

ALLEN & OVERY

Key Regulatory Topics: Weekly Update

27 September – 3 October 2019



SEMINARS

ESG and sustainable finance conference

On 11 November, 8:30am to 1:00pm, A&O will be hosting its inaugural ESG and sustainable finance conference. The conference will bring together a wide range of market participants, including banks, asset managers, investment funds and companies across a range of asset classes and sectors, to discuss the rapidly evolving ESG landscape and the growth of green financial products. If you wish to join this conference, please email Sophie.Elder@AllenOvery.com.

If you would like to register to any of the seminars below, you will first need to create a profile for yourself at www.aoseminars.com. Once created and approved you will have full access to the site which includes being able to register to attend seminars and download past seminar materials. You will also be automatically signed up for our mailing list. Once approved to register for a seminar you simply need to log in and click on the register to attend button underneath the seminar you wish to attend. You will receive an automated confirmation email to confirm the booking.

Convergence, divergence and disturbance: What's next for financial regulation in Europe?

On 19 November, 8.30am – 9.30am, a panel of A&O's European regulatory partners will discuss issues facing their financial services clients including Brexit, the Banking Union, equivalence, financial instability and deregulation.

Trends in law and regulation concerning cryptoassets, cryptocurrency and blockchain

On 7 November, 8.30am – 9.30am, A&O will hold a seminar to take stock of recent developments in the UK regarding regulatory response to cryptoassets, cryptocurrency and blockchain and place them in the context of the global landscape.

The shape of things to come: regulation of financial institutions in the new world

On 31 October, 8.30am – 9.30am, A&O will hold a seminar to consider the interplay between Brexit and the ongoing EU regulatory reform package, including 'in flight' changes such as the EU risk reduction package (comprising changes to the Capital Requirements Regulation (CRR2), Capital Requirements Directive (CRD5), Bank Recovery and Resolution Directive (BRRD2) and Single Resolution Mechanism Regulation (SRMR2)) and the investment firms prudential package.

FCA & PRA - Enforcement themes and trends

On 16 October, 8.30am – 9.30am, at A&O's fifth annual review of FCA and PRA enforcement themes and trends, Calum Burnett, Sarah Hitchins and Nick Gomes from the firm's Litigation & Investigations team will analyse enforcement themes and trends that have emerged from FCA and PRA enforcement investigations and actions over the last year.

BREXIT

Please refer to the Markets and Markets Infrastructure section for an update regarding no-deal EU exit REMIT contingency arrangements – September Update.

CONDUCT

Please refer to the Recovery and Resolution section for an update regarding strengthening individual accountability: resolution assessments and reporting amendments.

Statement of Good Practice

On 3 October, the FMSB published a statement of good practice on information and confidentiality for the fixed income and commodity markets. The statement aims to provide clarity for firms dealing with complex issues relating to information sharing and for dealing with confidential information within a firm. There are nine good practice statements which firms should consider: (i) management of information. Market participants should clearly and effectively identify and appropriately limit access to confidential information; (ii) clear communications. Market participants should communicate in a manner that is clear, accurate, professional and not misleading; (iii) market colour. Market participants should communicate market colour appropriately and without compromising confidential information. The disclosure of client confidential information to third parties should be avoided; (iv) information sharing within a firm. Market participants should not disclose confidential information within their firms except to those persons who have a valid reason for receiving such information; (v) sharing Information between firms. Firms should exercise a high degree of care and diligence when sharing information with other market participants; (vi) confidentiality with external parties. Client confidential information should not be shared with third parties unless the client agrees otherwise, or to the extent required to give effect to client instructions and to execute and complete any required transaction or strategy (including processing, clearing, novating, or settling a transaction) or a legal or regulatory reason; (vii) communication channels. The good practice statements within this document apply regardless of the form or type of communication medium used; (viii) Market participants should consider their own policies and procedures and record keeping arrangements designed to monitor communications in light of this statement of good practice and make any changes to such practices that they deem to be appropriate; and (ix) firms should consider having policies and procedures reasonably designed to ensure personnel have been trained on the substance of this statement of good practice.

[Read more](#)

CONSUMER/RETAIL

Please refer to the Other Developments section for an update regarding the 2020 Work Programme of the Joint Committee of ESAs.

