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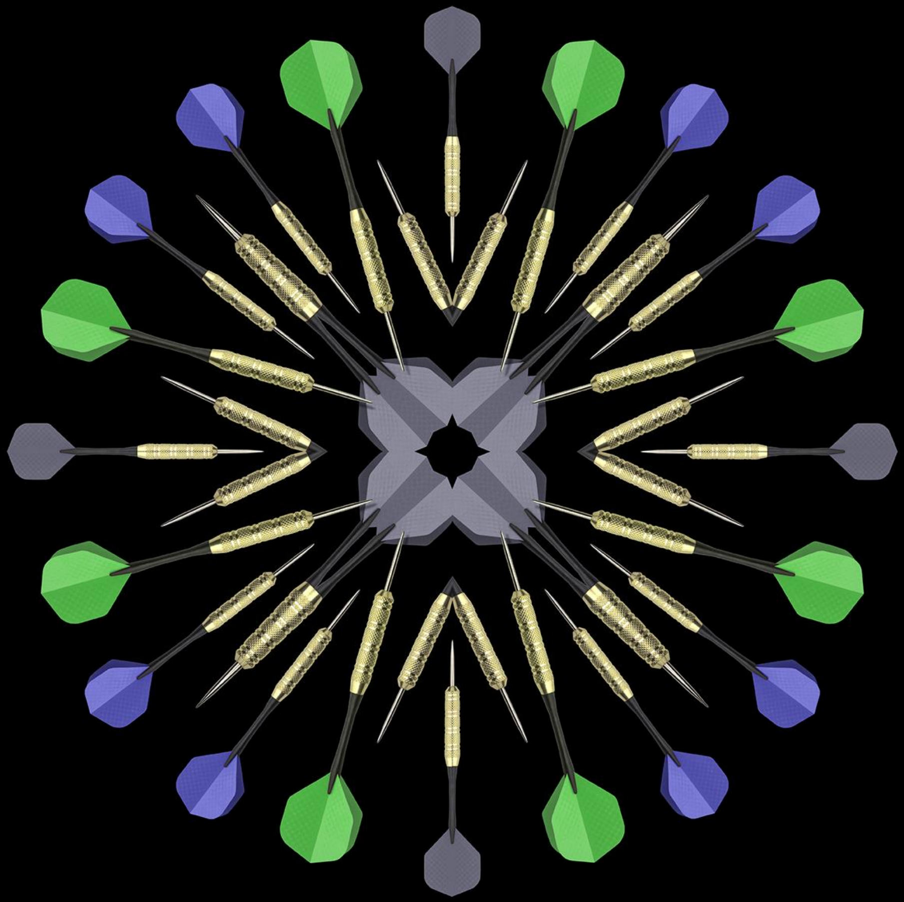

Asia Pacific Financial Regulatory Update

Q2 2021

July 2021

CENTRE *for*
REGULATORY STRATEGY
ASIA PACIFIC

Introduction

Dear clients and colleagues,

The Deloitte Asia Pacific Centre for Regulatory Strategy is pleased to share with you the key regulatory updates from around our region for Q2 2021.

Moving from pandemic to endemic: More than a year since COVID-19 was declared a global pandemic, the world is gradually learning to live with COVID-19 as an endemic disease. Vaccination rates are rising – albeit unevenly – and some countries are taking cautious steps to open up.

Financial regulators are adjusting to the new normal too. After dealing with the massive COVID-19 disruption last year, regulators are refocusing on several key global regulatory initiatives like Basel III Final Reforms and LIBOR transition. But it is not simply "business as usual" for the regulatory community. In line with the "Build Back Better" agenda, a few themes are emerging among Asian regulators:

Operational Resilience: The unprecedented disruptions caused by COVID-19 has led to increased supervisory focus on operational resilience. Rapid adoption of alternative digital channels and work from home arrangements, together with the increased threat of cyber attacks, have added to supervisory concerns.

Globally, the Basel Committee has issued a set of Principles for Operational Resilience. The HKMA has asked financial institutions to adopt the Basel guidelines, while MAS has provided additional guidance on Risk Management and Operational Resilience in a Remote Working Environment.

