Derivatives Assessment Team (DAT) to assess incentives to clear centrally arising from interaction of post-crisis reforms. DAT to complete report by end of 2018			
<i>CCP Recovery and Resolution Regulation</i>		In November 2016, the European Commission adopted a proposal for new rules for Central Clearing Counterparties (CCPs) Recovery & Resolution	European Parliament and Council of the EU to continue review of European Commission's proposal for Regulation Trilogue negotiations expected to start Q4 2017/Q1 2018		Financial Institutions Asset Managers	All All	G
<i>Central Securities Depositories</i>		Regulation on improving securities settlement and regulating central securities depositories (CSDR) CSDR officially entered into force on 17 September 2014 Level 2 measures for CSD requirements (except technical standards on settlement discipline) published in the Official Journal and apply from 30 March 2017		Level 2 measures for internal settlement apply from 10 March 2019 Postponement of application of MiFID II for one year (to 03 January 2018), affects Article 76(5) CSDR settlement discipline in context of multilateral trading facilities, and Article 76(7) CSDR interpretation provisions, which will also be delayed by one year ESMA expected to finalise guidelines on reporting architecture and exchange of information between ESMA and competent authorities regarding internalised settlement – during Q1 2018 Final draft RTS in relation to settlement discipline under review by European Commission. ESMA has proposed two year phase-in period after publication in Official Journal Article 3(1) of Regulation, under which relevant issuers must arrange for relevant securities to be represented in book-entry form, to apply from 01 January 2023 to transferable securities issued after that date, and from 01 January 2025 to all other transferable securities	Financial Institutions Asset Managers TMT	All All All Issuers of, holders of, and those entering into transactions regarding, securities held in settlement systems	G





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Central Securities Depositories</i>		Amendments to domestic legislation through the Central Securities Depositories Regulations 2014		<p>UK Government intends to lay down The Central Securities Depositories Regulations 2017 before Parliament – timetable unclear</p> <p>UK Department for Business, Energy & Industrial Strategy (BEIS) expected to issue consultation paper in relation to Article 3(1) requirements relating to book-entry form recording (also known as dematerialisation) of transferrable securities admitted to trading – timetable unclear</p>	<p>Financial Institutions</p> <p>Asset Managers</p>	<p>All</p> <p>All</p> <p>CSDs, CCPs, trading venues and any entities that provide internalised settlement</p>	G
<i>Clearing of derivatives regulations</i>		<p>The MAS is consulting on proposed regulations for mandatory clearing of OTC derivatives</p> <p>The MAS has issued a draft Securities and Futures (Clearing of Derivatives Contracts) Regulations which sets out implementation details of initial set of products and persons subject to clearing obligations under the SFA</p>		It is unclear when the revised Securities and Futures (Clearing of Derivatives Contracts) Regulations will come into effect	Financial Institutions	All	G







Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Client assets</i>		<p>Review of client money rules for insurance intermediaries</p> <p>In second consultation on implementation of Insurance Distribution Directive, FCA proposed that most appropriate method for implementing requirements regarding protection of clients' money is through existing options of segregation and risk transfer contained in part 5 of (CASS). FCA does not propose to amend current capital regime for insurance intermediaries or require guarantee fund to be set up. Application of CASS 5 will, however, be amended to make it mandatory instead of optional, for reinsurance mediation</p>		FCA to consult again before any rule changes to CASS 5, following review under CP12/20	Financial Institutions Asset Managers	Insurance All	G
<i>Code on Collective Investment Schemes</i>		<p>The MAS proposes to amend the Code to: (i) effect policy proposal to give retail investors access to precious metals funds, (ii) enhance transparency and market discipline, (iii) improve operational effectiveness, and (iv) provide greater clarity to market practitioners</p> <p>The consultation period closed on 12 December 2016</p>		MAS response to feedback received on the consultation paper awaited	Financial institutions Asset Managers	All All	G





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Consumer credit</i>		Regulatory responsibility for consumer credit was transferred to FCA in April 2014. Some CCA provisions were repealed, and others replaced by FCA rules. Current review is aimed at simplifying regime	<p>Consultation period for FCA CP17/20, "Staff incentives, remuneration and performance management in consumer credit Findings from our thematic review and proposed new rule and guidance" closes on 04 October 2017</p> <p>Consultation period for FCA CP17/27, "Assessing creditworthiness in consumer credit: Proposed changes to our rules and guidance" closes on 31 October 2017</p> <p>FCA to publish policy statement on CP 17/10 "Credit card market study: consultation on persistent debt and earlier intervention remedies" in Q4</p>	<p>FCA required, by 01 April 2019, to report to HM Treasury on its review of CCA conduct requirements and develop rules-based alternatives where possible</p> <p>FCA to publish policy statement and Final Guidance on FCA 17/20 in Q1 2018</p> <p>FCA to publish policy statement on FCA 17/27 in Q2 2018</p>	Financial Institutions Asset Managers	All All	G
<i>Consumer protection</i>		European Commission review (Fitness Check) of six major EU consumer protection laws, including Unfair Terms Directive and Unfair Commercial Practices Directive	<p>European Parliament and Council of the EU to continue scrutiny of European Commission proposal for Regulation on cooperation between national authorities responsible for enforcement of consumer protection laws</p> <p>European Commission consultation on possible legislative changes in some key EU consumer law directives closes on 08 October 2017</p>	<p>European Commission to consider feedback to consultation and adopt legislative proposal</p> <p>European Commission to</p> <ul style="list-style-type: none"> • undertake targeted awareness activities • update its guidance on Unfair Terms Directive 	Financial Institutions Asset Managers	All All	G
<i>Consumer protection</i>		Department for Business, Energy and Industrial Strategy (BEIS) – successor to Department for Business Innovation and Skills (BIS) - review of terms and conditions, including civil fining powers for unfair terms	BEIS analysing feedback to BIS call for evidence 16/67 (consultation closed 25 April 2016)	BEIS may publish findings and policy initiatives following BIS call for evidence 16/67	Financial Institutions Asset Managers	All	G
<i>Competency requirements for representatives conducting regulated activities</i>		<p>The MAS is consulting on proposed revisions to enhance the Capital Markets and Financial Advisory Services Examination framework and Continuing Professional Development requirements applicable to representatives conducting regulated activities under the SFA and FAA</p> <p>Consultation period closed on 13 January 2017</p>			Financial Institutions Asset Managers	Wholesale Banks and Retail Banks and other consumer credit providers All	G





