Regulatory outlook in securities services

H2 2024

Deutsche Bank Corporate Bank

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Now a twice-yearly update, this deep dive into regulations impacting the post-trade landscape from Deutsche Bank's Boon-Hiong Chan and Britta Woernle provides an update on accelerated settlement, digital assets, artificial intelligence, and client asset protection. This white paper, our second regulatory update of 2024, summarises key global and regional regulatory developments, and how they are shaping the securities services industry

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Foreword

The post-trade industry finds itself at the centre of a series of transformative forces set to reshape the landscape, as regulators work overtime to keep up with developments. Keeping abreast of rapid change brings unique challenges – and in response this twice-yearly white paper series aims to provide industry participants with a guide to understanding and navigating both recent and upcoming landmarks.

We begin with a thorough examination of the global forces driving shorter settlement cycles from theory to reality. From the pioneering efforts across Asia, centred on China and India, to the May 2024 implementation of T+1 settlement in the United States and Canada, we take a deep dive into this paradigm shift.

Turning to digitalisation and digital assets, we explore how the regulatory regime is maturing, exploring the policy recommendations of the International Organization of Securities Commissions (IOSCO), addressing both decentralised finance (DeFi) and crypto assets, as well as Basel Committee initiatives and focusing on the disclosure of crypto asset exposure and targeted adjustments to standards.

We also review the hot button issue of artificial intelligence (AI) and its impact on global regulatory developments – providing insight into the EU AI Act's new 'minimal to unacceptable' categorisation system, China's focus on specific AI model types, Singapore's proposed AI Governance Framework for Generative AI, and other key updates.

Having explored the topics affecting the global market, we also provide regional reports. For Europe we delve into the MiFID II/MiFIR refit and revisions to the Central Securities Depositories Regulation (CSDR), and for Asia we provide an overview of settlement compression, and the continued focus on market access.

We hope that this resource provides you with useful insights that can help to inform your strategic decisions in this era of unprecedented change.

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Global regulatory update

This section explores three key themes impacting securities services globally:

— **Shorter settlement cycles**;

— **The increasing maturity of regulations in the crypto and digital asset space**; and

— **The regulatory responses to artificial intelligence**.

1.1 Shortening settlement cycles

1.1.1 Americas settlement compression

The global trend of settlement cycle acceleration continues its momentum. This is where the equity markets move from a trade date plus two days (or T+2) to a trade date plus one day (T+1) settlement cycle. Canada, Mexico, Argentina, Peru and Jamaica moved to a T+1 cycle on 27 May 2024 and the US followed a day later with T+1 on 28 May.

Initial feedback has been positive with the US clearing and settlement service provider Depository Trust and Clearing Corporation (DTCC) stating on 30 May, "After working closely with the industry for over three years, we are pleased these efforts are driving a smooth transition, including very high same day affirmation rates, which increased to 94.55% yesterday."[1]

Initial teething issues were quickly resolved with operational processes moved to a business-as-usual environment. The US and other Americas' markets move to T+1 have been recognised as successful with market participants attributing the relatively smooth cut-over to early preparation, frequent communication and collaboration between stakeholders at all levels.

A comprehensive analysis of the impacts on funding and FX remain key areas that require better understanding as additional data is needed given the bank holiday timing and the index rebalancing (MSCI) at the end of May 2024. Heightened FX settlement and risks outside of Continuous Linked Settlement (CLS is a limited purpose bank for settling FX), new operational risks and potential rise in prefunding remains as lingering concerns in this global T+1 accelerated settlement trend.

"Implementation of T+1 in the EU could be more complex than in India and the US"

Britta Woernle, Head of Market Advocacy Europe Securities Services, Deutsche Bank

1.1.2 Asia movers

In Asia, Sri Lanka has also smoothly transitioned to a T+2 settlement cycle in June 2024, making it aligned with global standards in shortened settlement.[2] India has built on its T+1 success in 2023 and has led the pilot T+0 settlement for 25 securities on an optional basis. It is looking to achieve greater operational efficiencies, lower margin requirements and a reduction in risk in the financial system by expanding the framework in the near future.

1.1.3 Outlook for other regions

Meanwhile, the UK has launched an accelerated settlement taskforce of industry experts to assess how T+1 or T+0 could benefit the UK, with a report published on 28 March 2024, recommending a move to T+1 by 31 December 2027.[3]

The Association for Financial Markets in Europe (AFME), an industry body, has initiated the establishment of a European Industry Task Force on T+1 in which 17 industry associations are represented. On 31 October 2023, AFME and Deloitte published the report, *Improving the Settlement Efficiency Landscape in Europe.*[4] This was not published by the above-mentioned EU T+1 task force, but the AFME Market Settlement Efficiency Task Force. Both taskforces stress that improvements to settlement efficiency are a prerequisite to introducing T+1. However, implementation of T+1 in the EU could be more complex than in India and the US. This is because of the unique nature of European markets, which have several different currencies, market infrastructures, and distinct legal frameworks.

While there are benefits to T+1, the transition requires an industry-wide adoption of new technologies and operational processes to overcome time zone driven settlement issues together with problems that may arise in asset servicing, securities borrowing/lending and FX execution. Markets will ultimately need to weigh up the advantages and disadvantages before deciding whether to pursue T+1 or not.

"Comprehensive sets of regulations are now applicable to financial institutions and fintech activities in crypto assets, DeFi and tokenised financial instruments"

Boon-Hiong Chan, Head of Fund Services and Head of Securities Market & Technology Advocacy, Deutsche Bank

1.2 Digitalisation and digital assets

Regulations are maturing in the crypto asset and digital asset universe, with greater emphasis on liquidity and prudential treatment on decentralised finance (DeFi) and further actions on centralised crypto assets. Guardrails are now clearer, and these safety and soundness requirements are highly relevant to financial institutions and custodians expanding into these new ecosystems to service their clients and in search of growth.

