



Europe Regulatory Roundup and Updates for Investment Management and Funds

IMAS Lunch Time Series

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Europe Regulatory Roundup

Investment Management under the Spotlight

“What is ‘MiFID’ and why care about its delay?”

Brussels today made the embarrassing acknowledgment that a highly touted piece of regulation it adopted in response to the financial crisis — a law known as MiFID II will be delayed

FT, November 10, 2015

Jim Brunsten and Philip Stafford

“UCITS V: new requirements for managers and depositaries....”

FCA, February 2016

“Two-thirds of marketing managers plan to add to their staff to support their **digital transformation needs**”

Cerulli Report, November 20, 2015

“Nearly a sixth of equity funds in Europe have potentially been mis-sold to investors”

FT, February 2016

The global picture is an industry that needs to navigate opposing forces.

Firms need to navigate regulatory opposing forces



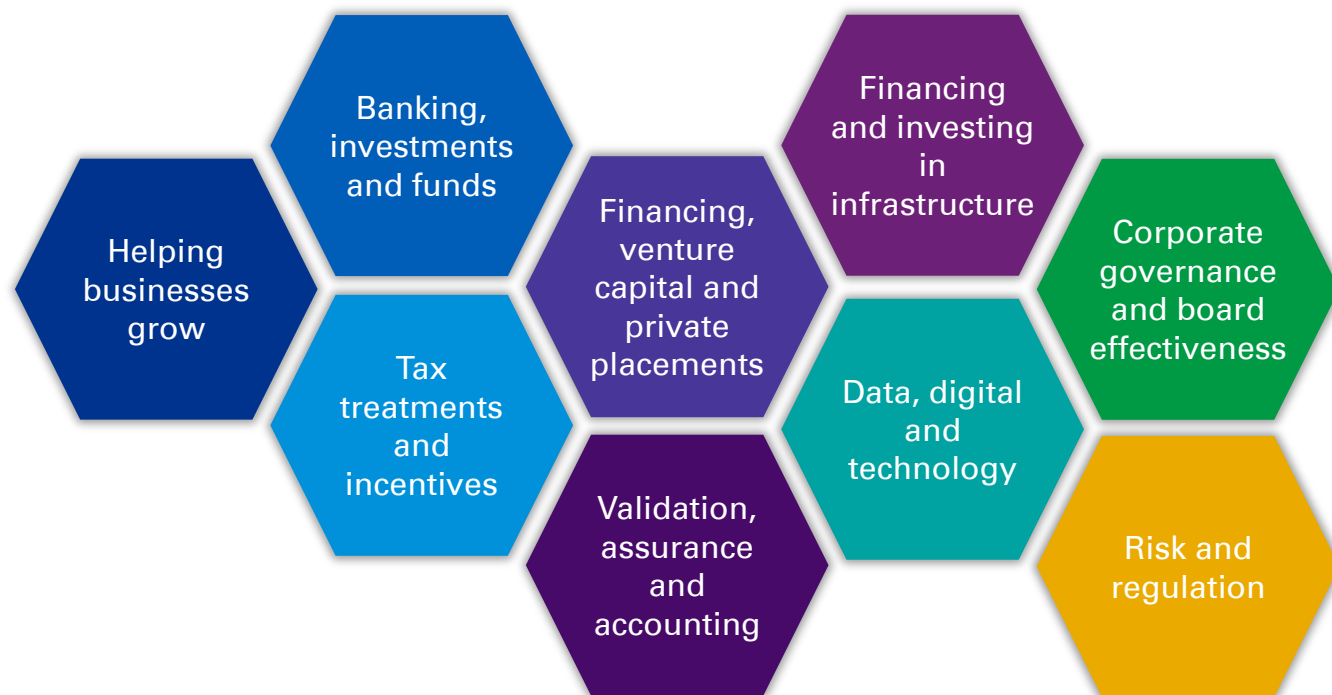
Firms should:

- ✓ Be transparent and act unambiguously in the interests of their customers
- ✓ Master the increasing data needs by building a data architecture strategy and establishing mature data analytics
- ✓ Take cyber risk seriously

Europe Regulatory Roundup

Growth Agenda in the EU

Capital Markets Union - the new Commission's approach is a break from the past 'regulate everything' approach. It encourages industry-led solutions alongside targeted legislative measures to open up Europe's capital markets and asks about the cumulative impact of post-crisis regulation.