Operational resilience straddles several areas, including business continuity management, cybersecurity and outsourcing risk management. In HK, financial institutions are being asked to consider the need for secure tertiary data backup to safeguard their operations in the event of cyber attacks. New Zealand has issued new cyber resilience guidance and India has published Guidelines for Managing Risks in Outsourcing for co-operative banks. Malaysia-based e-money issuers may soon need to segregate customer funds and implement enhanced business continuity, outsourcing and technology safeguards.

Sustainability: Another development is that regulators have become more sensitive to the role that finance could play in promoting a sustainable economic recovery from COVID-19. They are doing so by providing regulatory guidance on how financial institutions should manage and disclose climate-related risks as well as on consistent standards for structuring green finance transactions.

APRA and JFSA are consulting on draft guidance on Climate Change Financial Risks and Climate Transition Finance respectively. In Malaysia, the BNM published a principle-based taxonomy to help financial institutions assess and categorise economic activities according to the extent to which they support climate objectives. Such taxonomy will promote standardised reporting of climate-related exposures and strengthen accountability and market transparency.

In Singapore, the Green Finance Industry Taskforce has developed a framework for green trade finance transactions, together with the recommended industry certifications. The taskforce has also proposed a roadmap for scaling green finance in the real estate, infrastructure and fund management sectors. In addition, workshops and e-learning modules will be launched to develop local capabilities in environment risk management.

Culture and Conduct: Finally, regulators are focusing on culture and conduct matters to ensure that the financial sector is built on sound ethical and governance foundations. Both China and Japan have introduced new corporate governance requirements for bancassurance and listed companies respectively. Australia have issued guidance on remuneration practices and financial advice fees, while Korea has put in place additional investor protection measures for complex products.

For queries or more information on these updates or other regulatory topics, please get in touch.

Best regards,

The ACRS Co-leads

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Australia (1/2)

1 Landmark *Your Future, Your Super* reforms pass through parliament

On 17 June 2021, the Australian Federal Government's landmark superannuation reforms (known as the *Your Future, Your Super* reforms), completed its passage through parliament. The *Your Future, Your Super* reforms are designed to help ensure superannuation works in the best financial interests of all Australians by "removing unnecessary waste, increasingly accountability and transparency, and providing more flexibility for families and individuals."

Key elements of *Your Super, Your Future* include:

- A strengthening of trustee obligations, to ensure trustees only act in the best financial interests of members and provide better information regarding how they manage and spend members' money;
- A requirement for an employee's superannuation fund to follow them throughout their career - preventing the creation of unintended multiple superannuation accounts when employees change jobs;
- A new investment performance standard, which will require superannuation products to meet an annual objective performance test, with consequences for persistently underperforming superannuation funds; and
- Creation of a new online comparison tool, YourSuper, allowing consumers to interactively compare different superannuation offerings within the market.

AUS Treasury Media Release - Superannuation reforms pass parliament
Treasury Laws Amendment (Your Future, Your Super) Bill 2021

2 Establishment of Financial Regulator Assessment Authority

On 23 June 2021, the *Financial Regulator Assessment Authority Bill 2021* passed through parliament, fulfilling the Federal Government's commitment to implement recommendations 6.13 and 6.14 of the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*.

Under the legislation, a new independent body, the Financial Regulator Assessment Authority (FRAA), will be established to regularly review and report on the effectiveness and capability of the Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA). The FRAA will consist of three independent statutory appointees. The full membership of the FRAA will be announced by the Government in due course.

AUS Treasury Media Release - Establishment of Financial Regulator Assessment Authority
Financial Regulator Assessment Authority Bill 2021

3 Implementation of upcoming capital framework reforms for ADIs

On 2 June 2021, the Australian Prudential Regulation Authority (APRA) released a letter to authorised deposit-taking institutions (ADIs) on the implementation of the capital framework reforms, which will come into effect from 1 January 2023.

This letter follows the May 2021 consultation to enhance capital adequacy for ADIs with subsidiaries, and the December 2020 consultation on the ADI capital framework, both of which are aimed at reinforcing the industry's 'unquestionably strong' capital position, as recommended by the Financial System Inquiry, and to improve the flexibility of the framework to respond during periods of stress.

APRA is now writing to ADIs to set out a clear timeline to finalise the consultation phase, and to support the banking industry's implementation of the reforms.

