

# Regulatory monitoring

Newsletter

March 2023





# ECB in focus

ECB in focus is our blog dedicated to the banking supervisory activities of the European Central Bank (ECB). We report on key developments in European banking regulation led by the ECB as part of the Single Supervisory Mechanism (SSM).

The blog features views and commentary from members of Allen & Overy's market-leading German financial services regulation practice.

For enquiries regarding Allen & Overy's ECB in focus blog, please contact us.

## Some of our recent posts

### ECB PUBLISHES SUPERVISORY PRIORITIES 2023-25

*4 January 2023*

The ECB has recently published its supervisory priorities for the years 2023-2025. They include three strategic priorities that will form the basis of the ECB's supervisory activity for the next three years: (1) strengthening resilience to immediate macro-financial and geopolitical shocks; (2) addressing digitalisation challenges and strengthening governance capabilities; and (3) stepping up efforts in addressing climate change.

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### ECB CONSULTS ON GUIDE TO QUALIFYING HOLDING PROCEDURES

*7 November 2022*

On 28 September 2022, the ECB launched a public consultation on its draft guide on qualifying holding procedures. The guide clarifies existing uncertainties in key areas and adds to the existing guidelines that apply across the EU.

[Read more →](#)

### ECB WARNS BANKS THAT FAILURE TO COMPLY WITH LEVERAGED LENDING GUIDANCE MAY RESULT IN CAPITAL CHARGES

*26 October 2022*

In her recent speech Elizabeth McCaul, member of the ECB's Supervisory Board, threatened to apply capital charges to significant banks with very high risk exposures to leveraged finance. The extent of banks' exposures to leveraged lending has long been a thorn in the ECB's side.

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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

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## 1.1 Prudential regulation

### (a) General

#### (i) International

##### BCBS: Consultation on various technical amendments and FAQs

Status: Consultation

Deadline for the submission of comments: 15/05/2023

BCBS has launched a consultation on various technical amendments and FAQs to help promote consistent interpretation of the Basel Framework. The set of interpretative issues addressed in this document relate to: (i) the standardised approach to operational risk; (ii) the disclosure standards for credit valuation adjustment (CVA) risk; (iii) the description of the calculation of indicator scores for global systemically important banks (G-SIBs); (iv) terminology used in the countercyclical capital buffer; and (v) the application of the liquidity standards to certain products.

Date of publication: 30/03/2023

##### BCBS: Review of work priorities

Status: Final

The BCBS has provided an update on a number of its ongoing workstreams, including: (i) risks and vulnerabilities to the global banking system – the BCBS will continue to closely monitor bank and market developments and assess the financial stability risks of higher interest rates to the global banking system. In addition, the BCBS will take stock of the regulatory and supervisory implications stemming from recent events, with a view to learn lessons. Members unanimously reaffirmed their expectation of implementing all aspects of the Basel III framework in a full and consistent manner, and as soon as possible; (ii) climate-related financial risks – the BCBS will consult on the proposed Pillar 3 disclosure framework for climate-related financial risks by the end of 2023; (iii) Basel Core Principles – the BCBS agreed to consult on revisions to the Basel Core Principles by mid-2023; and (iv) cryptoassets – the BCBS will continue to monitor banks' cryptoasset activities and exposures, including their role as potential issuers of stablecoins and tokenised deposits, custodians of cryptoassets and interconnections with other nodes of the cryptoasset ecosystem.

Date of publication: 23/03/2023

### (b) Solvency/Own funds issues

#### (i) Germany

##### BaFin: Agreement with the EBA no-action letter on compliance with Article 3(6) CRR II (*Zustimmung zum No-Action-Letter der EBA über die Einhaltung des Artikel 3 Abs. 6 CRR II*)

Status: Final

BaFin has published a note on its agreement with the content and focus of the [no-action letter](#) published by the EBA on 27 February 2023. This letter states that competent authorities should not prioritise any supervisory or enforcement action in relation to compliance with the new banking book and trading book boundary provisions. This amounts to a de facto permission to delay the implementation of requirements pursuant to Article 3(6) CRR II until the expected general date of entry into force for the Fundamental Review of the Trading Book (FRTB) in early 2025.

Date of publication: 10/03/2023

## (ii) EU

### **EBA: Consultation on draft RTS on the assessment methodology under which competent authorities verify an institution's compliance with the internal model approach as per Article 325az(8) CRR II**

Status: Consultation

Deadline for the submission of comments: 26/06/2023

The EBA has launched a consultation on draft RTS on the assessment methodology under which competent authorities verify an institution's compliance with the requirements applicable to their internal models under the Fundamental Review of the Trading Book (FRTB) rules as per Article 325az(8) CRR II. One of the prerequisites for an institution to use the new internal model approach (IMA) for calculating its own funds requirements for market risk is the approval from its competent authority. To obtain such an approval, the institution is subject to a thorough and comprehensive assessment of its internal model by the competent authority to ensure it complies with the relevant regulatory provisions. The draft RTS, aim to set out a framework for competent authorities to assess those requirements. They are divided into three main chapters: (i) governance; (ii) the internal risk-measurement model covering for the expected shortfall and the stress scenario risk measure; and (iii) the internal default risk model. The RTS include some compulsory assessment techniques that the competent authorities must apply, as well as some optional techniques that may be applicable depending on the situation of the institution. These RTS are part of the phase 4 deliverables of the EBA roadmap for the new market and counterparty credit risk approaches.

Date of publication: 24/03/2023

### **EBA: Consultation on draft RTS on the assessment methodology under which competent authorities verify an institution's compliance with the internal model approach as per Article 325az(8) CRR2**

Status: Consultation

Deadline for the submission of comments: 26/06/2023

The EBA has launched a consultation on draft RTS on the assessment methodology under which competent authorities verify an institution's compliance with the requirements applicable to their internal models under the Fundamental Review of the Trading Book (FRTB) rules. These RTS are part of the phase 4 deliverables of the EBA roadmap for the new market and counterparty credit risk approaches. One of the prerequisites for an institution to use the new internal model approach (IMA) for calculating its own funds requirements for market risk is the approval from its competent authority. To obtain such an approval, the institution is subject to a thorough and comprehensive assessment of its internal model by the competent authority to ensure it complies with the relevant regulatory provisions. With these RTS, the EBA ensures clarity on the assessment performed by competent authorities, so as to guide the implementation of FRTB internal models in EU. In particular, these draft RTS set out a framework for competent authorities to assess these requirements and focus on three main aspects: governance, the internal risk-measurement model – covering the expected shortfall, and the stress scenario risk measure – and the internal default risk model.

Date of publication: 24/03/2023

### **EBA: Consultation on draft ITS amending Regulation (EU) 2021/453 with regard to the specific reporting requirements for market risk**

Status: Consultation

Deadline for the submission of comments: 21/06/2023

The EBA has launched a public consultation on its draft ITS amending the ITS on specific reporting requirements on market risks (FRTB reporting), aiming at providing supervisors with the necessary tools to monitor these risks. As the full implementation of the Fundamental Review of the Trading Book (FRTB) in the EU approaches, the proposals complement the already existing reporting requirements with a comprehensive set of information on the instruments and positions to which institutions apply related to the FRTB approaches. The proposed amendments will provide the supervisors with the necessary data to monitor institutions' implementation of the FRTB approaches and their compliance with the own funds requirements for market risk. The amendments mostly affect institutions with significant business subject to market risk, therefore reflecting

the proportionality elements embedded in the CRR. The consultation also illustrates a set of possible amendments to the ITS on supervisory reporting, mainly reflecting the trading book boundary framework.

The EBA expects to submit these draft ITS to the EC in the autumn. The revised reporting requirements are expected to apply from the reference date 30 September 2024.

Date of publication: 21/03/2023

### **EBA: Handbook on data submission for supervisory benchmarking**

Status: Final

The EBA has published a Handbook on data submission for supervisory benchmarking of internal models. The Handbook is an online tool that will be regularly updated. It provides guidance and links to relevant documents and information on the supervisory benchmarking to facilitate their accessibility. It includes overviews for all applicable Q&A relevant to credit risk, market risk and IFRS9 benchmarking. More detailed information is also provided for the key credit risk elements of the data submission. The Q&A for supervisory benchmarking will no longer be included in the Single Rulebook Q&A tool. A new Q&A submission form for supervisory benchmarking Q&A, has also been added and is available on the webpage of the Handbook.