Firms must implement a full pipeline of legislative change.

- Too much of EU citizens' savings in cash
- Review of national rules for loan-originating funds
- Strengthening of cross border fund passporting and competition
- An EU personal pension wrapper?
- Review of the EU retail market more generally – distribution, digitalisation, advice

Thematic Issues Regulators Seek to Address



Non-bank SIFIs

- Investment management and the systemic risk question
- Fundamental differences in non-bank institutions make a 'one-size-fits-all' approach arguable



Culture, conduct, and conflict

- Regulatory focus of different national and regional authorities varies, as does understanding of the words "culture" and "conduct"
- Internal governance and security of client assets are key in achieving tangible change



Shadow banking

- Facilitation of capital flow into different types of asset classes, new security markets are opening up
- Responsible stewardship for crowd funding channels



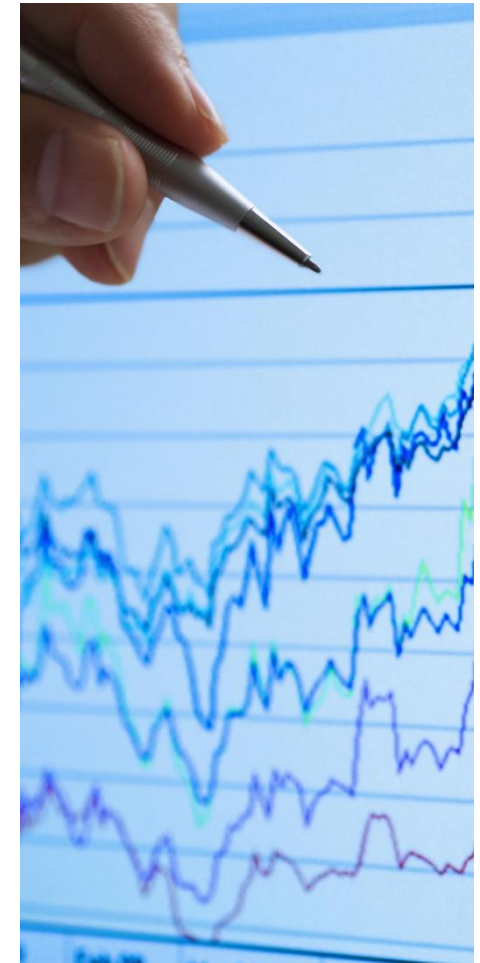
Distribution and passporting

- Fund passports lowering cross-boarder barriers within the markets but raising them for foreign managers in those markets
- Better transparency of costs and charges



Other Emerging Themes

- Data management and reporting practices need to be adaptive and versatile to combat various scenarios
- Regulators are prodding firms to think harder about their 'living wills'



Investment Management and Systemic Risk

The IMF, BIS, the Financial Stability Board and the US Financial Stability Oversight Council all reacted to the large increase in assets managed by investment managers, and to concerns that this could lead to big outflows from one or more asset classes in the case of market crisis.

“Banking vs the unregulated sector”
Focus on size of managers and funds

But then IOSCO broke rank...



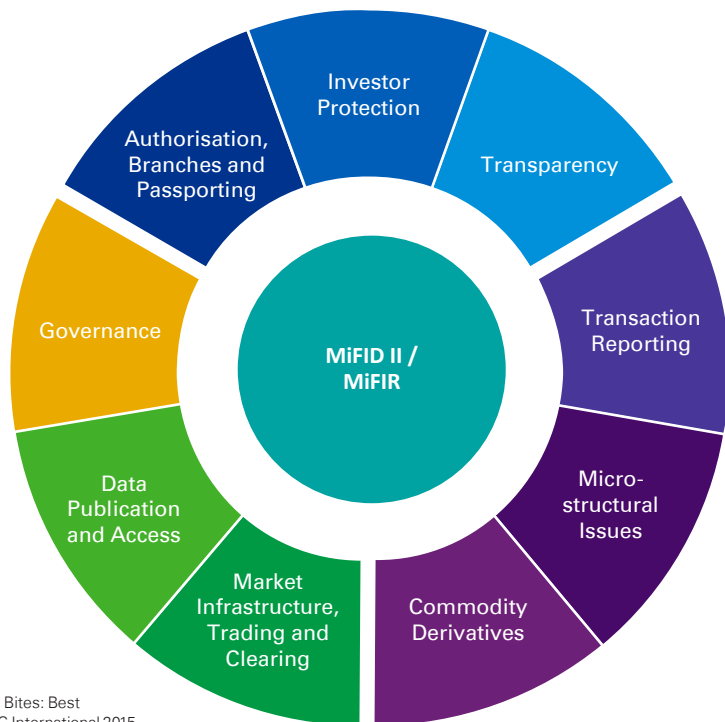
IOSCO announced on 17 June 2015, at its 40th Annual Conference, that it has concluded that a full review of asset management activities and products in the broader global financial context should be the immediate focus of international efforts to identify potential systemic risks and vulnerabilities. This review will take precedence over further work on methodologies for the identification of systemically important asset management entities. After the review is completed, work on methodologies for the identification of such entities will be reassessed.