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		The MAS published its response to feedback received on 25 September 2017					
Corporate governance		Women on Boards Draft Directive European Commission proposal for draft directive on gender equality on boards of listed companies in EU, published on 14 November 2012		Timetable unknown	All	EU listed companies	G
Corporate governance		Directive to amend EU Shareholder Rights Directive (SRD2) came into effect on 09 June 2017		Member States have until 10 June 2019 to implement SRD2 into national law	All	All	G
Corporate governance		UK Government response to its Green Paper on corporate governance reforms published on 29 August 2017		Government intends to lay draft legislation before March 2018. Reforms to apply to financial years beginning on or after June 2018	All	All	G
Corporate governance		Corporate directors Provisions on prohibition of corporate directors under Small Business, Enterprise and Employment Act 2015 expected to come into effect in October 2016 but implementation delayed			All	All	G
Corporation Tax Payment Dates		UK Government to introduce new payment dates for largest companies, requiring payment of corporation tax in quarterly instalments in third, sixth, ninth and twelfth months of their accounting period		Measure will apply to accounting periods starting on or after 01 April 2019	All	All	G
Data protection		An act has been introduced to specify the standard provisions of the EU General Data Protection Regulation	Counsel of State (<i>Raad van State</i>) to issue advice on the legislative proposal		All	All	G


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Deposit Insurance Scheme</i>		The MAS issued a consultation paper on 04 August 2017, setting out recommendations to enhance various features of deposit insurance scheme (DI Scheme) in Singapore Proposed amendments include, amongst others: (i) raising the coverage limit from S\$50,000 to S\$75,000, and (ii) extending the build-up period for the deposit insurance fund and to revise annual premium rates payable by DI Scheme members. The consultation period closed on 04 September 2017		MAS response to feedback received on the consultation paper awaited	Financial Institutions	All	G
<i>Disclosure of beneficial ownership of Hong Kong companies – corporate proposals</i>		The HK Government has introduced a bill aimed at enhancing disclosure of beneficial ownership of Hong Kong-incorporated companies following a public consultation. If effected, proposals will require a Hong Kong company to maintain a register of people or entities with significant control (beneficial owners) over the company which will be available for inspection by such beneficial owners and law enforcement officers		Bill is expected to become law on 01 March 2018	All	All	G
<i>Disclosure of cross-border tax avoidance arrangements</i>		European Commission has proposed introduction of new mandatory rules for disclosure and automatic exchange of information concerning reportable cross-border tax avoidance arrangements	Proposal to be considered by Council of the EU and European Parliament	European Commission proposes new rules to be introduced with effect from January 2019	All	All Lawyers, Accountants, Banks and other Financial Advisers	G
<i>Disclosure requirements for sale of investment-linked policies</i>		The MAS consulted on its proposal to enhance disclosure requirements for sale of investment-linked policies The consultation period closed on 31 July 2015		MAS response to feedback received on the consultation paper awaited	Financial Institutions	All	G



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Dispute resolution</i>		<i>Implications of Brexit for dispute resolution</i>	Following publication of UK Government's <i>position paper on cross-border civil justice co-operation</i> , progress is awaited on issues relating to future recognition of jurisdiction clauses and cross-border enforcement of judgments	UK Government policy to be formulated as part of wider Brexit negotiations	All	All	G
<i>Dispute resolution</i>		<i>New Financial List and Financial Markets Test Case Scheme</i> extended Specialist Financial List pilot extended for further three years to 30 September 2020. No longer required that a case raises issues of general importance to financial markets to fall within the scheme, as long as it raises issues of general importance Market participants with opposing interests in relation to relevant issue, but not necessarily a present cause of action, can seek decision from specialist Financial List judge through Test Case Scheme		30 September 2020 pilot scheme ends	Financial Institutions Asset Managers	All All	G
<i>Draft for new PE rules</i>		On 30 August 2017, the State Council issued draft new PE rules for public comments. Compared to the old rules, the new rules are of higher legal hierarchy, and increase penalties for asset management players for violation activities		The final shape and effective date of these new rules is currently unclear	Asset managers	All	G
<i>Employment</i>		Currently, employers have the option to offset a departing employee's severance payment or long service payment against the value of employer's contribution to employee's Mandatory Provident Fund scheme Hong Kong's Chief Executive announced on 18 January 2017 that the government intends to	The government suggested new compensatory measures in late July 2017. We expect the government to proceed with abolishing the offset mechanism and to have a final proposal by the end of 2017		All	All	G


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>gradually abolish offsetting of these payments</p> <p>The government will provide rebates to employers to assist with transition</p> <p>The latest compensatory measures suggested by government in July 2017 include provision of HK\$7.9 billion in government subsidies to employers over 10 years following offset mechanism being abolished and lowering the current HK\$390,000 cap on maximum severance and long service payments</p> <p>The previous suggestion to amend payment calculation from two-thirds to one-half of monthly wages (capped at HK\$22,500) for each year of service has been dropped from the latest proposal. A mandatory saving scheme is now being considered, that would encourage employers to set aside money in advance for future severance and long service payments</p>					
<i>Employment</i>		<p>The Apology Ordinance clarifies legal consequences of making an apology in the context of a dispute and was passed by the Legislative Council on 13 July 2017</p> <p>The Apology Ordinance states that an apology (written, oral or by conduct) will not constitute an admission of liability or fault, nor will it be admissible in evidence to the detriment of the apology maker, bar exceptional circumstances</p>	The Apology Ordinance was gazetted on 1 September 2017 and will come into force on 1 December 2017		All	All	G






Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		This law has the potential to be an effective dispute resolution tool, particularly for discrimination and/or harassment cases. Note, however, that since the legislation provides the arbiter of any proceedings with a discretion to admit an apology as evidence when just and equitable to do so, the efficacy of the Apology Ordinance remains to be seen					
Employment		<p>The Immigration Department grants dependant visas to individuals whose spouses have been granted an employment visa in Hong Kong. The department, however, interprets 'spouse' as a party to an opposite-sex marriage only, and claims that under Hong Kong law, civil partnerships and same-sex marriages are not recognised</p> <p>QT was a British national whose visa application for a dependant visa was refused because she was in a same-sex partnership. She challenged this decision in the courts but a first instance judge dismissed her application. QT appealed to the Court of Appeal, which found that difference in treatment by Immigration Department, involving direct discrimination on the ground of sexual orientation, was not justified</p>	In a judgment dated 25 September 2017, the Court of Appeal ruled that the Director of Immigration had acted unlawfully in his exclusion of a same-sex couple in his policy of granting dependant visas to the spouses of employment visa holders	This may pave the way for the individuals whose same-sex partners have been granted an employment visa to work in Hong Kong to be granted dependant visas. This may make it easier for corporations to attract foreign workers who are in same-sex partnerships to work in Hong Kong	All	All	G
Employment		<p>The Standard Working Hours ("SWH") Committee submitted its report in relation to working hours and overtime to Chief Executive in January 2017</p> <p>Significantly, SWH Committee did not recommend standard working</p>		While the framework has been introduced and approved by the Chief Executive, the changes are still up for debate, and are subject to change before they are finally enacted as Hong Kong law	All	All	G