Date of publication: 16/03/2023

### **EBA: Annual assessment of banks' internal approaches for the calculation of capital requirements**

Status: Final

The EBA has published its reports on the annual market and credit risk benchmarking exercises conducted in 2022. These exercises aim at monitoring the consistency of risk weighted assets (RWAs) across all EU institutions authorised to use internal approaches for the calculation of capital requirements. Regarding market risk, for the majority of participating banks, the results confirm a relatively low dispersion in the initial market valuation (IMVs) of most of the instruments, and a decrease in the dispersion in the value at risk (VaR) submissions compared to the previous exercise. For credit risk, the variability of RWAs remained rather stable, despite the pandemic and the different banks' pace in complying with the policies set out in the EBA internal rating-based (IRB) roadmap. A particular focus has been put on analysing the impact of the pandemic and the compensating public measures on the IRB models.

- [Report results from the 2022 market risk benchmarking exercise](#)
- [Report results from the 2022 credit risk benchmarking exercise](#)

Date of publication: 10/03/2023

### **Commission Delegated Regulation (EU) 2023/511 supplementing the CRR with regard to RTS for the calculation of risk-weighted exposure amounts of CIUs under the mandate-based approach**

Status: Published in the OJ

Date of entry into force: 29/03/2023

Delegated Regulation (EU) 2023/511 supplementing the CRR with regards to RTS for the calculation of risk-weighted exposure amounts of collective investment undertakings (CIUs) under the mandate-based approach has been published in the OJ. Where the conditions of Article 132(3) of the CRR are met, institutions may determine the risk-weighted exposure amount of a CIU's exposures in accordance with the approaches set out in Article 132a of the CRR. Institutions that do not have sufficient information about the individual underlying exposures of a CIU to use the look-through approach, may instead calculate the risk-weighted exposure amount of those exposures in accordance with the limits set in the CIU's mandate and relevant law – the mandate-based approach. The RTS clarify the steps to be taken as part of this approach.

Date: 09/03/2023

## (c) Risk management/SREP/Pillar 2/Outsourcing/NPL

### (i) EU

**EC: Commission Delegated Regulation (EU) .../... on supplementing CRD IV, amended by CRD V with regard to RTS to specify the supervisory shock scenarios, the common modelling and parametric assumptions and the definition of a large decline, for the purposes of the supervisory outlier tests of the exposures of institutions to the interest rate risk arising from nontrading book activities and their impact on net interest income and economic value of equity**

Status: Final

The Commission has published an amended version of draft Delegated Regulation containing RTS specifying the supervisory shock scenarios, the common modelling and parametric assumptions and the definition of a large decline, for the purposes of the supervisory outlier tests under Article 98(5) of CRD IV. In a letter sent to the EBA (dated 13 March), the Commission explains that while it agrees with the overall substance of the submitted draft RTS, it believes that the approach proposed to determine the notion of a large decline under the supervisory outlier test for the net interest income, would not adequately reflect the current different interest rate environment, and could therefore result in the identification of a disproportionate number of outliers in the context of the supervisory review and evaluation process. A key concern raised by stakeholders relates to the risk that the specific threshold would be interpreted in practice as a hard limit, triggering sizeable corrective actions to remain below such threshold and avoid possible supervisory actions that being an outlier may bring about. In turn, if a large number of institutions face the prospect of being identified as an outlier and react in a similar fashion, the risk of an unduly significant market correction could materialize. The draft RTS have been amended to reflect these points.

Date of publication: 27/03/2023

## (d) Remuneration

### (i) Germany

**BaFin: General Administrative Act on remuneration notifications (*Allgemeinverfügung zu Vergütungsanzeigen*)**

Status: Final

BaFin has published a General Administrative Act on remuneration reporting. This act aims to implement the fundamentally revised EBA Guidelines on: (i) the benchmarking exercises on remuneration practices, the gender pay gap and approved higher ratios under CRD IV; and (ii) the data collection exercises regarding high earners under CRD IV and CRD V. Every year, the banks in Germany have to report on their employees that earn more than a million Euros, the so-called high earners, in accordance with Article 75(3) CRD. Pursuant to Article 75(1) CRD, the credit institutions also provide the Bundesbank with annual data for benchmarking remuneration trends and practices. The extension of these reporting requirements by the CRD V is also reflected in this act.

Date of publication: 31/03/2023

### (ii) EU

**EBA: Report on the benchmarking of diversity practices and the gender pay gap**

Status: Final

The EBA has published its report on diversity practices and the gender pay gap at the level of the management body (2021 data). Key findings include: (i) despite the legal requirements in the CRD, 27.05% of institutions (41.61% in 2018) have still not adopted a diversity policy. While the share of institutions that have a diversity policy in place increased, only 76.78% (2018; 69.61%) of institutions that have a diversity policy promote gender diversity by setting a target for the underrepresented gender; (ii) only 18.05% of executive directors are female, with 56% of the institutions in the sample and nearly half of the larger credit institutions having no female executive director; (iii) gender balance in Northern and Eastern Europe is generally better than in

other parts of the EU; (iv) a clear positive correlation between gender balance and “return on equity” (RoE) exists. Credit institutions with a gender-diverse management function have on average a RoE of 7.88%, while credit institutions with executive directors of only one gender have on average 5.27%; and (v) women earn on average 9.43% less than male executive directors and 5.90% less than male non-executive directors. The EBA calls on competent authorities to take appropriate supervisory measures to ensure that all institutions comply with the legal requirements in the CRD to adopt a diversity policy and set appropriate gender balance targets.

Date of publication: 07/03/2023

## (e) Supervisory reporting

### (i) EU

#### ESMA: Report on 2022 corporate reporting enforcement and regulatory activities

Status: Final

ESMA has published a report on 2022 corporate reporting enforcement and regulatory activities, providing an overview of activities carried out by ESMA and enforcers on financial and non-financial information and European Single Electronic Format (ESEF) reporting. The report assesses how issuers comply with International Financial Reporting Standards (IFRS), ESMA’s Guidelines on Alternative Performance Measures (APMs), non-financial reporting obligations and ESEF reporting requirements and adhere to ESMA’s recommendations.

Date of publication: 29/03/2023

## 1.2 Recovery and resolution

### (i) Germany

#### BaFin: Authorisation granted to SVB Germany

Status: Final

BaFin has published a statement on its decision to grant the Silicon Valley Bridge Bank N.A. (SVB) authorisation to conduct lending business and proprietary business via its German branch SVB Germany. SVB Germany has taken over all of the business operations of Silicon Valley Bank Germany Branch. On 13 March 2023, BaFin ordered a moratorium on Silicon Valley Bank Germany Branch. SVB Germany is not affected by this moratorium. The institution is not subject to a ban on disposals and payments, and it is open for business with customers.

Date of publication: 20/03/2023

### (ii) EU

#### Commission Delegated Regulation (EU) 2023/662 amending Delegated Regulation (EU) 2015/63 as regards the methodology for the calculation of liabilities arising from derivatives under BRRD

Status: Published in the OJ

Date of entry into force: 23/03/2023

Date of application: 01/10/2022

The Commission Delegated Regulation (EU) 2023/662 amending Delegated Regulation (EU) 2015/63 as regards the methodology for the calculation of liabilities arising from derivatives under the BRRD has been published in the OJ. Delegated Regulation 2015/63 supplements the BRRD with regard to ex ante contributions to resolution financing arrangements. CRR II obliged institutions to calculate the exposure value of derivative contracts in accordance with the mark-to-market method known as the Standardised Approach Counterparty Credit Risk. However, the application of this method for the purposes of calculating ex ante contributions would, in fact, distort the calculation of liabilities arising from derivative contracts, which would affect

some institutions more than others. The Amending Delegated Regulation therefore enables institutions to use the Current Exposure Method for the valuation of liabilities arising from derivative contracts, as previously laid down prior to CRR II.

