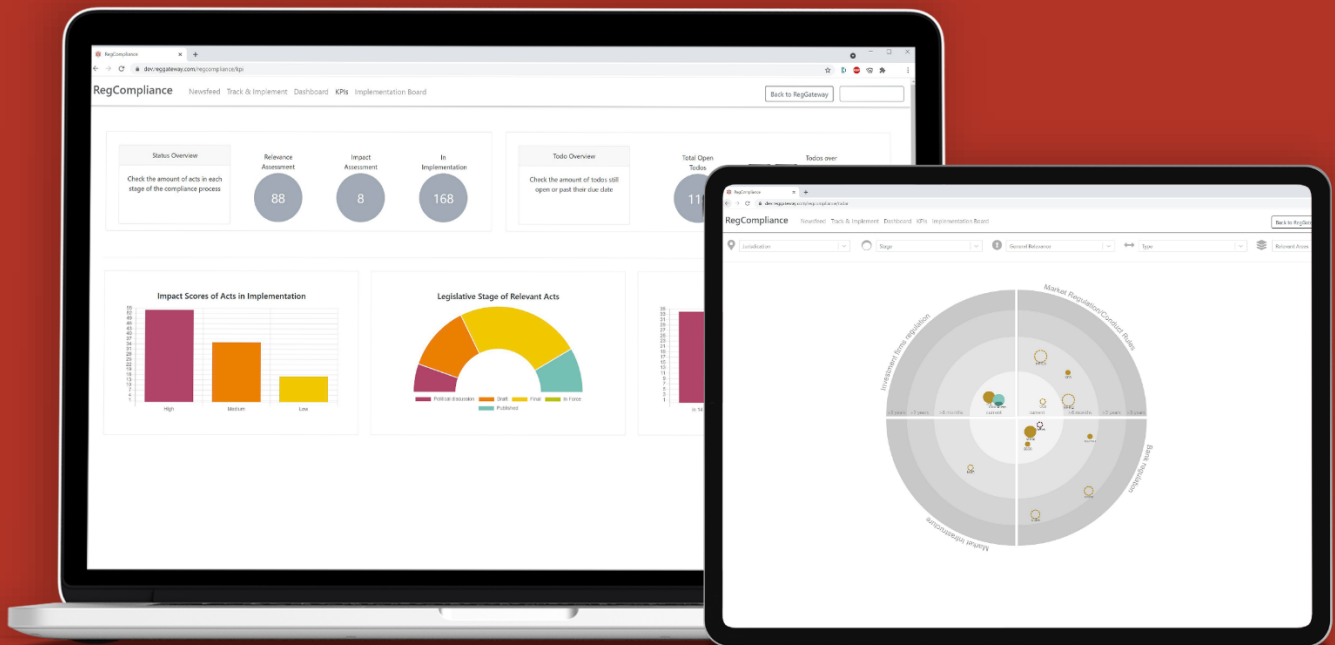


Regulatory monitoring: EU Version

Newsletter

November 2022





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Features

HORIZON SCANNING / REGULATORY MONITORING

Identify new regulatory developments easily and tailored to the specific type of regulated firm, so that only relevant changes appear.

FINANCIAL REGULATORY LAW SOURCEBOOK

A categorised collection of all laws in the field of financial regulatory law for Europe and Germany (constantly being expanded), which can be compiled as an obligation register and commented on as desired.

IMPLEMENTATION MANAGEMENT

Effective implementation (including tailored impact analysis and gap analysis) of new legislation and agile control using our project management tool (including KPIs).

CHANGE ANALYSIS AND PREVIEW OF RULES

Read the future versions of a law early, including the official explanatory memorandum, and identify any legislative changes.

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1. Bank regulation

1.1 Prudential regulation

(a) General

(i) EU

Publication of three EEA Joint Committee Decisions amending Annex IX to EEA Agreement

Status: Published in the OJ

Three Decisions of the EEA Joint Committee that amend Annex IX (Financial Services) to the EEA Agreement have been published in the OJ: (i) Decision No 186/2019 of 10 July 2019, which incorporates into the EEA Agreement Implementing Regulation (EU) 2019/699. The decision's entry into force date is 11 July 2019, provided that all the notifications under Article 103(1) of the EEA Agreement have been made; (ii) Decision No 187/2019 of 10 July 2019, which incorporates five Delegated Regulations and one Implementing Regulation supplementing the BRRD: Delegated Regulation (EU) 2016/778, Delegated Regulation (EU) 2016/1401, Delegated Regulation (EU) 2017/867, Delegated Regulation (EU) 2018/344; Delegated Regulation (EU) 2018/345; and Implementing Regulation (EU) 2018/308. The decision's entry into force date is 11 July 2019 (provided that all the notifications under Article 103(1) of the EEA Agreement have been made) or on the day of the entry into force of EEA Joint Committee Decision No 21/2018, whichever is the later; and (iii) Decision No 189/2019 of 10 July, which incorporates three Delegated Regulations supplementing the CRA Regulation: Delegated Regulation (EU) 2015/1, Delegated Regulation (EU) 2015/2 and Delegated Regulation (EU) 2015/3. The decision's entry into force date is 11 July 2019, provided that all the notifications under Article 103(1) of the EEA Agreement have been made.

- [Decision of the EEA Joint Committee No 186/2019](#)
- [Decision of the EEA Joint Committee No 187/2019](#)
- [Decision of the EEA Joint Committee No 189/2019](#)

Date of publication: 17/11/2022

EBA: Opinion on the set-up and operationalisation of Intermediate EU Parent Undertaking(s) under Article 21b CRD

Status: Final

The EBA has published an opinion on the set-up and operationalisation of intermediate EU parent undertakings (IPUs) under Article 21b of the CRD IV. The opinion aims to clarify aspects of the EU regulatory framework relating to the IPUs as laid down in Article 21b(2) of the CRD IV, with a view to ensuring uniform application of the relevant regime by the competent authorities and resolution authorities throughout the EU. The opinion provides guidance for cases where the third country group (TCG) intends to have in place two IPUs rather than a single IPU because it is subject to segregation of activities imposed by mandatory third country law, or because having a single IPU would make resolution less effective. It discusses the process and correct sequencing of actions for achieving the timely set-up of the IPU and sheds light on the two IPU structure, underscoring that it is an exception to the single IPU and its approval is subject to restrictive interpretation. The opinion clarifies the information requirements and the assessment criteria, both from a supervisory and a resolution perspective, for the approval of the two IPU structure by the competent authority. In addition, the opinion underscores the importance of adequate and effective arrangements to ensure the safety and soundness of the IPU and its subsidiaries in the EU. It also draws attention to internal governance, outsourcing, risk management, liquidity and funding arrangements.

The opinion is only of relevance for groups having to implement the IPU requirements.

Date of publication: 07/11/2022

Council of the EU: Invitation to agree the general approach in relation to the 2021 Banking Package

Status: Final

The Council of the EU has published a note to the Permanent Representatives Committee on the 2021 Banking Package which includes two proposals: the first would amend CRDIV as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks (CRDVI). The second amends the CRR as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (CRRIII). The note reports that the Working Party on Financial Services has examined the proposal and that, based on the discussions and written comments received, the Czech Presidency has prepared compromise texts. Those texts garnered broad support from the Member States during the Working Party held on 26 October, in which Delegations expressed their support for moving the file forward and for inviting the Council on 8 November to agree on a general approach and start trilogue negotiations with the EP. [A&O have prepared a briefing](#) focussing, in particular, on the amendments of the Council proposal compared to the Commission proposal regarding third country branches and cross-border market access.

- [Compromise text relating to CRRIII](#)
- [Compromise text relating to CRDVI](#)

Date of publication: 31/10/2022

(ii) International

BCBS: Newsletter on bank exposures to non-bank financial intermediaries

Status: Final

The Basel Committee on Banking Supervision (BCBS) has published a newsletter on bank exposures to non-bank financial intermediaries. The newsletter explains that the non-bank financial intermediary (NBFIs) sector is continuing to grow and has the potential to cause financial stability concerns. However, its size and associated risks vary among member jurisdictions. The BCBS recently conducted a risk horizon scanning exercise related to banks' NBFIs activities and discussed supervisory and policy implications resulting from the recent distress of specific NBFIs. Discussions highlighted that: (i) supervisors consider exposures to highly leveraged counterparties via derivatives and securities financing to be the riskiest. These types of exposures raise concerns about opaque concentration risks and potential sudden market stress, stemming from margin calls and fire sales of assets. In some instances, supervisors also note an increasing risk with regards to crypto-asset-related services provided by NBFIs; (ii) deficiencies in some banks' risk management practices have been noted; (iii) supervisors have encouraged banks to improve their practices by reviewing and enforcing existing Guidelines and standards. Supervisors have put an increased focus on banks' risk management practices, emphasising rigorous onboarding due diligence and ongoing monitoring, risk-sensitive margining and the importance of robust information disclosures from investment fund counterparties; (iv) recent supervisory work revealed weaknesses in some banks' risk management practices related to commodities trading and also highlighted broader counterparty credit risk measurement and management challenges; and (v) existing supervisory infrastructure regarding NBFIs-related risk is generally sufficient.

However, the Committee is discussing how to close data gaps and improve the visibility of interconnections between banks and NBFIs. The BCBS strongly encourages the proper application of existing standards and Guidelines, as well as the full and timely implementation of the Basel III standards. It is committed to continuing to exchange supervisory views on banks' exposures to NBFIs including on recent episodes highlighting leverage, concentration and liquidity concerns in the non-bank sector and related supervisory practices.