APRA Letter to Industry - ADI capital reforms: Roadmap to 2023
APRA Consultation - Revisions to the capital framework
APRA Consultation - Enhancing capital adequacy for ADIs with subsidiaries
APRA Consultation - Revisions to APS 111 Capital Adequacy: Measurement of Capital

4 Joint regulator statement on ceasing the use of LIBOR

On 4 June 2021, Australia's key financial regulators, the Reserve Bank of Australia (RBA), the Australian Prudential Regulation Authority (APRA), and the Australian Securities and Investments Commission (ASIC) released a joint statement reiterating the importance of ensuring a timely transition away from the London Interbank Offered Rate (LIBOR). This requires ceasing the use of LIBOR in new contracts before the end of 2021.

This statement by the Australian regulators follows the Financial Stability Board's (FSB) statement on 2 June 2021 that all new use of LIBOR benchmarks should cease as soon as possible, and no later than the timelines set out by authorities and national working groups. Complementing the statement was the release of further guidance by the FSB and US Banking Supervisors to support the transition away from LIBOR.

ASIC, APRA, and the RBA expect all market participants to adhere to the deadline at the end of 2021 for the issuance of new LIBOR contracts. They should also accelerate the active conversion of legacy LIBOR contracts.

Joint Regulator Media Release - Australian institutions to cease the use of LIBOR
Financial Stability Board Statement - Transitioning away from LIBOR
Financial Stability Board - Global Transition Roadmap for LIBOR

Australia (2/2)

5 RBA and ASIC focus on retail payments regulation

Consultation - Review of Retail Payments Regulation

On 28 May 2021, the Reserve Bank of Australia (RBA) released a paper outlining the preliminary conclusions of the Payments System Board (the Board) following the public consultation process undertaken after the release of the *Review of Retail Payments Regulation – Issues Paper* in November 2019.

In general, the RBA is not proposing major reforms to the Bank's retail payments regulation. The key policy changes proposed are relatively modest and relate mostly to: dual-network debit cards and least-cost routing; interchange fees; and the transparency of scheme fees. Extensive consideration has also been given to the no-surcharge rules imposed by some 'buy now, pay later' (BNPL) providers.

Executive Summary - Consultation Paper: Review of Retail Payments Regulation
Full Consultation Paper - Review of Retail Payments Regulation
Issues Paper - Review of Retail Payments Regulation (November 2019)

ASIC releases guidance on making the most of 'buy now, pay later' (BNPL)

ASIC research showed the number of BNPL transactions increased from 16.8 million in the 2017-18 financial year to 32.0 million in the financial year 2018-19, representing an increase of 90%. But while BNPL can be convenient, ASIC's research also showed that some users were finding it difficult to juggle repayments with other financial commitments.

In response, ASIC has released guidance on making the most of BNPL, and follows their recently released report (REP 672 – BNPL: An Industry Update), setting out ASIC's key observations about the buy now pay later industry, the experiences of consumers and recent regulatory developments.

ASIC tips for making the most of buy now pay later
ASIC MoneySmart – Information Guide: Buy Now, Pay Later services
ASIC Report 672 - Buy Now, Pay Later: An Industry Update (November 2020)

6 New market integrity rules to strengthen capital regime

On 30 June 2021, ASIC released *Consultation Paper 342 – Proposed amendments to the ASIC market integrity rules and other ASIC-made rules*. The proposed amendments are designed to reduce the regulatory burden on participants, streamline rules across rule books and remove ambiguity in existing drafting. Some changes have been made necessary by recent changes to the Corporations Act.

ASIC Consultation Paper - CP 342: Proposed amendments to the ASIC market integrity rules and other ASIC-made rules

7 APRA and ASIC issue guidance on ongoing financial advice fees

Regulators APRA and ASIC have issued several guidance notes and information papers to provide greater clarity to financial advisers and advice licensees on their obligations when providing personal advice to retail clients, following the passage of recent legislation to address recommendations made by the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* relating to charging financial advice fees.

ASIC Media Release - Guidance on ongoing fee arrangements (incl. links to guidance)
ASIC Media Release - Advice fee consent and lack of independence disclosure
APRA & ASIC letter to trustees on oversight of advice fees charged to members' accounts

8 APRA consultation on remuneration

On 30 April 2021, APRA commenced consultation on draft guidance to assist the industry in meeting the requirements of APRA's updated cross-industry prudential standard on remuneration.