1.2.1 International Organization of Securities Commissions

The International Organization of Securities Commissions (IOSCO) issued its Final Report with Policy Recommendations for Decentralized Finance (DeFi),[5] as well as Policy Recommendations for Crypto and Digital Asset Markets.[6] An accompanying "umbrella note" explains how the two reports would work together.[7] In summary:

— Final Report with Policy Recommendations for Decentralized Finance (DeFi) is focused on product, services, activities and arrangements that are deemed to be "decentralised". It has nine recommendations covering six key areas including cross-border cooperation, disclosures, risk management and enforcing of applicable laws. A starting point is whether an activity is decentralised or not and following on, whether such an activity is part of a crypto asset service provider or not.

— Policy Recommendations for Crypto and Digital Asset Markets is aimed at centralised activities performed by crypto asset service providers with 18 recommendations that are grouped into six key areas – including market manipulation, custody, operations and technology risks and retail distribution.

1.2.2 Basel Committee on Banking Supervision

Given the above, regulatory focus is now on implementation monitoring, capacity building and mutual technical assistance, which can cover surveillance procedures, tools and new expertise required.

The 2022 finalised Basel Committee on Banking Supervision (BCBS)' prudential treatment of crypto asset exposures will now be implemented by 1 January 2026 instead of 2025.[8] This followed a public consultation on banks' disclosure of crypo asset exposure, which closed on 31 January 2024. The Group of Central Bank Governors and Heads of Supervision (GHOS), the oversight body of the Basel Committee on Banking Supervision, met on 13 May 2024 to assess consultation responses.

Some key concessions, such as the infrastructure risks add-on for Group 1 assets, have been made in the final version together with the clarification that Group 1 and Group 2a crypto assets held in custody would not attract the 1250% risk weighing for Group 2b assets.

Since tokenised financial instruments can be classified as Group 2 if they fail Group 1's four demanding condition criteria, these concessions and clarifications are important for the future of tokenised financial instruments especially if public permissioned blockchains can be effectively utilised to lower the barriers to adoption. This will allow participants to start realising the benefits of blockchains while avoiding a fragmentation of liquidity, products and access.

Central banks globally are already preparing to include this chapter into their prudential requirements. For example, the EU's new CRR3/CRD6 includes a transitional regime to risk-weight EU banks' exposures to crypto assets until new legislations are implemented on BCBS standards. The Hong Kong Monetary Authority (HKMA) issued a consultation paper on crypto asset exposures that ended on 6 May 2024.[9] More jurisdictions' consultations are expected in the run-up to 2026.

1.2.3 Other digital asset regulatory developments

Leading industry associations such as GFMA and ASIFMA in APAC had responded to these and other related consultations in crypto assets, and their well-anchored (non-confidential) letters can be found in their websites.

Technology applications are also maturing.

It is not all just regulating public blockchains. Reflecting the importance of the network effect that underpins the financial industry and market, and which needs to continue in the realm of blockchains and ledgers, global policy standards setter BIS has proposed a 'Finternet' – a globally multiple interconnected financial ecosystems based on 'unified ledgers'.[10]

Finternet is positioned as the financial system for the future to address slow speed, high cost, limited access and availability as the key weaknesses of the current system. Similarly, The Monetary Authority of Singapore (MAS) has announced a Global Layer One (GL1) public-private sector initiative as a foundational digital infrastructure across multiple DLT networks[11] that it has followed up with the detailed technical paper *Interlinking Networks Technical Whitepaper*.[12] This dives into interoperability, in synergy with its Project Guardian sandbox as a light of experiments and assessments into asset tokenisation and blockchains.

In May 2024, HKMA established Project Ensemble Architecture Community to shape standards, support interoperability between wholesale CBDC, tokenised money and tokenised assets, and to implement a sandbox to facilitate future research and tests of use cases.[13]

Away from the public sector initiatives, the Canton Network[14] is a private sector initiative on facilitating atomic transactions recording across permissioned blockchains, connected over public network infrastructure, using digital assets as a dominant technology base.

In May 2024, Deutsche Bank joined MAS' Project Guardian to test an open architecture and interoperable blockchain platform to service tokenised and digital funds.[15] It will then propose protocol standards and identify emergent best practices to contribute to industry progress.

1.2.4 APAC digital assets activities and other related developments

These are the highlighted developments relating to APAC digital asset activities:

- Six spot bitcoin and ether ETFs have been approved and listed in Hong Kong.[16]
- HKMA has issued digital asset custody guidance for Authorised Institutions (AIs).[17]
- HKMA has launched the stablecoin issuer sandbox arrangement to communicate supervisory expectations related to fiat-referenced stablecoins in Hong Kong.[18]
- The MAS introduced user protection requirements for digital payment token service providers that will now include the provision of custodial services and cross-border money transfer even where moneys are not received or accepted in Singapore.[19]
- The Thai Securities and Exchange Commission (SEC) removed investment restrictions on retail investors interested in purchasing real estate-based digital tokens. It now requires digital asset entities to obtain approval before offering custodial wallet services.[20]
- The Malaysia Securities Commission (SC) discussed with capital market participants on the opportunities, challenges, and trajectory of emerging technologies, followed by two 'Innopolicy DA' roundtables on asset tokenisation and settlement that Deutsche Bank actively participated.

