

Global Analysis

In this first snapshot from our FSR Momentum Monitor, most jurisdictions are largely showing either red (denoting significant change) or amber (the potential to impact affected firms). This is unsurprising, given the increasing interconnectedness of global financial markets and the growing influence of international standard-setting bodies and their recommendations to regulators. However, the pace and timing of change does, of course, vary across jurisdictions and from region to region, influenced by local considerations and events.

Most jurisdictions are either red or amber on environmental, social and governance (ESG) regulatory change. This reflects the growing impetus that ESG has gathered in recent years boosted by the COVID-19 pandemic, while recognising financial institutions' key role in mediating the allocation of capital to sustainable economic activities. The momentum for change though is still modest in many places. However, voluntary standards, such as the UN-backed Principles for Responsible Investment and the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD), are rapidly being reinforced by legal requirements. At the vanguard is the EU's Sustainable Finance Action Plan, which includes a system of classifying (by taxonomy) the impact of economic activity on the environment. This is an area to watch closely.

Undoubtedly, the trend now seeing most momentum is regulation around fintech and new technologies. Around two-thirds of jurisdictions are red. Again, this should not come as a surprise with the impetus that COVID-19 has given to the digitalisation of financial services and the growing popularity of cryptoassets. Regulators globally have been left scrambling to keep up with the pace of technological change and innovation in financial markets and services. Moreover, financial stability concerns over stablecoin have generated urgent studies of central bank digital currencies. In 2022, EU member states will likely have to start preparing for implementation of the European Commission's regulation on markets in crypto-assets (MiCA) and a regulation on digital operational resilience (the Digital Operational Resilience Act or DORA), which form part of the Commission's digital finance package. In the US, the emphasis is on active enforcement as the SEC increases its scrutiny of cryptocurrencies.

Alongside the growing importance of fintech in financial services, regulators' expectations over the strength of financial institutions' resilience in the face of operational risks has grown markedly. Increasing reliance on third party providers (e.g., for cloud services) and vulnerability to cyberattack are seeing the introduction of more regulation. For instance, operational resilience is one of the Japanese regulator's strategic priorities this coming year.

As for the remaining themes, that is, governance and culture and financial crime, the impact of expected developments across jurisdictions is more nuanced. Since the 2008 financial crisis, regulators have placed much importance on improving governance and culture as means of tackling misconduct. Australia's high impact score on the monitor reflects new, tougher rules on remuneration and accountability aimed at creating better incentive structures, strengthened financial resilience, and support for improved outcomes for customers. On financial crime, much of the regulatory momentum is being driven by the recommendations of the Financial Action Task Force, which is urging its members to increase the effectiveness of AML & CTF supervision and, where appropriate, to bring more enforcement cases against financial institutions. Steps to bring cryptoassets within AML regulation is another element impacting the sector.

One Global Financial Services Regulatory Team

The financial services industry is undergoing sweeping changes driven by regulatory developments, rapidly advancing technology and continued consolidation in the sector. The far-reaching impact of financial reforms, intricacies in their implementation, and conflicting regulations in different jurisdictions can expose businesses to unforeseen risk.

Our global team provides financial institutions guidance on navigating through regulatory complexities in both established and emerging markets. Our lawyers have long-standing relationships with financial services regulators, and are experienced in helping financial institutions deliver financial services efficiently and cost-effectively in a compliant manner.

From set-up and structuring, new business and product offerings, operational support as well as representation in non-contentious and contentious matters, we apply our industry knowledge and regulatory expertise to deliver result-oriented and compliant solutions for all types of financial institutions including banks, insurance companies, payments companies, securities firms and asset managers.

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