The draft Prudential Practice Guide *CPG 511 Remuneration* sets out principles and examples of better practice to help banks, insurers and superannuation licensees comply with prudential standard *CPS 511 Remuneration*, which will be finalised later this year.

CPS 511 will materially strengthen remuneration requirements, particularly for larger and more complex regulated entities, which will be required to assign material weight to non-financial measures when assessing variable remuneration outcomes, and implement longer vesting periods for executive bonuses.

Consultation - Remuneration Prudential Standard (CPS 511) and Practice Guide (CPG 511)

9 APRA guidance on managing the financial risks of climate change

On 22 April 2021, APRA released for consultation its draft guidance to banks, insurers and superannuation trustees on managing the financial risks of climate change. The draft Prudential Practice Guide *CPG 229 Climate Change Financial Risks* is designed to assist APRA-regulated entities in managing climate-related risks and opportunities as part of their existing risk management and governance frameworks.

The guidance covers APRA's view of sound practice in areas such as governance, risk management, scenario analysis and disclosure. The PPG does not, however, create new requirements or obligations, and is designed to be flexible in allowing each institution to adopt an approach that is appropriate for its size, customer base and business strategy.

APRA Consultation - Draft Prudential Practice Guide on Climate Change Financial Risks

China mainland (1/2)

1 Commercial bank debt quality management

The China Banking and Insurance Regulatory Commission (CBIRC) published the final measures to manage the quality of commercial bank debt. The measures specify that commercial banks should focus on strengthening liability quality management in six key areas: the stability of debt sources; diversity of debt structure; the reasonableness of liability and asset matching; the initiative in obtaining liabilities; the appropriateness of debt costs; and the authenticity of debt items. The measures also specify reporting, disclosure, event notification, and management information system requirements and strengthen the quality of debt related supervision, inspection and supervision measures.

Under the measures, commercial banks are also required to develop, implement, and annually evaluate (also revise if required) debt quality management strategies, systems, procedures, limits, and emergency plans, and establish and improve internal controls.

Measures to manage the debt quality of commercial banks

2 Illegal business loans in the real estate sector

The General Office of CBIRC, the People's Bank of China (PBoC), the Ministry of Housing, and Urban-Rural Development jointly issued a notice on preventing the illegal flow of business loans in the real estate sector. The notice strengthens requirements for assessing and issuing loans including: the verification of borrowers; the management of loan terms and loan collateral arrangements; internal risk management and controls; and the management of intermediates. The notice also establishes a "blacklist" of violations in order to increase accountability.