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>hours be imposed for all employees (it had previously been suggested that a 44 standard working hour week would be proposed)</p> <p>Recommendations included that legislation be introduced to require employers to enter into written employment contracts with grass-roots (lower income) employees; and that those employees should be entitled to overtime pay at a rate of no less than their normal wages (or the equivalent time off in lieu)</p> <p>It was also recommended that sector-specific guidelines be established (after consultation with stakeholders in industries where long working hours / uncompensated overtime are relatively common)</p> <p>On 13 June 2017, the Chief Executive introduced a framework for standard working hours, requiring, among others, employers to introduce overtime measures for employees who earn less than HK\$11,000 per month</p> <p>Employers must also enter into a written contract with employees who earn less than HK\$11,000 per month, stating the employee's working hours and overtime pay</p>					
Employment		<p>Since the introduction of statutory paternity leave in Hong Kong in February 2015, the Labour Department has been reviewing its implementation</p>	<p>The Labour Department will report its findings later in Q4 2017</p>		All	All	G



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>EU Financial Transaction Tax (FTT)</i>		Proposal to use enhanced cooperation procedure (ECP) to introduce multilateral EU tax on certain financial transactions entered into by financial institutions		Remaining ten participating Member States continue to seek to negotiate mutually acceptable form of FTT	Financial Institutions Asset Managers	All All	G
<i>EU framework for managers of EuVECA</i>		EuVECA Regulation containing new rules to facilitate access by small and medium-sized enterprises (SMEs) to venture capital financing	Formal endorsement by Council of the EU in Q4 2017 of text adopted by European Parliament on 14 September 2017 and subsequent publication in OJ	Regulation to apply three months after entry into force (twentieth day after publication in OJ) ESMA to commence work developing Level 2 and Level 3 measures Further revision expected to Level 1 text to take into account amendments to powers of EBA, EIOPA and ESMA	Asset managers	All	G
<i>EU framework for managers of EuSEF</i>		EuSEF Regulation sets out framework for a marketing passport to allow fund managers to market qualifying social entrepreneurship funds to wide range of EU investors with EuSEF status	Formal endorsement by Council of the EU in Q4 2017 of text adopted by European Parliament on 14 September 2017 and subsequent publication in OJ	Regulation to apply three months after entry into force (twentieth day after publication in OJ) ESMA to commence work developing Level 2 and Level 3 measures Further revision expected to Level 1 text to take into account amendments to powers of EBA, EIOPA and ESMA	Asset managers	All	G
<i>European Commission to consider syndicated loans</i>		European Commission to consider syndicated loans from a competition law perspective	Currently in data gathering phase	Commencement of European Commission study on syndicated loans expected this year	Financial Institutions	All	G
<i>European Long-Term Investment Funds (ELTIF)</i>		Regulation introducing European Long-Term Investment Fund (ELTIF), a type of private collective investment fund designed to invest only in businesses needing long-term investment	European Commission to decide whether to endorse ESMA's draft regulatory technical standards under ELTIF Regulation	ESMA to finalise draft Level 2 measures in respect of costs disclosure European Commission to adopt Level 2 measures Revision expected to Level 1 text to take into account amendments to powers of EBA, EIOPA and ESMA European Commission to start review of application of ELTIF Regulation by 09 June 2019	Financial Institutions Asset managers	Insurance All	G




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>European System of Financial Supervision (ESFS) reform - ESAs</i>		European Commission Proposal reforming European Supervisory Authorities (ESAs) in order to improve mandates, governance and funding	Feedback on European Commission's legislative proposal due eight weeks after legislative proposal made available in all EU languages European Parliament and Council of the EU to scrutinise legislative proposal	Legislative proposal to enter into force before end of current legislative term in 2019	Financial Institutions Asset Managers	Wholesale Banks Retail Banks and other consumer credit providers Insurance All	G
<i>FCA competition initiatives in the financial services markets</i>		Credit card market study looking at whether competition is working in best interests of consumers Final report published on 26 July 2016 set out package of measures, including series of industry-led proposals, to help consumers take better control of finances. Consultation closed in July 2017	FCA considering consultation responses	Depending upon feedback received, Policy Statement and updates to FCA Handbook expected in Q4 2017	Financial Institutions	Retail Banks and other consumer credit providers	G
<i>Financial Advice Markets Review (FAMR)</i>		FCA's FAMR report (14 March 2016) contained 28 recommendations to increase accessibility and affordability of advice and guidance to consumers, and improve transparency about FSCS and FOS FCA established Financial Advice Working Group to take forward shortlist of terms to describe guidance and advice (recommendation 17), develop rules of thumb or nudge techniques to encourage engagement by consumers (recommendation 18) and develop guide with employers for employees to improve their financial health (recommendation 12)	Consultation period for CP 17/28 to end on 02 October 2017 FCA to publish Policy Statement to CP17/28 in December 2017 FCA to publish consolidated non-Handbook Guidance to bring together in one place FG17/8 and new guidance based on proposed Advice Unit guidance in CP17/28. (FG12/10 and FG15/1 to cease to apply at that point.)	Amendments to Regulated Activities Order definition of financial advice for regulated firms to be implemented on 03 January 2018 to align with MiFID2 FCA to incorporate new guidance on personal recommendations in Perimeter Guidance Manual from 03 January 2018 FCA and HMT to conduct review of outcomes from FAMR in 2019 - results to be published early in 2020	Financial Institutions	Retail Banks and other consumer credit providers Wealth Insurance	G




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Financial Advice Markets Review (FAMR)</i>		In parallel with FAMR, on 16 March 2016, HM Treasury consulted on proposals for public financial guidance for debt, pensions and general financial capability and planning. These include new pensions guidance body (incorporating the functions of Pension Wise and The Pension Advisory Service), and new 'slimmed down' money advice service to replace Money Advice Service			Financial Institutions	Retail Banks and other consumer credit providers Wealth Insurance	G
<i>Financial Markets Amendment Act 2018</i>		Part of an annual review of the FSA and related legislation for general amendment, updates and clean/up. Part of the 2018 Amendment Act are: <ul style="list-style-type: none"> The obligation to obtain approval of DNB before issuing a 403-declaration or similar group guarantees if such are issued for a group company which is subject to DNB supervision The appointment of the Court of Amsterdam as competent court for banking and securities disputes Prohibition to make a third party attachment against DNB on certain deposits of financial institutions deposited at DNB A number of adjustments to the Act on remuneration of financial institutions, including the application of the bonus cap (100-200%) for AIFMs within a group 	Council of State (<i>Raad van State</i>) has issued advice on legislative proposal. Legislative proposal Financial Markets Amendment Act expected to be published in December	Expected entry into force: mid 2018	All	All	G

Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<ul style="list-style-type: none"> The extension of the period for assessment of an application for a banking license from 13 to 26 weeks The possibility for the AFM to request information from the Education Executive Agency ("DUO") in relation to the supervision of compliance with the professional requirements. The introduction of a power for DNB to – under certain circumstances 					
<i>Financial Conglomerates</i>		Fundamental review of Financial Conglomerates Directive (FICOD II)	European Commission expected to publish results of full evaluation in following consideration of responses to consultation on supplementary supervision of financial conglomerates		Financial Institutions Asset Managers	All All	G
<i>Funding of Financial Supervision Amendment Act</i>		Principles are provided for the passing on of supervisory costs to the sector	Draft in preparation		All	All	G
<i>Framework for Singapore Variable Capital Companies</i>		<p>The MAS is proposing to set up a legislative framework for a new corporate structure that is tailored for collective investment schemes. The framework seeks to provide collective investment schemes with an additional option to existing unit trust structure</p> <p>Consultation period closed on 24 April 2017</p>		MAS response to feedback received on the consultation paper awaited	Asset Managers	All	G




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Green Paper on Retail Financial Services</i>		European Commission consultation (closed 18 March 2016) on its Green Paper on retail financial services, focusing on breaking down cross-border barriers preventing consumer access to products from other member states, resulting in high fees on foreign transactions, switching and comparisons, and lessen benefits of digitisation	European Commission to propose amendment to Regulation on cross-border payments to reduce charges for cross-border transactions in all Member States	Following publication of Consumer Financial Services Action Plan (March 2017), European Commission to: <ul style="list-style-type: none"> explore ways of facilitating access to cross-border loans (H1 2018) monitor the distance selling market to identify the potential consumer risks and business opportunities (H1 2018) explore further steps to make it easier for consumers to switch to more advantageous retail financial services (H2 2018) 	Financial Institutions Asset Managers	All All	G
<i>HMRC's engagement with large businesses</i>		HMRC consulting on process for assessing tax risk posed by large businesses and how such businesses might be further encouraged to achieve Low Risk status	Consultation period closes on 06 December 2017		All	All	G
<i>Hong Kong FDRC</i>		The Financial Dispute Resolution Centre in Hong Kong has announced its conclusions to its consultation on proposals to expand jurisdiction of the Financial Dispute Resolution Scheme (FDRS), the alternative dispute resolution scheme for conflicts between financial institutions and their individual customers The FDRC plans to implement more moderate reforms than were originally suggested. Some of the key amendments will include: <ul style="list-style-type: none"> raising maximum claimable amount to HK\$1,000,000; extending limitation period for lodging claims from 12 to 24 months from date of purchase of the financial instrument or date of first knowledge of loss, whichever is later; expanding the scope of 		The amended terms of reference for the FDRS are expected to take effect on 1 January 2018, save for the reforms allowing small enterprises to bring claims, which will take effect on 1 July 2018	Financial Institutions	All	G






Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>eligible claimants by allowing "small enterprises" to bring complaints against financial institutions;</p> <ul style="list-style-type: none"> accepting applications for claims which are under current court proceedings without requiring them to withdraw case from court; and introducing a voluntary referral system. <p>These reforms will result in an expansion of the FDRC's jurisdiction (it currently only handles monetary disputes involving Financial Institutions and their customers for HK\$500,000 or less) and there is likely to be an increase in the number of claims being accepted by the FDRC as a result</p>					

Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Insurance Distribution Directive</i>		The Insurance Distribution Directive (IDD) will replace the Insurance Mediation Directive (IMD) and must be implemented in each Member State by 23 February 2018	<p>European Commission is to decide whether to endorse draft ITS (Implementing Technical Standards) on standard Insurance Product Information Document</p> <p>The IDD empowers European Commission to adopt delegated and implementing acts to specify how competent authorities and market participants shall comply with obligations laid down in Directive. On 11 August 2017 the Commission laid down rules for an Insurance Product Information Document (IPID), which will have to accompany all non-life insurance policies from 2018. Consultations closed on 17 August about rules relating to product oversight and governance requirements for insurance undertakings and insurance distributors, and those relating to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products; draft delegated regulations were issued on 21 September 2017</p> <p>The FCA published a policy statement (PS17/21) on 25 September 2017 setting out its “near final” rules for the implementation of IDD</p> <p>The FCA is consulting (CP17/33) until 25 November 2017 on its latest proposals for changes required to comply with the IDD</p> <p>European Commission is expected to adopt the IDD Delegated Acts (on product oversight and governance, conflicts of interest, criteria for assessing inducements and compliance with the principles in Article 30) during 2017</p> <p>Firms to continue monitoring implementation of IDD</p>	<p>Further FCA Policy statements expected in December 2017 (rules for product oversight and governance, conduct rules for insurance-based investment products and the new Insurance Product Information Document) and January 2018 (on changes required to comply with IDD)</p> <p>The IDD will also introduce requirements in new areas. The FCA has said it wants to align IDD rules for firms selling insurance-based investment products with the MiFID II rules and MiFID rules will often be integrated into the same section of sourcebook</p> <p>The recent consultation paper (CP17/33) sets out that advisers recommending insurance-based investment products (IBIPs) must make sure that any inducements will not have a “detrimental impact” on quality of relevant service once IDD is in force</p>	Financial Institutions	Insurance	G
<i>Insurance Distribution Directive</i>		Implementation Decree IDD	Draft in preparation		Financial Institutions	Insurance	G
<i>Insurance Regulation</i>		New ILS regime due to come into force this autumn	It is proposed that Risk Transformation Regulations 2017 and Risk Transformation (Tax) Regulations 2017 will come into force on 31 October 2017		Financial Institutions	Insurance	G




Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Insurance Regulation</i>		IAIS Consultation	International Association of Insurance Supervisors (IAIS) consultation on insurance core principle 24 (ICP 24) on Macprudential Surveillance and Insurance Supervision closed on 1 October 2017	IAIS will use consultation responses to develop further their supervisory materials	Financial Institutions	Insurance	G
<i>Insurance Regulation</i>		FCA review of firms with 'with-profits' business The FCA issued an information request on 30 June 2017 to the majority of firms with with-profits business to help it carry out a multi-firm review of the sector, particularly at the fair treatment of with-profits customers	FCA review scheduled to commence in Q4 2017 or Q1 2018		Financial Institutions	Insurance	G
<i>Insurance Regulation</i>		IAIS consultation on product oversight in inclusive insurance On 30 June 2017, International Association of Insurance Supervisors (IAIS) published consultation paper on a draft Application Paper on product oversight in inclusive insurance. The Consultation period closed on 30 July 2017			Financial Institutions	Insurance	G
<i>Insurance Regulation</i>		IAIS consultation on revised versions of insurance core principles (ICPS)	On 30 June 2017, International Association of Insurance Supervisors (IAIS) published consultation paper on revised versions of a number of the insurance core principles (ICPS). Consultation period closed on 06 August 2017, following which further initiatives and guidance relating to conduct of business may follow		Financial Institutions	Insurance	G
<i>Insurance Regulation-Brexit</i>		EIOPA opinion on supervisory convergence and consistency across the EU in light of United Kingdom withdrawing from European Union EIOPA has published an opinion (EIOPA-BoS-17/141) addressing authorisation and approval processes, governance and risk management, outsourcing and on-going supervision of UK-based insurers and reinsurers falling		TF50 position paper on "Essential Principles on Citizens' Rights published on 12 June 2017 which states that: "the Withdrawal Agreement should protect the rights of EU27 citizens, UK nationals and their family members who, at date of entry of the Withdrawal Agreement, have enjoyed rights relating to free movement under Union law, as well as rights which are in the process of being obtained and the rights the enjoyment of which will intervene at a later date [for example pension	Financial Institutions	Insurance	G