Date of publication: 24/11/2022

FSB: Annual report on promoting global financial stability 2022

Status: Final

The FSB has published its annual report on its work to promote global financial stability. The report: (i) warns that the outlook for global financial stability is particularly challenging amidst high inflationary pressures, elevated debt levels, lower growth, and much tighter global financial conditions. So far, global financial markets have proved to be resilient. However, many authorities have limited policy space to intervene should a shock materialise; (ii) cautions that market turbulence could be amplified by still elevated valuations of some assets, forced sales from sudden unwinding of leveraged positions of non-bank financial institutions, and liquidity mismatches in some types of funds. Debt servicing pressures may surface across the sovereign, non-financial

corporate and household sectors; (iii) highlights the analytical and policy work the FSB is carrying out to tackle current and emerging vulnerabilities; (iv) finds that progress in implementing G20 reforms continues but remains uneven. Jurisdictions' adoption of Basel III continues, although there is uneven progress in implementing the final reforms to the capital framework. Implementation of OTC derivatives reforms is well advanced but further progress continues to be incremental. Work is still ongoing to close gaps in the operationalisation of banks' resolution plans and to implement effective resolution regimes for insurers and central counterparties; and (v) emphasises that, in the face of the current challenges for financial stability, timely and consistent implementation of G20 reforms remains as relevant as when they were initially agreed.

Date of publication: 16/11/2022

G20 Bali Summit Leaders' Declaration

Status: Final

The G20 published the leaders' declaration adopted following their Bali Summit. Points of interest relevant to financial services include: (i) sustainable finance - the G20 underlines the urgency to rapidly transform and diversify energy systems, advance energy security and resilience and markets stability, by accelerating and ensuring clean, sustainable, just, affordable, and inclusive energy transitions and flow of sustainable investments. The G20 calls for further efforts to advance the Sustainable Finance Roadmap's recommended actions that will scale up sustainability financing. The group encourage members to contribute on a voluntary basis to the Sustainable Finance Working Group's online dashboard and repository of relevant work. It states that globally consistent data is needed in order to effectively address climate-related financial risks and therefore support taking forward the implementation of the FSB updated Roadmap for addressing climate-related financial risks; (ii) cross-border payments – the G20 encourages central banks, other public authorities and the payments industry to continue to work collaboratively on the initiatives set out in the G20 Roadmap for enhancing cross-border payments; (iii) crypto-assets – the G20 asserts that it is critical to build public awareness of risks, to strengthen regulatory outcomes and to support a level playing field, while harnessing the benefits of innovation; (iv) data – the G20 asks the IMF, the FSB and the Inter-Agency Group on Economic and Financial Statistics to begin work on filling data gaps outlined in their new Data Gaps Initiative and report back on progress in the second half of 2023; and (v) financial crime – the G20 recognises the need for the international community to step up its efforts to effectively combat money laundering, terrorism financing, and proliferation financing and reaffirms its commitment to delivering the strategic priorities of the FATF and its FATF Style Regional Bodies to lead global action to respond to these threats. The G20 encourages all members to strengthen collaboration to adopt and effectively implement the FATF standards.

Date of publication: 16/11/2022

(b) Solvency/Own funds issues

(i) EU

Commission Delegated Regulation (EU) 2022/2328 supplementing the CRR with regard to RTS specifying exotic underlyings and the instruments bearing residual risks for the purposes of the calculation of own funds requirements for residual risks

Status: Published in the OJ

Date of entry into force: 19/12/2022

Commission Delegated Regulation (EU) 2022/2328 supplementing the CRR with regard to RTS specifying exotic underlyings and the instruments bearing residual risks for the purposes of the calculation of own funds requirements for residual risks has been published in the OJ.

Date of publication: 29/11/2022

EC: Commission Delegated Regulation (EU) .../... supplementing the CRR with regard to RTS for the calculation of risk-weighted exposure amounts of CIUs under the mandate-based approach

Status: Adopted by the EC

The EC has adopted a Delegated Regulation on RTS for the calculation of risk-weighted exposure amounts of collective investment undertakings (CIUs) under the mandate-based approach under Article 132a(4) of the CRR. The provisions of the Delegated Regulation specify how institutions are to calculate the risk-weighted exposure amount referred to in Article 132a(2) of the CRR, as introduced by the CRR II, where one or more of the inputs required for that calculation are not available. The RTS clarify the steps that need to be taken to calculate the exposure value of CIUs' derivative exposures where the underlying is unknown. It then sets out what to do in cases where the calculation of the exposure value to the counterparty credit risk of a netting set of CIUs' derivative exposures is needed.

The Delegated Regulation will enter into force on the twentieth day following its publication in the OJ.

Date of publication: 24/11/2022

Commission Delegated Regulation (EU) 2022/2257 supplementing the CRR with regard to RTS specifying the calculation methods of gross jump-to-default amounts for exposures to debt and equity instruments and for exposures to default risk arising from certain derivative instruments, and specifying the determination of notional amounts of instruments other than the instruments referred to in Article 325w(4) CRR

Status: Published in the OJ

Date of entry into force: 08/12/2022

Commission Delegated Regulation (EU) 2022/2257 on RTS specifying the calculation methods of gross jump-to-default amounts for exposures to debt and equity instruments and for exposures to default risk arising from certain derivative instruments, and specifying the determination of notional amounts of instruments other than the instruments referred to in Article 325w(4) of the CRR, has been published in the OJ.

Date of publication: 18/11/2022

EBA: Report on the application of the infrastructure supporting factor (ISF)

Status: Final

The EBA has published a report analysing the lending trends and riskiness of infrastructure loans that have benefitted from a capital reduction due to the introduction of the so-called Infrastructure Supporting Factor (ISF) according to Article 501a of the CRR. The data from the report is not sufficient to conclude on the impact of the ISF on lending or the consistency of the riskiness of the affected loans with the own funds requirements. However, the report does conclude that due to the latest Basel III changes, as well as the CRR3 proposal that ensures an increased risk sensitivity of the standardised approach and preserves the IRB risk-sensitivity, the continued application of the ISF could be questioned from a broader prudential perspective.

Date of publication: 03/11/2022

(c) Cyber security

(i) EU

Council of the EU: Adoption of the NIS2 Directive to strengthen cybersecurity and resilience across the EU

Status: Adopted by the Council of the EU

The Council of the EU has adopted the NIS2 Directive which aims to further strengthen the resilience and incident response capacities to cyber threats by both public and private sectors in the EU. For more information on this Directive, please see the entry below.

The Directive will be published in the OJ in the coming days and enter into force on the twentieth day following this publication. Member states will then have 21 months to implement the provisions in their national law.

Date of publication: 28/11/2022

EP: Final vote on the draft Directive on measures for a high common level of cybersecurity across the Union, repealing the NIS Directive

Status: Draft

The EU Parliament has cast its final vote on cybersecurity measures to protect the EU's financial bodies from information and communication technology related incidents. These new rules will strengthen and harmonise requirements to protect against, detect, contain, recover from, and repair information and communication technology (ICT)-related incidents. They will be applicable to the following financial bodies: banks, payment providers, electronic money providers, investment firms, crypto-asset service providers as well as to ICT third-party service providers that are regulated at EU level.

The regulation will enter into force on the twentieth day following its publication in the Official Journal of the EU and will apply from 24 months after the date of entry into force.

Date of publication: 10/11/2022

(ii) International

BCBS: Report on implementation monitoring of the PFMI: Level 3 assessment on financial market infrastructures' cyber resilience

Status: Final

XxxBCBS has published a joint report by CPMI and IOSCO on implementation monitoring of the PFMI: Level 3 assessment on financial market infrastructures' cyber resilience. The report reviews the state of cyber resilience at a sample of 37 financial market infrastructures (FMIs) from 29 jurisdictions. It finds a reasonably high adoption of the [CPMI-IOSCO Guidance on cyber resilience for financial market infrastructures by FMIs](#) as of 2016. However, it identifies four issues of concern relating to some FMIs: (i) shortcomings in developing the cyber response and recovery plans to meet the two-hour recovery time objective; (ii) a lack of cyber resilience testing after significant system changes; (iii) a lack of comprehensive scenario-based testing; and (iv) inadequate involvement of relevant stakeholders in testing of their responses. The report concludes that these issues should be addressed with the highest priority.

Date of publication: 29/11/2022

(d) Disclosure

(i) International

IOSCO: Statement on financial reporting and disclosure during economic uncertainty

Status: Final

IOSCO has published a statement on financial reporting and disclosure during economic uncertainty, emphasising issuers' need for fair, transparent and timely disclosure about impacts of this uncertainty. The statement identifies contributing factors to this uncertainty including supply chain challenges; on-going impacts of the Covid-19 pandemic; evolving impacts of the conflict in Ukraine; escalating energy supply shortages and costs; labour shortages; inflationary pressures; volatility in currency exchange rates; rising interest rates; changes in monetary and fiscal policies; and other responses from central banks and other government authorities. In light of these challenges, IOSCO highlights its commitment to consistently apply and enforce high quality reporting standards and disclosure regulations, which are of critical importance to the proper functioning of the capital markets.