1.2.5 Central Bank Digital Currencies (CBDCs)

These are the main milestones within the CBDC regulatory landscape

- In May 2024, HKMA and the People's Bank of China (PBOC) announced the expansion of the scope of e-CNY pilot in Hong Kong by allowing the set-up and use of e-CNY wallets by Hong Kong residents only requiring their Hong Kong mobile phone number, as well as to top-up of e-CNY via Faster Payment System.[21] These are two key retail CBDC developments.
- In Hong Kong, Project mBridge e-currency project enters its Minimum Viable Product stage to prove more use cases in cross-border transactions.[22] The Kingdom of Saudi Arabia (KSA) joined the Project mBridge e-currency project as a full participant. Project mBridge involves Hong Kong, China, Thailand and the United Arab Emirates and is led by BIS Innovation Hub.
- Completion of The Philippines Banko Sentral ng Pilipinas (BS) Project Agila on wholesale CBDCs that started in 2022[23] is expected by the end of 2024.[24]
- The Bank of Thailand (BOT) concluded its retail CBDC pilot programme in March 2024 without any immediate plans to issue any retail CBDC, although it is reported that the pilot has further informed BOT on programmability and further innovation.[25]

1.3 Artificial intelligence (AI)

1.3.1 Attracting supervisory attention

The concerns about AI and Generative AI include existential risks, job security, systemic risks, amplification of social inequality, concentration of technology and equal access to the technology, supply chain dependency, competitiveness and availability of expertise. Geopolitics tensions have also reared its head on this topic. These concerns have spurred regulators and standard setters globally to include AI as a priority and a focus.

One of the G20's focus in 2024 is on artificial intelligence (AI) to address the social and political impacts of this technology, including uneven global distribution of AI assets and infrastructure (digital divided), and to path-find solutions to equip government and relevant stakeholders with the necessary capabilities and tools.

In January 2024, The Financial Stability Board (FSB) updated its 2024 work plan to include artificial intelligence, alongside crypto assets market, on its implications to financial stability.[26] It stated it will prepare a report on the recent developments of AI as a follow up to previous 2019 FSB work in this area. IOSCO followed with an updated workplan in April that included AI as well alongside a new AI workstream as a two-year policy initiative to ensure shared understanding of AI's impact on market integrity, financial stability and investor protection among IOSCO members of, as well as to assist members in their policy responses.[27]

According to a January 2024 report in the *Financial Times*, The BCBS plans to publish a report on the financial stability implications of AI.[28] The Basel Committee also offered that AI in banking has potentials and is "neither bad nor good nor neutral".[29] In June 2024, IMF published a staff discussion note on how fiscal policy can help broaden the gains of AI to humanity.[30]

An apex global financial industry association – Global Financial Market Association or GFMA – published a letter on key considerations for AI in the capital markets. Addressed to the FSB, BCBS, IOSCO, CPMI and OECD recipients, the letter (28 May 2024) set out industry views and key considerations regarding the use of AI and regulatory approaches towards AI.[31]

The letter sets how the financial services industry has utilised 'traditional' forms of AI and machine learnings for many years and developed governance processes to monitor AI applications with regulatory adherence. AI, says the letter, has the potential to transform capital markets and new AI-specific regulations has the counter-potential to stifle innovation.

The industry risks fragmented regulatory approaches with overlapping regulatory requirements, that can result in a web of complex regulatory risks for financial service providers when using AI and prevent them from effectively adopting it. The GFMA letter advocates for regulations to be technology-neutral, principle-based and outcome-focused approach to allow dynamic equilibrium with the evolution of AI technology and use cases.

1.3.2 Key AI regulatory developments H1 2024

— ASEAN member states have issued the *ASEAN Guide on AI Governance and Ethics* to establish common principles and recommended best practices throughout the ASEAN region.[32]

— China's National Information Security Standardisation Technical Committee released a draft regulation on cybersecurity related to generative artificial intelligence services.[33]

— Taiwan's Financial Supervisory Commission (FSC) released draft guidelines on the use of AI in the financial industry for public consultation.[34]

— Hong Kong's Privacy Commissioner for Personal Data has reported its findings on privacy implications of AI and published a model personal data protection framework.[35]

— Japan launched the Hiroshima AI Process as a global code of conduct for AI developers while its Ministry of Economy, Trade and Industry published an *AI Guidelines for Business* that includes sections for developers, AI service providers and AI business users.[36]

— Malaysia is reportedly working on an AI governance and ethics on the back of investments by AI players such as Nvidia, Microsoft and AWS to build AI infrastructures.[37]

