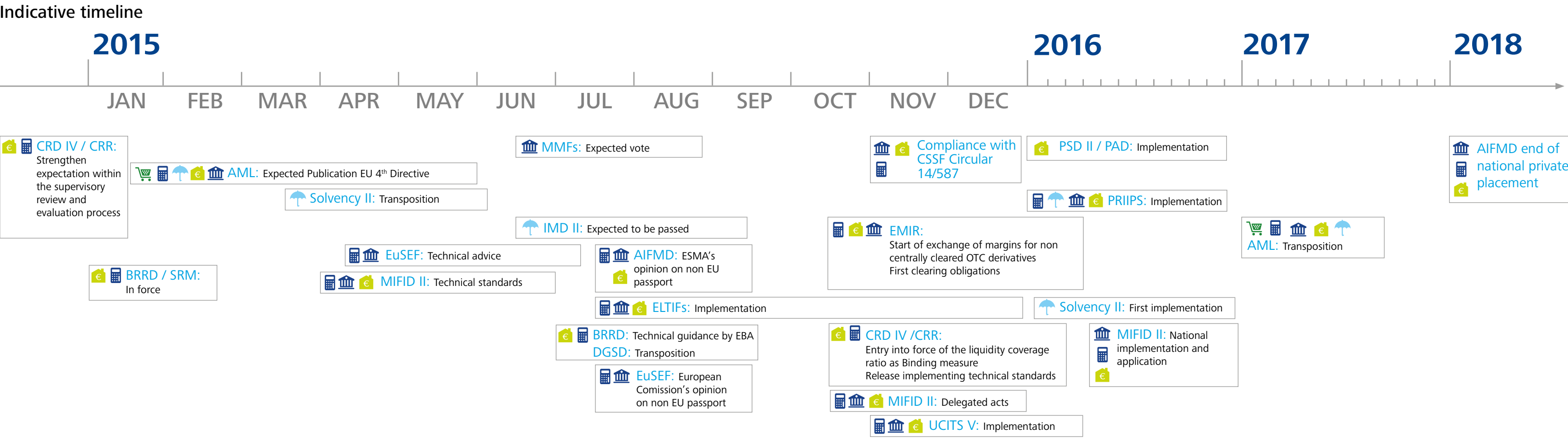


Deloitte 2015 Regulatory agenda - Top priorities

- In this special edition of the top 2015 regulatory priorities:
- Alternative Investment Fund Managers Directive (AIFMD)
 - Banking Union (CRD IV / CRR / BRRD / DGSD / SSM / SRM)
 - Anti Money laundering (AML)
 - European Market and Infrastructure Regulation (EMIR)
 - Key Investor Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs)
 - Markets in Financial Instruments Directive and Regulation (MiFID II / MiFIR)

- UCITS V & CSSF Circular 14/587 (UCITS V)
 - Payment Services Directive II / Payment Accounts Directive (PSD II / PAD)
 - European Long Term Investment Funds (ELTIFs)
 - Insurance Mediation Directive (IMD II)
 - Money Market Funds (MMFs)
 - European Social Entrepreneurship Funds (EuSEFs)
 - Solvency II and Omnibus II