Date of publication: 14/11/2022

1.2 Recovery and resolution

(i) EU

EC: Commission Delegated Regulation (EU) .../... supplementing the CCPRR with regard to RTS specifying the methodology for calculation and maintenance of the additional amount of pre-funded dedicated own resources to be used in accordance with Article 9(14) CCPRR

Status: Adopted by the EC

The EC has adopted a Commission Delegated Regulation supplementing the CCPRR with regard to RTS specifying the methodology for calculation and maintenance of the additional amount of pre-funded dedicated own resources to be used in accordance with Article 9(14) CCPRR. This Delegated Act sets out the methodology for calculation and maintenance of the additional amount of pre-funded dedicated own resources to be used in accordance with Article 9(14) of the Regulation, taking into account all of the following: (i) the structure and internal organisation of central counterparties (CCPs) and the nature, scope and complexity of their activities; (ii) the structure of incentives of the shareholders, management and clearing members of CCPs and of the clients of clearing members; (iii) the appropriateness for CCPs, depending on the currencies in which the financial instruments they clear are denominated, the currencies accepted as collateral and the risk stemming from their activities; (iv) the rules applying to and the practices of third-country CCPs, as well as the international developments concerning the recovery and resolution of CCPs.

The Delegated Regulation will enter into force 20 days after its publication in the OJ. This act is mainly relevant for CCPs.

Date of publication: 25/11/2022

EC: Commission Delegated Regulation (EU) .../... specifying the factors to be taken into consideration by the competent authority and the supervisory college when assessing the recovery plan of CCPs

Status: Adopted by the EC

The EC has adopted a Commission Delegated Regulation specifying the factors to be taken into consideration by the competent authority and the supervisory college when assessing the recovery plan of central counterparties (CCPs). It covers factors referred to in Article 10(3) CCPRR, including: (i) the capital structure, default waterfall, level of complexity, substitutability and risk profile of CCPs; (ii) the overall impact of a recovery plan on clearing members, linked FMIs, financial markets and the financial system of the EU; and (iii) whether the recovery tools create appropriate incentives for the CCPs to control the risk they add to the system.

The Delegated Regulation will enter into force 20 days after its publication in the OJ. This act is mainly relevant for CCPs.

Date of publication: 25/11/2022

EC: Commission Delegated Regulation (EU) .../... supplementing the CCPRR with regard to RTS specifying the order in which CCPs are to pay the recompense referred to in Article 20(1) CCPRR, the maximum number of years during which those CCPs are to use a share of their annual profits for such payments to possessors of instruments recognising a claim on their future profits and the maximum share of those profits that is to be used for those payments

Status: Adopted by the EC

The EC has adopted a Commission Delegated Regulation supplementing the CCPRR with regard to RTS specifying the order in which central counterparties (CCPs) are to pay the recompense referred to in Article 20(1) CCPRR, the maximum number of years during which those CCPs are to use a share of their annual profits for such payments to possessors of instruments recognising a claim on their future profits and the maximum share of those profits that is to be used for those payments.

The Delegated Regulation will enter into force 20 days after its publication in the OJ. This act is mainly relevant for CCPs.

Date of publication: 25/11/2022

ESMA: Final report on Guidelines on the types and content of the provisions of Cooperation Arrangements (Article 79 of CCPRR)

Status: Final

ESMA has finalised its Guidelines on the types and content of the provisions of cooperation arrangements under Article 79 of CCP Recovery and Resolution Regulation. These specify provisions to be included in cooperation arrangements that shall be entered into between competent or resolution authorities and third-country authorities. These arrangements relate to EU CCPs that provide services to clearing members and clients located in third countries as well as to third-country CCPs that provide services to clearing members and their EU-based clients. The Guidelines will apply following their publication by ESMA on its website in the official languages of the EU. The "comply or explain procedure will follow, in accordance with Article 16(3) of ESMA Regulation.

Date of publication: 17/11/2022

ESMA: Final report on Guidelines on the assessment of resolvability (Article 15(5) of CCPRR)

Status: Final

ESMA has finalised its Guidelines on the assessment of resolvability under Article 15(5) of CCP Recovery and Resolution Regulation. These set out common aspects to be assessed by resolution authorities when evaluating the extent to which a CCP may be resolved without relying on certain types of external financial support, including public financial support or central bank assistance. The Guidelines will apply following their publication by ESMA on its website in the official languages of the EU. The "comply or explain" procedure will follow, in accordance with Article 16(3) of ESMA Regulation.

Date of publication: 17/11/2022

EBA: Consultation on Guidelines amending Guidelines on improving resolvability for institutions and resolution authorities under Articles 15 and 16 BRRD to introduce a new section on resolvability testing

Status: Consultation

Deadline for the submission of comments: 15/02/2022

The EBA has launched a consultation on draft Guidelines amending Guidelines EBA/GL/2022/01 on improving resolvability for institutions and resolution authorities under Articles 15 and 16 BRRD. The draft Guidelines are addressed to institutions and resolution authorities on resolvability testing. These Guidelines aim to set-out a framework to ensure that resolvability capabilities developed to comply with the resolvability and transferability Guidelines are fit for purpose and effectively maintained. The draft Guidelines: (i) introduce an annual resolvability self-assessment report where institutions set out how they will meet the resolvability capabilities and how they have gained assurance of their adequacy; (ii) on the basis of this self-assessment, propose that authorities develop a multi-annual testing programme for each resolution bank so that institutions

would demonstrate the adequacy of their resolvability capabilities as set out in the EBA resolvability Guidelines; and (iii) for the most complex banks, propose to have them develop a master playbook to ensure a holistic approach to resolution planning.

Institutions are expected to submit their first self-assessment report by 31 December 2024 and, where applicable, their first master play book by 31 December 2025. Resolution authorities should communicate the first multi-annual resolvability testing programme by 31 December 2025.

Date of publication: 15/11/2022

(ii) International

FSB: Progress report on enhancing the resilience of non-bank financial intermediation

Status: Final

The FSB has published a report on the past year's progress and planned work by the FSB, as well as by standard setting bodies (SSBs) and other international organisations, to enhance the resilience of non-bank financial intermediation (NBFIs). The main focus of the FSB's work over the past year was to assess and address vulnerabilities in specific NBFIs areas that may have contributed to the build-up of liquidity imbalances and their amplification in times of stress. The report presents the findings of the work by the FSB and SSBs in these areas. The report also includes a set of policy proposals to address systemic risk in NBFIs, focusing on key amplifiers. These proposals aim to; (i) reduce liquidity demand spikes; (ii) enhance the resilience of liquidity supply in stress; and (iii) enhance risk monitoring and the preparedness of authorities and market participants.

The policy proposals involve largely repurposing existing policy tools rather than creating new ones, given the extensive micro-prudential and investor protection toolkit already available. However, the FSB notes that experience with the use of these tools for systemic risk mitigation in NBFIs has been limited to date. The FSB will therefore assess in due course whether repurposing such tools is sufficient to address systemic risk in NBFIs, including the need to develop additional tools for use by authorities. The main focus of the policy proposals is to reduce excessive spikes in the demand for liquidity by addressing the vulnerabilities that drive those spikes or by mitigating their financial stability impact. One set of policies focuses on addressing structural liquidity mismatch in open-ended funds and promoting greater inclusion and use of liquidity management tools, including by developing guidance on the design and use of those tools. The second set comprises policy work to address procyclicality of margining in centrally cleared and non-centrally cleared derivatives and securities markets. The FSB will also carry out work to assess and, where necessary, take policy action to address vulnerabilities associated with leverage. Moving forward, the FSB and IOSCO plan to carry out work to enhance the functioning and resilience of short-term funding markets. The FSB also aims to develop additional metrics and tools to monitor NBFIs vulnerabilities; enhance its analysis of NBFIs vulnerabilities through targeted deep dives; and integrate findings from the work on the use of already available data (e.g. in trade repositories) for monitoring systemic risk.

Date of publication: 10/11/2022

1.3 Stress tests/Macroprudential topics

(i) EU

EBA: Publication of methodology and draft templates for the 2023 EU-wide stress test

Status: Final

The EBA has published the final methodology, draft templates and template guidance for the 2023 EU-wide stress test, along with the milestone dates for the exercise. The methodology and templates cover all relevant risk areas and reflect the feedback received from industry. The 2023 EU-wide stress test uses a constrained bottom-up approach with some top-down elements. Focus is on the assessment of the impact of adverse shocks on banks' solvency. Banks are required to estimate the evolution of a common set of risks (credit, market, counterparty, and operational risk) under an adverse scenario. Banks are also asked to project the impact of the scenarios on main income sources. For net fee and commission income, risk weights of securitisation, and the credit loss path of sovereign exposures, banks are required to make use of prescribed parameters. The methodology

includes the sample of banks participating in the exercise. The stress test templates along with template guidance have been published in their draft versions as they can still be subject to minor technical adjustments before their final publication.

The stress test exercise will be launched in January 2023 with the publication of the macroeconomic scenarios. The results will be published by the end of July 2023.

- [Methodological Note on the 2023 EU-Wide Stress Test](#)
- [Template Guidance on the 2023 EU-Wide Stress Test](#)

Date of publication: 04/11/2022



2. Investment firms regulation

(i) EU

EBA: Final report on draft RTS on specific liquidity measurement for investment firms in accordance with Article 42(6) of the IFD

Status: Final

The EBA has published its final draft RTS on specific liquidity measurements for investment firms under the IFD. The IFD allows competent authorities to increase an investment firm's liquidity requirements if, following the assessment of liquidity risk in accordance with the supervisory review and evaluation process, it concludes that the investment firm is exposed to material liquidity risks, which are not sufficiently covered by the minimum liquidity requirements set out in the IFR. The RTS address in detail the main elements that may affect the liquidity risk of an investment firm, namely: (i) elements specific to each service provided by the investment firm under MiFID; and (ii) other elements that could have a material impact, such as external factors, group structure or operational or reputational risks. For small and non-interconnected investment firms, competent authorities are expected to assess only a limited set of those elements.