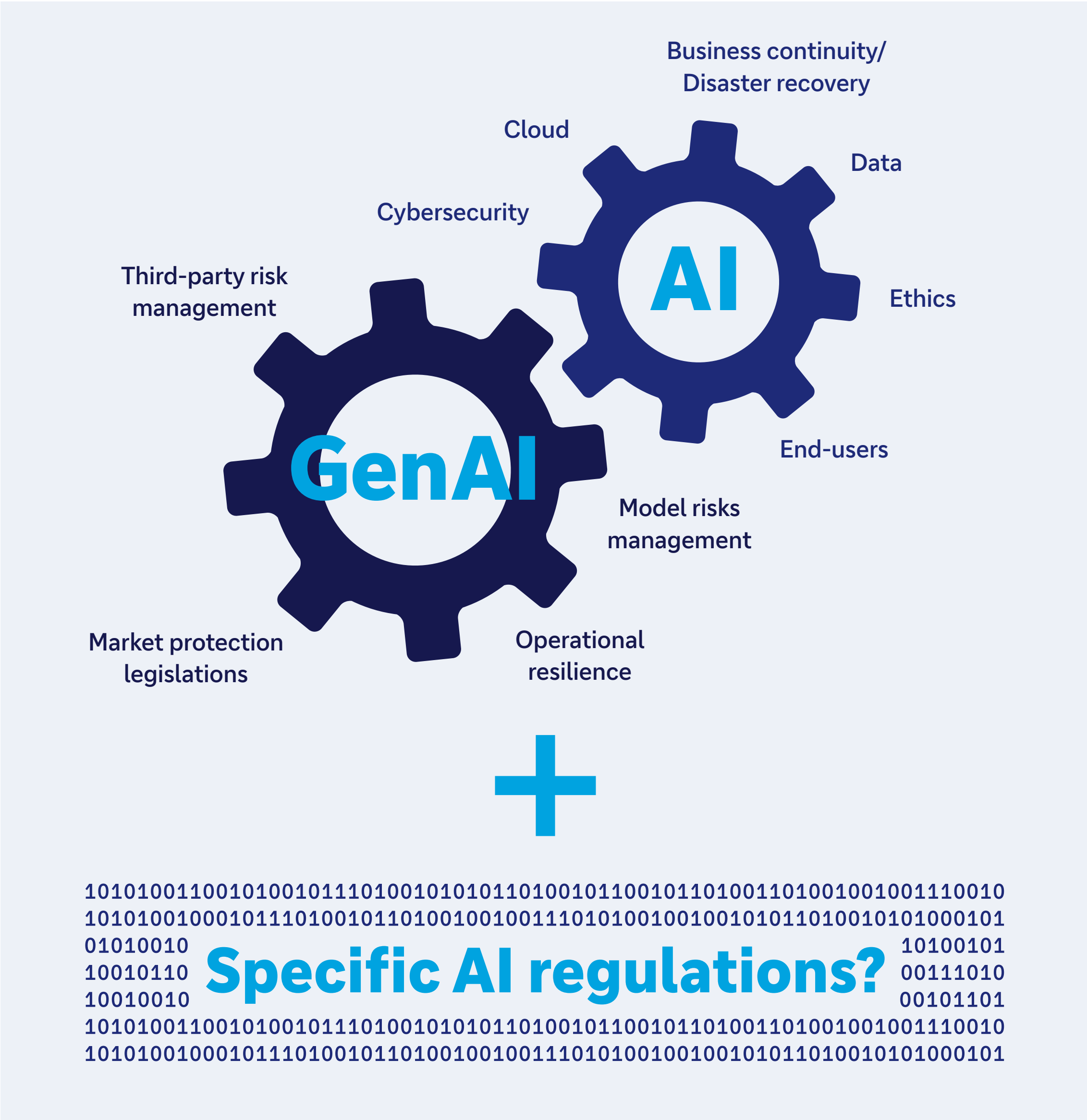
— Singapore's Infocomm Media Development Authority has developed a Model AI Governance Framework for Generative AI together with the AI Verify Foundation. In another programme, they have also launched Project Moonshot which is a testing toolkit to address security and safety challenges associated with large language models.[38]

— Thailand's national AI strategy and action plan (2022–2027) has ethics, law and regulations for AI application as the first of five strategies.[39]

— In May 2014, the South East Asian Central Bank Research & Training Centre (SEACEN) co-hosted a summit together with the Institute of International Finance (IIF) and Amazon Web Services (AWS) on financial services and the cloud with regulators and market participants who discussed a range of pertinent topics such as AI, GenAI, data, RegTech and the role of technology shaping the macro architecture of the financial system. IIF presented its thorough paper on AI, Data and The Cloud with deep snapshots of key areas of development to risk manage. Deutsche Bank was a participant at the summit.

1.3.3 The regulatory landscape outlook

Figure 1 – A canopy of applicable existing regulatory areas to AI and more?



Source: Deutsche Bank

Figure 1 sets out the sheer scale of how AI regulation in capital markets could end up creating a huge amount of complexity, raising questions of its practical application for market infrastructure participants.

2

Europe regulatory update

Efforts to harmonise the EU's capital markets are ongoing, with regulators also looking to amend various existing rules. This section explores these developments.

2.1 ECB-driven initiatives

A European Central Bank (ECB)-led initiative, the Eurosystem Collateral Management System (ECMS) aims to harmonise collateral management processes in the Euro area. The ECMS will replace 19 different collateral management systems with a single system capable of managing the assets used as collateral in Eurosystem credit operations for all jurisdictions. The scheme, which has been postponed by seven months to November 2024, will help increase efficiency in the management of collateral and level the playing field among Eurosystem counterparties.

To facilitate the ECMS, the ECB Advisory Group on Market Infrastructures for Securities and Collateral (AMI-SeCo) endorsed standards for a Single Collateral Management Rulebook in Europe (SCoRE). SCoRE standards apply to debt instruments, equities and investment funds issued via European central securities depositories (CSDs) and should be implemented by all relevant actors in the AMI-SeCo markets (the EEA, the UK and Switzerland).

The compliance date of corporate action standards is November 2024 – except for those events that are only relevant to equities and investment funds, for which the implementation deadline is November 2025 – although CSDs may indicate an earlier deadline. All SCoRE standards comprise the need to communicate in ISO 20022 with eligible clients throughout the custody chain and market infrastructures. The ISO 20022 compliance date for direct participants is November 2024 (Wave 1) and for non-direct ECMS participants is anticipated to be end of 2025 (Wave 2).

