

Committee: Public Relations and Economic Development Sub Committee	Date: 4 th July 2016
Subject: Update and forward look for the IRSG (International Regulatory Strategy Group)	Public
Report of: Director of Economic Development	For Information
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Summary

This paper provides an update on the key areas of progress made by the International Regulatory Strategy Group (IRSG) and the key priorities going forward.

IRSG Refresh - Accenture is reviewing the work of the IRSG, looking at future priorities, composition of membership and how the IRSG develops its role domestically and at EU/international level, following the EU Referendum.

Taxation – the IRSG Taxation Working Group has examined the Commission proposals on the Anti Tax Avoidance Directive (ATAD) and the public country-by-country reporting (CBCR) proposals. On the Financial Transaction Tax (FTT) there is little progress to report but a decision might be taken by the participating countries in September.

Consumer Agenda – the IRSG launched a report, *Retail Financial Services – bringing real benefits to Europe’s customers* - in Brussels on 15 March. This report explores the changing nature of the financial services ecosystem, including the effects of disruptive technology, and the remaining barriers to a single market in financial services. The IRSG has given concrete recommendations designed to encourage consumer trust in financial markets and make them work better for consumers. The report has been welcomed by the European Commission, which is developing its consumer agenda for the second half of the year.

Cumulative Impact Assessment – in response to the European Commission’s call for evidence, the IRSG launched, in Brussels on 14 June, a detailed analysis and recommendations on how to improve the legislative process. The report raises shortcomings in the EU financial services regulation and suggests steps to address them. Specifically, rules should be proportionate to balance harmonisation and market diversity, they should support a dynamic, flexible and globally competitive EU industry and deliver services that the consumer needs.

Capital Markets Union - the IRSG responded to the European Commission's CMU Action and communicated to Commissioner Hill and his team policy priorities. Recently the IRSG responded to the consultation on an effective insolvency framework under CMU. This will be a key policy initiative from the Commission in the second half of the year and a major focus for IRSG work.

Data and Cyber Security – two of the key dossiers (General Data Protection Regulation and the Network and Information Security Directive) have now been agreed at EU level. The IRSG will feed into the national implementation of both dossiers through the Information Commissioners Office (ICO) guidance process and engagement with the Department of Culture, Media and Sport.

Supervision – papers on the future supervision of the Capital Markets Union and on the funding and governance of the European Supervisory Authorities (ESAs) are being developed but given the sensitivity of the issues it has been decided to postpone work on the papers until after the UK referendum.

Recommendation

Members are asked to:

- note the report;
- provide input to the IRSG via the Chairman

Appendices:

Appendix 1 – Detailed report of IRSG activity

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Appendix 1

1. IRSG COUNCIL

IRSG Objective:

The role of the Council is to provide the overarching strategic direction to the IRSG.

City of London input: The Policy Chairman is the Deputy Chair of the Council. EDO provides the secretariat to the Council.

Latest developments: The latest meeting of the overarching Council took place in March 2016, under the new Chair, Mark Hoban. Members of the Council held a discussion on the regulatory approach to Fintech, which included presentations from the FCA Innovation Hub and from Innovate Finance (FinTech membership body of which City Corporation is lead sponsor). A regular item for discussion was the forthcoming EU Referendum. The Chair updated the Council on the review being undertaken by Accenture on the work of the IRSG. This will include future priorities, a review of membership and the ways in which the IRSG can develop its role both domestically and at the EU/international level, post the EU Referendum.

Next steps: The next meeting of the Council will take place after the EU Referendum, on 19 July.

2. IRSG EXECUTIVE BOARD

IRSG Objective:

The role of the Executive Board is to oversee the ongoing work of the IRSG.

City of London input: The Director of Economic Development is the Co-Chair of the Board. EDO provides the secretariat to the Board.

Latest developments: Two meetings of the Executive Board have taken place in this period. Key issues for discussion have been the forthcoming EU Referendum and consideration of the future themes for the strategic “Blue Skies Group”.

Next steps: The next meeting of the Board will take place after the EU Referendum, on 28 June.

3. TAXATION

IRSG Objective:

To exchange views and establish positions on tax proposals and measures at EU and international levels which:

- Do not impact one financial sector alone (i.e. not solely impactful on banks, asset managers or insurers etc.).
- Have, or could potentially have, a material impact on London as Europe’s leading financial centre.

To contribute to the evidence base on the impacts of multi-jurisdictional tax proposals and measures, taking into account effects on markets, corporates, customers and the global competitiveness of the EU. The Group will also take into account other EU agendas such as the European Commission’s

Investment Plan, the Capital Markets Union Action Plan and the Better Regulation agenda.