TOPICS	Alternative Investment Fund Managers Directive (AIFMD)	Banking Union: (CRD IV / CRR / BRRD / DGSD / SSM / SRM)	Anti Money Laundering (AML)	European Market and Infrastructure Regulation (EMIR)	Key Investor Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs)	Markets in Financial Instruments Directive and Regulation (MiFID II / MiFIR)	UCITS V & CSSF Circular 14/587	Payment Services Directive II / Payment Accounts Directive (PSD II / PAD)	European Long Term Investment Funds (ELTIFs)	Insurance Mediation Directive II (IMD II)	Money Market Funds (MMFs)	European Social Entrepreneurship Funds	Solvency II and Omnibus II
SCOPE	<div><div><div><div><div></div></div><div>All EU AIFMs that manage at least one AIF</div></div><div><div><div></div></div><div>All non-EU AIFMs that market at least one AIF in EU</div></div></div><div>This Directive also impacts:</div><div><div><div><div></div></div><div>Custodian banks</div></div><div><div><div></div></div><div>Prime Brokers</div></div><div><div><div></div></div><div>Administrative agents</div></div></div></div>	<div><div><div><div><div></div></div><div>Credit institutions</div></div><div><div><div></div></div><div>Investment firms</div></div></div><div><div><div></div></div><div>Large investment firms *</div></div></div> <div>* included in the Bank Recovery and Resolution pillar of banking supervision</div>	<div><div><div><div><div></div></div><div>All professionals subject to AML Law in Luxembourg as detailed in Art.2 of the Law of 12 November 2004 as amended.</div></div><div><div><div></div></div><div>Prime brokers</div></div><div><div><div></div></div><div>Investment firms</div></div></div></div>	<div><div><div><div><div></div></div><div>AIFMs</div></div><div><div><div></div></div><div>Credit institutions</div></div></div><div><div><div></div></div><div>Investment firms</div></div><div><div><div></div></div><div>Investment funds</div></div><div><div><div></div></div><div>Management Companies</div></div><div><div><div></div></div><div>UCITS</div></div></div>	<div><div><div><div><div></div></div><div>Investment Funds, Structured deposits and Life Insurance policies with an investment element</div></div><div><div><div></div></div><div></div></div></div></div>	<div><div><div><div><div></div></div><div>Investment firms, market operators, data reporting services providers, and third-country firms providing investment services or performing investment activities through the establishment of a branch in the EU</div></div><div><div><div></div></div><div></div></div></div></div>	<div><div><div><div><div></div></div><div>Depository banks</div></div><div><div><div></div></div><div>Management Companies</div></div><div><div><div></div></div><div>Investment funds</div></div></div></div>	<div><div><div><div><div></div></div><div>Credit Institutions</div></div></div></div>	<div><div><div><div><div></div></div><div>AIFs</div></div><div><div><div></div></div><div>AIFMs</div></div><div><div><div></div></div><div>Custodian banks</div></div><div><div><div></div></div><div>Prime brokers</div></div><div><div><div></div></div><div>Administrative agents</div></div></div></div>	<div><div><div><div><div></div></div><div>Insurance undertakings</div></div><div><div><div></div></div><div>Insurance intermediaries</div></div></div></div>	<div><div><div><div><div></div></div><div>UCITS or AIFs, that are established, managed or marketed in the EU</div></div></div></div>	<div><div><div><div><div></div></div><div>Small and medium-sized enterprises (SMEs)</div></div><div><div><div></div></div><div>Social enterprises across Member States</div></div><div><div><div></div></div><div>Venture Capital Funds</div></div></div></div>	<div><div><div><div><div></div></div><div>Insurance undertakings</div></div><div><div><div></div></div><div>Reinsurance undertakings</div></div></div></div>
BACKGROUND	<p>The Alternative Investment Fund Managers Directive has been transposed into Luxembourg national law on 12 July 2013.</p> <p>The Implementation challenges are:</p> <ul style="list-style-type: none">• AIFM must set and disclose leverage limits, the level 2 measures explain leverage calculations• Increased scope of depositary oversight functions, liability for depositaries, sub-custodian restrictions• Responsibility of the AIFM for the AIF's valuation• Separation of the functions of risk management from the operating units at the level of the AIFM• Reporting of the maximum fee and risk/liquidity management information to investors• Implementation and documentation of appropriate liquidity management systems• Remuneration framework similar to that for banks European Securities and Markets Authority (ESMA) issued its Guidelines on sound remuneration policies (ESMA/2013/201) to explain how this should be applied in practice <p>Deloitte Webpage</p>	<p>The Banking Union targets an integrated financial framework for the entire Eurozone, and has seen important milestones in 2014:</p> <ul style="list-style-type: none">• The CRD IV / CRR package implementing the Basel III rules within the EU legal framework came into force on 1 January 2014. The package introduces important changes to the banking prudential requirements as strengthened capital base to cover risks; introduction of new minimum requirements for liquidity; incentives to clear OTC derivatives on central counterparties (CCPs); introduction of various additional capital buffers; enhanced governance; enhanced transparency; additional set of possible sanctions in case of breach• In June 2014, the BRRD was published in the Official Journal and subjects banks in all Member States to the same harmonised provisions on resolution and how costs are shared among shareholders and creditors. BRRD also establishes national resolution funds that are financed by the banks themselves• The DGSD was published in June 2014 in the Official Journal and recasts and further amends the initial Directive 94/19/EC. The DGSD improves the existing EU rules on protection of depositors in cases of bank failure, and unifies depositor protection across the EU. To sustain the overall financial stability in the single market, improvements have been adopted to prevent panic withdrawals (or bank runs) in cases in where a bank becomes unviable.