Date of publication: 22/03/2023

### **ECB/SRB/EBA: Statement on the creditor hierarchy approach by Swiss authorities regarding Credit Suisse**

**Status: Final**

The SRB, EBA, and ECB have published a statement welcoming the actions by Swiss authorities and reaffirmed the EU resolution framework's approach to creditor hierarchy. They set out that the European banking sector is resilient, with robust levels of capital and liquidity. The resolution framework implementing in the European Union the reforms recommended by the Financial Stability Board after the Great Financial Crisis has established, among others, the order according to which shareholders and creditors of a troubled bank should bear losses. In particular, common equity instruments are the first ones to absorb losses, and only after their full use would Additional Tier 1 be required to be written down. This approach has been consistently applied in past cases and will continue to guide the actions of the SRB and ECB banking supervision in crisis interventions. They conclude that additional Tier 1 is and will remain an important component of the capital structure of European banks.

Date of publication: 20/03/2023

### **(iii) Eurozone**

#### **SRB: Cooperation arrangements with Australia, Argentina, New Zealand and Malaysia**

**Status: Final**

The SRB has announced that it had reached cooperation arrangements with the Australian Prudential Regulation Authority (APRA), the Central Bank of the Argentine Republic – Banco Central de la República Argentina ("BCRA") and the Reserve Bank of New Zealand. The arrangements focus on the exchange of information and cooperation related to bank resolution planning, and how that is implemented for banks with cross-border operations. On 30 March, the SRB announced it had also reached a cooperation agreement with the Perbadana Insurans Deposit Malaysia (PIDM), to enhance cross-border communication and cooperation for resolving entities with cross-border operations.

- [Agreement with APRA](#)
- [Agreement with BCRA](#)
- [Agreement with Reserve Bank of New Zealand](#)
- [Agreement with PIDM](#)

Date of publication: 24/03/2023

#### **SRB: Consultation on 2023 Single Resolution Fund contributions**

**Status: Consultation**

**Deadline for the submission of comments: 05/04/2023**

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[The SRB has announced that it will launch its annual consultation on the 2023 preliminary contributions to the Single Resolution Fund (SRF). The SRF is an emergency fund to support bank resolution and is being built up over eight years between 2016 and 2023. This year marks the last year of the initial SRF built up period. The consultation will give banks and other financial institutions required to pay into the SRF the chance to provide comments on the preliminary calculation of the 2023 contributions due. It is a preliminary step before adoption of the final decision on the amount each bank and other financial institution has to pay, to enhance the transparency and robustness of the ex-ante contributions process.]

Date of publication: 23/03/2023

## 2. Market regulation/Conduct rules

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### 2.1 Benchmarks

#### (i) EU

##### **ESMA: Q&A on the Benchmarks Regulation**

Status: Final

ESMA has updated its Q&A on the Benchmarks Regulation (BMR), modifying and extending two questions in chapter 7 on authorisation, registration, recognition and endorsement. The questions deal with IOSCO principles and the legal representative under Article 32(3) BMR respectively.

Date of publication: 31/03/2023

##### **EC: Review of the scope and regime for non-EU benchmarks**

Status: Consultation

Deadline for the submission of comments: 29/03/2023

The Commission has published a call for evidence on the scope and third-country regime of the Benchmark Regulation. The initiative aims to tackle two issues. The first is ensuring continued access to benchmarks worldwide for EU businesses and investors. When the new rules on the use of non-EU benchmarks come into force, on 1 January 2024, it will deprive market participants in the EU access to the majority of the world's benchmarks, putting some of them at a significant disadvantage in global competition. Secondly, the Commission seeks to promote EU benchmark labels as an open standard under EU supervision. In light of potential modifications to the rules for the use of non-EU benchmarks, the supervisory status of non-EU benchmarks bearing EU climate benchmark labels will also need to be amended. There is however no intention to change the substantive requirements for the EU climate benchmark labels.

Date of publication: 01/03/2023

### 2.2 Consumer protection rules

#### (i) EU

##### **EBA: Retail risk indicators**

Status: Final

The EBA has published a new set of retail risk indicators. Under the EBA Regulation, the EBA is required to develop retail risk indicators (RRIs) for the timely identification of potential consumer harm. The report includes a list of RRIs that cover a wide variety of products in the EBA's remit including mortgage credit, consumer credit, payment and deposit accounts. The RRIs aim to facilitate the monitoring of the banking markets across the EU, by measuring the risk of detriment arising to consumers from the misconduct of institutions, and from wider economic conditions. The indicators will be used to help the EBA and NCAs to prioritise their regulatory and supervisory work in the area of consumer protection. The RRIs are summarised in a table, accompanied by a set of charts showing results at Member State-level, as well as a methodological note explaining the interpretation of the results. The indicators will be updated and refined on an annual basis and published as part of the EBA's annual Risk Assessment Report.

Date of publication: 28/03/2023



## Council of the EU: General approach on new Distance Marketing Directive

Status: Draft

The Council of the EU published its general approach on the proposed Directive on financial services contracts concluded at a distance. The Council adopted the general approach on 2 March. The proposed Directive updates current EU legislation to create a level playing field in the internal market for distance financial services while raising the level of consumer protection. It will repeal the Distance Marketing Directive and transfer its contents to the Consumer Rights Directive.

The Council's general approach for the most part maintains the objectives of the Commission's proposal; however, it also introduces several changes including: (i) minimum harmonisation as regards pre-contractual obligations which allow member states to have stricter national rules than those established by the directive; (ii) clarification to the scope of application and the safety net-feature of the directive, in particular for financial services that are excluded from other sectoral legislation or only partially covered by it; (iii) applying further provisions of the consumers rights directive to financial services contracts concluded at a distance; (iv) extending provisions of the 'withdrawal button' to the general chapter of the consumer rights directive, so that "withdrawal buttons" are applied to all contracts concluded at a distance; (v) modernising pre-contractual information obligations and future-proofing for financial services in the years to come; (vi) allowing member states to adapt the explanations that should be provided by financial services providers to the circumstances of the products and needs of the consumers; and (vii) extending the period of transposition, so the industry will benefit from an additional six months to make all the required changes to their IT-systems.

The Council presidency now has a mandate for negotiations with the European Parliament.

Date of publication: 03/03/2023

### (ii) International

## IOSCO: Final report by the retail market conduct task force

Status: Final

IOSCO has published a report on retail market conduct issues, which includes a toolkit for regulators to consider in developing their respective approaches. The report highlights: (i) a wide range of retail trends and sources of potential retail investor harm in an increasingly online environment, where social media is now a major source of information; (ii) that the increasing digitalisation of financial services and greater use of online distribution methods provide fraudsters with easier and cheaper ways of spreading false communications and information to a wider target audience; (iii) that crypto-asset scams and greenwashing are two important examples of misconduct arising from global trends and technological developments; and (iv) the persistent challenges regarding supervision and enforcement of cross border misconduct and the importance of deepening co-operation between jurisdictions in combatting financial fraud on a global scale. IOSCO considers that regulators need to address retail investor harm at its source. Regulators can employ technological tools to eliminate detrimental online marketing channels, identify misconduct early on and intervene rapidly. IOSCO's toolkit includes various approaches under five overarching categories: (a) heightening regulators' digital presence and online strategy to proactively address retail investor harm; (b) honing approaches to better identify and mitigate misconduct; (c) enhancing cross-border and domestic supervisory and enforcement cooperation frameworks, both bilaterally and multilaterally; (d) addressing retail investor harm that stems from crypto-assets; and (e) implementing new regulatory approaches against retail misconduct.