Overdraft Pricing and Competition Remedies: Policy Statement

On 2 October, the FCA published a policy statement (PS) regarding overdraft pricing and competition remedies. The FCA had made rules to change the way banks and building societies charge for overdrafts and in a consultation paper in June 2019, consulted on new rules which require firms to publish a range of overdraft pricing details. The PS sets out the feedback the FCA received and the changes it has made. The new rules on the publication of pricing information will come into force on 6 April 2020; the revised definition of private bank in the Banking: Conduct of Business sourcebook (BCOBS) comes into force immediately; and BCOBS 8 comes into force on 18 December.

[Read more](#)

FCA and PRA changes to mortgage reporting requirements

On 30 September, the FCA and the PRA published a policy statement (PS) on changes to mortgage reporting requirements for regulated mortgage lenders and home finance administrators which was originally proposed in a December 2018 consultation paper. The PS summaries the feedback received. Overall, respondents supported the proposals and they are being implemented broadly as consulted on. The timeframe for implementing the changes to the performance sales data report and the mortgage lender and administration return remains, as proposed, 12 months, but the timeframe for implementing the changes to the product sales data report was extended to 18 months. The FCA plans to publish the technical documents in October and give firms access to the FCA's reporting system test environment from November.

[Read more](#)

Call for evidence: Effects of product intervention measures regarding CFDs and binary options on market participants and clients

On 30 September, ESMA published a call for evidence on the effects of the product intervention measures regarding contracts for differences (CFDs) and binary options set out in MiFIR. ESMA is seeking feedback regarding: (i) the practical effects of ESMA's product intervention measures relating to CFDs and binary options; (ii) any issues arising from the transition between ESMA's and national product intervention measures or from differences between the national product intervention measures taken by national competent authorities in different jurisdictions; (iii) the temporary nature of ESMA's product intervention powers; and (iv) examples of circumvention of the product intervention measures. The deadline for responses is 4 November.

[Read more](#)

Guidance on the interpretation and application of Council Directive 93/13/EEC on unfair terms in consumer contracts

On 27 September, a European Commission Guidance notice on the interpretation and application of Council Directive 93/13/EEC on unfair terms in consumer contracts was published in the OJ. A Commission's Fitness Check on consumer protection directives found there to be a lack of clarity on the interpretation of the Council Directive 93/13/EEC and its application across member states. Hence, the guidance was produced to present a structured understanding of the case law of the CJEU and thereby enable the correct application of the Directive.

[Read more](#)

FINANCIAL CRIME

ESMA consults on MAR review

On 3 October, ESMA published a consultation paper (CP) on the provisions of MAR as requested by the EC. The CP addresses a wide range of issues, including: (i) the possible inclusion of spot FX contracts within the scope of MAR; (ii) the definition and delayed disclosure of inside information in different cases; (iii) the appropriateness of the trading prohibition and insider lists for persons discharging managerial responsibilities; (iv) a possible cross-market order book surveillance framework; (v) cum/ex and multiple withholding tax reclaim schemes; and (vi) cross-border enforcement of sanctions. An open hearing on this CP will take place on 5 November. The deadline for responding is 29 November.

[Read more](#)

Presidency Issues Note: Way forward with a view to strategic priorities on AML and CFT

On 30 September, the Council of the EU published a Presidency issues note on the EU AML and CTF framework. Accordingly, and with a view to inform Council Conclusions to be adopted on 5 December, the Presidency invites Ministers to discuss issues such as: (i) what would be the most appropriate scope of further reforms? (ii) Which AML/CFT aspects would most benefit from further harmonisation through a Regulation? (iii) is the creation of a new EU body a valid way forward, or is any existing body the best option? and (iv) how could effective cooperation be ensured between the relevant (EU, MS and third countries') authorities and bodies involved in AML/CFT?