• The SSM entered into force in November 2014 and comprises of the European Central Bank (ECB) and the National Supervisory Authorities and covers around 4,700 entities in the Eurozone and other participating Member States. The ECB directly supervises 120 banking groups <p>Deloitte Webpage</p>	<p>There was no AML publication in 2014 at EU level, however the EU Parliament reviewed in Q1/Q2 the project of 4th AML Directive was published by the EU Commission in February 2013.</p> <p>The main implications for professionals in the current scope of the EU Directive project as published are (but are not limited to):</p> <ul style="list-style-type: none">• Inclusion of domestic PEPs in the PEP definition• Inclusion of Tax offences (EU Parliament terminology) or Tax crimes (EU Commission terminology) as predicated offenses of Money Laundering• Repeal of the EU White List of Equivalent Countries <p>Deloitte Webpage</p>	<p>On 23 January 2013, the CSSF published Circular 13/557, which highlighted the entry into force of EU Regulation 648/2012. EMIR addresses the risk of OTC trading by imposing new requirements:</p> <ul style="list-style-type: none">• Clearing: Standardised derivative contracts shall be cleared through central counterparties to reduce the risk in the financial system• Margin and capital: Clearing counterparty shall have permanent, available and separate initial and variation margins in the form of highly liquid collateral• Reporting: All OTC and listed derivative contracts should be reported to Trade Repositories <p>During 2014, ESMA and the European Commission issued several Q&A versions and Consultation papers to address clarifications in relation to the implementation of EMIR obligations and the upcoming clearing and bilateral collateral requirements.</p> <p>12 February 2014: First reporting to Trade Repositories</p> <p>11 August 2014: Daily reporting to Trade Repositories of m-t-m valuation and collateral</p> <p>Deloitte Webpage</p>	<p>On 9 December 2014, the Regulation N°1286/2014 on Key Investor Information Documents for Package Retail and Insurance-based Investment Products was published in the Official Journal.</p> <p>The aim of the Regulation is to provide investors with sufficient information prior making their investment decision. Insurance and banks will soon be required to use a similar document to the Key Investor Information Document (KIID) introduced under the UCITS IV Directive.</p> <p>In addition, the Joint Committee of the three European Supervisory Authorities (EBA, EIOPA and ESMA) has published on 17 November 2014, a Discussion Paper on how standardised Key Investor Information Documents (KIIIDs) should be developed.</p> <p>Criteria for assessing options for presentation are:</p> <ul style="list-style-type: none">• Engaging• Understandable• Comparable• Compatible• Balanced presentation• Coverage of types of PRIIPs <p>Deloitte Webpage</p>	<p>On 12 June 2014, the Directive 2014/65/EU and Regulation n°609/2014 on markets in financial instruments were published in the Official Journal.</p> <p>MFID II seeks to improve transparency and regulation of more opaque markets, such as derivatives. The main impacts and challenges relate to:</p> <ul style="list-style-type: none">• Investor protection and Inducements• New requirement for corporate governance• Market structure: additional financial instruments in scope for non-equity instruments and third-country firms have to establish a branch in each EU country (when serving retail clients) or register with ESMA to gain EU passport (for Professionals)• Reporting to prudential authority extended and additional publication rules apply• Regulatory Supervision: powers to permanently ban financial products, activities or practices and dissuasive administrative sanctions, fines and penalties will be made public <p>Deloitte Webpage</p>	<p>On 28 August 2014, the Directive 2014/91/EU for collective investments in transferable securities as regards to depositary function, remuneration policies and sanctions was published in the Official Journal.</p> <p>The main subjects are:</p> <ul style="list-style-type: none">• Ensuring investors receive the same level of protection of their assets in custody across all EU Member States• Harmonising the sanctions regime for breaches of the main investor protection sanctions in the UCITS Directive• Rules on the remuneration of risk takers and senior management <p>In addition, the CSSF published Circular 14/587 which moves away from a principle-based regulation in favour of detailed guidance for all UCITS depositary banks, UCITS and Management companies</p> <p>The main impacts are:</p> <ul style="list-style-type: none">• Sets out the requirements for authorisation/ application as depositary of UCITS• Clarifies the role and organisational requirements for UCITS depositaries inspired by operational requirements introduced by AIFMD and in anticipation of UCITS V• Describes the interaction, information sharing and escalations between the UCITS, Management companies and the Depositary banks. <p>Deloitte Webpage</p>	<p>On 18 September 2014, Payment Accounts Directive entered into force. Its aims are to improve consumer rights of EU citizens in the field of (i) access to payment accounts, (ii) comparability of payment account fees and (iii) payment account switching.</p> <p>Additionally, the European Parliament voted on a number of amendments to the European Commission proposals for a recast Directive on payment services in the internal market "PSD II", and its accompanying Regulation on interchange fees for card-based payment transactions. The Regulation is still under negotiation.</p> <p>The main changes are:</p> <ul style="list-style-type: none">• Extension of scope in particular the new Payment Initiation Services and removal of exemptions• New consumer protection requirements as liability rules for unauthorised transactions and additional security requirements for internet payments• PSD II is accompanied by a proposed Regulation capping interchange fees	<p>The European Long Term Investment Funds is a new product aimed at promoting sustainable long-term investment in the European economy (infrastructure, sustainable energy, new technologies).