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>under the Solvency II Directive (2009/138/EC) framework, on assumption that UK will become a third country (non-EU) for the purposes of applying the Solvency II framework after its withdrawal from the EU. EIOPA “<i>expects undertakings to show an appropriate level of corporate substance and not display characteristics of an empty shell</i>”</p> <p>Gabriel Bernardino gave a key note address at Goldman Sachs Twenty-First Annual European Financials Conference Madrid, 08 June 2017. He discussed EIOPA’s focus towards consistent supervisory practices and a common European supervisory culture. He also addressed Brexit, and EIOPA’s approach towards supervision of insurers based in the United Kingdom seeking relocation of subsidiaries in the 27 European Union Member States. He specifically referenced outsourcing and stated:</p> <p><i>‘Empty shells or letter boxes are not acceptable. Sound supervision demands appropriate location of management and key functions including sound outsourcing and reinsurance policies’</i></p>		<p>rights].”</p> <p>Following which on 11 September 2017, Insurance Europe published a position paper stating that the above principle should include (re)insurers’ ability to service existing contracts issued by virtue of the passport regime before Brexit</p> <p>Insurance Europe calls on UK and EU to reach agreement on the grandfathering of existing insurance and reinsurance contracts to ensure the rights and obligations of the parties continue</p> <p>Insurance Europe states that transitional arrangements will not resolve the problem given a transitional period is likely to be for a maximum of 2 or 3 years, while contractual obligations under passported contracts (especially life and pensions) could run for decades</p> <p>Without any resolution the transfer of individual contracts or books of policies will be inevitable and there is a risk these transfers may not be authorised in time for Brexit</p> <p>Those firms which have already or are contemplating establishing a subsidiary in another EU member state as a result of Brexit should ensure the guidance issued by EIOPA and Gabriel Bernardino is taken into consideration and effective measures are implemented to ensure appropriate supervision of the new subsidiary</p> <p>Those firms considering Part VII transfers should also, if not already done so, make this known to the PRA</p>			





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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Insurance Regulation</i>		<p>PRA consultation on data collection of market risk sensitivities under the Solvency II Directive (2009/138/EC)(CP7/17) closed on 07 August 2017</p> <p>PRA consultation on data collection of market risk sensitivities under the Solvency II Directive (2009/138/EC)(CP7/17) closed on 07 August 2017</p> <p>Draft supervisory statement contains a proposal to introduce half-yearly reporting of sensitivities in relation to firms' solvency positions</p>			Financial Institutions	Insurance	G
<i>Insurance Regulation</i>		On 1 September 2017, PRA updated its April 2017 public disclosure with templates A and B, as required under Article 31(2)(c) of the EU Solvency II Directive. This public disclosure is designed to foster a uniform level of transparency and accountability between supervisory authorities			Financial Institutions	Insurance	G
<i>Insurance Regulation</i>		<p>Amendments to Solvency II Delegated Regulation re, calculation of regulatory capital requirements (infrastructure corporates)</p> <p>European Commission has adopted a Delegated Regulation amending the Solvency II Delegated Regulation ((EU) 2015/35) concerning calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (C(2017)3673 final)</p> <p>The amendments made by</p>		Firms to consider this amendment to regulatory capital requirements as part of their portfolio management	Financial Institutions	Insurance	G



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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>amending Delegated Regulation will reduce capital charges attached to investments by insurance companies in infrastructure corporates. This will remove regulatory barriers to investment opportunities in infrastructure that fulfil a number of criteria and are considered as having a better risk profile. Amending Delegated Regulation forms part of the Commission's wider works on capital markets union (CMU) to support insurers in their role as long-term investors in the EU economy</p> <p>European Commission Delegated Regulation ((EU) 2017/1542) amending the Solvency II Delegated Regulation ((EU) 2015/35) concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings was published in the Official Journal of the EU on 14 September 2017</p>					
Insurance Regulation		<p>FCA's consultation on Part VII FSMA insurance business transfers (GC17/5)</p> <p>Period under FCA's consultation on its approach to reviewing insurance business transfers schemes under Part VII of the Financial Services and Markets Act 2000 closed 15 August 2017</p>	FCA's finalised guidance is expected in Q4 2017		Financial Institutions	Insurance	G





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Insurance Regulation</i>		<p>EIOPA has published an EU-wide thematic review of consumer protection issues in unit-linked market</p> <p>EIOPA's published its report following its thematic review of consumer protection issues in unit-linked life insurance market arising from business links between providers of asset management services and insurance undertakings. Concludes that the use of monetary incentives and remuneration between providers of asset management services and insurance undertakings is widespread and improper management of conflicts of interest may be an issue for consumers</p>		Firms to review and consider conflicts of interest in respect of the use of monetary incentives and remuneration between when dealing with providers of asset management services	Financial Institutions Asset Managers	Insurance All	G
<i>Investment Objects and Investment Bonds Amendment Act</i>		Regulatory regime applicable to Issuers of investment bonds	Draft in preparation		All	All	G
<i>Legal Entity Identifiers, Unique Transaction Identifiers and Unique Product Identifiers</i>		Framework of an international system for allocation of Legal Entity Identifiers (LEIs) to enable identification of counterparties to financial transactions has been created under the supervision of LEI Regulatory Oversight Committee (LEI ROC), a committee of Global Legal Entity Identifier Foundation (GLEIF)	LEI ROC consultation on funds relationships in the Global LEI System (GLEIS) seeking input on the design of a process for collecting data on the relationships of funds within the GLEIS – closes 26 November 2017	Parent information for majority of LEI data pool is expected to be available at the latest at start of 2018	Financial Institutions	All	G
<i>Legal Entity Identifiers, Unique Transaction Identifiers and Unique Product Identifiers</i>		Financial Stability Board (FSB) working group on Unique Transaction Identifiers (UTIs) and Unique Product Identifier (UPIs) governance (GUUG), providing proposals for a recommended governance structure		FSB may engage in further dialogue with the industry and other stakeholders ahead of its final decision on UTI and UPI governance	Financial Institutions	All	G