[Read more](#)

Sector Simulation Exercise: SIMEX 2018 Report

On 27 September, the BoE published a report on the outcome and findings of its November 2018 financial sector cyber simulation exercise, which tested the response of 29 systemically important firms and financial market infrastructures to a cyber-attack scenario targeting the financial sector. Following the exercise and review of the participant submissions, the following key findings were identified with related recommendations: (i) opportunities to improve the way firms coordinate – participants agreed that impacts and responses were coordinated and discussed effectively at the strategic level. However improvements could be made at an operational level; (ii) disparity in risk tolerance for suspending services – in the case of system integrity issues, participant decision making, and risk appetite for suspending services varied significantly. It is recognised that these differences may have significant knock-on effects to the market and real economy as a whole; (iii) restoring data and recovering service – currently the ability of participants to support another operationally paralysed bank is constrained by the different ways in which data is stored. This restricts how contingencies could be used for the benefit of the sector as a whole; and (iv) communication practices – the exercise recognised the importance of effective communications in maintaining customer and market confidence in the system. It demonstrated that use of UK Finance's

incident management communications framework and coordination has significantly improved collective communications, with public lines developed in under an hour.

[Read more](#)

FUND REGULATION

IOSCO publishes update to peer reviews of regulation of MMFs

On 2 October, IOSCO published a report entitled 'Update to the IOSCO Peer Review of Regulation of Money Market Funds (MMF)'. The MMF report covers three topics: (i) valuation; (ii) liquidity management; and (iii) MMFs that offer a stable NAV. The report finds that most jurisdictions have implemented the fair value approach for the valuation of MMF portfolios, but progress in liquidity management is less advanced and less even.

[Read more](#)

Illiquid assets and open-ended funds and feedback to Consultation Paper CP18/27

On 30 September, the FCA published a policy statement on illiquid assets and open-ended funds in which it sets out its final rules, following its October 2018 consultation paper (CP18/27) on measures relating to non-UCITS retail schemes (NURs) investing in illiquid assets. The FCA is changing its Handbook in three broad areas: (i) suspension of dealings in units – the FCA is requiring NURs holding property and other immovables to suspend dealing when there is 'material uncertainty' about the valuation of at least 20% of the scheme property; (ii) improving the quality of liquidity risk management – the FCA is requiring managers of funds investing mainly in illiquid assets to produce contingency plans for dealing with liquidity risks; and (iii) increased disclosure – the FCA is requiring: (a) additional disclosure in a fund's prospectus of the details of their liquidity risk management strategies, including the tools they will use and the potential impact on investors; and (b) a standard risk warning to be given in financial promotions to retail clients for such funds. This will apply to all firms communicating a financial promotion, not just the fund manager. The FCA Handbook instrument making the relevant rule changes will come into force on 30 September 2020.

[Read more](#)

INSURANCE

Responses to CP13/19 Occasional Consultation Paper

On 30 September, the PRA published a policy statement (PS) setting out its response to feedback received on the proposals in its June 2019 occasional paper (OP). In the PS, the PRA sets out its final rules and guidance on issues consulted on in the following chapters of the OP: (i) Chapter 2: Solvency II: the quality of capital instruments; (ii) Chapter 3: Solvency II: minor updates to supervisory statements; (iii) Chapter 4: Regulatory reporting: discontinuation of FSA006; and (iv) Chapter 5: National specific templates. The revisions relating to chapters 2, 3 and 4 of the OP entered into force on 30 September and of chapter 5 the revisions will enter into force on 30 November.

[Read more](#)

Proposals for making proportionality work in Solvency II

On 30 September 2019, Insurance Europe and the Association of Mutual Insurers and Insurance Co-operatives in Europe (AMICE) published a joint call for the EC to improve the principle of proportionality in Solvency II. Proportionality is a vital element of Solvency II that was included to enable national supervisory authorities to exercise a proportionate application of regulatory requirements imposed on insurers, in relation to the scale, nature and complexity of their activity. EU insurers have warned that the principle of proportionality is, in practice, hardly ever applied under Solvency II. The industry's proposed improvements would help to ensure that the principle of proportionality is applied effectively and consistently across all member states and across all three pillars of Solvency II.

[Read more](#)

Opinion on Sustainability within Solvency II

On 30 September, EIOPA published an opinion on sustainability within Solvency II and in doing so, followed the questions posed by the EC in its request for an opinion with a focus on aspects relating to climate change mitigation. Furthermore, it analysed evidence collected via a public call for evidence, a confidential request for information and a public consultation on a draft opinion on sustainability within Solvency II. The opinion sets out EIOPA's views on the integration of sustainability, in particular climate-related developments, into the Solvency II framework for the valuation of assets and liabilities, investment and underwriting practices, the calibration of market and natural catastrophe risks and the use of internal models.