City of London input:

An EDO officer provides the secretariat function to the IRSG workstream, which can include the drafting of position papers and facilitating EU level engagement. We maintain contact with the relevant officials in the Permanent Representations in Brussels and have previously hosted events on the FTT.

Latest Developments

Anti Tax Avoidance Directive:

On 21 June, the Council of the EU agreed a draft of the Anti Tax Avoidance Directive (ATAD). This follows a 'broad agreement' at the Economic and Financial Affairs (ECOFIN) Council on 17 June. The Directive lays down tax-avoidance rules in five specific areas: interest limitation, exit taxation, general anti-abuse rule (GAAR), controlled foreign companies (CFCs) and hybrid mismatch rules. The switchover clause did not make the final draft. The Directive will be submitted to a forthcoming Council meeting for adoption.

This follows the adoption in plenary of Hugues Bayet MEP's (S&D, BE) report in the European Parliament on 8 June, with MEPs approving the text by 486 votes in favour, 88 against and 103 abstentions. However, the Parliament only has consultative rights in the field of taxation and does not possess legislative power.

Revision of the Directive on Administrative Cooperation:

The Council of the EU reached a political agreement on the revision of the Directive on Administrative Cooperation (DAC) which relates to CBCR by multinational companies and the automatic exchange of information between tax authorities. Thereafter, on 12 May, the European Parliament voted to support the European Commission's DAC 4 proposals during the plenary session 567 votes to 30 with 53 abstentions. Again, the Parliament's role in this file is only advisory.

Public country-by-country reporting:

On 12 April, the European Commission published its proposal to establish public country-by-country reporting (CBCR) of tax data by multinationals (MNEs). The proposals, which are designed to combat corporate tax avoidance, require MNEs operating in the EU (including subsidiaries of non-European MNEs conducting business in the EU) with global revenues exceeding €750 million a year to publish corporate data on tax activities. On a country-by-country basis, MNEs would need to publish a range of data including the nature of their activities; turnover; profit made and tax paid. MNEs will also have to report the total amount of tax paid outside of the EU (in an aggregated format). Further, if MNEs pay tax in jurisdictions that do not meet international good governance standards on tax, they would have to publish the same detailed information as for an EU Member State.

Financial Transaction Tax:

On 17 June, the ECOFIN Council discussed the latest proposal for a Financial Transaction Tax (FTT) and agreed that work will continue on the dossier during the second half of the year. Austrian Finance Minister Hans Joerg Schelling presented the proposal and a Ministerial Level Task Force has been arranged to solve the two remaining technical issues – applying the tax to derivatives (which should not have a negative impact on public borrowing costs) and making collection of the tax cost-effective. The Task Force will report back to the Council in September when a final decision on the FTT proposal will have to be made.

Next Steps: The next meeting of the IRSG Taxation Working Group is scheduled for 11 August. The agenda will centre on the ATAD, public CBCR and there will also be an exchange of views on latest FTT news.

4. CONSUMER AGENDA

IRSG Objective:

The main objective of this initiative is to help policymakers create the right regulatory and policy framework to promote consumer trust in financial services to enable them to spend, save and invest in more efficient and innovative ways. It will present convincing evidence about the importance of addressing this issue as a matter of urgency, to ensure Europe remains competitive and exploits the opportunities provided by disruptive technologies.

City of London input: We maintain contact with the relevant officials in the Permanent Representations in Brussels and European Commission.

Latest Developments: The IRSG consumer workstream contributed to the retail debate and the associated Retail Green Paper through the production of a report, *Retail Financial Services – bringing real benefits to Europe’s customers* - which was launched in Brussels on 15 March. This report:

- Explores the changing nature of the financial services ecosystem, including the effects of disruptive technology and the modern, mobile, European customer.
- Examines the barriers to a single market in financial services
- Makes granular recommendations to help produce the optimal regulatory and legislative environment to encourage consumer trust in financial markets and to ensure that markets work better for consumers.
- Quantifies the benefits of implementing these recommendations through an econometric model, produced by Accenture.

The report and the econometric model generated lots of interest in Brussels. Workstream members learned that the European Commission is in the very early stages of its thinking, but has an appetite for an ambitious agenda. It is keen to better understand the dynamics of the sector before intervening with regulations. It recognises that poor regulation would undermine Europe’s competitiveness in this area.

Next steps: The report will now be shared and discussed in meetings with HMT, FCA, PRA and the Bank of England.

5. CUMULATIVE IMPACT ASSESSMENT

IRSG Objective:

To feed into the European Commission's call for evidence on the cumulative impact of financial regulation, which was published alongside the Capital Markets Union Action Plan. This call for evidence seeks to gather data (legal and economic) on the interaction of individual rules and the cumulative impact of the legislation as a whole.