2.2 Capital Markets Union

The Capital Markets Union (CMU) is an all-encompassing framework aimed at facilitating deeper integration of EU capital markets to increase competitive investment and financing opportunities in the EU. The CMU Action Plan, published by the European Commission in November 2021,[40] includes legislative proposals relating to the following areas:

1. European Single Access Point (ESAP)

2. Review of the European Long-Term Investment Funds (ELTIFs) regulation

3. Review of the Alternative Investment Fund Managers Directive (AIFMD)

4. Review of the Markets in Financial Instruments Regulation (MiFIR)

5. Review of the European Markets Infrastructure Regulation (EMIR)

All 16 actions from the CMU action plan have been published. Thirteen out of 16 CMU actions are now implemented.

On 24 April 2024, the EU Parliament approved the provisional agreements on revised EMIR 3.0. The agreement was reached between the EU's co-legislators – the Parliament and Council in Q1 2024. Formal approval by the Council is pending. The earliest possible publication in the Official Journal (OJ) is Q3 2024 and some requirements will still have six to 12 months phase-ins attached. ESMA RTS on EMIR has been delayed to 2025.[41]

The CMU provides an opportunity to harmonise market practices and enhance technical integration. Revisions to the Shareholder Rights Directive II (SRDII) are also expected. In November 2023, the European Commission mandated a team to undertake a study to assess the application of certain aspects of the Shareholders Rights Directives (SRDs). This study aims to determine whether the SRDs are fit for purpose and to make recommendations for future improvements. Harmonisation of shareholder definition and the adoption of SMPG market standards for ISO 20022 messaging is critical. No legislative proposal is expected within the mandate of the current EU Commission.

A proposal for a directive on Faster and Safer Relief of Excess Withholding Taxes, was adopted by the Council on 14 May 2024 with application on 1 January 2027. The EU Parliament will be asked to opine on the Council agreement, with adoption expected in H2–2024. The FASTER proposal comprises:

1. A common EU digital tax residence certificate, which will make withholding tax relief procedures faster and more efficient; and

2. Two fast-track procedures complementing the existing standard refund procedure, i.e. a "relief at source" procedure and a "quick refund" system, which will make the relief process faster and more harmonised across the EU.

2.3 MiFID II/MiFIR refit

On 28 March 2024, revised MiFID II/ MiFIR entered into force. Certain provisions in these rules need to be supplemented by Delegated Regulations (Level 2) to become fully operational (expected by September 2025).[42]

On 27 March 2024, the EU COM issued an interpretative notice on the application of the transitional provision regime of MiFIR.[43] The key focus is on the following three areas:

1. Improving the transparency and availability of market data;
2. Improving the level playing field between execution venues; and
3. Ensuring EU market infrastructures remain competitive internationally.

2.4 CSDR refit

In March 2022, the European Commission released its proposal for a revision of Central Securities Depositories Regulation (CSDR) as part of the 2020 CMU Action Plan.[44] One of the main discussion points here concerns the settlement discipline regime. As things stand, a two-step approach to settlement discipline is being adopted, under which mandatory buy-ins (MBIs) could become applicable at the earliest in 2029, if cash penalties do not reduce settlement fails in the EU.

> “As things stand, a two-step approach to settlement discipline is being adopted, under which mandatory buy-ins (MBIs) could become applicable at the earliest in 2029, if cash penalties do not reduce settlement fails in the EU”
>
> **Britta Woernle,** Head of Market Advocacy Europe Securities Services, Deutsche Bank

The revised CSDR legislative text was published in the EU official journal at the end of December 2023 and entered into force on 16 January 2024.[45] This date sets the deadline for several key ESMA Level 2 and review report measures, including the regulatory technical standards (RTS) on the details of MBIs operational processing and ESMA’s first review report on the feasibility of an adoption of T+1 settlement cycle in Europe – both now due by January 2025 (i.e. one year after entry into force).

2.5 T+1 settlement cycle

2.5.1 US, Canada and Mexico

The US successfully moved to a T+1 settlement cycle on 28 May 2024 with Canada and Mexico moving a day earlier on 27 May 2024.[46] Corporate action dates of US International Securities Identification Numbers (ISINs) follow different models in Europe.

2.5.2 EU and UK

ESMA's report on T+1 based on the results of the Call for Evidence on T+1 is due by January 2025 (i.e. one year after entry into force of CSDR Refit) and every two years thereafter on the assessment of the possibility to shorten the ISD requirement and the impact.[47] No legislative change for T+1 is required. ESMA states "ESMA aims at including lessons learnt from the North American move to T+1 as well as any further feedback received from stakeholders in the APAC region, from small and medium market participants and retail investors and their representatives." And the EU Commission (Commissioner Mairead McGuinness) has said that the move to T+1 settlement in the EU is not a question of "if" but "when and how".[48]

In December 2022, the UK government (HM Treasury) launched an UK Accelerated Settlement Taskforce to explore the potential for faster settlement of financial trades in the UK.[49] The interim report recommends a move to T+1 by the end of 2027, a final report of the technical task force will follow in 2024 with a fixed date. AFME initiated a European T+1 task force in March 2023[50] and 17 associations are participating. And as already stated above, an ESMA consultation on T+1 took place at the end of 2023.[51]

Both task forces should capture and quantify the costs and challenges of misalignment between UK and EU settlement cycles and encourage improvements to settlement efficiency as a prerequisite to T+1.

3

Asia regulatory update

Set against the current global context of potential foreign exchange and monetary policy adjustments (including unknown long-term effects from the petrodollar deal expiration between the US and Saudi Arabia on 9 June 2024[52]) geopolitical tension and elections, the Asia Pacific (APAC) key market change themes and regulatory directions in the first half of 2024 unwaveringly continues to be on market modernisation, liberalisation, beneficial ownership transparency, shortened settlement cycles, artificial intelligence and digital assets. This work synergises with the drive for prosperity, economic activities and growth in the region.