[Read more](#)

Solvency II: Income producing real estate loans and internal credit assessments for illiquid, unrated assets

On 27 September, the PRA published a consultation paper (CP) which sets out the PRA's expectations on how firms assess the risks and develop their Solvency II internal models in respect of income producing real estate (IPRE) loans. Chapter 2 of the CP sets out the PRA's proposed expectations for IPRE lending in respect of: (i) risk identification; and (ii) risk calibration and validation of internal models. The PRA also recognises that, in general, individual illiquid assets are not typically rated by External Credit Assessment Institutions (ECAIs). The credibility of insurance firms' credit ratings of illiquid assets is therefore underpinned by the robustness of the firm's own internal credit assessment of the assets. Specifically, for IPRE loans that match liabilities in a matching adjustment portfolio, internal ratings are mapped to EIOPA's Credit Quality Steps to assign the fundamental spread used in the calculation of technical provisions, and may also represent an input to the calibration of the Solvency Capital Requirements in an internal model. Furthermore, the internal rating may be a driver for asset valuation e.g. where referencing market observable credit spreads for assets with ECAI ratings. Chapter 3 of this CP sets out the PRA's proposals to set out further expectations in this area. The deadline for responding is 27 December.

[Read more](#)

Solvency II: Equity release mortgages – Part 2

On 27 September, the PRA published a policy statement that contains feedback on its second consultation paper on equity release mortgages (ERMs) and the Solvency II Directive and which sets out proposals to amend supervisory statement (SS3/17), Solvency II: Matching adjustment - illiquid unrated assets and ERMs, which contains a test that helps the PRA determine whether firms appear to be taking inappropriately large matching adjustment benefit from restructured equity release mortgages held within matching adjustment portfolios. In light of the responses, the PRA has made changes to the draft supervisory statement to make its policy clearer, providing, for example, more information on the inputs to the PRA's analysis of real interest rates and clarifying the scenarios that firms are expected to consider when using the effective value test in stress as a validation technique. The expectations set out in the updated SS3/17 will come into effect on 31 December.

[Read more](#)

MARKETS AND MARKETS INFRASTRUCTURE

Please refer to the Other Developments section for an update regarding the 2020 Work Programme of the Joint Committee of ESAs and ESMA's 2020 Annual Work Programme.

Please refer to the Consumer/Retail section for an update regarding a call for evidence: effects of product intervention measures regarding CFDs and binary options on market participants and clients.

Draft technical advice on commercial terms for providing clearing services under EMIR

On 3 October, ESMA published a consultation paper (CP) on draft technical advice to the EC on specifying the conditions under which commercial terms are to be considered fair, reasonable, non-discriminatory and transparent (FRANDT) where clearing service providers offer clearing services to clients. The CP sets out the requirements for FRANDT commercial terms, based on the four criteria listed under Article 4(3a) of EMIR, namely: (i) fairness and transparency; (ii) unbiased and rational contractual arrangements; (iii) facilitate clearing services and prices to be fair and non-discriminatory; and (iv) risk control criteria. The deadline for responding is 2 December.

[Read more](#)

FCA Primary Market Bulletin

On 3 October, the FCA published the 24th Primary Market Bulletin (PMB) which: (i) provides an update on Brexit; (ii) a brief overview of the FCA's proposals in relation to the European single electronic format requirements which apply to issuers on EU markets from 1 January 2020; (iii) outlines the FCA's thematic review into understanding the money laundering risks in the capital markets; and (iv) discusses the most recent updates on the Prospectus Regulation which came into force on 21 July.

[Read more](#)

IOSCO publishes update to peer reviews of regulation of securitization

On 2 October, IOSCO published a report entitled 'Update to the IOSCO Peer Review of Implementation of Incentive Alignment Recommendations for Securitisation'. The securitisation report covers two topics: (i)

incentive alignment arrangements; and (ii) disclosure requirements. This report finds that, overall, progress remains mixed across participating jurisdictions in implementing the recommendations for incentive alignment for securitisation.