The draft RTS will be submitted to the EC for endorsement after which it will be subject to scrutiny by the EP and the Council before being published in the OJ. The RTS will apply from 20 days after publication in the OJ.

Date of publication: 14/11/2022

3. Market regulation/Conduct rules

3.1 Benchmarks

(i) EU

ESMA: Final report on the review of RTS on the form and content of an application for recognition under the Benchmarks Regulation

Status: Final

ESMA has published its final report on the review of RTS on the form and content of an application for recognition under the Benchmarks Regulation. These draft RTS aim at aligning the information provided in a recognition application with the amended BMR after the transfer of direct supervisory responsibilities to ESMA. This is to ensure that such applications include all necessary information in order for ESMA to assess whether the applicant meets BMR requirements.

Date of publication: 28/11/2022

ESMA: Consultation on the review of the RTS on the information to be provided in an application for authorisation and registration under the Benchmarks Regulation

Status: Consultation

Deadline for the submission of comments: 31/01/2023

ESMA has launched a consultation on the review of the RTS on the information to be provided in an application for authorisation and registration under the Benchmarks Regulation. The objective of this review is to safeguard equal treatment between EU and non-EU Benchmarks administrators by aligning the information requested in applications from EU administrators with the information requested in recognition applications from non-EU administrators.

Date of publication: 28/11/2022

ESMA: Report on administrative sanctions and measures and criminal sanctions imposed under the Benchmarks Regulation in 2021

Status: Final

ESMA has published a report on administrative sanctions and measures and criminal sanctions imposed under the Benchmarks Regulation in 2021. It sets out that in 2021 one administrative sanction and one administrative measure were imposed on a supervised contributor by one NCA for one infringement of the Benchmarks Regulation and that no criminal sanctions were imposed at all. Due to this limited scope, no clear trends for sanctions under the Benchmark Regulation can yet be observed.

Date of publication: 25/11/2022

3.2 Credit rating agencies

(i) EU

ESMA: Translation of the Guidelines on the scope of the CRA Regulation

Status: Final

Date of application: 01/05/2024

ESMA has published official translations of its Guidelines on the scope of the CRA Regulation. The purpose of these Guidelines is to provide clarification of the scope of the CRA Regulation, in particular on: (i) the obligation to register; (ii) credit rating activities and exemptions from registration; (iii) private credit ratings; (iv) establishment of branches in third countries; (v)

specific disclosure recommendations for credit scoring firms and CRAs established in third countries; and (vi) enforcement of the scope of the CRA Regulation and cooperation with National Competent Authorities.

Date of publication: 31/10/2022

3.3 Market abuse

(i) EU

ESMA: Q&A on the MAR

Status: Final

ESMA has updated its Q&A on the Market Abuse Regulation (MAR). In particular, it has revised the answer to its question on persons professionally arranging or executing transactions regarding Article 16(2) MAR.

Date of publication: 25/11/2022

ESMA: Report on administrative and criminal sanctions and other administrative measures imposed under the MAR in 2021

Status: Final

ESMA has published its annual report on administrative and criminal sanctions, and other administrative measures imposed under MAR in 2021. From 1 January 2021 to 31 December 2021, NCAs reported a total of 366 administrative sanctions and measures, and 29 criminal sanctions for infringements of MAR. The value of the financial penalties imposed for the administrative sanctions reached EUR 54,273,686.97, while the financial penalties in relation to criminal infringements of MAR amounted to EUR 5,340,879. In comparison with 2020, the number of administrative sanctions and measures under MAR significantly decreased, while the financial penalties significantly increased. Both the number of criminal sanctions and the aggregated value of the sanctions decreased since 2020.

Date of publication: 18/11/2022

3.4 MiFID/MiFIR

(i) EU

ESMA: Annual report of 2022 on the application of waivers and deferrals

Status: Final

ESMA has published its annual report on the application of waivers and deferrals for 2022. Under Articles 4(4), 7(1), 9(2) and 11(1) of MiFIR, ESMA is required to monitor the application of pre-trade transparency waivers and deferred trade-publication. As part of this mandate, it submits an annual report to the EC on how equity and non-equity waivers and deferrals regimes are applied in practice. The report found that even though UK venues were excluded from the analysis, the results suggest that trading under waivers and deferrals is significant, specifically for shares and interest rate derivatives. Trading volumes have also significantly increased from 2020 to 2021 in the equity space since Brexit. Meanwhile, ETFs remain the equity instruments with the highest percentage of "dark" trading with respect to the overall volume traded in ETFs. While ESMA sees merit in providing an overview of the trading volumes executed under waivers and deferrals for non-equity instruments, the use of ad-hoc data collection has not proven effective. Therefore, ESMA recommends that MiFIR be amended to allow ESMA to request such data from trading venues via FITRS. Additionally, ESMA considers that the current deferral regime is too complex and that it would benefit from a set of targeted amendments to streamline the regime as suggested in ESMA's MiFID II/MiFIR Review Report for non-equity instruments. ESMA also maintains its proposal to delete the SSTI waiver.

Date of publication: 21/11/2022

ESMA: Consultation on the review of the technical standards under Article 34 of MiFID II**Status:** Consultation**Deadline for the submission of comments:** 17/02/2023

ESMA has launched a consultation on a review of the technical standards under Article 34 of MiFID II covering the provision of investment services across the EU. ESMA explains that there has been a continued increase in cross-border activities to retail clients provided under the MiFID II free provision of services regime, which therefore requires NCAs to increase their focus on cooperation and the supervision of cross-border activities. Shortcomings have also been identified through the practical implication of Article 34.

The main amendments proposed add four items to the information that investment firms are required to provide at the passporting stage: (i) the marketing means that the firm will use in host Member States; (ii) the language(s) for which the investment firm has the necessary arrangements to deal with complaints from clients from each of the host Member States in which it provides services; (iii) the Member States in which the firm will actively use its passport as well as the categories of clients targeted; and (iv) the investment firm's internal organisation in relation to the cross-border activities of the firm.

ESMA expects to publish a final report and submit a draft of technical standards to the EC by the end of 2023.

Date of publication: 17/11/2022

3.5 Packaged retail and insurance-based investment products (PRIIPs)

(i) EU

ESAs: Q&A on the PRIIPs Key Information Document (KID)**Status:** Final

The ESAs have updated their Q&A on the key information document (KID) requirements for packaged retail and insurance-based investment products (PRIIPs), as set out in Commission Delegated Regulation (EU) 2017/653. New and updated sections include: (i) a "What is this product?" section; (ii) performance scenarios in relation to Articles 3 and 8 and Annexes IV and V; (iii) past performance in relation to Annex VIII; (iv) derivatives; (v) investment funds; and (vi) auto-callable products.

The ESAs have indicated in the update: (a) the amendments relating to Commission Delegated Regulation (EU) 2021/2268 that are only applicable from 1 January 2023; and (b) the requirements that will be amended by the Delegated Regulation and therefore remain relevant only until the end of 2022.

Date of publication: 14/11/2022

4. Market infrastructure

4.1 Custody rules

(i) EU

ESMA: Q&A on the implementation of the CSDR

Status: Final

ESMA has updated its Q&A on the implementation of the Regulation (EU) No 909/2014 on improving securities settlement in the EU and on central securities depositories (CSDR). In particular, it added a new question on settlement failures, specifying that central securities depositories should publish the information set out in Annex III of the RTS on settlement discipline by end of February of each year.

Date of publication: 25/11/2022

ESMA: Final report on draft RTS amending Article 19 of Commission Delegated Regulation (EU) 2018/1229 regarding settlement discipline under CSDR

Status: Final

ESMA has published a final report on a draft RTS amending Article 19 of Commission Delegated Regulation (EU) 2018/1229 supplementing the CSDR with regard to settlement discipline. The proposed amendment would remove the CCP-run separate process for the collection and distribution of cash penalties for settlement failures on cleared transactions. It would put CSDs in charge of the process of collection and distributing all penalties according to Articles 16, 17 and 18 of the same Regulation, establishing a single harmonised process for all transactions (both cleared and uncleared). ESMA will submit the draft RTS to the EC for endorsement. After endorsement, the resulting Delegated Regulation will be subject to the non-objection of the EP and the Council.

Date of publication: 21/11/2022

4.2 EMIR

(i) EU

Commission Delegated Regulation (EU) 2022/2310 amending the RTS laid down in Delegated Regulation (EU) No 149/2013 as regards the value of the clearing threshold for positions held in OTC commodity derivative contracts and other OTC derivative contracts

Status: Published in the OJ

Date of entry into force: 29/11/2022

Commission Delegated Regulation (EU) 2022/2310 amending the RTS laid down in Delegated Regulation (EU) No 149/2013 as regards the value of the clearing threshold for positions held in OTC commodity derivative contracts and other OTC derivative contracts has been published in the OJ. Building on the results of a periodical review by ESMA, this Delegated Regulation increases the values of clearing thresholds from EUR 3 billion to EUR 4 billion. This increase is particularly urgent given increased commodity prices due to the current energy crisis and inflation following Russia's military aggression against Ukraine.