Date of publication: 30/03/2023

## 2.3 Market abuse

### (i) EU

## ESMA: Letter to EP and Council of the EU highlights concerns with proposed changes to MAR insider list regime

Status: Final

ESMA has published a letter it has sent to the EP and the Council of the EU raising concerns about proposed changes to the MAR insider list regime. Overall, ESMA welcomes the EC's Listing Act proposal. The proposal amends Article 18 of MAR,

stipulating that an issuer's insider list would no longer be event-based and would only need to include those persons that have regular access to inside information (so called "permanent insiders"). ESMA believes that this proposal may have significant detrimental effects, including: (i) the ability of NCAs to quickly identify non-permanent insiders would be limited; (ii) the ability of advisers and consultants to produce their insider list in a timely manner would be affected as they will no longer be added to the issuer's list and therefore will not receive the relevant notification; and (iii) increasing the risk of unintended insider dealing and weakening the issuers' control of the flow of inside information. Issuers use insider lists to manage inside information thus protecting both themselves and their staff/third parties. The new regime would diminish awareness by all insiders, as they will no longer be notified that they are in possession of inside information and be informed about the relevant obligations and prohibitions.

Date of publication: 20/03/2023

## 2.4 MiFID/MiFIR

### (i) EU

#### ESMA: Q&A on MiFID II and MiFIR transparency topics

Status: Final

ESMA has updated its Q&A on MiFID II and MiFIR transparency topics, adding a new question settlement location within the chapter on non-equity transparency.

Date of publication: 31/03/2023

#### ESMA: Q&A on MiFIR data reporting

Status: Final

ESMA has updated its Q&A on MiFIR data reporting, adding a new question on the LEI of sovereign issuers in the first chapter. It also amended one question on the concept of underlying and added one on identifiers for stateless natural persons within the chapter on transaction reporting.

Date of publication: 31/03/2023

#### ESMA: Supervisory briefing on supervisory expectations in relation to firms offering copy trading services

Status: Final

ESMA has published a supervisory briefing on supervisory expectations of ESMA and NCAs in relation to firms offering copy trading services, in accordance with its objective of fostering investor protection and actively promoting supervisory convergence across the Union. This briefing includes guidance on: (i) information requirements; (ii) product governance; (iii) suitability and appropriateness assessment; (iv) remuneration and inducement; and (v) qualifications of traders whose trades are being copied. The supervisory briefing also includes indicative questions that supervisors could ask themselves, or firms, when assessing firms' approaches to the application of the relevant MiFID II rules. Moving forward, ESMA and NCAs will continue to monitor the development of this area and may in future undertake other steps to ensure that copy trading is provided in a manner that is consistent with the applicable MiFID II requirements and that investment services continue being provided in the best interest of the client.

Date of publication: 30/03/2023

#### ESMA: Public statement on derivatives on fractions of shares

Status: Final

ESMA has published a public statement on derivatives on fractions of shares. The statement is addressed to firms and NCAs, clarifying the application of certain investor protection requirements established under MiFID II. The statement reminds firms that they are required to provide clients in good time, i.e. before the provision of investment services, with a description of the nature and risks of the relevant financial instruments. The statement emphasises that: (i) all information to clients, including

marketing information, shall be fair, clear, and not misleading; (ii) firms offering these derivatives must clearly disclose all direct and indirect costs and charges relating to them and the services provided; (iii) as derivatives are complex financial instruments, an appropriateness assessment needs to be carried out where non-advised services are provided; and (iv) where derivatives on fractions of shares are packaged retail and insurance-based investment products, the PRIIPs Regulation applies and firms need to provide retail clients with a PRIIPs KID.

Date of publication: 28/03/2023

## **ESMA: Final report on the review of the ITS on cooperation in supervisory activities under MiFID II**

**Status: Final**

ESMA has published a final report on the review of the ITS on cooperation in supervisory activities under MiFID II. This report consists of two chapters, covering: (i) the background information on ESMA's legal mandate to develop the draft ITS; and (ii) the analysis of the proposal for the draft ITS. The final report also includes in the annexes the full text of the amended draft ITS.

Date of publication: 28/03/2023

## **ESMA: Final report on Guidelines on MiFID II product governance requirements**

**Status: Final**

ESMA has published a final report on Guidelines on MiFID II product governance requirements. The report summarises and analyses responses to the July 2022 consultation on the Guidelines, explaining how the responses, together with the SMSG advice, have been taken into account. The final Guidelines are set out in Annex V. They will now be translated into the official EU languages and published on ESMA's website. NCAs will then have two months to notify ESMA if they intend to comply with the Guidelines or not.

Date of publication: 27/03/2023

## **ECON: Reports on proposed amendments to MiFID II and MiFIR**

**Status: Draft**

ECON has published reports that it has adopted on the proposed Directive and Regulation amending MiFID II and MiFIR, as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders. The proposed legislation intends to enable the establishment of an EU-wide consolidated tape for shares, bonds, exchange-traded funds and derivatives, as well as make targeted changes to market structure, so as to increase transparency and strengthen the competitiveness of EU financial markets.

The reports set out ECON's draft legislative resolutions and the amendments to the EC's proposals that were published in November 2021, including changes concerning: (i) EU-wide consolidated tape. MEPs supported an EU-wide CT, an electronic system which combines sales volume and price data from different exchanges and consolidates these into a continuous live feed, providing a single reference price for each asset class across markets; (ii) market structure and transparency. The text clarifies and simplifies the limitations on trading without pre-trade transparency by establishing a single volume cap that limits the amount of dark trading in an equity instrument in the EU to 7% of total trading in that instrument. They also ask ESMA to define the size of financial transactions in equities that could benefit from a waiver from the MiFIR transparency obligations. The text also modifies the deferral times applicable to the publication of the details of transactions in bonds, structured products, emission allowances and derivatives; and (iii) investor protection and orderly trading. The text mandates member states to require regulated markets to be able to temporarily halt or constrain trading in emergencies or if there is a significant price movement in a financial instrument and, in exceptional cases, to be able to cancel, vary or correct any transaction.

- [MiFID II Report](#)
- [MiFIR Report](#)

Date of publication: 03/03/2023

## ESMA: Results of the annual transparency calculations for equity and equity-like instruments

Status: Final

ESMA has published the results of the annual transparency calculations for equity and equity-like instruments. The calculations made available include: (i) the liquidity assessment as per Articles 1 to 5 of Commission Delegated Regulation 2017/567; (ii) the determination of the most relevant market in terms of liquidity as per Article 4 of Commission Delegated Regulation 2017/587 (RTS 1); (iii) the determination of the average daily turnover relevant for the determination of the pre-trade and post-trade large in scale thresholds; (iv) the determination of the average value of the transactions and the related the standard market size; and (v) the determination of the average daily number of transactions on the most relevant market in terms of liquidity relevant for the determination of the tick-size regime. Market participants are invited to monitor the release of the transparency calculations for equity and equity-like instruments on a daily basis to obtain the estimated calculations for newly traded instruments and the four-week calculations applicable to newly traded instruments after the first six weeks of trading.

The results of the annual transparency calculations published will apply from 1 April until 31 March 2024. The next annual transparency calculations for equity and equity-like instruments will be published by 1 March 2024.

Date of publication: 01/03/2023

## 2.5 Packaged retail and insurance-based investment products (PRIIPs)

(i) EU

### Corrigendum to PRIIPs Delegated Regulation (EU) 2021/2268

Status: Final

A corrigendum to Delegated Regulation (EU) 2021/2268 amending the RTS laid down in the PRIIPs KID Delegated Regulation (2017/653), has been published in the OJ. The corrigendum amends the calculation for VaR-equivalent volatility in the market risk measure class determination for Category 2 and 3 PRIIPs in Annex II on methodology for the presentation of risk.

Date of publication: 16/03/2023

## 3. Market infrastructure

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### 3.1 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 on improving securities settlement in the EU and on central securities depositories (CSDR). It has added new questions on settlement discipline, regarding partial settlement functionality.