Conduct, culture, and conflict

Orderly Markets and Good Conduct a Priority

The greater volume of conduct measures are predominantly targeting the retail market under the objective of investor protection, but it is important for investment firms to be aware that the wholesale channel is also within scope. Firms must consider their whole waterfront of business activities. Telling the regulator they serve only professional clients or operate only in wholesale markets is not a defence against misconduct charges.

The many parts of MiFID II / MiFIR



Source: "MiFID II Bites: Best Execution," KPMG International 2015

— Markets in Financial Instruments Directive (MiFID II), and its sister regulation MiFIR, is giving European investment and fund managers a considerable challenge. Delayed to January 2018 (originally January 2017).

— New rules for "Systematic Internalisers" and for Multi-lateral Trading Facilities

— New definition of algorithmic trading

— Compulsory trading and clearing obligations for certain derivatives and rules on non-discriminatory access to clearing and trading venues

— Greater transparency in the wholesale markets

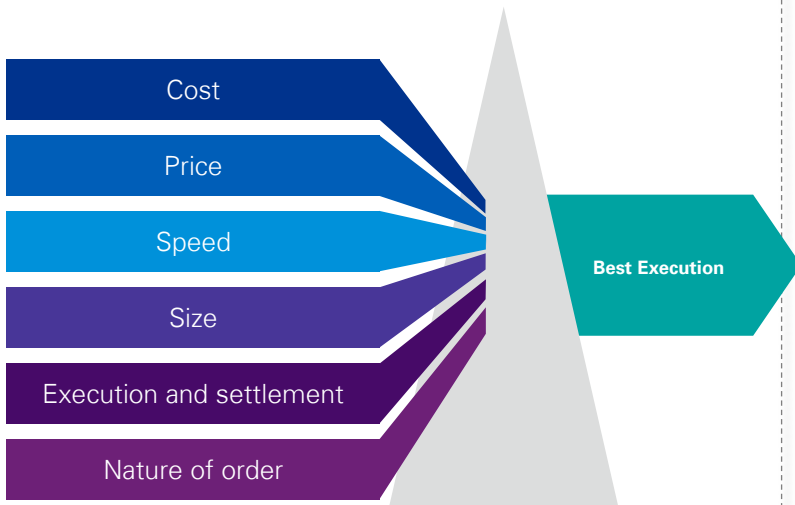
— Best execution in all trades by the dealing desks