[Read more](#)

ESMA updates Q&A on MiFID II and MiFIR market structures topics, investor protection and intermediaries topics

On 2 October, ESMA published an updated version for its Q&As regarding MiFID II and MiFIR market structures topics. This update clarifies issues such as, for exchange traded funds there is only one average daily turnover band from which to choose the highest threshold to be used to calculate the average value of transactions. In addition, on 3 October, ESMA published an updated version for its Q&As regarding MiFID II and MiFIR investor protection and intermediaries topics. This update addresses questions on: (i) best execution – disclosure of reports to the public; and (ii) other issues – drafting change on understanding the term “ongoing relationship”.

[MiFID II and MiFIR market structures topics](#)

[MiFID II and MiFIR investor protection and intermediaries topics](#)

ESMA updates Q&A on CSDR

On 2 October, ESMA published an updated version for its Q&As regarding the implementation of the Regulation (EU) No 909/2014 on improving securities settlement in the EU and on central securities depositories. This update clarifies issues such as the scope of the cash penalties regime and the exemption applicable to insolvent participants.

[CSDR](#)

ESMA updates Q&A on EMIR implementation

On 2 October, ESMA published an updated version for its Q&As regarding the implementation of the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories (EMIR). This update clarifies issues such as common supervisory practices in applying EMIR.

[EMIR implementation](#)

EMMI publishes EONIA under the reformed determination methodology

On 2 October, EMMI published EONIA under the revised determination methodology that directly tracks the €STR. Under the reformed determination methodology: (i) EONIA is calculated as the €STR plus a spread of 8.5 basis points. The spread was calculated by the ECB on 31 May and reflects the historical difference between the Underlying Interests of the two benchmarks, i.e. interbank lending rate for EONIA versus wholesale borrowing rate for the €STR; and (ii) EONIA for day T is available every TARGET day on T+1, at or shortly after 09.15 Brussels time. This timing prevents market participants from being exposed to any additional EONIA re-fixing, should there be a €STR re-fixing. To facilitate a smooth transitioning from EONIA to the €STR, EMMI will continue to publish EONIA every TARGET day until 3 January 2022, the date on which the benchmark will be discontinued.

[Read more](#)

Guidelines: On Risk factors under the Prospectus Regulation

On 1 October, ESMA published its final guidelines on risk factors under the new Prospectus Regulation. These guidelines are to assist competent authorities when reviewing the specificity, materiality and presentation of risks factors across categories depending on their nature. Although these guidelines are addressed to competent authorities, they make clear that those responsible for a prospectus should consider these guidelines when preparing a prospectus for submission to the relevant competent authority. The guidelines will apply from 4 December.

[Read more](#)

No-deal EU exit REMIT contingency arrangements – September Update

On 27 September, Ofgem published an update on how REMIT contingency plans will work. The update summarises the no-deal contingency arrangements set out in Ofgem’s March 1 letter which covered three main areas: (i) monitoring and enforcement; (ii) registration; and (iii) data reporting. The update notes that REMIT prohibitions and obligations will still apply in GB post-Brexit and Ofgem will continue to have the powers to monitor and enforce them. Ofgem also notes that if a withdrawal agreement is implemented, the EU exit implementation period will run until 31 December 2020, unless otherwise agreed. During this time, Ofgem’s working assumption is that current REMIT registration and data reporting channels will remain unchanged.

[Read more](#)

PRUDENTIAL REGULATION

Please see the Other Developments section for an update regarding the EBA's 2020 Work Programme.

Written auditor reporting – thematic feedback from the 2018/2019 reporting period

On 2 October, the PRA published a Dear CFO letter from the PRA Executive Director, Prudential Policy, Victoria Saporta, providing thematic feedback to firms and auditors from the PRA's review of written auditor reports received this year. The letter sets out thematic findings for the implementation of expected credit loss accounting (ECL). Annex I provides more detail on the thematic findings on IFRS 9 ECL. Annex II discusses thematic findings relating to matters other than ECL. As part of the next round of written auditor reporting questions for the year-end audit, the PRA has asked for auditors' views on the extent to which firms have adopted the practices highlighted in the letter, such as model adjustments, controls around new ECL models and data, and consistency, or if firms have alternative processes in place that achieve the same results. The PRA intends to discuss wider adoption of these practices with firms in 2020 as part of its continuing work with firms on consistent application of IFRS 9 ECL.