Date of publication: 28/11/2022

Commission Delegated Regulation (EU) 2022/2311 amending the RTS laid down in Delegated Regulation (EU) No 153/2013 as regards temporary emergency measures on collateral requirements

Status: Published in the OJ

Date of entry into force: 29/11/2022

Commission Delegated Regulation (EU) 2022/2311 amending the RTS set out in Delegated Regulation (EU) No 153/2013 as regards temporary emergency measures on collateral requirements has been published in the OJ. The recent significant price and volatility increases on energy markets due to political and market developments have led to margin increases by CCPs to cover their exposures. These increases, in turn, have placed liquidity strains on non-financial counterparties which led to further volatility. In order to alleviate this liquidity pressure, this Delegated Regulation temporarily expands the pool of eligible collateral available to non-financial clearing members for a period of 12 months to include uncollateralised bank guarantees and certain guarantees issued or backed by public entities.

Date of publication: 28/11/2022

Corrigendum to Implementing Regulation (EU) 2022/1860 on ITS under EMIR

Status: Published in the OJ

A Corrigendum to Commission Implementing Regulation (EU) 2022/1860 establishing ITS under EMIR with regard to the standards, formats, frequency and methods and arrangements for reporting has been published in the OJ. The Corrigendum corrects drafting errors within Article 4(1) of the Implementing Regulation.

Date of publication: 24/11/2022

ESMA: Withdrawal of the recognition decisions of six Indian CCPs

Status: Final

ESMA has announced that it is withdrawing its recognition of six Indian CCPs. Following its review of recognised third-country CCPs (TC-CCPs) in accordance with EMIR, ESMA established that not all of the cumulative conditions for the recognition of some TC-CCPs have been met, because no cooperation arrangements have been concluded between ESMA and the relevant Indian authorities. As a result, ESMA cannot continue to recognise the following TC-CCPs: (i) The Clearing Corporation of India (CCIL), supervised by the Reserve Bank of India (RBI); (ii) Indian Clearing Corporation Limited (ICCL), supervised by the Securities and Exchange Board of India (SEBI); (iii) NSE Clearing Limited (NSCCL), supervised by SEBI; (iv) Multi Commodity Exchange Clearing (MCXCCL), supervised by SEBI; (v) India International Clearing Corporation (IFSC) Limited (IICC), supervised by the International Financial Services Centre Authority (IFSCA); and (vi) NSE IFSC Clearing Corporation Ltd (NICCL), supervised by the IFSCA. These six TC-CCPs will no longer be able to provide services to clearing members and trading venues established in the EU.

To allow time for market participants to make other arrangements and to mitigate the adverse impacts on EU market participants, ESMA will defer the application of the withdrawal decisions until 30 April 2023.

Date of publication: 31/10/2022

(ii) International

FSB: Progress report on the implementation of OTC derivatives market reforms in 2022

Status: Final

The FSB has published a report on the progress of the implementation of OTC derivatives market reforms made by standard-setting bodies, national and regional authorities and market participants. Overall, the FSB considers the implementation of the G20's OTC derivatives reforms to be well advanced. However, there continues to be only incremental annual progress across FSB member jurisdictions. The report highlights that: (i) there has been steady progress in the implementation of final higher capital requirements for NCCDs, now in place in 18 FSB member jurisdictions, up from 15 in the last progress report in 2021; (ii) margin requirements for NCCDs are in force in 16 jurisdictions (unchanged since the 2020 progress report); (iii) trade reporting requirements for OTC derivatives transactions are in force in all FSB member jurisdictions, except one (unchanged since the 2020 progress report). Preparations for authorising a trade repository in the remaining jurisdiction are ongoing; (iv) central clearing requirements are in force in 17 FSB member jurisdictions (unchanged since the 2020 progress report). Some

jurisdictions are taking steps towards the implementation of mandatory central clearing, including authorisation of a CCP in the jurisdiction; and (v) there have been few developments in jurisdictions regarding platform trading requirements, which are in force in 13 FSB member jurisdictions (unchanged since the 2020 progress report).

The report also notes that by September 2021, most jurisdictions had reported that they had withdrawn or had not extended measures, previously introduced in response to the Covid-19 pandemic, to alleviate the operational burden for OTC derivatives market participants or had embedded changes to limit and mitigate excessive procyclicality into permanent supervisory frameworks.

Date of publication: 07/11/2022



5. Anti-money laundering

(i) EU

EBA: Final report on Guidelines on the use of remote customer onboarding solutions under Article 13(1) of MLD4

Status: Final

The EBA has published its final report on Guidelines on the use of remote customer solutions under Article 13(1) of the MLD4. The Guidelines set out the steps that credit and financial institutions should take when choosing remote customer onboarding tools. They suggest what credit and financial institutions should do to satisfy themselves that the chosen tool is adequate and reliable, that it remains adequate and reliable, and that it enables them to comply effectively with their initial CDD obligations. As long as the conditions set out in these Guidelines are met, and to the extent that this is permitted by national law, the choice of individual technological solutions is the firm's. The Guidelines will be translated into the official EU languages and published on the EBA website. The deadline for competent authorities to report whether they comply with the Guidelines will be two months after the publication of the translations. The Guidelines will enter into force six months after publication of the translations.

Date of publication: 22/11/2022

EP: Consideration of Regulation on information accompanying transfers of funds and certain crypto-assets (recast) at 13 to 16 February 2023 plenary session

Status: Draft

The EP indicated that it will debate the proposed Regulation on information accompanying transfers of funds and certain crypto-assets (recast) during its plenary session to be held from 13 to 16 February 2023.

Date of publication: 14/11/2022

6. Payments

6.1 Payment services/E-money

(i) EU

EPC: Third rulebook and 2022 change proposal submission document on SEPA request-to-pay

Status: Final

The European Payments Council (EPC) has published the third version of the SEPA Request-to-Pay (SRTP) scheme rulebook which reflects the comments received in response to the three-month public consultation on the proposed change requests relating to the second version of the SRTP scheme rulebook, which ended on 26 August 2022. The effective date of this third release is set to 30 November 2023. In addition, the SRTP scheme change proposal submission document (2022 Public Consultation), including the decision of the Board on each change proposal, can also be found in "related documents".

- [Third SRTP scheme rulebook](#)
- [2022 change proposal submission document](#)

Date of publication: 24/11/2022

ECB: Guideline (EU) 2022/2250 amending Guideline (EU) 2022/912 on a new-generation Trans-European Automated Real-time Gross Settlement Express Transfer system (TARGET)

Status: Published in the OJ

The Guideline (EU) 2022/2250 amending Guideline (EU) 2022/912, which provides for the start of operations of a new-generation Trans-European Automated Real-time Gross Settlement Express Transfer system (TARGET), has been published in the OJ. Initially, the Guideline (EU) 2022/912 was scheduled to apply on 21 November 2022. The amendment will reschedule the start of operations to commence from 20 March 2023 due to the need to allow users more time to complete their testing of the new technical platform in a stable environment, taking into account the systemic nature of TARGET. Consequently, the Eurosystem central banks should continue to comply with Guideline ECB/2012/27, and the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) should continue to operate, until that date.

The Guideline is addressed to all Eurosystem central banks.

Date of publication: 16/11/2022

ECB: Decision (EU) 2022/2249 amending Decision (EU) 2022/911 concerning the terms and conditions of TARGET-ECB

Status: Published in the OJ

Date of entry into force: 18/11/2022

Date of application: 21/11/2022

The Decision (EU) 2022/2249 amending Decision (EU) 2022/911 concerning the terms and conditions of TARGET-ECB has been published in the OJ. In accordance with the Guideline published above on the delay of the start of operations of the new TARGET, this Decision adjusts the timeline of the amended Decision to apply from 20 March 2023.

Date of publication: 16/11/2022

EPC: Updated clarification papers and Guidance documents

Status: Final

The European Payments Council (EPC) has updated two clarification papers: (i) version 2.0 of the dedicated clarification paper on the SEPA Credit Transfer (SCT) and Instant Credit Transfer (SCT Inst) rulebooks; and (ii) version 3.0 of the dedicated EPC

clarification paper on the SEPA Direct Debit (SDD) Core and SDD Business-to-Business (B2B) rulebooks. Both papers will be updated from time to time as required. They seek to ensure consistent implementation of the respective EPC rulebooks by payment service providers participating in the schemes. To this end, they provide guidance and, where feasible, recommendations to scheme participants on how to handle situations that are not described in the rulebooks.

The EPC has also updated two Guidance documents: (i) versions 4.0 of the 'Guidance on Reason Codes for SCT R-transactions'; and (ii) version 4.0 of the "Guidance on Reason Codes for SCT Inst R-transactions". Both documents apply to the current applicable rulebooks with the same titles. One of the main benefits of the SCT and SCT Inst schemes is that the scheme rules streamline exception handling, at both process and dataset level. This allows straight-through-processing and automated exception handling end-to-end. Possible exceptions to the normal execution of an SCT or SCT Inst transaction include rejects, returns, recalls and requests for recall by the originator. These are commonly referenced as "R-transactions" and described in detail in the SCT and SCT Inst rulebooks.