In this period, APAC market liberalisation took the shape of reforms related to FX that can further deepen capital market activities, while investment behavourial roles of taxes were adjusted to increase tax revenue, refine or dial back rates. Market integrity remains important to regulators and the age-old beneficiary information transparency was augmented with more look-through requirements for additional disclosures of cross-border investors, while a domestic Know Your Customer (KYC) central repository was successfully implemented in another market to raise the industry efficiency to onboard a growing base of domestic investors that would buffer any capital reversals.

The theme of better asset safety through more efficient settlement cycles ran in parallel, with shorter settlement cycles, avoidance of prefunding and/or upgrades to infrastructure settlement systems occurring. The rest of this update provides more country-by-country detail on these trends.

3.1 China

3.1.1 Continued market opening – market access

On 19 April 2024, the Ministry of Commerce, together with other nine departments of the State Council, released several policy measures on further facilitating foreign institutions' investments in domestic technology-oriented enterprises.[53]

There are 16 specific measures in four different areas:

1) **Optimising administrative services**;

2) **Enhancing financing support**;

3) **Strengthening exchange and cooperation**; and

4) **Improving investment exit mechanisms.**

The introduction of the measures not only provides more convenience and a favorable investment environment for foreign institutions to develop their businesses in China, but it also releases positive signals to international investors, demonstrating China's commitment to high-level openness.[54] More detailed implementation rules are to be further introduced and key points relevant to foreign financial institutions are:

- **Streamlining the approval process** for Qualified Foreign Institutional Investor/RMB Qualified Foreign Institutional Investor (QFII/RQFII) qualification and supporting Qualified Foreign Limited Partnership (QFLP) pilots.
- **Facilitating the movement of personnel** from foreign institutions and encouraging the localisation of operations: more convenient application on short-term and long-term visas to foster closer international exchanges and cooperation.
- **Improving investment exit mechanisms**, which includes:
  - **Advancing** the private equity and venture capital fund share transfer pilot, broadening the exit channels for private funds, and the formation of a virtuous cycle of "investment-exit-reinvestment" to encourage foreign institutions to engage in domestic equity investments.
  - **Safeguarding** the free repatriation of legitimate income in Renminbi (RMB) or foreign exchange obtained by foreign institutions in China in accordance with the law.
  - **Facilitating** tax benefits for applicable foreign institutions.

3.1.2 Continued market opening – bond repo market

The People's Bank of China (PBoC) plans to further open up the bond repo market to foreign investors. On 24 January 2024, the PBOC, together with the State Administration of Foreign Exchange (SAFE), released the *Circular Concerning Further Support for Foreign Institutional Investors to Engage in Bond Repurchase Business in the Interbank Bond Market* consultation paper.[55]

The Consultation Paper permits all foreign institutional investors who have already conducted bond trading in the Chinese mainland's interbank bond market (CIBM) to carry out bond repos in the Chinese mainland's interbank bond market (CIBM). This means that, in addition to sovereign institutions, all types of financial institutions such as foreign commercial banks, insurance companies, securities firms, fund management companies, futures companies, trust companies, and other asset management companies, as well as other medium- and long-term institutional investors such as pension funds and charity funds, can participate in bond repos in the CIBM once the rules are officially released.[56]

3.1.3 Market integrity – private fund management

The Asset Management Association of China (AMAC) has released the *Guidelines for Operation of Private Securities Investment Funds* on 30 April 2024, effective from 1 August 2024.[57]

The guideline is targeted to:

— **Standardise** the private securities investment fund business in China; and

— **Strengthen** the self-disciplinary management of relevant asset managers.

The key points include requirements for:

1) **Fundraising;**
2) **Investor suitability;**
3) **Subscription/redemption and lock-up period;**
4) **Business marketing;**
5) **Investment restrictions and ratio control;**
6) **Proprietary trading;**
7) **Program trading and derivatives trading; and**
8) **Internal risk and controls.**

3.2 China – Hong Kong SAR

3.2.1 Cross-border capital market access

In April 2024, the China Securities Regulatory Commission (CSRC) announced five measures regarding closer mutual capital market access between China and Hong Kong SAR (the special administrative region of the People's Republic of China). These measures are to:

— **Expand** the scope of eligible exchange-traded funds (ETFs) under the Stock Connect.

— **Incorporate** real estate investment trusts (REITs) into the Stock Connect.

— **Support** the inclusion of RMB-denominated stocks into southbound Stock Connect.

— **Enhance** the scheme of mutual recognition of funds.

— **Support** the listing of leading mainland companies in Hong Kong SAR.

These measures will reinforce Hong Kong SAR as an international financial hub, and for participants to prepare their systems and operational readiness in tandem with further details of these measures.[58]

3.2.2 Mutual Recognition of Funds

In 2015, Mutual Recognition of Funds (MRF) was first introduced by China Securities Regulatory Commission (CSRC) for cross-border fund distribution between mainland China and Hong Kong SAR which includes Southbound MRF and Northbound MRF.

In April 2024, the CSRC announced five measures to strengthen the collaboration of the capital markets between China and Hong Kong SAR including a measure to relax sales proportion limits and another to allow Hong Kong SAR asset managers to further delegate investment management functions to offshore subsidiaries within the same group to optimise MRF mechanism.