[Read more](#)

Basel III Monitoring Report

On 2 October, BCBS published a report on the outcome of the Basel III monitoring exercise based on end-2018 data, without taking account of transitional arrangements set in the Basel III framework. For the first time, the report also reflects the finalisation of the market risk framework published in January. On a fully phased-in basis, the capital shortfalls at the end-December 2018 reporting date are €23.5 billion for Group 1 banks at the target level. These shortfalls are almost 75% smaller than in the end-2015 cumulative QIS exercise, thanks mainly to higher levels of eligible capital. For Group 1 banks, the Tier 1 minimum required capital (MRC) would increase by 3.0% following full phasing-in of the final Basel III standards relative to the initial Basel III standards. This compares with an increase of 3.2% at end-2017. On average, at end-June 2018, the total change in Tier 1 MRC at the target level was higher at 5.3% for Group 1 banks. This higher increase was largely driven by the higher market risk impact prior to the application of the recalibrated 2019 standard.

[Press release](#)

[Monitoring report](#)

EBA Report: capital monitoring and compliance with CRR liquidity measures

On 2 October 2019, the EBA published a report on the Basel III monitoring exercise (Report 1) and a report on liquidity measures under Article 509(1) of CRR (Report 2). Report 1 assesses the impact of final Basel III reforms on EU banks and Report 2 evaluates the liquidity coverage requirements currently in place in the EU. The results of Report 1 reveal the minimum Tier 1 capital requirement of EU banks' would increase by 19.3% at the full implementation date (2027). Report 2 highlights that compliance with liquidity coverage ratio has been continuously improved by EU banks.

[Basel III monitoring exercise](#)

[Liquidity measures under Article 509\(1\) of CRR](#)

ECB guide to internal Models

On 1 October, the ECB published the consolidated version of its guide to internal models under the SSM. The guide provides transparency on how the ECB understands the CRR provisions relating to the use of internal models and how it intends to apply them when assessing whether institutions meet these requirements.

[Read more](#)

Asset encumbrance

On 30 September, the PRA published a consultation paper (CP 24/19) on asset encumbrance in which it sets out its proposed expectations of firms when managing the key prudential risks associated with asset encumbrance, specifically in the contexts of managing liquidity and funding risks, recovery planning, and resolution. The PRA's proposed expectations relate both to firms' internal monitoring and management of these risks, and to the information that firms are expected to provide to the PRA through their periodic regulatory submissions, e.g. Internal Liquidity Adequacy Assessment Process (ILAAP) documents and recovery plans. The policy proposals included in this CP involve amendments to existing supervisory statements to make clear that, for example, firms should consider appropriately and thoroughly the potential

impacts that asset encumbrance can have on their funding profiles, and put in place adequate risk management processes which include monitoring key metrics at appropriate committees, with clearly defined accountability for risk management, setting limits where appropriate. The amendments suggested are for: (i) SS24/15 'The PRA's approach to supervising liquidity and funding risks'; (ii) SS9/17 'Recovery planning'; and (iii) SS20/15 'Supervising building societies' treasury and lending activities'. The deadline for responding is 17 January.

[Read more](#)

RECOVERY AND RESOLUTION

Please see the Prudential Regulation section for an update regarding the PRA's consultation paper on asset encumbrance.

Please see the Other Developments section for an update regarding the EBA's 2020 Work Programme.

Strengthening individual accountability: Resolution assessments and reporting amendments

On 27 September, the PRA published a policy statement setting out feedback to its June consultation paper (CP12/19) on changes to the prescribed responsibility (PR) for recovery and resolution under SM&CR. In CP12/19, the PRA proposed to: (i) amend the PR for recovery plans and resolution packs to include, where relevant, a responsibility for oversight of resolution assessments, contingent on the PRA adopting new rules in respect of resolution assessments. This is relevant to those UK banks and building societies with £50 billion or more in retail deposits on an individual or consolidated basis at the date of their most recent annual accounts (in scope) firms; (ii) make a consequential change to SS28/15, in which this PR is used to illustrate the PRA's expectations as to the clarity and level of detail to be included among the free text in a Senior Manager's Statement of Responsibilities (SoR); and (iii) introduce minor amendments to the SoR form to ensure more consistency between the wording of the PRs as they appear in the form compared to the PRA Rulebook and the FCA Handbook. The PRA intends to proceed with the proposals set out in CP12/19, with minor amendments reflecting the final rules set out in its July policy statement on resolution assessment and public disclosure (PS15/19).