— New policies and disclosure reporting

Conduct, culture, and conflict

Regulators Seek Tangible Change

The many parts of MiFID II / MiFIR



Source: " MiFID II Bites: Best Execution, "KPMG International 2015

Key Controls within MiFID II Best Execution



Distribution and passporting

Increasing Regulatory Focus on Distribution

- AIFMD and the non-EU passports vs private placement
- Asian regional passports

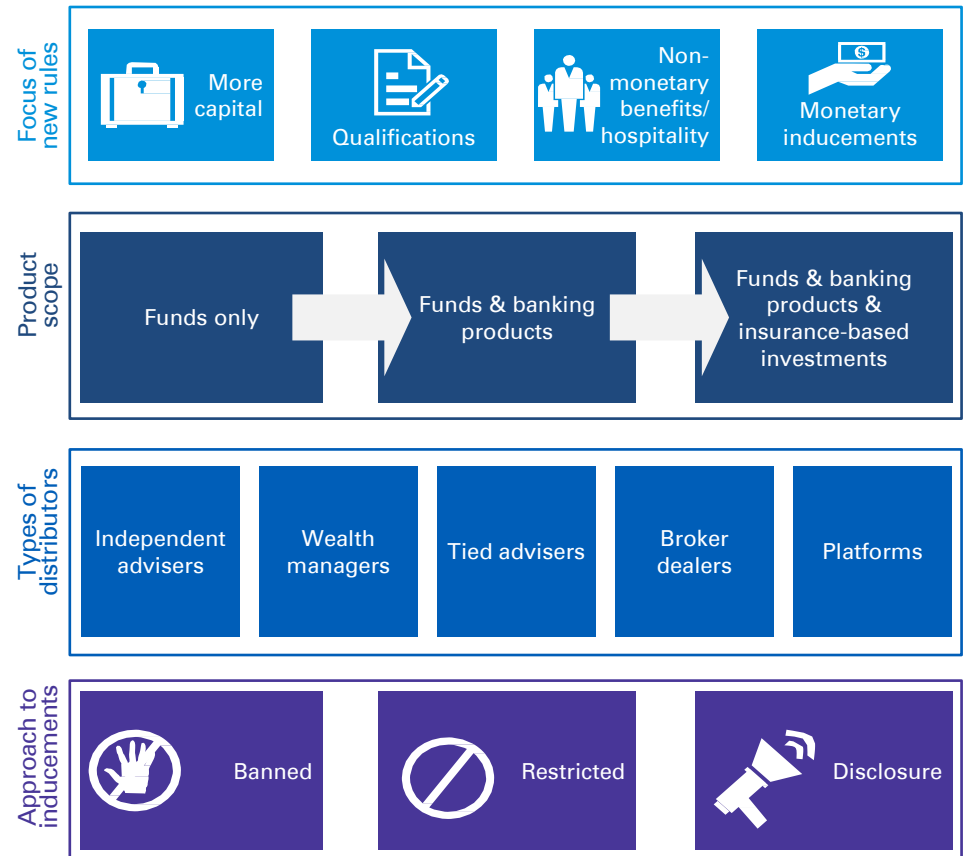
- Regulators are unrelenting in the drive for greater and better transparency

- Complexity of products and 'suitability'

- Technological opportunities to develop digital distribution channels are at odds with regulatory moves to restrict execution-only distribution

- “Advice” – the regulatory boundary is likely to shift (e.g. the ESAs’ discussion paper on the automation of financial advice)

Distribution: a regulatory pick 'n mix



Source: KPMG International 2015

Distribution and passporting

Regional Passport Implications

New fund passports are lowering cross-border barriers within regions, but raising them for foreign managers in those markets.