- [Clarification paper on SEPA Credit Transfer and SEPA Instant Credit Transfer rulebooks](#)
- [Clarification paper on SEPA Direct Debit Core and SEPA Direct Debit Business-to-Business rulebooks](#)
- [Guidance on reason codes for SEPA Instant Credit Transfer R-transactions](#)
- [Guidance on reason codes for SEPA Credit Transfer R-transactions](#)

Date of publication: 03/11/2022

(ii) International

FSB: Final report on developing the implementation approach for the cross-border payments targets

Status: Final

The FSB has published its finalised report to the G20 on developing an implementation approach for the cross-border payments targets. The framework includes key performance indicators (KPIs) defined across 1 targets for the three market segments – wholesale, retail, and remittances. The framework takes a light approach by leveraging existing data collection and channels where possible; defines KPIs and data sources that rely on aggregated data and thereby monitor system-wide rather than individual firms' improvements; and uses data sources that aim to be sufficiently representative of the different contexts of end-users in their respective market segments.

The FSB notes, however, that: (i) comprehensive data sources that enable calculation of global KPIs representative of the overall market and that also provide regional or corridor-level granularity do not already exist. Therefore, it continues to evaluate the remaining gaps in data or metrics and will ensure that any new data collection methods that may be required will continue to be focused and appropriately limited in size and scope; (ii) while this framework will support the monitoring of progress going forward, baseline estimates of the KPIs are not yet available for inclusion in this report. The FSB is continuing to engage with potential data providers and the necessary processes for developing baseline estimates of the KPIs will take several more months; and (iii) consistent with the targets, the KPIs are defined at the global level. However, the FSB expects more granular breakdowns of the global KPIs to be published whenever possible to promote a fuller understanding of where progress is being made and where challenges remain.

Date of publication: 17/11/2022

7. Institutional supervisory framework

(i) Eurozone

SRB: 2023 work programme

Status: Final

The SRB has published its 2023 work programme. The SRB priorities stay unchanged, in line with the SRB's 2021-2023 Multi-Annual Programme. As it is the final year of the Multi-Annual Programme, all banks and credit institutions under the SRB remit are expected to be resolvable and compliant with the Expectations for Banks (EfB), as well as to achieve the final individual banks' MREL targets. Less Significant Institutions, under the remit of the National Resolution Authorities (NRAs), are also expected to become resolvable along a similar timeline. 2023 will also mark the final year for the constitution of the Single Resolution Fund, which by the end of the year is expected to reach at least 1% of covered deposits in all participating Member States, and be fully mutualised. The SRB's work during 2023, which will proceed in close collaboration with the NRAs, will focus on completing the achievement of these two goals. In the last year of the phase-in of the EfB, the SRB will aim at completing and enhancing, where necessary, existing guidance and tools to ensure resolvability of banks by the end of 2023. During 2023, the SRB will also prepare for and, if necessary, manage crisis cases. This will be achieved by testing and guaranteeing that protocols and systems are ready to be activated in the case of crises; reinforcing collaboration mechanisms and communication channels with all involved stakeholders; and supporting the efficient and secure use of systems to swiftly respond to crises.

Date of publication: 17/11/2022

8. Investment funds

8.1 Prudential regulation

(a) Compliance

(i) EU

ESMA: Final report on Guidelines on stress test scenarios under the MMF Regulation

Status: Final

ESMA has published its final report on the 2022 update of Guidelines on MMF stress tests under the Money Market Funds (MMF) Regulation, amending parameters for reporting requirements in light of the latest market developments. This update is published in the context of the resurgence of the Covid-19 pandemic, compounded by zero-Covid policies in some regions, uncertainty about the economic consequences of the Russian invasion of Ukraine and geopolitical tensions. It also reflects the very high risks to ESMA's remit identified in ESMA Report on Trends, Risks and Vulnerabilities, including risks to MMFs, which experienced a stress episode on the GBP money market in 2022. The calibration takes into account the systemic risks identified in the Warning issued by the ESRB on vulnerabilities in the Union's financial system.

Date of publication: 30/11/2022

EP: Consideration of Regulation amending ELTIF Regulation at 1 to 2 February 2023 plenary session

Status: Draft

The EP indicated that it will consider the proposed Regulation amending the Regulation on European long-term investment funds (ELTIFs) during its plenary session to be held from 1 to 2 February 2023.

Date of publication: 16/11/2022

(ii) International

IOSCO: Final report on the thematic review on liquidity risk management recommendations

Status: Final

IOSCO has published a finalised report that sets out the results and observations of its thematic review and assesses the implementation of key recommendations in IOSCO's 2018 Recommendations for Liquidity Risk Management for Collective Investment Schemes (CIS). IOSCO's findings include: (i) that larger jurisdictions show a high degree of implementation of regulatory requirements consistent with the objectives of the recommendations; (ii) for the CIS design process, the review identified some challenges with respect to dealing frequency, dealing arrangements and disclosure practices; (iii) for day-to-day liquidity management, the review found that some jurisdictions may need to improve the process of identification of a liquidity shortage before it occurs and provide more guidance on aligning the investment strategy, liquidity profile and redemption policy; (iv) with regards to contingency planning, IOSCO found that jurisdictions should further address the availability of liquidity management tools and supplement the current rules and regulations to include requirements that are more specific regarding the use of such tools; and (v) while all large global responsible entities described practices that were consistent with the recommendations, improvement might be needed by smaller and less-resourced entities with regard to their liquidity disclosure provisions in their CIS design process. Some weaknesses were also identified in operationalizing contingency plans and activation of liquidity risk management tools. The findings have informed the FSB's assessment of the effectiveness of the FSB's 2017 policy recommendations to address structural vulnerabilities from liquidity mismatch in open-ended funds.

Date of publication: 16/11/2022

9. Special topics

9.1 Covid-19

(a) Other

(i) EU

ESRB: Report on fiscal support and macroprudential policy - Lessons from the Covid-19 pandemic

Status: Final

The ESRB has published a report on fiscal support and macroprudential policy – lessons from the Covid-19 pandemic. At the start of the pandemic, the ESRB established a working group to analyse the effects of crisis-related fiscal measures and loan moratoria on the stability of the financial system. In line with the macroeconomic effects of the pandemic levelling off and the associated measures being phased out, the ESRB decided to discontinue its pandemic-related data collection and monitoring work. The key takeaways from this work are that: (i) the swift and ample fiscal support measures provided and sustained the liquidity and solvency of the real economy; (ii) the amount of available fiscal support peaked in Q1 2021 and has since been decreasing; (iii) the phasing out of fiscal support measures has not yet led to noticeable disruptions for the real economy; (iv) active fiscal support during the pandemic weakened the link between economic and financial losses; and (v) authorities are using macroprudential tools to build up resilience amid heightened macroeconomic and systemic risks, while limiting the risk to procyclicality. The ESRB hopes that despite the work on Covid-related measures being phased out, the lessons learnt could be carried over to a monitoring of the impact of fiscal policies on macroprudential risks in other contexts.

Date of publication: 21/11/2022

(ii) International

IOSCO: Feedback statement on corporate bond markets as drivers of liquidity during Covid-19 induced market stresses

Status: Final

IOSCO has published a feedback statement summarising the responses to its April 2022 Discussion Paper on the topic of corporate bond markets as drivers of liquidity during Covid-19-induced market stresses. The statement summarises stakeholder views on possible ways to help improve market functioning and liquidity provision in corporate bond markets. This includes assessing the feasibility, benefits, and costs of mitigating sudden shifts in liquidity demand and alleviating supply side market constraints, particularly in stress. The feedback statement also reflects the outcomes from the joint IOSCO and OECD Conference on Corporate Bond Markets held in June 2022. The feedback received from stakeholders is broadly consistent with the outcomes and observations contained within the Discussion Paper. The responses are generally supportive of continuing work towards facilitating increased liquidity provision in corporate bond markets. However, there is acknowledgement that there is no "silver bullet" solution. This reflects the fact that corporate bonds are traded infrequently, even in normal times, when compared to other large developed markets such as equities.

Date of publication: 16/11/2022

FSB: Final report on financial policies in the wake of Covid-19: supporting equitable recovery and addressing effects from scarring in the financial sector

Status: Final

The FSB has published a report on financial policies in the wake of Covid-19 aimed at supporting equitable recovery and addressing the effects from scarring in the financial sector. The report considers policy challenges, including exit from Covid-19 policy support measures through the lens of financial stability and the capacity of the financial system to finance strong and equitable growth. The report notes that economic and financial market developments over the past few months have reinforced

three challenges to policymakers noted in the FSB's interim report to the G20: (i) the need for sustained policy support amidst rising inflation and removal of monetary accommodation; (ii) the risk of negative cross-border spill-overs from a deteriorating global recovery and diverging monetary and fiscal policy stances; and (iii) that vulnerabilities prevented from materialising by the support measures may now come to the fore. The report stresses that considerations about adjusting, amending and potentially exiting support measures should take these challenges into account, to support global economic recovery in the near term, and prevent financial stability impacts and scarring effects to sustainable growth over the long term.

The FSB sets out related future policy initiatives including in relation to: (a) margin calls, in collaboration with IOSCO, BCBS and the CPMI; (b) liquidity mismatches in open-ended funds, in collaboration with IOSCO; (c) NBFIs, in particular on underlying vulnerabilities that give rise to liquidity imbalances; and (d) the use of prudential buffers from a system-wide, macro-prudential perspective.

Date of publication: 14/11/2022

9.2 FinTech/Digital finance

(i) EU

Council of the EU: Adoption of DORA

Status: Adopted by the Council of the EU

The Council of the EU has adopted the Digital Operational Resilience Act (DORA) which aims to increase the resilience of the financial sector in the EU during severe operational disruptions in order to prevent and mitigate cyber threats. Therefore, DORA sets uniform requirements for the security of network and information systems of companies and organisations operating in the financial sector as well as critical third parties which provide ICT (Information Communication Technologies)-related services to them, such as cloud platforms or data analytics services. DORA creates a regulatory framework on digital operational resilience whereby all firms need to make sure they can withstand, respond to and recover from all types of ICT-related disruptions and threats.