Preventing the illegal flow of business loans in the real estate sector

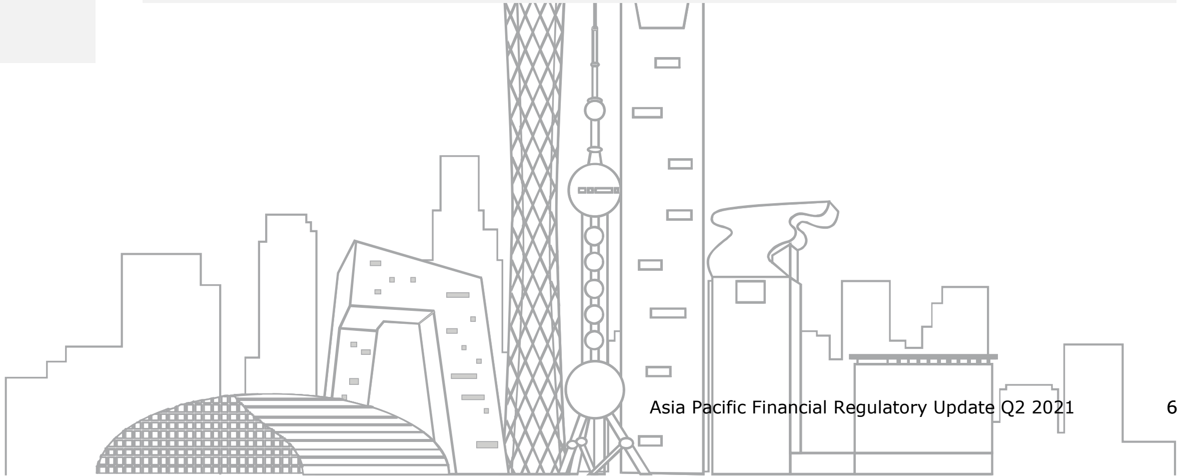
3 Bancassurance corporate governance

In May, the CBIRC announced **measures for evaluating directors' and supervisors' performance of duties for bancassurance firms**. The measures clarify the responsibility for performance evaluation; clearly articulate key considerations and documentation content for evaluations; set out the systems, procedures, methods and standards of evaluation; and strengthen the application and supervision of evaluation. The measures also require bancassurance institutions to put forward work suggestions or dismissal opinions for evaluated directors and supervisors based on their performance evaluation results. (Read more here)

In June, the CBIRC issued guidelines for bank and insurance firms to improve the quality and efficiency of corporate governance. The key requirements include:

- **Clearly defined roles and responsibilities, and checks and balances** for shareholders, directors, supervisors, and senior management (including the Board);
- A **comprehensive risk management system** that covers all business processes and operational links and matches the risk status of the company; and
- As part of the firm's capital planning, **major shareholders are required to make a written long-term commitment to the firm for capital supplementation**; bancassurance firms are also required to develop prudent profit distribution plans.

The guidelines also require supervisors to conduct on-site and off-site evaluations on bancassurance firms' compliance with corporate governance requirements. Firms are expected to report any feedback received from supervisors to the board of directors, the board of supervisors, and senior management and ensure any issues that have been identified are remediated in a timely manner. (Read more here)



China mainland (2/2)

4 RRP requirements for bancassurance firms

In June, the CBIRC published interim measures for bancassurance Recovery and Resolution Plans (RRP), which will apply to commercial banks, rural credit cooperatives, other financial institutions that receive public deposits, asset management companies, financial leasing companies, and insurance companies with on and off-balance sheet assets of CN ¥200 billion or more according to their consolidated statement. Bancassurance firms that do not fall into the above categories will be in-scope if they have on and off-balance sheet assets of CN ¥300 billion or more according to their consolidated statement. Bancassurance firms submitting an RRP for the first time will have until end-August 2022 to do so.

RRP requirements for bancassurance firms

5 Qualifications of insurance company directors

In June, the CBIRC launched provisions for the administration of qualifications of directors, supervisors and senior managers in insurance companies. Under the provisions, local offices of the CBIRC are independently responsible for the supervision and administration of the qualification of senior managers of the branches of insurance companies within their jurisdiction, with the exception of branches of Chinese reinsurance companies and branches of overseas insurance companies.

Qualifications of directors, supervisors and senior managers of insurance companies

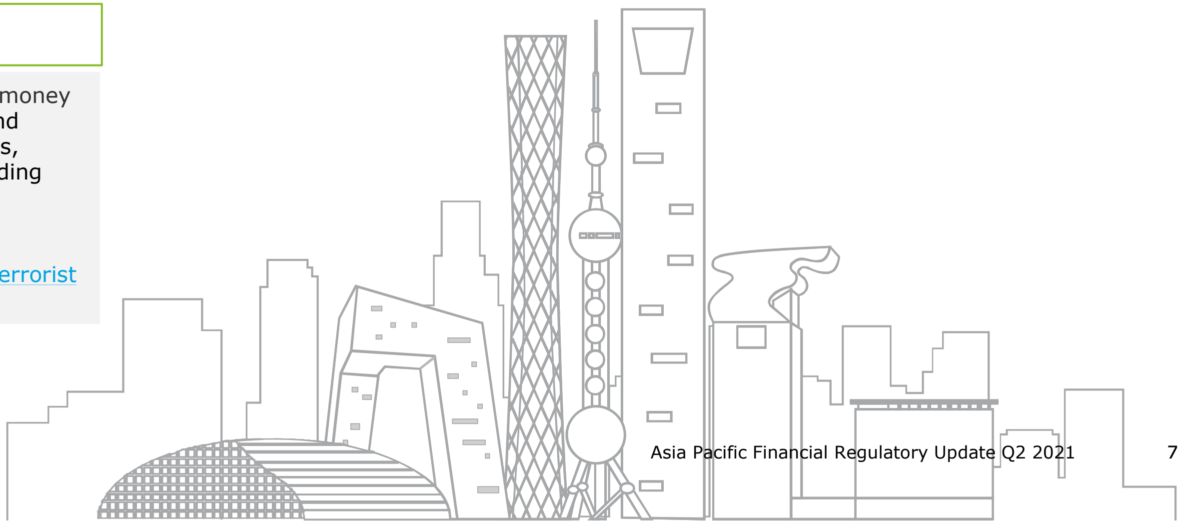
6 Anti-money laundering and counter-terrorist financing