CSRC has further released the consultation paper of the amended *Provisions on the Administration of Recognized Hong Kong Funds* on 14 June 2024 as a follow-up action.[59]

3.2.3 Settlement

In May 2024, HKEX announced an enhancement of settlement for multi-counter eligible securities. Currently, settlement of securities traded in multiple counters in different currencies are cleared and settled under different stock codes, which necessitate inter-counter transfers to enable settlement despite the counters being fully fungible.

The enhancement will introduce one stock code/ISIN for post-trade activities and a new settlement process called "same stock netting" to remove the need for manual inter-counter transfers. There are no changes to the existing trading arrangements and the separate trading counters with different stock codes will still be available for trading. Money settlement will not be offset.

Custodians will need to prepare for any changes to their systems and processes. The enhancements are tentatively expected to go live in H1 2025 subject to regulatory approval and market readiness.[60]

3.3 Chinese Taipei

3.3.1 Reporting

The threshold of the substantial shareholding reporting was adjusted from 10% to 5% with effect from 10 May 2024 to facilitate ease of investment adherence to compliance.

3.3.2 Settlement and repatriation

— Earmarking of securities was planned to be introduced in May 2024 as an option to support pre-funding/delivery of shares for trading warning stocks. *At the time of writing this has not yet taken place.*

— Multiple trading account (MTA) relaxation. The Financial Supervisory Commission (FSC) and the Taiwan Stock Exchange (TWSE) are discussing whether to allow multiple sub-custodians for foreign institutional investors (FINIs) and their MTAs, after which the Taiwan Depository and Clearing Corporation (TDCC) and the Taiwan Futures Exchange (TAIFEX) will enhance their systems. The tentative effective date is around the end of 2024.

— Streamline futures margin process. Plans are underway for FINIs to be able to directly withdraw and repatriate futures margin from futures broker, instead of routing to sub-custodian before repatriation. Discussions are in progress.

3.4 India

3.4.1 KYC

- As a brief recap of a 2023 requirement, the Securities and Exchange Board of India (SEBI) asked for additional beneficiary ownership disclosures by foreign portfolio investors (FPIs) that fulfil certain criteria.[61] These disclosures require a new detailed level of ownership, economic interests or with control in the FPIs for full transparent look-through without any thresholds.

- In March 2024, SEBI granted exemptions to FPIs having more than 50% of their India equity assets under management (AuM) in a single corporate group if certain conditions are met.[62]

- In May 2024, additional updates were added to the standard operating procedures that operated the 2023 additional disclosures for FPIs, specifying several conditions that had to be met before they could benefit from the exemptions.[63]

These exemption measures sought to achieve a balance between ease of doing business in India with the necessary information needed to govern market integrity by the regulator.

3.4.2 T+1 and T+0 settlement cycle

India had successfully moved to T+1 settlement cycle effective from 27 January 2023[64] and on an experimental basis, in March 2024, it rolled out T+0 settlement framework for retail investors.[65]
Key points to note are:

- The T+0 settlement cycle is presently limited to specified 25 securities on an optional basis, which runs in parallel with T+1 cycle for these 25 securities.

- SEBI is expected to review and refine the T+0 framework from the insights gained from the pilot.

- There are also ongoing discussions to facilitate instant settlement, with the year of 2025 mentioned as a possibility, as an option.

3.4.3 Updates related to FPI

- **FPI licence renewal after expiry.** Foreign portfolio investors are now permitted to renew their licence within 30 days of expiry with a penalty payment together with their licence renewal fees. This new process enables FPIs who missed renewal of their licenses at the end of the three-year period to avoid either writing off or selling the assets and exiting the market.[66]

- **Disclosure of FPI material information.**[67] This has been classified into two categories and timelines provided for each:

  - Type I. Changes impacting the FPI registration in India to be notified in seven days and documents to be provided in 30 days.

  - Type II: Any other material changes to be notified and supporting documents submitted within 30 days.

3.5 Indonesia

3.5.1 KYC

On 12 Feb 2024, Indonesia's central securities depository, PT Kustodian Sentral Efek Indonesia (KSEI) launched its KYC Administration Services (CORES KSEI), a KYC central repository to improve client adoption/KYC process efficiencies in the market.[68]

The system will assist financial services providers in customer due diligence and/or enhance due diligence, update customer data, and expedite the account opening process in the capital market. This eliminates the previous fragmented approach where market participants needed to reach out to multiple clients for documents. Additionally, clients do not need to send out the same required documents to different service providers and partners multiple times. This initiative is the first of its kind in the ASEAN region.

With successful programmes driven by IDX, KSEI and others to encourage participation in the securities market, including fintech-based selling agents, the depth of the securities market has consistently been deepening, measured by the number of domestic investors from around four million in 2022, to more than 11 million by 2023, reaching 12.6 million by March 2024. Growth in young investor numbers was noticeable. "KSEI data as of September 2023 showed that the capital market investors in Indonesia were still dominated by millennials and Gen Z of over 80% aged <30 years old and 31–40 years old shown from the investor education level which is dominated by General High School graduates by 60.28%," said the KSEI in October 2023.[69]

3.5.2 Shares ownership reporting

The Otoritas Jasa Keuangan (OJK), also known as the Indonesia Financial Services Authority, has issued revision of regulation on shares ownership reporting obligation. Parties who own 5% of listed companies' shares must submit report of the share ownership. The timeline to submit this report is shortened from 10 to five days after the shares ownership or changes of ownership occurs. This regulation will take effect in August 2024.[70]

3.6 South Korea

3.6.1 FX

— With effect from 1 July 2024, foreign investors can execute KRW/USD FX with offshore banks registered as "Registered Financial Institution" or RFI. RFIs will be allowed to provide KRW FX services to offshore investors.