</p> <p>ELTIFs will fall under AIFMD but will be open to both retail and institutional investors. As such, ELTIFs will be the first pan-European retail product to have a distribution passport under AIFMD. ELTIFs will therefore represent an alternative to UCITS for retail investors seeking to invest in illiquid assets over the longer term.</p> <p>A list of Eligible investments and Investment restrictions will need to be respected in order to protect both investors and companies / projects.</p> <p>This product will be introduced by regulation and therefore will be directly binding in EU Member States.</p>	<p>On 26 February 2014, the plenary session of the European Parliament voted on the ECON report proposal to revise the Insurance Mediation Directive.</p> <p>The revised Directive aims at levelling the playing field between all participants involved in the selling of insurance products so as to strengthen policyholder protection.</p> <p>The IMD II proposal extends the scope of application of IMD I to all distribution channels (including direct writers) and contains surprises explicitly bringing certain activities of insurance aggregator websites within the scope of the Directive.</p> <p>The proposal also introduces strengthened conduct of business rules, remuneration disclosures, cross-selling rules, increases conflict of interest rules and professionalism requirements, and harmonises administrative sanctions for infringements of IMD provisions.</p>	<p>On November 2014, a new draft report on the European Commission's proposal for a regulation on Money Market Funds has been published by ECON Committee.</p> <p>The main changes proposed relate to:</p> <ul style="list-style-type: none">• Diversification and concentration• Credit quality• Portfolio maturity• Valuation• External support• Specific CNAV requirements• Liquidity fees and gates for MMFs other than EU Public Debt CNAV MMF <p>In addition, CSSF Circular 14/598 was published on 2 December 2014 to implement the amendments introduced on 22 August 2014 on CESR guidelines on a common definition of the European Money Market Funds. Management Companies have to perform an assessment of the credit quality of money market instrument in order to consider it as high quality. This new CSSF Circular has immediate effects.</p> <p>Deloitte Webpage</p>	<p>The new EuSEF Regulation will enable the creation of an EU "passport" for social investment funds.</p> <p>This should reduce the regulatory burden for fund operators looking to market their funds in multiple EU Member States.</p> <p>The EuSEF label is assigned by way of a three step process:</p> <ul style="list-style-type: none">• The fund operators interested in acquiring the label need to register with the relevant authority in their home Member State, which will oversee the compliance of the fund with the EuSEF regulations• This information will be passed to ESMA to compile a central register of EuSEF funds• ESMA will inform the relevant authorities of the host Member States in which the fund operators plan to market the fund	<p>In March 2014, the European Commission adopted the Omnibus II Directive scheduling the application of the Solvency II Directive for 1 January 2016.</p> <p>Three pillars:</p> <ul style="list-style-type: none">• Pillar 1 : Solvency Capital requirement and capital modelling (internal models)• Pillar: 2 Risk Management and governance requirements• Pillar 3: Risk Management & Capital disclosures <p>Deloitte Webpage</p>
NEXT STEPS	<ul style="list-style-type: none">• 2015: Anticipated extension of passport to third country AIFMs and third country AIFs by ESMA• 2018: End of private placement regime in EU	<ul style="list-style-type: none">• 1 January 2015: The BRRD came into force setting out procedures for saving or shuttering failing lenders.• 1 January 2016: Bail-out rules on creditor write-downs only take effect• 1 January 2015: The SRM entered into force• 3 July 2015: Deadline for Member States to transpose the DGSD into their national laws• 3 July 2015: Deadline for the EBA to provide technical guidance on BRRD provisions and events that shall trigger the intervention by regulators• Until December 2015 : The release of further implementing technical standards by the EBA complement the CDR IV legislative package• October 2015 : Entry into force of the Liquidity Coverage Ratio as a binding measure	<ul style="list-style-type: none">• Q1-Q2 2015: Expected publication of the EU 4th AML Directive• Q1-Q2 2017: Transposition of this new Directive into Luxembourg national Law (if the modalities are standard) <p>"To be confirmed by ESMA and European Commission</p>	<ul style="list-style-type: none">• Q4 2015*: Start of exchange of margins for non-centrally-cleared OTC derivative• Q1 2016*: First clearing obligations start <p>* To be confirmed by ESMA and European Commission</p>	<ul style="list-style-type: none">• February 2015: Receipt of feedback on Discussion Paper• 2016: - the new KIIIDs are required for the end of 2016. Undertakings for collective investment in transferable securities (UCITS) benefit from a grandfathering period until end of 2019- Entry in force of the Regulation- Regulatory technical standards to be submitted to the European Commission	<ul style="list-style-type: none">• Q2 2015 - expected ESMA technical standards• Q4 2015 - Delegated acts• Q2 2016 - National implementation (deadline: 3 July 2016)• Q4 2016 - Application	<ul style="list-style-type: none">• December 2015: Deadline to comply with the CSSF Circular• March 2016 at the latest: Implementation of the Directive	<ul style="list-style-type: none">• 2016: Implementation of Payment Accounts Directive	<ul style="list-style-type: none">• 2015 : Expected entry into force	<ul style="list-style-type: none">• Mid-2015: Expected to be passed	<ul style="list-style-type: none">• Mid 2015: expected vote by all members of the European Parliament	<ul style="list-style-type: none">• April 2015: Technical advice to be submitted to the European Commission• 2015: Anticipated extension of passport to third country managers by European Commission	<ul style="list-style-type: none">• 31 March 2015: Transposition of the directive• January 2016: First implementation