Pan-Asian passporting

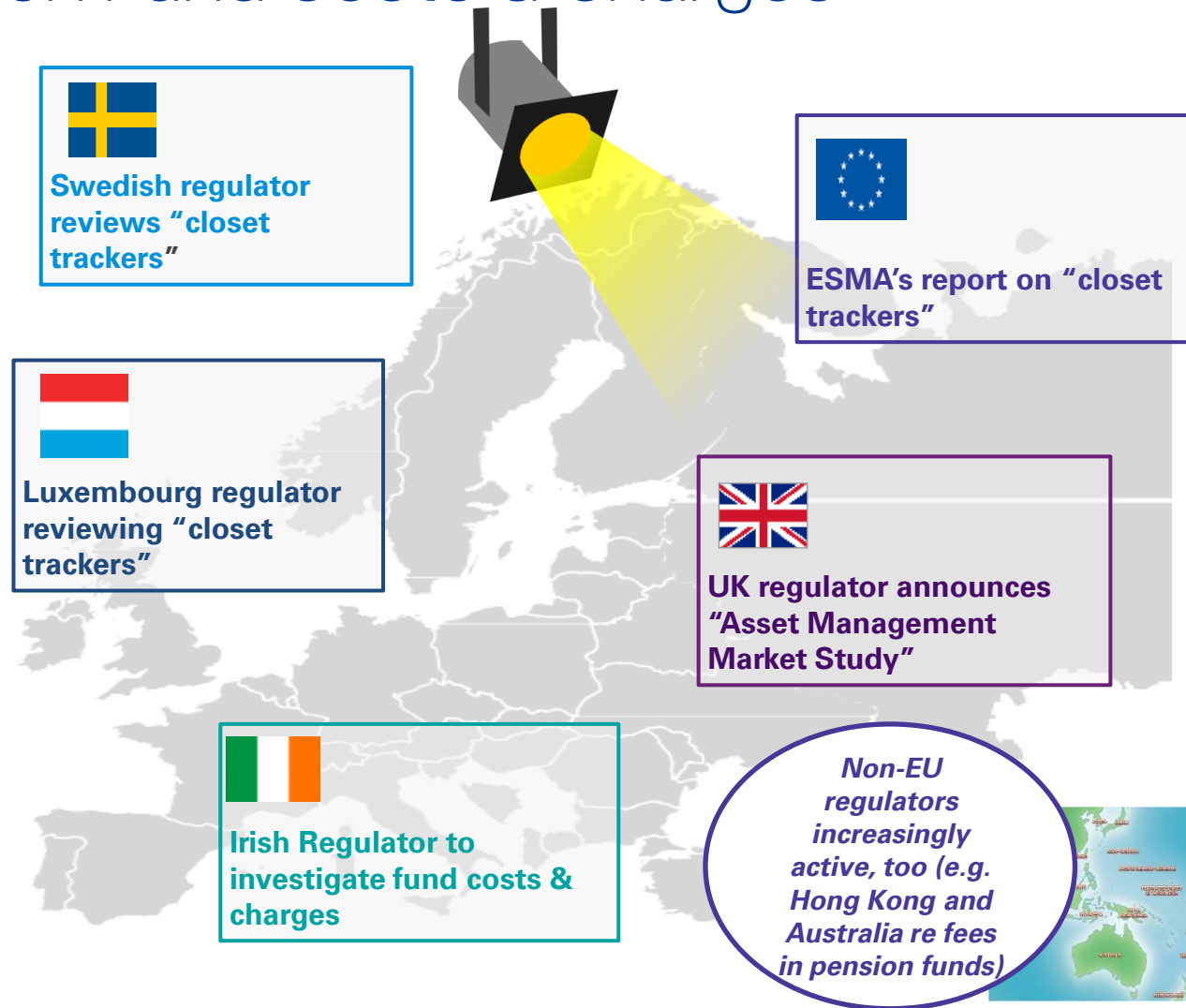
- APEC Asia Region Funds Passport (ARFP)
- ASEAN Collective Investment Scheme Framework (ASEAN Framework)

AIFMD – a hybrid

- Raises and lowers barriers to distribution.
- Investment managers from outside the EU have only 3 more years to rely on national private placement regimes.
- Provides a passport across the Union for funds to be sold to professional investors.
- Delivers the ability for EU investment managers to have one AIF manager that can manage funds domiciled around the Union.

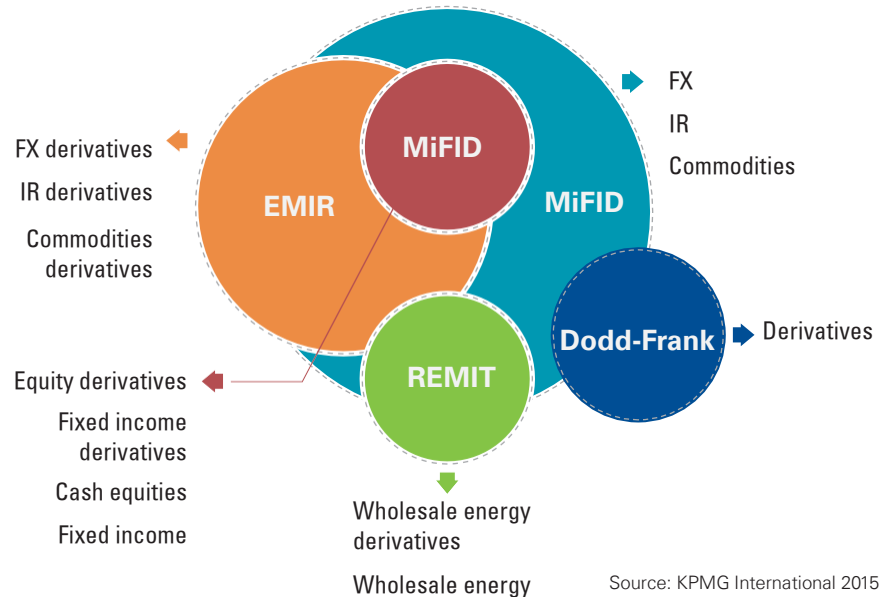
Source: KPMG International 2015

Spotlight on Fund Costs & Charges



Data regulations demand change in reporting

Overlapping Requirements Challenge Firms



- MiFID II reporting requirements are numerous
- Overlap with EMIR (OTC derivatives) and the AIFMD
- New disclosure requirements on best execution
- Disclosure requirements contradict those in the existing UCITS KIID and in the proposed PRIIP KID