— Also from 1 July 2024, the onshore KRW FX market opening hours are extended to 2:00 am (Korean time) the following day – i.e. the end of the European time zone that offshore investors will be able to execute their KRW FX in. Currently, KRW FX market is open between 9:00 am and 3:30 pm (Korean time).

— The extensions form part of South Korea's plan to improve its FX market that should have positive spill-over effects on its capital market activities.[71]

3.6.2 Settlement

From the end of June 2024 KTB (Korea Treasury Bond) and MSB (Monetary Stabilization Bond) will be clearable through international securities depositories such as Euroclear or Clearstream.

For example, Euroclear will hold these instruments in their omnibus account with the Korea Securities Depository (KSD) which will also be operated directly by Euroclear for settlement. Deutsche Bank AG Seoul branch acts as Euroclear's settlement and cash correspondent bank.

These links will enable more efficient post-trade services for cross-border investors of these instruments.

3.7 Malaysia

3.7.1 Tax

— With effect from 1 January 2024, profits or gains from the disposal of capital assets in Malaysia will be subject to tax.[72] The tax rate will be dependent on the acquisition date of these assets. Disposal of capital assets (defined by the Finance Act 2023 as "movable or immovable property including rights or interests") outside of Malaysia but received in Malaysia can also be liable to capital gains tax. Furthermore, disposal of shares of a controlled company incorporated outside of Malaysia but that own substantial real properties in Malaysia can be liable to capital gains tax.

— A company, limited liability partnership (LLP), trust body or co-operative society is required to file a return and pay the applicable capital gains tax within 60 days from the date of disposal of a capital asset under a self-assessment system separate from its annual income tax return and income tax payments.

3.8 Philippines

3.8.1 Tax

There are multiple tax reforms from the Philippines Department of Finance (DOF) in progress that are building a more robust and sustainable whole-of-capital-markets ecosystem with positive impacts to foreign investors.

— Train Law Package 4 (PIFITA) aims to streamline tax bases in the country to reduce friction costs for foreign investors and to stimulate the local equity and debt capital markets. The package aims to reduce the number of different tax rates, and harmonise the tax rates on interest, dividends, capital gains and business taxes on financial intermediaries. Package 4 also aims to remove the documentary stamp tax on non-monetary transactions.[73]

— The CREATE MORE bill (an amendment to the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act aims to bring the Philippines tax regime in line with the OECD's Pillar Two Global Minimum Tax (GMT). As explained in ASEAN Briefing,[74] one of the proposed amendments is to allow companies that choose to be under the enhanced deduction regime (EDR) to be subject to a 20% tax rate on taxable income derived from registered projects or activities during each taxable year.

— Capital Markets Efficiency Act. The provisions are similar to PIFITA, but more focused on capital market instruments. The Act aims to reduce tax on dividends for non-resident investors from 25% to 10% and reduce stock transaction tax from 0.6% to 0.1%.[75] The Senate has completed the first reading and the Bill is now with the House Ways and Means Committee.

— Additional Tax Brackets in the New Registry of Scripless Securities (NROSS). The Bureau of the Treasury together with the Bureau of Internal Revenue (BIR) is finalising the process for additional tax brackets in NRoSS that could be between the current tax brackets of 0% (tax exempt) and 20%. This development is relevant to foreign investors because it would remove the need to file for tax reclaim for investors belonging to a country with a treaty rate lower than 20%.

— As a drive to increase incoming direct and portfolio investments, amendments on the Foreign Investments Act and the Renewable Energy Act lifted limits on foreign equity ownership for certain industries such as renewable energy companies, public services such as railways, airports and telecommunications. Previous regulations capped foreign ownership across all industries at 40%.

3.8.2 FX

The Bangko Sentral ng Pilipinas (Philippines' central bank) issued BSP Circular 1192 which effectively removes Bangko Sentral Registration Document (BSRD) registration. Specific investments will be deemed as registered once the authorised agent bank reports the FX transaction to the central bank, and provided that applicable guidelines and support documents are duly complied with. The circular also reduced and modified the reports that authorised agent banks will need to submit to the BSP.[76]

3.8.3 Settlement system upgrade
The Philippine Depository & Trust Corporation (PDTC) has confirmed that it is in the process of upgrading the depository system. The upgrade's completion date is tentatively set for between 2025 to 2026 subject to more detail to be released. The upgraded system should be capable to facilitate API and Swift instructions to make the settlement process more automated and efficient for the whole industry.

3.9 Sri Lanka

3.9.1 T+2 Settlement
The market has successfully implemented a T+2 shortened settlement cycle on 10 June 2024 with the goals to reduce operational risks, enhance investor experience who now receive funds on a faster basis, lower collateral requirements and to augment market liquidity. This paves the way for an implementation of a securities central counterparty (CCP) that the Colombo Stock Exchange and authorities have been reviewing.

3.10 Thailand

3.10.1 FX
The Bank of Thailand (Thailand's central bank) imposes an end-of-day (EOD) limit on the Non-Resident Baht Account for Securities (NRBS) in order to prevent speculation and manipulation of the Thai Baht.[77] However, the EOD limits have contributed to difficulties encountered by offshore investors as well as their global custodians in making investments. There are ongoing local discussions to determine how the NRBS EoD limit could be relaxed without facilitating any speculations of the Baht, while not increasing the reporting responsibilities of local custodians.

3.11 Vietnam

3.11.1 Prefunding
The discussions on the avoidance of prefunding continue to establish a necessary condition for the market's eventual promotion to Emerging Market Index.[78] During this period, a draft framework was also issued by the State Securities Commission (SSC) which the industry has responded to.

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