Date of publication: 13/03/2023

##### **ECON: Report on CSDR Refit Regulation**

Status: Draft

ECON has published a report it has adopted on the EC's legislative proposal for a Regulation amending the CSDR. The report includes ECON's proposed amendments to the EC's original proposal. The aim of the Refit initiative is to simplify the requirements in certain areas to ensure efficient and resilient post-trading infrastructure. The new rules introduce a number of measures including: (i) to prevent settlement fails, when a party to a transaction does not deliver a security or funds on time MEPs proposed to apply deterrent and proportionate cash penalties, agreeing that mandatory buy-in rules should apply only as a last resort measure MEPs also want to exclude transactions that failed for reasons not attributable to the participants, transactions that do not involve two trading parties, or when it could lead to detrimental consequences for the market. The Commission should have the power to suspend mandatory buy-ins where necessary; (ii) to minimise administrative burden and third-country CSDs, ECON voted for the recognition regime for CSDs established in a third country to be expanded to cover securities settlement services. Additionally, MEPs voted to substantially simplify the Commission's proposal on the establishment of colleges of supervisors and proposed a stronger role for ESMA in those colleges; and (iii) regarding banking-type ancillary services, ECON proposed that CSDs non-authorised as banks should be able to offer a sufficient amount of arrange foreign currency settlement through a bank account.

Date of publication: 06/03/2023

### 3.2 EMIR

#### (i) EU

##### **ESMA: Q&A on EMIR implementation**

Status: Final

ESMA has updated its Q&A on the implementation of EMIR, amending two questions on the table of fields for the reporting to TRs and on the parties that need to report within the exchange traded derivatives (ETD) reporting. It also added a new question on the inclusion of derivatives in the trade state report.

Date of publication: 31/03/2023

##### **ESMA: Public statement on the derivative trading obligation**

Status: Final

ESMA has published a public statement on the derivative trading obligation (DTO) in the context of the migration of credit default swap contracts out of ICE Clear Europe. The objective of this statement is to support the orderly migration of positions

from ICE Clear Europe to other CCPs, following the announcement of the forthcoming closure of ICE Clear Europe's credit default swap clearing service on 27 October 2023. ESMA also notes that while neither it nor the national competent authorities (NCAs) possess the appropriate powers to formally disapply the DTO, it nonetheless expects NCAs not to prioritise their supervisory actions in relation to the DTO for transactions in certain index CDSs until 31 October 2023. Considering the global dimension of the migration, ESMA has closely coordinated its approach with the UK Financial Conduct Authority (FCA) and the US Commodity Futures Trading Commission (CFTC).

Date of publication: 30/03/2023

## **ESMA: Consultation on amendments to Guidelines on position calculation under EMIR**

Status: Consultation

Deadline for the submission of comments: 09/05/2023

ESMA has launched a consultation on amendments to Guidelines on position calculation under EMIR. The Guidelines have been amended to ensure that trade repositories (TRs) calculate positions in derivatives in a harmonised and consistent manner in accordance with Article 80(4) of EMIR and in line with the changes introduced by EMIR Refit technical standards. The Guidelines provide specific information on the aggregation of certain data fields and how those should be calculated by TRs prior to the provision of the data to relevant authorities. The aim is to ensure the consistency of position calculation across TRs, with regards to the time of calculations, the scope of the data to be used in calculations and the calculation methodologies under the new EMIR Refit standards. The amended Guidelines will also address to what extent continuity should be ensured by TRs during the EMIR Refit transition period when pre- and post-Refit data will coexist.

ESMA expects to publish a final report on these amended Guidelines during Q3 2023, to allow for at least a 6-month implementation period before the EMIR Refit goes live on 29 April 2024.

Date of publication: 28/03/2023

## **ESRB: Letter to EP and Council of the EU on EMIR 3.0**

Status: Final

The ESRB has sent a letter to the EP and the Council of the EU about the EMIR review. The ESRB sets out elements that it recommends incorporating into the EMIR review in order to make the financial system safer, including: (i) active account – the ESRB identifies some gaps in the active account framework that could significantly impair its efficiency; (ii) data – the ESRB sets out several approaches that could make it possible to improve data quality, which it considers would make EU CCPs more attractive and CCP supervision more robust; (iii) collateral – the energy market exemption was originally supposed to be time-limited. The ESRB is in favour of either ensuring that the current temporary extension does not turn into a permanent extension or applying on a permanent basis the same strict cumulative conditions regarding the acceptance of uncollateralised bank guarantees as those currently applied in the adjusted RTS; (iv) the non-objection procedure – the ESRB considers that the non-objection procedure should not be permitted where settlement in a new EU currency would be added to a class of financial instruments already covered by the CCP's authorisation. In such cases, dedicated liquidity risk management and payment and settlement arrangements should be established, ensuring that these would not constitute non-material changes. In addition, in its current wording the proposal may lead to situations in which material extensions to the scope of services provided by EU CCPs, in particular in respect of the set of currencies in which the cleared transactions are denominated, could be implemented without a thorough risk assessment and without making the necessary adaptations to EU CCPs' risk management frameworks; and (v) Joint Monitoring Mechanism (JMM) – clarification as to the interaction between the JMM and the existing supervisory framework would help reduce the additional administrative burden on both CCPs and the authorities. The ESRB sets out its proposed amendments to the EMIR text in the Annex.

Date of publication: 20/03/2023

## **ESMA: Memorandum of Understanding between ESMA and the Israel Securities Authority related to CCPs established in Israel**

Status: Final

ESMA has published a Memorandum of Understanding (MoU) between ESMA and the Israel Securities Authority related to CCPs established in Israel. It states that both authorities agree to cooperate and exchange information to proportionately fulfil their supervisory and regulatory responsibilities with respect to the CCPs established in Israel that have applied or that may apply

to ESMA for recognition as third-country CCPs or that are already recognised by ESMA as third-country CCPs, pursuant to Article 25 EMIR.

Date of publication: 15/03/2023

### **ESMA: Memorandum of Understanding with ACER concerning the consultation and cooperation regarding their statutory responsibilities in relation to EU wholesale energy markets**

Status: Final

ESMA and the EU Agency for the Cooperation of Energy Regulators (ACER) have published an updated Memorandum of Understanding (MoU) which strengthens collaboration between the two institutions. The main areas covered by the MoU are: (i) a coordinated and consistent approach to the market abuse framework under the Regulation on Wholesale Energy Market Integrity and Transparency and MAR to further enhance market integrity in energy and energy derivative markets; (ii) technical cooperation on data and knowledge with respect to the functioning of energy and energy derivative markets; and (iii) liquefied natural gas price assessments and benchmarks administered by ACER and other energy-related benchmarks relevant for ESMA's or ACER's mandates. The MoU notably incorporates new cooperation areas under the Market Correction Mechanism Regulation and benchmarks related to the energy sector. It also details the role of the recently established ACER–ESMA Task Force. ESMA and ACER will continue to cooperate in relation to regulation of wholesale energy markets, which encompass both energy derivatives and spot markets. The cooperation will primarily be achieved through on-going consultations, exchange of information and cross-participation in joint meetings of working groups and task forces.

Date of publication: 06/03/2023

### **Commission Delegated Regulation (EU) 2023/451 specifying the factors to be taken into consideration by the competent authority and the supervisory college when assessing the recovery plan of CCPs**

Status: Published in the OJ

Date of entry into force: 23/03/2023

The Commission Delegated Regulation (EU) 2023/451 containing RTS specifying the factors to be taken into consideration by the competent authority and the supervisory college when assessing the recovery plan of CCPs has been published in the OJ. It supplements the CCP Recovery and Resolution Regulation.

Date of publication: 03/03/2023

### **Commission Delegated Regulation (EU) 2023/450 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: Published in the OJ

Date of entry into force: 23/03/2023

The Commission Delegated Regulation (EU) 2023/450 supplementing the CCPRR with RTS specifying the order in which CCPs are to pay the recompense to non-defaulting clearing members as 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 has been published in the OJ.

Date of publication: 03/03/2023

### **ESMA: Effects assessment of the impact of the market correction mechanism (MCM) on financial markets**

Status: Final

ESMA has published its effects assessment of the introduction of the market correction mechanism (MCM) on gas derivative markets. In the report, ESMA explores whether some shift of trading has unfolded because of the MCM. Based on this analysis,

ESMA notes that so far no changes in the EU gas derivatives trading could be identified that could be unequivocally and directly attributed to the MCM. This confirms the findings of the preliminary data report. The report also describes the impact of the MCM on the CCPs' capacity to conduct their risk management activities, in particular to calculate their exposures and to manage potential clearing member defaults. ESMA emphasises that the absence of a significant impact of the MCM on the trading and clearing environment should not be understood as the MCM not having any impact, and reflects the current market environment characterised by low gas prices and high storage levels. ESMA will continue monitoring developments in the trading and clearing of EU gas derivatives, and stands ready to provide further technical advice on these topics upon request, including where the activation of the MCM is imminent.