The Directive will soon be published in the OJ. The European Supervisory Authorities (ESAs) will also commence to the development of technical standards on this basis.

Date of publication: 28/11/2022

EP/Council of the EU: Publication of the text of DORA

Status: Draft

The EP and Council have published the text of the Regulation on digital operational resilience for the financial sector (DORA). The EP adopted the text at first reading on 10 November 2022. The Council is expected to adopt the legislation imminently. Once adopted, the legislation will be published in the OJ, enter into force 20 days after its publication and will apply 24 months from the date of entry into force.

Date of publication: 17/11/2022

EP/Council of the EU: Publication of the text of the amending Directive regarding digital operational resilience for the financial sector

Status: Final

The EP and Council have published the text of the amending Directive, amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 as regards digital operational resilience for the financial sector. The EP adopted the text at first reading on 10 November 2022. The Council is expected to adopt the legislation imminently. Once adopted, the legislation will be published in the OJ and enter into force 20 days after its publication.

Date of publication: 17/11/2022

EP: Consideration of MiCA Regulation at 13 to 16 February 2023 plenary session

Status: Draft

The EP has indicated that it will debate the proposed Regulation on markets in crypto-assets (MiCA) during its plenary session to be held from 13 to 16 February 2023. Please also see section 5 above.

Date of publication: 14/11/2022

EP: Consideration of Regulation on information accompanying transfers of funds and certain crypto-assets (recast) at 13 to 16 February 2023 plenary session

Status: Draft

The EP indicated that it will debate the proposed Regulation on information accompanying transfers of funds and certain crypto-assets (recast) during its plenary session to be held from 13 to 16 February 2023.

Date of publication: 14/11/2022

Publication of thirteen Delegated and Implementing Regulations under Crowdfunding Regulation

Status: Published in the OJ

Date of entry into force: 28/11/2022

The following nine Delegated Regulations and four Implementing Regulations made under the Crowdfunding Regulation have been published in the OJ.

- Commission Delegated Regulation (EU) 2022/2111 supplementing the Crowdfunding Regulation with regard to RTS specifying conflicts of interest requirements for crowdfunding service providers
- Commission Delegated Regulation (EU) 2022/2112 supplementing the Crowdfunding Regulation with regard to RTS specifying requirements and arrangements for the application for authorisation as a crowdfunding service provider
- Commission Delegated Regulation (EU) 2022/2113 supplementing the Crowdfunding Regulation with regard to RTS for the exchange of information between competent authorities in relation to investigation, supervision and enforcement activities in relation to European crowdfunding service providers (ECSPs) for business
- Commission Delegated Regulation (EU) 2022/2114 supplementing the Crowdfunding Regulation with regard to RTS specifying the entry knowledge test and the simulation of the ability to bear loss for prospective non-sophisticated investors in crowdfunding projects
- Commission Delegated Regulation (EU) 2022/2115 supplementing the Crowdfunding Regulation with regard to RTS specifying the methodology for calculating default rates of loans offered on a crowdfunding platform
- Commission Delegated Regulation (EU) 2022/2116 supplementing the Crowdfunding Regulation with regard to RTS specifying the measures and procedures for crowdfunding service providers' business continuity plan
- Commission Delegated Regulation (EU) 2022/2117 supplementing the Crowdfunding Regulation with regard to RTS specifying the requirements, standard formats and procedures for complaint handling
- Commission Delegated Regulation (EU) 2022/2118 supplementing the Crowdfunding Regulation with regard to RTS on individual portfolio management of loans by crowdfunding service providers, specifying the elements of the method to assess credit risk, the information on each individual portfolio to be disclosed to investors, and the policies and procedures required in relation to contingency funds
- Commission Delegated Regulation (EU) 2022/2119 supplementing the Crowdfunding Regulation with regard to RTS for the key investment information sheet
- Commission Implementing Regulation (EU) 2022/2120 laying down ITS for the application of the Crowdfunding Regulation with regard to data standards and formats, templates and procedures for reporting information on projects funded through crowdfunding platforms
- Commission Implementing Regulation (EU) 2022/2121 laying down ITS for the application of the Crowdfunding Regulation with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities and ESMA in relation to European crowdfunding service providers for business

- Commission Implementing Regulation (EU) 2022/2122 laying down ITS for the application of the Crowdfunding Regulation with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities concerning European crowdfunding service providers for business
- Commission Implementing Regulation (EU) 2022/2123 laying down ITS for the application of the Crowdfunding Regulation with regard to the standard forms, templates and procedures for the notifications of national marketing requirements applicable to crowdfunding service providers by competent authorities to ESMA

Date of publication: 08/11/2022

9.3 Sustainable finance

(i) EU

Council of the EU: Adoption of the CSRD

Status: Adopted by the Council of the EU

The Council of the EU has adopted the Corporate Sustainability Reporting Directive (CSRD), obliging companies to publish detailed information on sustainability matters, including how their business model affects their sustainability and how external sustainability factors influence their activities. The aim of this Directive is to increase a company's accountability, prevent divergent sustainability standards, and ease the transition to a sustainable economy.

The Directive will soon be published in the OJ and will enter into force 20 days afterwards. It then needs to be implemented on a national level within 18 months. It will apply to an increasing number of companies in four steps, starting in 2025 on the financial year 2024.

Date of publication: 28/11/2022

EC/EBA: Request for advice from the EBA regarding green loans and mortgages

Status: Final

The EBA has published a [letter](#) it received from the EC requesting advice on green loans and mortgages. Alongside this letter, the EBA published a call for advice on green loans and mortgages. In the EC's "Strategy on Financing the Transition to a Sustainable Economy", published in July 2021, it outlined four policy areas in which further work is needed. One of the areas is the need for a more inclusive sustainable finance framework that would enable households and SMEs to access sustainable finance, such as green loans and mortgages. To this end, the EC requests an overview of current market practices and the prevalence of green loans in the banking market. The EC would also like the EBA to propose and consider the merits of an EU definition of green loans, and to consider measures that would encourage the uptake or access to green finance by retail and SME borrowers. The EBA's advice will allow the EC to consider measures to encourage the development of the green loans and mortgages market. The EBA has until 29 December to deliver its advice.

Date of publication: 22/11/2022

ESMA: Consultation on Guidelines on funds' names using ESG or sustainability-related terms

Status: Consultation

Deadline for the submission of comments: 20/02/2023

ESMA has launched a consultation on Guidelines on funds' names using ESG or sustainability-related terms. The objective is to ensure that investors are protected against unsubstantiated or exaggerated sustainability claims, while providing both competent authorities and asset managers with clear and measurable criteria to assess names of funds including ESG or sustainability-related terms. These Guidelines apply to UCITS management companies, AIFMs, EuVECA, EuSEF and ELTIF managers, as well as competent authorities. The main elements of the consultation paper on which ESMA is seeking stakeholders' feedback are: (i) if an investment fund has any ESG-, or impact-related words in its name, a minimum proportion of 80% of its investments should be used to meet the environmental or social characteristics or sustainable investment objectives in accordance with the binding elements of the investment strategy, which are disclosed in Commission Delegated Regulation (EU) 2022/1288 (SFDR Delegated Regulation); (ii) if an investment fund has the word "sustainable" or any other term derived from

the word "sustainable" it should allocate within the 80% of investments to "meet the environmental or social characteristics or sustainable investment objectives" at least 50% of minimum proportion of sustainable investments as defined by Article 2(17) of the SFDR, which is also disclosed in the SFDR Delegated Regulation; (iii) minimum safeguards are recommended for all investment funds using an ESG- or sustainability-related term in their name; (iv) funds designating an index as a reference benchmark should use ESG and sustainability-related words in their name only if specified thresholds are met; and (v) the use of the word "impact" or "impact investing" or any other impact-related term should be used only by funds meeting the quantitative thresholds, and additionally whose investments are made with the intention to generate positive, measurable social or environmental impact alongside a financial return.

ESMA expects to issue the final Guidelines by Q2 or Q3 2023. The Guidelines will apply three months after the date of their publication on ESMA's website. A transitional period of six months will apply to funds already existing before the date of the publication of the Guidelines.

Date of publication: 18/11/2022

ESAs: Q&A on the SFDR Delegated Regulation

Status: Final

The ESAs have published a new Q&A document on the Commission Delegated Regulation (EU) 2022/1288, which supplements the Sustainable Finance Disclosure Regulation (SFDR) with regard to RTS on content and presentation of information. This document provides answers on the following topics: (i) current value of all investments in PAI and taxonomy-aligned disclosures; (ii) PAI disclosures; (iii) financial product disclosures; (iv) multi-option products; (v) taxonomy-aligned investment disclosures; and (vi) financial advisers and execution-only financial market participants (FMPs).

Date of publication: 17/11/2022

ESAs: Call for evidence on better understanding greenwashing

Status: Consultation

Deadline for the submission of comments: 10/01/2023

The ESAs have launched a call for evidence on greenwashing to gather: (i) input on how to understand the key features, drivers and risks associated with greenwashing; (ii) examples of potential greenwashing practices across the EU financial sector relevant to various segments of the sustainable investment value chain and of the product lifecycle; and (iii) any available data to help the ESAs gain a concrete sense of the scale of greenwashing and identify areas of high greenwashing risks. The call for evidence seeks information about practices in connection to sustainability claims regarding entities and products or services. It also asks for evidence on potential greenwashing practices within and outside the scope of current EU sustainable finance legislation. Contributions will feed into the ESAs' findings for their progress reports due to the EC in May 2023, and final reports due in May 2024.