City of London input: An EDO officer is a member of this workstream. We maintain contact with the relevant officials in the Permanent Representations in Brussels and European Commission.

Latest Developments: The IRSG has submitted a targeted summary of the key themes identified as part of this work in line with the Commission's deadline to the call for evidence (31 January).

A detailed response was submitted on 10 March. This approach has been agreed with the Commission.

The IRSG identified a number of common shortcomings when assessing EU financial services regulation. It also developed steps which could be taken to address these shortcomings and increase the support that EU financial services regulation gives to the jobs and growth agenda. These are detailed in the first two responses and summarised below:

1. *The need for harmonisation should be balanced with the need to recognise diversity, to ensure proportionate regulation and to facilitate the appropriate use of discretion.*
2. *The consequences of legislative proposals require early identification and consideration. They should be regularly evaluated on an individual and cumulative basis.*
3. *Financial services regulation ought to support a dynamic, flexible and globally competitive EU.*
4. *The legislative process should facilitate the adoption of effective, efficient and timely regulation.*
5. *There should be a renewed focus on the consumer and what the consumer needs.*

A comprehensive report providing a more detailed analysis was launched in Brussels on 14 June 2016. The report contains recommendations on how to improve the legislative process more generally.

Next steps: The report will be launched in London on 13 September and the group will work with FCA and HMT to take forward some of the recommendations.

6. CAPITAL MARKETS UNION

IRSG Objective: the creation of a capital market across the 28 Member States without barriers, with appropriate regulation and open to global business.

City of London input: an EDO officer is member of the IRSG workstream. The Brussels Office is in very regular contact with the relevant officials in the Commission.

Latest Developments: In December 2015, the IRSG sent a response to the CMU Action Plan which draws on the IRSG response to the Green Paper on CMU and the policy priorities identified by members of the CMU workstream to Commissioner Hill. Since then the group has served as a sounding board for various other IRSG workstreams.

In June 2016, the group has responded to the Commission's consultation on an effective insolvency framework within the EU. The consultation contains 32 questions, grouped into four categories:

1. Scope of the insolvency framework;
2. Saving viable businesses in difficulty;
3. Second chance in the event of an 'honest' failure;
4. Increasing the efficiency and effectiveness of the recovery of debts.

Next steps: The IRSG workstream will convene in September to discuss next steps.

7. DATA/CYBER

IRSG Objective: the creation of a proportionate data regime which is fit for purpose for both consumers and the business community within a global context and the growing digital world economy.

City of London input: an EDO officer provides the secretariat to the workstream. This includes the drafting of position papers and facilitating EU level engagement.

Latest developments: The latest meeting of the Data/Cyber workstream took place on 2 March. Members heard from the Information Commissioner's Office on its approach to the implementation of the General Data Protection Regulation (GDPR), which was given the final sign-off in April 2016, and is due to come into force in Q1 2018.

Cyber: Agreement was reached on the Network and Information Security Directive (NIS) in December 2015.

Digital Single Market: a paper has been produced (based on a previous document) to be used in our engagement with the EU institutions, setting out a data perspective. Consistency with existing measures and third country considerations are key themes.

Safe Harbor: following the ECJ judgement on the Schrems case, which declared the use of Safe Harbor invalid as a mechanism of the transfer of data from the EU to the US, the European Commission and the US agreed in February 2016 on a new framework for transatlantic data flows. The *EU-US Privacy Shield* will place stronger obligations on companies in the US to protect the personal data of EU citizens and stronger monitoring and enforcement by the US Dept of Commerce and the Federal Trade Commission. An Opinion was produced by the Art 29 Working Party (which

includes national data protection supervisors) in April. The European Commission is expected to issue the final adequacy decision in the summer.

Next steps: The workstream will feed into the ICO guidance process for the implementation of the GDPR and will engage with Department of Culture, Media and Sport to feed into the national implementation of the NIS Directive.

8. SUPERVISION

IRSG Objective: to provide thought leadership on the future of the ESAs (European Supervisory Authorities) and their role as guarantors of the integrity of the Single Market.

City of London input: an EDO officer is member of the IRSG workstream. We maintain good contacts with the ESAs, in particular Adam Farkas at the EBA (European Banking Authority) and Verena Ross at ESMA (European Securities and Markets Authority).

Latest Developments: The IRSG supervision workstream has produced draft papers on CMU supervision and the funding and governance of the ESAs. The papers have not been agreed.

Given the sensitivity of the issues it has been decided to postpone work on the papers and to reconvene the supervision workstream after the UK referendum.

Next Steps: The next meeting is expected to take place in July to discuss the two draft papers.