Date of publication: 01/03/2023

### 3.3 Clearing, settlement, and CCPs related rules other than in the context of derivatives

#### (i) EU

##### **ESMA: Final report on draft RTS on business reorganisation plans (Articles 37(4) and 38(4) CCPRRR)**

Status: Final

ESMA has published a final report on draft RTS on business reorganisation plans under Articles 37(4) and 38(4) of CCPRRR. The final report: (i) sets out the proposal with respect to further specifying the minimum elements to be included in the business reorganisation plan; (ii) sets out the proposal with respect to specifying the criteria that a business reorganisation plan has to fulfil; and (iii) contains annexes that set out the cost and benefit, the legal mandate and the draft RTS. ESMA will submit the Final Report and draft RTS to the Commission.

Date of publication: 29/03/2023

##### **ESMA: Guidelines on recovery plans under CCPRRR**

Status: Published

Date of application: 24/05/2023

ESMA has published the official translations of the following Guidelines on its website: (i) Guidelines on CCP recovery plan scenarios; and (ii) Guidelines on CCP recovery plan indicators.

- [Guidelines on CCP recovery plan scenarios \(Article 9\(12\) CCPRRR\)](#)
- [Guidelines on CCP recovery plan indicators \(Article 9\(5\) CCPRRR\)](#)

Date of publication: 24/03/2023

##### **EC: Commission Delegated Regulation (EU) .../... supplementing the CCPRRR with regard to RTS specifying the content of the written arrangements and procedures for the functioning of the resolution colleges**

Status: Adopted by the EC

The EC has adopted the Commission Delegated Regulation supplementing the CCP Recovery and Resolution Regulation (CCPRRR) with regard to RTS specifying the content of the written arrangements and procedures for the functioning of the resolution colleges. This Delegated Regulation will now be scrutinised by the Council of the EU and the European Parliament.

Date of publication: 14/03/2023



**EC: Commission Delegated Regulation (EU) .../... supplementing the CCPRRR with regard to RTS specifying the contents of the resolution plan**

Status: Adopted by the EC

The EC has adopted the Commission Delegated Regulation supplementing the CCP Recovery and Resolution Regulation (CCPRRR) with regard to RTS specifying the contents of the resolution plan. This Delegated Regulation will now be scrutinised by the Council of the EU and the European Parliament.

Date of publication: 14/03/2023



## 4. Anti-money laundering

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### (i) Germany

#### Transparency Register Inspection Regulation (*Transparenzregistereinsichtnahmeverordnung*)

Status: Published in the Federal Gazette

Date of entry into force: 23/03/2023

The Transparency Register Inspection Regulation (*Transparenzregistereinsichtnahmeverordnung – TrEinV*) has been published in the Federal Gazette. It is based on Article 23(7) of the German Money Laundering Act (*Geldwäschegesetz – GwG*) and replaces the Regulation of the same name which has been published on 19 December 2017.

Date of publication: 22/03/2023

#### BaFin: Circular 04/2023 regarding high-risk countries (*Rundschreiben 04/2023 (GW) zu Hochrisikostaaten*)

Status: Final

BaFin has published Circular 04/2023 to provide information about third countries with strategic deficiencies in their anti-money laundering and counter-terrorist financing systems that pose significant risks to the international financial system (high-risk countries).

The Circular is addressed to all obliged parties under BaFin supervision in accordance with the German Anti-Money Laundering Act (*Geldwäschegesetz – GwG*) in Germany.

Date of publication: 21/03/2023

### (ii) EU

#### EBA: Guidelines to challenge unwarranted de-risking and safeguard access to financial services to vulnerable customers

Status: Final

The EBA has published two Guidelines to ensure that customers have access to the financial services they need to fully participate in society and that they are not denied this access on unsubstantiated AML/CFT grounds or without valid reason. These Guidelines aim to contribute to foster a common understanding by institutions and AML/CFT supervisors of effective money laundering and terrorist financing (ML/TF) risk management practices in situations where access by customers to financial products and services should be safeguarded, in particular for the most vulnerable ones.

- Final report on Guidelines amending Guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the ML/TF risk associated with individual business relationships and occasional transactions under Articles 17 and 18(4) of the AML Directive
- Final report on Guidelines on policies and controls for the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services

Date of publication: 31/03/2023

## Council of the EU: Negotiating mandate on EU law on criminal finances

Status: Draft

The Council of the EU has announced that it has agreed its negotiating mandate for the proposed Directive amending Directive (EU) 2019/1153, as regards access of competent authorities to centralised bank account registries through the single access point. The negotiating mandate will now allow the Council president to start negotiations with the European Parliament.

Date of publication: 29/03/2023

## EBA: Consultation on Guidelines amending Guidelines on the characteristics of a risk-based approach to AML/CTF supervision, and the steps to be taken when conducting supervision on a risk-sensitive basis under Article 48(10) of the AML Directive (The Risk-Based Supervision Guidelines)

Status: Consultation

Deadline for the submission of comments: 29/06/2023

The EBA has launched a consultation on amendments to the Guidelines on the characteristics of a risk-based approach to AML/CTF supervision, the so-called Risk-Based Supervision Guidelines. The proposed changes extend the scope of these Guidelines to AML/CFT supervisors of cryptoasset service providers (CASPs). The revised Guidelines: (i) emphasise the importance of cooperation among competent authorities, other stakeholders and prudential supervisors; (ii) highlight the importance of a consistent approach to setting supervisory expectations where multiple competent authorities are responsible for the supervision of the same institutions; (iii) provide guidance on the sources of information available to competent authorities when supervising CASPs; (iv) set out how competent authorities should determine the type of guidance needed within the sector and how to communicate this guidance in the most effective manner; and (v) stress the importance of training to ensure that staff from competent authorities are well trained and have the technical skills and expertise necessary for the execution of their functions, including the supervision of CASPs. The deadline for comments is 29 June. The EBA will finalise the Guidelines once the consultation responses have been assessed.

Date of publication: 29/03/2023

## ECON: Position on EU AML and CTF draft legislation

Status: Draft

The European Parliament has announced that the ECON and the Civil Liberties, Justice and Home Affairs (LIBE) committees had adopted a position on three pieces of draft legislation on the financing provisions of EU AML/CFT policy. The draft legislation includes: (i) the EU 'single rulebook' Regulation; (ii) MLD6; and (iii) the AMLA Regulation. The next steps are for the European Parliament to start negotiations on the AML/CFT package, after confirmation during a plenary session in April.

Date of publication: 28/03/2023

## Commission Delegated Regulation (EU) 2023/410 amending Delegated Regulation (EU) 2016/1675 as regards adding the Democratic Republic of the Congo, Gibraltar, Mozambique, Tanzania and the United Arab Emirates to Table I of the Annex to Delegated Regulation (EU) 2016/1675 and deleting Nicaragua, Pakistan and Zimbabwe from that table

Status: Published in the OJ

Date of entry into force: 16/03/2023

The Commission Delegated Regulation (EU) 2023/410, which amends Delegated Regulation (EU) 2016/1675 on the list of high-risk third countries with strategic deficiencies under MLD4 was published in the OJ. The Delegated Regulation adds the Democratic Republic of the Congo, Gibraltar, Mozambique, Tanzania and the United Arab Emirates to Table I of the Annex to Delegated Regulation (EU) 2016/1675, as they are considered to have strategic deficiencies in their regimes on AML/CFT that pose significant threats to the financial system of the Union. The Regulation also removes Nicaragua, Pakistan and Zimbabwe from that table, as they are no longer considered to have such strategic deficiencies.

Date of publication: 24/02/2023

### (iii) International

#### FATF: Report on countering ransomware financing

Status: Final

The FATF has published a report on countering ransomware financing, with the aim of improving global understanding of the financial flows linked to ransomware and highlight good practices to address this threat. The report analyses the methods that criminals use to carry out their ransomware attacks and how payments are made and laundered. The report notes that criminals are almost exclusively using crypto, or virtual assets and have easy access to virtual asset service providers (VASPs) around the world. Jurisdictions with weak or non-existent AML/CFT controls are therefore an area of concern.