- New transaction reporting requirements
- Increased coverage of instruments and products and more types of transactions
- Interest rate, commodity, and FX derivatives will no longer be exempt from reporting,
- All instruments traded on Multilateral Trading Facilities (MTFs) and Organised Trading Facilities (OTFs) will become reportable

- The number of fields to be reported for each transaction will increase from 28 to more than 80

Source: KPMG International 2015

Horizon Scanning

EU Regulation Impacting on Investment Management

IM Firms/ IM services	Key points	2016	2017	2018<
CRD IV	<ul style="list-style-type: none"> — EU Basel 3 rules — Bonus cap — Leverage and liquidity ratios — Limited national discretions 	EBA guidelines and letter to EC on application of proportionality		<ul style="list-style-type: none"> Leverage ratio (2018) Liquidity ratio (2018)
MiFID II/ MiFIR	<ul style="list-style-type: none"> — Market structure — Transparency requirements — Investor protection — Third Countries 	<ul style="list-style-type: none"> Delay announcement (Feb) Fainal Das (March/April) Final RTS/ITS (April) 	ESMA FAQs (Autumn?)	Implementation (Jan 2018)
AML	<ul style="list-style-type: none"> — Additional requirements re terrorist funding 		Final Rules (December?)	Implementation (March/Apr 2017)
Shareholder Rights Directive	<ul style="list-style-type: none"> — Additional disclosures for listed firms & AIFs, and for IMs 	Implementation (originally 2016)		
Pension & Insurance clients and distribution	Key Points	2016	2017	2018<
Solvency II	<ul style="list-style-type: none"> — Risk based capital — Governance — Reporting 	Implementation (2016)		
Insurance Distribution Directive (IMD) II	<ul style="list-style-type: none"> — Increased disclosure — Ban on commission 		Implementation (2017)	
IORPD II	<ul style="list-style-type: none"> — Improved governance — Increased transparency — Cross borders 	Under negotiation		Implementation (originally Dec 2016)

Intended as high-level summary and not a comprehensive listing

Horizon Scanning

EU Regulation Impacting on Investment Management

Funds & Fund Managers	Key Points	2016	2017	2018<
AIFMD	— Passport for non-EU AIF and AIFM	ESMA second report on application of passport to non-EU AIF/AIFM (July)		Likely termination of national private placement regimes (2018)
UCITS V	— Depositories — Manager Remuneration — Sanctions	ESMA rem guidelines (March 2016) Implementation (Mar 2016)		
"UCITS" VI	Topics consulted on: — Eligible investment strategies — Performance fees — MiFID II alignment issues	Legislative proposal will look very different from the consultation and will be focused on CMU actions, including making the fund passport more efficient		
PRIIP KID (covers non-UCITS, structured deposits & products, insurance investment products)	— Key Information Document — UCITS caught under ESMA proposal for Multi-Option PRIIPs	Revised RTS to EC by Easter?	Adopted RTS September? Implementation (Dec 2016) L3 and/or L4 timing uncertain	Review by December 2018
EuSEFs/ EuVECAs (Social Entrepreneurship Funds & Venture Capital Funds)	— Restricted access	Under CMU: encourage take-up		
ELTIFs ("Long-term" Investment Funds)	— Wide range of assets — Restricted access	Under CMU: encourage take-up		
Money Market Funds	— Severe restrictions for CNAVs — Liquidity requirements — Credit Quality	Dialogue awaited		

Intended as high-level summary and not a comprehensive listing

To conclude...

The Story in 2016

Regulators wearing the same suits: a convergence of regulatory priorities at global and regional level

Reforms/enhancements to the disclosure of costs & charges continue, but an increasing number of regulators are beginning to ask about the level of charges

The IM and systemic risk global debate continues.

An ongoing focus on "culture & conduct" of firms, including how products are designed for and marketed to the retail market place

As distribution channels adopt new technologies, regulators are considering changes to/a widening of the regulatory boundary (i.e. what they do/do not regulate and how)

...as does the tension between this debate and the growth agenda in various countries/regions



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