[Read more](#)

SUSTAINABLE FINANCE

Please refer to the Other Developments section for an update regarding the 2020 Work Programme of the Joint Committee of ESAs and the EBA's 2020 Work Programme.

Report on climate benchmarks and ESG disclosures

On 30 September, the EU technical expert group (TEG) on sustainable finance published its final report on climate benchmarks and benchmarks' environmental, social and governance (ESG) disclosures. In the final report, the TEG recommends a set of minimum technical requirements for the methodology of EU climate benchmarks including: (i) minimum content of the explanation of how the key elements of the methodology reflect ESG factors for each benchmark or family of benchmarks (with the exception of currency and interest rate benchmarks as defined by the regulation); and (ii) templates associated with the ESG disclosures to be included in the methodology. The report also considers disclosure requirements including specifications regarding explanations of how: (i) ESG factors are reflected in the benchmark or family of benchmarks; and (ii) the methodology aligns with the target of greenhouse gases emission reductions or attains the long-term global warming target of the Paris Agreement on Climate Change. The report will serve as a basis to the drafting of delegated acts by the EC, under the empowerments contained in the amending climate benchmarks regulation. The draft delegated acts will be subject to a formal public consultation and are expected to be adopted early 2020.

[Read more](#)

OTHER DEVELOPMENTS

2020 Work Programme of the Joint Committee of ESAs

On 2 October, the Joint Committee of ESAs published its work programme for 2020. The priorities for 2020 include: (i) PRIIPs and finalising proposals to amend the RTS regarding KID requirements for PRIIPs; (ii) financial innovation and promoting cross-border co-operation through the European Forum for Innovation Facilitators; (iii) sustainable finance and continuing work to develop technical standards for disclosures regarding sustainability; (iv) complaints handling and understanding how financial institutions implement

guidelines set forth by the EBA, EIOPA and ESMA; and (v) securitisation and ensuring consistent responses to questions arising from the Securitisation Regulation.

[Read more](#)

ESMA's 2020 Annual Work Programme

On 1 October, ESMA published its work programme for 2020. In addition to implementing ESMA's new mandates, the key areas of focus will include: (i) strengthening the convergence powers based on the new ESMA Regulation, while ensuring consistency in the application of MiFIDII/MiFIR for secondary markets; (ii) publishing its annual statistical report series based on EMIR, AIFMD and MiFID II data and promoting cooperation on risk analysis; and (iii) developing the necessary rules under EMIR 2.2/EMIR Refit and reviewing MIFID II/MiFIR.

[Read more](#)

FCA Handbook Notice 69

On 27 September, the FCA published Handbook Notice 69, which sets out changes to the FCA Handbook made by the FCA board on 26 September, including: (i) Handbook Administration (No 51) Instrument 2019; (ii) Waiver Application Form (Amendments) Instrument 2019; (iii) Reporting of Changes to the Management Body (FCA-Authorised Firms) Instrument 2019; and (iv) Non-UCITS Retail Schemes Investing in Illiquid Assets Instrument 2019.

[Read more](#)

EBA 2020 Work Programme

On 27 September, the EBA published its work programme for 2020. Strategic priorities include: (i) supporting the deployment of the risk reduction package and the implementation of the global standards in the EU. With regard to the new IFD and IFR, the EBA will concentrate on completing mandates in relation to capital requirements and capital composition, consolidated supervision, reporting, disclosure on Pillar 3, credit institutions criteria and concentration risk. Furthermore, another key priority will be the finalisation of the EBA IRB roadmap for calculating minimum capital requirements for credit risk; (ii) providing efficient methodologies and tools for supervisory convergence and stress testing; (iii) the EBA in co-operation with the other ESAs will strengthen its role in the area of AML/CFT supervision by national authorities, following the EC's communication on the AML action plan.; and (iv) contributing to the development of financial innovation and sustainability. In total, the programme lists 37 activities the EBA intends to pursue in 2020 together with a proposed timetable.

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