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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Legal Entity Identifiers, Unique Transaction Identifiers and Unique Product Identifiers		Committee on Payments and Market Infrastructures (CPMI) of Bank for International Settlements and Board of International Organization of Securities Commissions (IOSCO) (together the Harmonisation Group) – developing guidance for uniform global Unique Transaction Identifiers (UTIs) and Unique Product Identifier (UPIs)		The Harmonisation Group plans to issue final Technical Guidance on critical data elements (other than UTI and UPI) – early 2018	Financial Institutions	All	G
Life Sciences		<p>German Federal Supreme Court (Bundesgerichtshof – “BGH”) judged regarding the liability of Notified Bodies for defective medical devices on 22 June 2017 (particular case: liability for defective breast implants “PIP-case”)</p> <p>→ BGH, 22.06.2017 – VII ZR 36/14</p> <p>Judgment can be found in German language here</p> <p>Court followed previous judgement of European Court of Justice (“ECJ”) by accepting possibility of a liability of notified bodies for product defects under certain circumstances.</p> <p>→ EUGH, 16.02.2017 – C-219/15</p> <p>Judgment can be found in English language at here</p> <p>Court dismissed the claim because claimant did not demonstrate in the first or second instance that notified body was in awareness of irregularities in production process of the producer</p>		Legal basis for a liability of notified bodies for product defects will be found in the future. Currently no corresponding lawsuit is pending in Germany	Life Sciences Pharmaceutical Industry, Medical Devices industry	All	G



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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		Therefore court did not have to decide on what legal basis a liability of notified bodies towards customers could be stated					
<i>Life Sciences</i>		EU Delegated Regulation (2016/161), supplementing Medicines Directive 2001/83/EC, introduces two mandatory safety features that will allow medicines to be verified and authenticated: (i) unique identifier (in a two-dimensional barcode) to be placed on medical products that can be scanned at fixed points along the supply chain; (ii) tamper evident features on the pack		The Delegated Regulation comes into force in UK from 09 February 2019. MHRA has indicated that marketing authorisation holders will be required to place new safety features on the packaging of medicines covered under Delegated Regulation no later than 09 February 2019. Further guidance on these measures is expected Please see our comments on the UK entry for the EU Clinical Trial Regulation 2014/536 regarding the impact of Brexit	Life Sciences	All	G
<i>Life Sciences</i>		EU is overhauling its data protection laws to create better harmonisation with a single law, EU General Data Protection Regulation 2016/679 (GDPR). GDPR will apply from 25 May 2018		Given that GDPR is likely to apply before Brexit Day, it should automatically be transferred into UK law under European Union (Withdrawal) Bill	Life Sciences	All	G
<i>Market study into digital comparison tools</i>		CMA launched a market study into digital comparison tools used by consumers to compare and/or switch between a range of products or services from a range of businesses Update paper published in March 2017	Final report published 26 September 2017. CMA published recommendations on how to treat consumers, as well as opening an investigation into one digital comparison tool's contract with home insurers	CMA will continue monitoring of certain common contractual elements in DCT agreements, as well rolling out programme of consumer enforcement (notably in relation to hotel bookings and car hire)	Financial Institutions Technology Media and Telecoms Energy and Infrastructure	All	G
<i>Market study into investment platforms</i>		FCA launched a market study into investment platforms	Terms of Reference for Investment Platforms Market Study published 17 July 2017. FCA seeks to look at how platforms compete with each other	Interim report expected summer 2018	Asset Managers	All	G

Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Narrative reporting</i>		Directive amending EU Shareholder Rights Directive includes proposals to give shareholders a right to vote on remuneration policy and remuneration report		Amending Directive adopted and came into effect on 09 June 2017. Member States have until 10 June 2019 to implement it into national law	All	All	G
<i>Online distribution and advisory platforms- SFC consults on proposed guidelines</i>		<p>In response to the proliferation of various online platforms offering a variety of investment services and functions in recent years, the SFC has conducted a consultation on the applicable guidelines. Whilst the SFC's conduct requirements apply to both online and offline environments, the SFC is considering if the operation of online platforms requires more tailored guidance to mitigate the greater potential risk</p> <p>These platforms have significant benefits that the SFC highlights, such as the broadening of distribution channels and reduction of costs. However, the SFC is also concerned that there are several risks, such as cybersecurity, the conducting of a regulated activity by an unregulated person or for an investor to make an investment without being fully aware of the nature and risk of their decision</p> <p>The SFC intends to produce a set of specific guidelines that are applicable to all SFC licensed or registered persons when they conduct regulated activities, such as the provision of order execution, distribution and advisory services in respect of investment products through an online platform (Platform Operators)</p> <p>It is proposed that the guidelines will cover:</p>		<p>The consultation ended on 4 August 2017 and conclusions are pending. The SFC will take these comments into consideration as part of the new guidelines governing online distribution and advisory platforms</p> <p>It should be noted that if the conduct requirements are to apply to both online and offline activity equally, for a fully automated service provider this might have far reaching implications as to how to comply fully with the offline requirements. Looking forward, parties that may be adversely affected by this update should check to see whether the Code of Conduct is updated more generally by the SFC in light of these recommendations</p>	Financial Institutions Asset Managers	All All	G


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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<ul style="list-style-type: none"> Governance and Controls <p>This relates to controls and core principles that operators should comply with when operating an online platform.</p> <ul style="list-style-type: none"> Suitability Requirements <p>This seeks to clarify when suitability requirement would be activated in the online context, and how it may be discharged.</p> <ul style="list-style-type: none"> Additional protective measures for the sale of complex products on an unsolicited basis. <p>The SFC also seeks to set out additional requirements that apply to selling of complex products via an online platform</p>					
OTC derivatives		<p>Proposals for an amendment regulation that amends certain parts of EMIR Regulation (EU) No 648/2012</p> <p>The proposed amending regulation was published on 04 May 2017</p>		'Trilogue' negotiations on EMIR Review proposal have commenced and Council of the EU and the European Parliament are working towards political agreement	Financial Institutions Asset Managers	All All	G
OTC derivatives regulatory regime		<p>In April 2017, in response to market feedback, the HKMA and SFC jointly issued a consultation paper (Consultation Paper) on the following proposals regarding OTC derivatives regulatory regime:</p> <p>(a) prescribing additional markets and clearing houses (as set out in Appendix A to Consultation Paper), so that products traded on and cleared through them will not be "OTC derivative products" and so will not be subject to mandatory reporting; and</p>	<p>The proposals will require amendments to subsidiary legislation. The HKMA and SFC are working with Department of Justice on the drafting of the relevant amendments. A key aspect of the drafting work will be the definition of Delta One Warrant. Interested parties may contact the HKMA or SFC if they wish to have an opportunity to comment on the draft when ready</p>	<p>The timetable for implementing the two proposals discussed will depend on completion of the relevant legislative drafting work, and then the Legislative Council's negative vetting process. The HKMA and the SFC indicated that implementation may therefore not be possible by Q4 of 2017</p>	Financial Institutions	All	G






Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
		<p>(b) excluding from the definition of “OTC derivative product” certain warrants with strike prices set at zero or near zero (Delta One Warrants), and which effectively serve as access products, since they are not generally regarded as OTC derivative products and should not come within the regime.</p> <p>The consultation ended in May 2017 and the HKMA and SFC released joint consultation conclusions in July 2017 and indicated that they will proceed with initiating process for implementing proposed adjustments</p> <p>To recap, the Securities and Futures (Amendment) Ordinance 2014 was enacted on 26 March 2014 to provide for a OTC derivatives regulatory regime to be implemented in several stages. The first phase of mandatory reporting (for certain interest rate swaps and non-deliverable forwards transactions) came into force on 10 July 2015, and the first phase of mandatory clearing came into force on 1 September 2016. The second phase of mandatory reporting (for all 5 key asset classes i.e. interest rates, foreign exchange, equities, credit and commodities) commenced on 1 July 2017</p>					





Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Payment Accounts Directive</i>		Payment Accounts Directive imposing EU wide regime for payment accounts, including fee comparisons, switching and basic payment accounts, with development of standardised terminology for certain payment services	European Commission to adopt draft RTS and ITS	<p>Within three months of RTS entering into force, FCA to publish final list of most representative services</p> <p>Payment service providers to use terms on final list of most representative services six months after FCA publishes final list</p> <p>Within nine months of ITS entering into force, UK to apply measures necessary to comply with requirements on statement of fees, fee information document and common symbol ie payment service providers to provide consumers with pre-contractual fee information document and annual statement of fees</p> <p>Member States to implement Directive into national legislation by September 2018</p> <p>Member states to provide European Commission with evaluation information under Article 27 by 18 September 2017</p> <p>European Commission to review Directive and submit report to European Parliament and Council of the EU by 18 September 2018</p>	Financial Institutions	Retail Banks and other consumer credit providers	G



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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Payment and Settlement Systems (Finality and Netting) Act</i>		<p>The MAS had issued a consultation paper on 03 August 2017, intending to incorporate global best practice developments from leading jurisdictions, industry feedback and developments in Singapore's payment and settlement landscape</p> <p>The proposed amendments cover three main policies: (i) improve protection, (ii) set out clear designation criteria, and (iii) strengthen MAS' administrative powers</p> <p>Consultation period closed on 31 August 2017</p>		MAS response to feedback received on the consultation paper awaited	Financial Institutions	All	G
<i>Payment Services Directive 2</i>		Implementation Decree PSD II	Draft in preparation		Financial Institutions	Fin-tech; Wholesale Banks; Retail Banks and other consumer credit providers	G
<i>Public Country by Country Reporting (CBCR)</i>		<p>EU Commission has proposed making CBCR public for the largest multinationals</p> <p>EU Parliament has supported the adoption of public CBCR</p>		Negotiations continue at an EU level with a view to reaching a compromise between the Commission and Parliament proposals	All	All	G
<i>Regulation of benchmarks following LIBOR rate-setting revelations</i>		Extension of MAR/CSMAD to cover manipulation of benchmarks		Provisions in MAR referring to OTFs, SME growth markets, emission allowances or auctioned products based thereon, apply from introduction of MiFID2 (03 January 2018)	Asset managers	Hedge funds Institutional managers Service providers	G
<i>Regulation of benchmarks following LIBOR rate-setting revelations</i>		Regulation of benchmarks in UK following LIBOR misconduct investigation		LIBOR to be sustained until end of 2021	Asset managers	Hedge funds Institutional managers Service providers	G



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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Regulation of benchmarks following LIBOR rate-setting revelations</i>		Implementation Act of the Regulation Financial Benchmarks	Legislative proposal has been published		Asset managers	Hedge funds Institutional managers Service providers	G
<i>Regulation of benchmarks following LIBOR rate-setting revelations</i>		Implementation Decree of the Regulation Financial Benchmarks	Counsel of State (<i>Raad van State</i>) has issued advice on the legislative proposal		Asset managers	Hedge funds Institutional managers Service providers	G
<i>Regulatory regime for managers of venture capital funds</i>		The MAS, in its consultation paper of 15 February 2017, proposes to simplify authorisation process and regulatory framework for managers of venture capital funds Consultation period closed on 15 March 2017		MAS response to feedback received on the consultation paper awaited	Asset Managers	All	G
<i>Revisions to MAS Notice to Banks 610 and MAS Notice to Merchant Banks 1003 – Submission of Statistics and Returns</i>		The MAS has issued a second consultation paper on the proposed amendments to MAS Notice 610 and MAS Notice 1003, in which the MAS is proposing a 30 months implementation timeline, amongst other proposals Consultation period closed on 20 March 2017		MAS response to feedback awaited	Financial Institutions	All	G




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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Remuneration		<p>The Commercial Court found that boards cannot unreasonably refuse to issue shares under an option, even if that option is the subject of a discretionary veto</p> <p>It was held a discretionary veto cannot be absolute or an unconditional right to veto – it must be exercised reasonably, following due process and considering all material points. To allow for an absolute ability to veto would render the option meaningless. Exercise of the veto was subject to an implied duty not to exercise it unreasonably, capriciously, or arbitrarily</p>	The case highlights the need to outline circumstances in which the discretion will be exercised and to carry out due process when exercising discretion		All	All	G
Remuneration		<p>The Upper Tribunal has reversed the McQuillan decision, concluding instead that a class of redeemable shares carrying no right to a dividend constitutes ordinary share capital under section 989 of the Income Tax Act 2007</p> <p>The court held that a right to a dividend of zero was not a right to anything, and therefore such a share cannot be regarded as having a right to a dividend</p>	This clarification is relevant to several areas including entrepreneurs' relief, including tax-advantaged share schemes, enterprise investment schemes and seed enterprise investment schemes		All	All	G





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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
Remuneration		<p>Shareholder Rights Directive (2007/36/EC) has been amended with the aim of strengthening shareholders' engagement in big European companies</p> <p>Text approved by Parliament provides member states:</p> <ul style="list-style-type: none"> no longer need to ensure the value of the shares do not play a dominant role in the financial performance criteria; and with the discretion to allow companies to derogate temporarily from the remuneration policy in exceptional circumstances. <p>The Directive came into force on 9 June 2017, Brexit aside, as existing UK remuneration reporting rules are already as onerous, if not more so, than the provisions relating to executive pay there may be little impact on UK listed companies</p>		<p>Member states have until 10 June 2019 to transpose its provisions into national law</p> <p>Changes to the existing directive include:</p> <ul style="list-style-type: none"> A company's remuneration policy must support the business strategy and long term interests of the company and include information on deferral, retention and vesting periods and clawback. It must also be made public without delay. If a company loses a vote on its remuneration report, it must explain in next report whether, and if so, how, it has taken shareholders' views into account. 	All	All	G
Remuneration		Large companies to have mandatory yearly discussions with the works council on remuneration policies	Pending before parliament (<i>Tweede Kamer</i>)		All	All	G