To strengthen the global response against ransomware and related laundering, FATF proposes that jurisdictions take the following actions: (i) implement relevant FATF Standards, including on VASPs, and enhance detection; (ii) promote financial investigations and asset recovery efforts; (iii) adopt a multi-disciplinary approach to tackle ransomware; (iv) support partnerships with the private sector; and (v) improve international co-operation. The FATF also finalized a list of potential risk indicators that can help public and private sector entities identify suspicious activities related to ransomware.

Date of publication: 14/03/2023

#### FATF: Guidance on beneficial ownership of legal persons (Recommendation 24)

Status: Final

The FATF has published updated Guidance on beneficial ownership of legal persons (Recommendation 24). The Guidance explains types and sources of relevant information on the beneficial ownership of legal persons, and the mechanism and sources to obtain such information. This includes the use of a multi-pronged approach, i.e., a combination of different mechanisms, for collection of beneficial ownership information to ensure that adequate, accurate and up-to-date information is available and can be accessed by the competent authorities in a timely manner. The revisions to Recommendation 24 also require countries to follow a risk-based approach and consider the risks of legal persons in their countries, not only those posed by legal persons created in their countries, but also by foreign-created legal persons with sufficient links with their country. The Guidance aims to assist policy makers, practitioners in national authorities and private sector stakeholders in implementing the necessary measures to prevent shell companies from being a safe haven for illicit proceeds. In addition to the revised Guidance, FATF also published a revised version of the [FATF Recommendations](#). The revisions include amendments to Recommendation 25, INR.25 and the glossary definitions of “beneficial owner”, “beneficiary” and “legal arrangements”, to strengthen the standards on beneficial ownership of legal arrangements.

Date of publication: 10/03/2023

#### FATF: Outcomes of the plenary 2023

Status: Final

The FATF has published the outcomes of its plenary meeting that took place between 22 and 24 February. During the meeting, the FATF made the following decisions: (i) members took steps to enhance the transparency of beneficial ownership, and prevent criminals from hiding illicit activity behind opaque corporate structures; (ii) FATF agreed on revisions to Recommendation 25 on transparency and beneficial ownership of legal arrangements; (iii) Delegates agreed on new guidance to help countries and the private sector, implement FATF’s strengthened requirements on Recommendation 24 on transparency and beneficial ownership of legal persons; (iv) Delegates further agreed on an action plan to drive timely global implementation of FATF standards relating to virtual assets globally; (v) members approved a report on disrupting the financial flows relating to ransomware; and (vi) the plenary agreed on the publication of a report on money laundering and terrorist financing in the art and antiquities market, as well as agreeing to undertake new projects on money laundering and terrorist financing related to cyber-enabled fraud and on the use of crowdfunding for terrorist financing.

Date of publication: 24/02/2023

## 5. Payments

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### 5.1 Payment services/E-money

#### (i) EU

##### **EPC: OCT Instant Credit Transfer Scheme Rulebook**

Status: Final

The EPC has published the first One-Leg Out Instant Credit Transfer (OCT Inst) scheme rulebook. Version 1.0 of the 2023 OCT Inst scheme rulebook focuses exclusively on the Euro Leg of international instant credit transfer-based payment transactions. This scheme is the newest EPC payment scheme dedicated to international instant credit transfers. It covers the set of rules, practices and standards agreed at inter-payment service provider (PSP) level within SEPA to achieve interoperability for the provision and operation of the Euro Leg of an international instant credit transfer. The 2023 OCT Inst scheme rulebook version 1.0 takes effect on 28 November 2023 at 08:00 CET and remains in effect until November 2025.

- [One-Leg Out Instant Credit Transfer Scheme Rulebook](#)
- [\[Inst\] Euro OCT Arrangement rulebook - 2022 Public Consultation comments and EPC responses](#)
- [Q&A on the One-Leg Out Instant Credit Transfer \(Oct Inst\) Scheme](#)

Date of publication: 28/03/2023

##### **EPC: SEPA Payment Scheme Management Rules**

Status: Final

The EPC has published the current and future versions of the SEPA payment scheme management rules which contain descriptions of the organisation, structure, rules and processes that make up the scheme management of the SEPA Credit Transfer (SCT) and SEPA Direct Debit (SDD) schemes. The version 4.4 of the SEPA Payment Scheme Management Rules (EPC207-14 v4.4) is in effect as of 11 January 2022 and remains in effect up to 25 April 2023. Version 5.0 of the Rules already applies to the OCT Inst rulebook as of 1 June 2023. The reason is that the adherence process for this payment scheme starts on that day, whereas the formal operational launch of the OCT Inst scheme only takes place on 28 November 2023. Version 4.5 of the Rules continues to apply to the other four payment scheme rulebooks from 1 June 2023 until 28 November 2023. As of 28 November 2023, the PSMB will take over the scheme management functions for the OCT Inst scheme. From that date, version 5.0 of the Rules will apply to all payment scheme rulebooks.

- [SEPA Payment Scheme Management Rules v4.4](#)
- [SEPA Payment Scheme Management Rules v4.5](#)
- [SEPA Payment Scheme Management Rules v5.0](#)

Date of publication: 28/03/2023

##### **EBA: Decision amending the Payment Fraud Data Decision under PSD2**

Status: Final

The EBA has published a Decision amending Decision EBA/DC/453 concerning the reporting of payment fraud data under PSD2. This amendment aims to align the Payment Fraud Data Decision with the arrangements provided for in a Memorandum of Understanding (MoU) on the reporting of payment fraud data, which has been signed by the EBA, the ECB, the competent authorities designated under Article 100 PSD2 and the central banks of those EU Member States whose currency is not the euro. This MoU set up arrangements for a streamlined process for the reporting of payment fraud data that the national competent authorities and co-operating non-Euro national central banks must provide to the EBA and the ECB under Article 96(6) PSD2. In particular, under the MoU the reporting process is streamlined by means of a single reporting of payment fraud data to the ECB, which then arranges for the transmission of the data to the EBA.

Date of publication: 23/03/2023

## **ECB: Opinion on a proposal for a Regulation amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro**

**Status: Draft**

The ECB has published its opinion on the EC's legislative proposal for a Regulation amending the Single Euro Payments Area (SEPA) Regulation and the Cross-Border Payments Regulation as regards instant credit transfers in euro. It strongly welcomes this initiative to promote the provision and uptake of instant payments (IPs), defined as credit transfers that transfer funds to the payee's payment account within ten seconds after the time of receipt of the payment order from the payer, in euro in the EU. The ECB also highlights that this initiative ties in well with the Eurosystem's retail payments strategy. Regarding the specific observations, the ECB: (i) makes suggestions on the definitions of certain terms; (ii) points out discrepancies between the name and payment account identifier of a payee; (iii) addresses the approach in the proposal for screening IPs for Union sanctions; and (iv) suggests amendments to the infringement procedures set out in the proposal.

Date of publication: 22/03/2023

## **EPC: API security framework**

**Status: Final**

The EPC has published the Application Programming Interface (API) security framework that lists the minimum security-related requirements applicable to the SEPA Request-to-Pay (SRTP) and SEPA Payment Account Access (SPAA) scheme participants using APIs, whether they rely on the default SRTP related API specifications or on other API specifications. This framework will become mandatory as of 30 November 2023 for the SRTP and SPAA scheme participants when using these types of APIs.

Date of publication: 15/03/2023

## **EPC: Guidelines on cryptographic algorithms usage and key management**

**Status: Final**

The EPC has published the yearly update to its Guidelines on cryptographic algorithms usage and key management. These Guidelines aim to provide guidance to the European payment industry in the field of cryptographic algorithms and related key management issues. In this version, updates related to quantum computing and distributed ledger technologies (DLT) were made. Also, the Key management section was thoroughly reviewed. As the research and developments in cryptology are constantly evolving, the EPC plans to annually review and update this document to reflect the state of the art in light of major new developments.