In April, the PBoC launched measures for the supervision and administration of anti-money laundering and counter-terrorist financing. The measures establish more stringent and enhanced internal controls, risk management frameworks and reporting requirements, proportionate to a financial institution’s AML/CTF risk status and business scale including accountability of head office and the Board. The measures include a requirement to establish a centralised AML/CTF mechanism at the group level.

Measures for supervision and administration of anti-money laundering and counter-terrorist financing

Key Market Events

The Chinese Communist Party (CCP) State Council has banned financial institutions and payment companies from offering services related to cryptocurrency transactions, and warned investors against speculative crypto trading. Under the ban, institutions are not allowed to provide any service involving cryptocurrency, such as registration, trading, clearing and settlement. The CCP has expressed concerns around financial crime issues such as money laundering, smuggling, and drug trafficking as well as the risks of highly volatile virtual currencies.



Hong Kong SAR (1/3)

1 COVID-19 related measures

Over Q2 2021, the Hong Kong authorities announced one new COVID-19 related measure and extended one pre-existing measures:

1. In the 2021-2022 budget, the financial secretary announced a time limited **100% Personal Loan Guarantee Scheme (PLGS)** administered by the Hong Kong Mortgage Corporation Insurance Limited (HKMCI). The PLGS provides 100% government backed loans to those unemployed due to the ongoing COVID-19 pandemic. In April, the Hong Kong Monetary Authority (HKMA) set out relevant regulatory treatment with respect to PLGS loans granted by any participating authorised institution (AI) to eligible borrowers. PLGS loans will not be subject to supervisory requirements on credit assessment and credit risk and can be treated as "secured" for risk management purposes. (Read more here)

2. In May, the Hong Kong Insurance Authority (HKIA) announced the **extension of temporary facilitative measures for non-face-to-face distribution** of specific protective insurance products for three months to 30 September 2021. The scope of products covered, and the implementation details of the measures remain unchanged. (Read more here)

2 Operational resilience

Following the launch of the Basel Committee on Banking Supervision's (BCBS's) Principles for Operational Resilience (POR) and revised Principles for Sound Management of Operational Risk (PSMOR), the HKMA wrote a letter to the CEOs of AIs in April. The HKMA noted that many of the requirements captured in the POR are already included within its supervisory framework, but it is considering providing additional guidance to firms.

3 Continued focus on data and technology

Data and technology continue to be a key focus area for the HKMA:

1. In April, the HKMA shared key observations and good practices from a **thematic review into how AIs integrate external information and data into their anti-money laundering (AML)/counter-financing of terrorism (CFT) control systems** to enhance effectiveness. The report also includes good practices observed in some AIs' adoption of regulatory technology (Regtech). The review was carried out in response to emerging risks noted following increasing bank customer enquiries and complaints in connection with COVID-19 related fraud, as well as mule account networks and activities related to identity theft and investment scams. (Read more here)

2. In May, the HKMA requested that all **AIs critically assess the need for setting up a secure tertiary data backup (STDB) to counter the risk of destructive cyber attacks**. All retail banks and foreign bank branches with significant operations in Hong Kong are expected to submit a report containing the result of their assessment to the HKMA by 30 November 2021. (Read more here)

3. In June, **the HKMA launched the final issue of the Regtech Watch, which outlines the HKMA's three-year roadmap to integrate supervisory technology (Suptech) into its processes**. Through greater use of Suptech, the HKMA aims to enhance the effectiveness and forward-looking capability of its supervision. (Read more here)

4. In June, the HKMA also requested that *"Selected Licensed Banks"* (with significant operations in Hong Kong) participate in a ***"Tech Baseline Assessment"* which forms part of the HKMA's *"FinTech 2025"* strategy.** Selected banks will need to submit a three-year plan for adopting financial technology (FinTech) covering current