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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Resolution and recovery of insurance companies</i>		The proposed Act includes instruments and powers to recover and/or resolve insurance companies in as orderly manner as possible while providing a maximum level of protection of the interests of the policy holders. In addition, in order to protect the interests of the policy holders in the situation of an insolvency of an insurance company, the proposal includes the possibility to make an advance payment out of the bankrupt estate before the meeting of creditors for the verification of their claims	Council of State (<i>Raad van State</i>) has issued advice on legislative proposal	It remains unclear when the legislative proposal will be discussed in parliament	All	All	G
<i>Requirements for safeguarding assets of insurance funds</i>		The MAS proposes to enhance the requirements for safeguarding assets of insurance funds when insurers appoint custodians and sub-custodians to hold such assets. It also intends to refine and streamline the information collected on custodial arrangements The consultation period closed on 09 December 2016		MAS response to feedback on the consultation paper is awaited	Financial institutions	All	G
<i>Risk based capital adequacy requirements for merchant banks incorporated in Singapore</i>		The MAS has issued a consultation paper setting out proposed amendments to MAS Notice 1111 on Risk Based Capital Adequacy Requirements for Merchant Banks Incorporated in Singapore (Notice) to incorporate key elements of Basel III capital standards set out by Basel Committee on Banking Supervision Consultation period closed on 17 December 2014		MAS response to feedback received on the consultation paper is awaited	Financial Institutions	Wholesale Banks and Retail Banks and other consumer credit providers	G




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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Securities and Futures Act-Regulations</i>		<p>The Securities and Futures (Amendment) Bill 2016 was passed by Parliament on 09 January 2017 and published in the Government Gazette on 17 February 2017. The MAS intends to operationalise the amendments to the Securities and Futures Act by 2018 and is consulting on significant draft regulations</p> <p>Pursuant to the changes introduced in the Securities and Futures (Amendment) Act, the MAS is seeking comments on the following draft regulations:</p> <ul style="list-style-type: none"> • Securities and Futures (Markets) Regulations • Securities and Futures (Financial Benchmarks) Regulations • Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005 <p>The consultation period closed on 02 June 2017</p>		MAS response to feedback received on the consultation paper is awaited	Financial Institutions Asset Managers	All All	G
<i>Securities Financing Transactions Regulations</i>		Implementation Act of the Regulation Securities Financing Transactions	Draft in preparation		Financial institutions Asset managers	Wholesale banks All	G
<i>Securities Financing Transactions Regulations</i>		Implementation Decree of the Regulation Securities Financing Transactions	Draft in preparation		Financial institutions Asset managers	Wholesale banks All	G
<i>Securities and Futures Act, Financial Advisers Act and Trust Companies</i>		The MAS conducted a review of the SFA, the Financial Advisers Act (Cap. 110) (FAA), the Trust Companies Act (Cap. 336) (TCA) and their subsidiary legislation		To date and other than the response published on 07 November 2016, the MAS has not published its response to feedback received on the consultation paper. Response awaited	Financial Institutions	All	G



Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Act</i>		<p>(collectively referred to as Relevant Laws), to identify areas where MAS' supervisory powers should be further enhanced, as well as to strengthen business conduct requirements applicable to entities regulated under Relevant Laws</p> <p>In addition, the MAS is proposing to provide an option for investors to more conveniently pledge securities held in their CDP direct accounts to their brokers</p> <p>On 07 November 2016, the MAS published its response to the public feedback received on its consultation paper but only in respect of its proposal to allow pledging of securities held in CDP direct accounts for collateralised trading. The MAS also intends to allow foreign regulators' inspection of market infrastructure operators and approved trustees by extending Sections 150B and 150C of the SFA</p>					
<i>Solvency II</i>		Solvency II has now been in force since 01 January 2016; review and the preparation of further guidance on the nuances of the regime is ongoing on both a UK and European level		Results from Treasury Select Committee consultation in relation to insurance regulation and Solvency II to be used to consider insurance regulation and the fitness for purpose of Solvency II post-Brexit	Financial Institutions	Insurance	G


Legal Headwinds: Quarterly Report – Q4 2017

Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Submission of Statistics and Returns</i>		<p>The MAS issued the first consultation paper on proposed revisions to the MAS Notices on Submission of Statistics and Returns on 31 December 2014</p> <p>The MAS received feedback to the above and its responses are set out in a second consultation paper dated 10 February 2017</p> <p>Consultation period closed on 20 March 2017</p>		MAS response to feedback received on the second consultation paper awaited	Financial Institutions	Wholesale Banks and Retail Banks and other consumer credit providers	G
<i>Taxation of termination payments</i>		UK Government will implement changes to tax treatment of termination payments, most notably to remove the different treatment of contractual and non-contractual PILONS	Draft legislation is expected to be included in the post-Budget Finance Bill	The revised rules are expected to be implemented with effect from April 2018	All	All	G
<i>Transparency Directive</i>		European Single Electronic Format (ESEF)		ESEF sets out the digital format which EU issuers must use to report company information from 1 January 2020. ESMA to develop detailed technical rules, field test its proposed solution and then submit technical standard to European Commission for endorsement at end of 2017	All	All	G

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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
<i>Transparent supervision of financial markets</i>		<p>The proposed Act aims to make supervision of financial markets more transparent by amending part 1.5.2 Financial Supervision Act ("FSA"):</p> <ul style="list-style-type: none"> Expanding the possibilities for supervisory authorities to issue a public warning Authority for AFM and Dutch Central Bank ("DNB") to include the names of individual financial institutions when they publish results of themed research initiatives regarding the level of compliance and risks for compliance Possibility for supervisory authorities to react to statements of financial institutions regarding the supervision exercised A legal basis for DNB to publish core figures / results of banks (which are to be listed in a Decree) <p>It is intended to include the powers under 2. and 3. in the Act on the supervision of accountants organisations, the Pension Act insofar as such powers are not already covered in these Acts</p>	Pending before parliament (<i>Tweede Kamer</i>)		All	All	G
<i>Trust sector</i>		Trust Offices (Supervision) Act 2018	Draft in preparation	Entry into force expected at the end of 2018	All	All	G

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Headwind topic	Region	Principal issue	This quarter	Looking ahead	Relevant to	Relevant Subsector	Priority
UCITS		UCITS VI – further possible changes relating to: (i) eligible assets and use of derivatives; (ii) efficient portfolio management; (iii) OTC derivatives; (iv) extraordinary liquidity management; (v) depository passports; and (vi) other UCITS IV improvements		European Commission may adopt a legislative proposal for UCITS VI in due course	Financial institutions Asset managers	Wholesale banks Retail banks and other consumer credit providers Hedge funds Institutional managers Service providers	G

Priority–Key

- R** Red–Requires immediate attention
- A** Amber–Important but not likely to require attention until the first quarter of 2018
- G** Green–Is not likely to require much attention until beyond the first quarter of 2018

This column reflects the level of attention which will be required to deal with the developments identified