More information:

Please contact one of our partners

Vincent Gouverneur

Partner - EMEA FSI Investment Management leader

+352 451 452 328

iberliner@deloitte.lu

Martin Flaunet

Partner - Banking leader

+352 451 452 920

mflaunet@deloitte.lu

Thierry Flamand

Partner - Insurance leader

+352 451 454 920

tflamand@deloitte.lu

Stéphane Césari

Partner - PSF leader

+352 451 452 487

scesan@deloitte.lu

Laurent Berliner

Partner - EMEA FSI ERS leader

+352 451 452 328

lberliner@deloitte.lu

Xavier Zaegel

Partner - Capital Markets leader

+352 451 452 748

xzaegel@deloitte.lu

Lou Kiesch

Partner - Regulatory Consulting

+352 451 452 456

lkiesch@deloitte.lu

Johnny Yip

Partner - Investment Funds leader

+352 451 452 489

jiplanyan@deloitte.lu

Georges Kioes

Partner - Middle Market leader

+352 451 452 249

gkioes@deloitte.lu

Benjamin Lam

Partner - Private Equity/Real Estate leader

+352 451 452 429

blam@deloitte.lu

Benjamin Collette

Partner - EMEA AIFMD leader

+352 451 452 809

bcollette@deloitte.lu

Simon Ramos

Partner - Regulatory Strategy

+352 451 452 702

siramos@deloitte.lu

The Regulatory Watch team

Philippe Lengens

Partner

+352 451 452 414

plengens@deloitte.lu

Marc Noirhomme

Directeur

+352 451 452 613

mnoirhomme@deloitte.lu

Anne-Françoise Liégeois

Senior Manager

+352 451 452 086

ecaumont@deloitte.lu

January 2015