Date of publication: 15/11/2022

ESAs: Review of SFDR Delegated Regulation delayed by up to six months

Status: Final

ESMA has published a letter sent by the ESAs to the EC to communicate that there will be up to a six-month delay in delivering the mandated review of the principal adverse impact indicators (PAI) and financial product disclosures in Commission Delegated Regulation (EU) 2022/1288 (SFDR Delegated Regulation), which is due by 28 April 2023. The ESAs have identified significant challenges due to the substantial number of technical components to deliver the desired changes, including: (i) in revising and extending the PAI indicators. The ESAs state that they now consider it important to develop a more objective basis to the "do not significantly harm" framework and to expand significantly on the social indicators; and (ii) the need to address issues that were not fully or adequately addressed in the original RTS, such as the treatment of "equivalent information". The ESAs have also been short on resources, having prioritised the review of the RTS on fossil gas and nuclear energy amendments.

Date of publication: 14/11/2022

EP: Adoption of the Corporate sustainability reporting directive**Status: Adopted by the EP**

The EU Parliament has adopted the Corporate Sustainability Reporting Directive (CSRD) which aims to make businesses more publicly accountable by obliging them to regularly disclose information on their societal and environmental impact. This in turn is hoped to end greenwashing, strengthen the EU's social market economy and lay the groundwork for sustainability reporting standards at a global level. In a next step, the Council is expected to adopt the proposal on 28 November, after which it will be signed, published in the OJ and enter into force 20 days after publication. The new rules are expected to start applying between 2024 and 2028.

Date of publication: 10/11/2022

EBA: Statement in the context of COP27**Status: Final**

The EBA has published its environmental statement in the context of the 2022 United Nations Climate Change Conference (COP27), highlighting its work aimed at increasing sustainability in the banking sector by enhancing market transparency and discipline and by translating sustainability considerations into risk management practices and supervision. The EBA also presented its priorities and activities to ensure a robust management of ESG risks and adequate supervision.

Date of publication: 09/11/2022

ECB: Thematic review on climate-related and environmental risks**Status: Final**

The ECB has published its thematic review on climate-related and environmental (C&E) risks, which aims to foster the alignment of the banking sector with its supervisory expectations. The ECB has also published a [compendium of good practices in C&E risks](#) that were observed in some banks during the thematic review. By way of follow-up to the review, each significant institution has received a feedback letter setting out any shortcomings in its practices vis-à-vis the supervisory expectations and the ECB has set institution-specific remediation timelines for achieving full alignment with the expectations by the end of 2024, providing details on intermediate steps.

The ECB expects institutions to reach, as a minimum, the following milestones; (i) by the end of March 2023 at the latest, to have in place a sound and comprehensive materiality assessment, including robust scanning of the business environment; (ii) by the end of 2023 at the latest, to manage C&E risks with an institution-wide approach covering business strategy, governance and risk appetite, as well as risk management, including credit, operational, market and liquidity risk management and; (iii) by the end of 2024 at the latest, to be fully aligned with all supervisory expectations, including having in place a sound integration of C&E risks in their stress testing framework and ICAAP. Expected remediation dates were discussed with significant institutions in dedicated feedback meetings and compliance will be monitored and if necessary, enforced.

Date of publication: 02/11/2022

EC: Commission Delegated Regulation (EU) .../... amending and correcting the RTS laid down in Delegated Regulation (EU) 2022/1288 as regards the content and presentation of information in relation to disclosures in pre-contractual documents and periodic reports for financial products investing in environmentally sustainable economic activities**Status: Adopted by the EC**

The EC has adopted a Delegated Regulation and Annexes amending and correcting the SFDR RTS laid down in Delegated Regulation (EU) 2022/1288 as regards the content and presentation of information in relation to disclosures in pre-contractual documents and periodic reports for financial products investing in environmentally sustainable economic activities. The Delegated Regulation amends the SFDR RTS to ensure that investors receive information reflecting the provisions set out in Delegated Regulation 2022/1214. This relates to information that should be provided in pre-contractual documents, on websites and in periodic reports about the exposure of financial products to investments in fossil gas and nuclear energy activities.

The Regulation will enter into force on the third day following its publication in the OJ.

Date of publication: 31/10/2022

(ii) International

NGFS/FSB: Initial findings and lessons on climate scenario analysis by jurisdictions

Status: Final

The NGFS and FSB have published a joint report outlining initial findings from climate scenario analyses undertaken by financial authorities to assess climate-related financial risks. The report provides a synthesis of the findings from climate scenario analysis exercises undertaken by financial authorities at the individual firm level, at the level of the different financial sectors, and at the overall financial system level. The report finds that the NGFS Scenarios play a critical role in providing reference climate macro-financial scenarios and supporting financial authorities' climate scenario analysis exercises. The overarching message from these initial exercises for financial stability is that, while the impacts of climate risks are not small, they seem to be concentrated in some sectors and overall, at least at this juncture and as currently assessed, contained from the perspective of domestic financial systems. However, tail risks and spill overs associated with climate-change-related developments may not be as manageable. In addition, measures of exposure and vulnerability are probably understated. Many exercises do not capture second-round effects, potential non-linearities in climate-related risks, and other potentially large sources of risk, such as those stemming from an abrupt correction in asset prices when transition shocks result in fire sales of assets in exposed sectors. The report also finds that scenario analysis exercises at this stage are usefully feeding into policy discussions and are raising awareness. While critically contributing to risk assessment, the exercises are still considered exploratory and in most cases do not translate into micro- or macro-prudential policy action at this stage. Further progress on bridging data gaps, particularly on improving data availability and consistency/comparability at the global level, will be key.

Date of publication: 15/11/2022

IOSCO: Consultation report on compliance carbon markets

Status: Consultation

Deadline for the submission of comments: 10/02/2023

IOSCO has published a consultation report on compliance carbon markets (CCMs). This report explores the functioning of existing and well-established compliance markets in order to gain an understanding of the potential vulnerabilities in the functions of these markets and how to mitigate them. It delves into both primary markets and secondary markets considerations, and spot and derivatives trading. The report makes a total of 12 recommendations for CCMs, addressing issues relating to integrity and orderly functioning.

Date of publication: 09/11/2022

IOSCO: Discussion paper on voluntary carbon markets

Status: Consultation

Deadline for the submission of comments: 10/02/2023

IOSCO has published a discussion paper on voluntary carbon markets (VCMs). This paper explores what sound and efficient VCMs should look like and the role financial regulators might play in promoting those markets. IOSCO seeks feedback on a potential approach that regulatory authorities and market participants could take to foster sound and well-functioning voluntary carbon markets and, as a consequence, scale up these markets to allow them to achieve their environmental objectives. A total of 11 considerations have been put forward, ranging from open access to enterprise risk management.

Date of publication: 09/11/2022

IOSCO: Call for action to promote good practices to counter risk of greenwashing

Status: Final

IOSCO has published a call for action calling upon all voluntary standard setting bodies and industry associations operating in financial markets to promote good practices among their members to counter the risk of greenwashing related to asset managers and ESG rating and data providers. As part of the call for action, IOSCO will engage with voluntary standard setting bodies and industry associations to promote the adoption and implementation of the good practices stemming from the IOSCO recommendations among their members. The call for action sets out IOSCO Good Practices: (i) section 1 addresses asset

managers; and (ii) section 2 addresses ESG rating and data providers. The IOSCO Good Practices are voluntary and are not intended to conflict with national or regional legal and regulatory frameworks.

Date of publication: 07/11/2022

TNFD: Consultation on the third version of its nature-related risk and opportunity management and disclosure framework

Status: Consultation

Deadline for the submission of comments: 01/06/2023

The Task Force on Nature-related Financial Disclosures (TNFD) published the third version of its beta framework for nature-related risk management and disclosures. The TNFD framework aims to provide guidance for organisations to report and act on evolving nature-related risks and opportunities, with the ultimate aim of supporting a shift in global financial flows away from nature-negative outcomes and towards nature-positive outcomes. Updates to the framework include: (i) expansion of the draft disclosure recommendations to incorporate dependencies and impacts on nature alongside risks and opportunities to the organisation; (ii) proposed new disclosure recommendations related to supply chain traceability; the quality of stakeholders, including rights-holders, engagement; and the alignment of an organisation's climate and nature targets; (iii) an adaptive approach to the application of TNFD's disclosure recommendations to accommodate the varying materiality and reporting preferences and needs of report preparers; and to support early action by companies and financial institutions and encourage increasing disclosure ambition over time; (iv) additional guidance on risk and opportunity assessment and the metrics proposed to support that analysis; (v) enhanced practical usability of its proposed risk and opportunity assessment approach and; (vi) draft guidance on target-setting developed with the Science Based Targets Network and draft disclosure guidance for financial institutions. The TNFD also published two new discussion papers on scenarios and societal dimensions of nature-related risk management and disclosure. It is hoped that the papers will encourage market participants to contribute further to the TNFD's work in these areas.

The Taskforce aims to release a further updated beta version in February 2023. It also aims to publish its complete recommendations of the TNFD framework in September 2023.

Date of publication: 04/11/2022

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