Date of publication: 07/03/2023

## **ECON: Draft report on proposed Regulation on instant credit transfers in euro**

**Status: Draft**

ECON has published its draft report on the EC's legislative proposal for a proposed Regulation amending the Single Euro Payments Area (SEPA) Regulation and the Cross-Border Payments Regulation as regards instant credit transfers in euro. The draft report includes a draft EP legislative resolution, the text of which sets out suggested amendments to the proposed Regulation. These include: (i) clarification with respect to how the process of effecting bulk and paper payments might be made, with the view to stress that the entire process of this type of payment is not expected to be immediate, but rather the payment should be made as soon as possible from the moment all the necessary details have been processed; (ii) clarifying the sanctions requirements and encouraging a move from transaction-based checks to client-based ones; (iii) a call to re-visit the Settlement Finality Directive in an effort to broaden the scope of the PSPs included in the current legislation, thereby reflecting the current payments landscape more accurately; and (iv) requiring that IBAN checks would be provided free of charge.

Date of publication: 06/03/2023

## **(ii) International**

### **BCBS: Final report on facilitating increased adoption of payment versus payment (PvP)**

**Status: Final**

BCBS has published a final report on facilitating increased adoption of payment versus payment (PvP) to reduce foreign exchange (FX) settlement risk and improve cross-border payments. It analyses the causes of non-PvP settlement, takes stock of existing and proposed new PvP solutions and suggests roles for the private and public sectors to facilitate increased adoption of PvP. The report has been informed by a call for ideas, extensive industry engagement and a public consultation in 2022.

Date of publication: 27/03/2023

### **BCBS: Consultation on ISO 20022 harmonisation requirements for enhancing cross-border payments**

**Status: Consultation**

**Deadline for the submission of comments: 10/05/2023**

The BCBS has published a consultative report on ISO 20022 harmonisation requirements for enhancing cross-border payments for the CPMI. The proposed requirements aim to provide overarching guidance for global and domestic market practice guidelines, to ensure that the ISO 20022 messaging standard, where adopted, is consistently used to facilitate faster, cheaper, more accessible and more transparent cross-border payments. The CPMI explains that the harmonisation requirements would complement existing market practice guidance by providing high-level requirements to be adopted by the various international and local usage guidelines. Following the consultation period, the report will be revised and the final report will be delivered to the Indian G20 Presidency by end-2023. The CPMI proposes that payment system operators and participants begin preparations to align their ISO 20022 usage guidelines with the finalised CPMI requirements to be effective in November 2025. The proposed 2025 introduction of the requirements would align with SWIFT's decision to remove the ability to send cross-border MT payment messages over its network.

Date of publication: 01/03/2023

## 6. Banking union

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### 6.1 Single Supervisory Mechanism (SSM)

#### (i) EU

##### Publication of two ECB Decisions relating to on-site inspections and internal model investigations under SSM

Status: Published in the OJ

Date of entry into force: 12/04/2023

Two ECB Decisions, relating to the ECB's role as prudential supervisor under the SSM, have been published in the OJ:

(i) Decision (EU) 2023/672 on delegation of the power to adopt decisions relating to on-site inspections and internal model investigations. This specifies the criteria for the delegation of decision-making powers to the heads of work units of the ECB for the adoption of decisions on on-site inspections and decisions on internal model investigations; and (ii) Decision (EU) 2023/673 nominating heads of work units to adopt delegated decisions relating to on-site inspections and internal model investigations. This specifies the individuals that can make delegated decisions made under Decision 2023/672.

- [Decision \(EU\) 2023/672 on delegation of the power to adopt decisions relating to on-site inspections and internal model investigations](#)
- [Decision \(EU\) 2023/673 nominating heads of work units to adopt delegated decisions relating to on-site inspections and internal model investigations](#)

Date of publication: 23/03/2023

##### ECB: Decision (EU) 2023/656 on the total amount of annual supervisory fees for 2022

Status: Published in the OJ

Date of entry into force: 26/03/2023

The ECB Decision 2023/656 on the total amount of annual supervisory fees under the SSM for 2022 has been published in the OJ. The total amount of annual supervisory fees for 2022 is EUR 593.7 million.

Date of publication: 21/03/2023



## 7. Institutional supervisory framework

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### (i) Germany

#### **BaFin: Guidance notice on information for registration courts (*Merkblatt über Hinweise für Registergerichte*)**

Status: Final

BaFin has updated its Guidance notice on information for registration courts on banking transactions, financial services, investment services, insurance business, payment services, e-money business and on the term “investment funds”. In particular, it has added new sections on the terms “investment services” and “investment funds” and on exceptions regarding investment firms, payment services and companies that are not subject to approval within the German Investment Code (*Kapitalanlagegesetzbuch – KAGB*).

Date of publication: 16/03/2023

#### **BaFin: Report on risks in BaFin’s focus**

Status: Final

BaFin has published a report on risks in BaFin’s focus, setting out six key risks to the German financial industry in 2022 that will be its primary focus. In this report, which will be published now on an annual basis, BaFin outlines its assessment of the current risk situation and explains the steps it is taking to mitigate the risks to the financial markets as far as possible. In doing so, it intends to make progress towards the medium-term objectives it has set for itself for the period from 2022 to 2025.

Date of publication: 02/03/2023

### (ii) International

#### **FSB: Work Programme for 2023**

Status: Final

The FSB has published its work programme for 2023, detailing its planned work and providing an indicative timeline of main publications for 2023. The FSB’s work priorities aim to address financial challenges that are global in nature and affect the financial system as a whole. Priority areas of work and new initiatives include: (i) supporting global cooperation on financial stability; (ii) enhancing the resilience of non-bank financial intermediation (NBFI), while preserving its benefits; (iii) enhancing cross-border payments; (iv) harnessing the benefits of digital innovation while containing its risks; (v) addressing financial risks from climate change; and (vi) cyber and operational resilience.

Date of publication: 30/03/2023

## 8. Investment funds

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### 8.1 Product regulation

#### (a) AIF

##### (i) EU

#### Council of the EU: Comparison table of negotiating positions on Directive amending the AIFMD and the UCITS Directive

Status: Draft

The Council of the EU published an information note on the proposal for a Directive amending the AIFMD and the UCITS Directive as regards delegation arrangements, liquidity risk management, supervisory reporting, provision of depositary and custody services and loan origination by alternative investment funds. The information note includes a table comparing the initial position of the Commission, and the negotiating positions of the Council and the EP.

Date of publication: 28/03/2023

#### ESMA: Q&A on the application of the AIFMD

Status: Final

ESMA has updated its Q&A on the application of the AIFMD. In particular, it added a new section XVI on exemptions, containing a new question on how the notion of “substantive direct or indirect holding” in Article 3(2) of the AIFMD should be interpreted.

Date of publication: 10/03/2023

#### (b) UCITS

##### (i) EU

#### Council of the EU: Comparison table of negotiating positions on Directive amending the AIFMD and the UCITS Directive

Status: Draft

The Council of the EU published an information note on the proposal for a Directive amending the AIFMD and the UCITS Directive. For more information, please see section 8.1(a) above.

Date of publication: 28/03/2023

## 8.2 Prudential regulation

### (a) Compliance

#### (i) Germany

##### **BaFin: Consultation 06/2023 on updated template modules for cost provisions of open funds (*Konsultation 06/2023 über novellierte Musterbausteine für Kostenklauseln offener Fonds*)**

Status: Consultation

Deadline for the submission of comments: 19/05/2023

BaFin has launched a consultation regarding two drafts of updated template modules for cost provisions of open funds, one for publicly offered real estate funds and the other for publicly offered investment funds. These drafts aim to replace the template modules with the same names as last published on 20 June 2018. With these template modules, BaFin discloses its administrative practice regarding the approval of cost provisions in the investment requirements of publicly offered investment funds. These templates satisfy the regulatory minimum standards set out in the German Investment Act (*Kapitalanlagegesetzbuch – KAGB*). In particular, this update reflects the latest amendments to the KAGB and the [ESMA Guidelines on performance fees in UCITS and certain types of AIFs](#).

- Draft of the updated template modules on cost provisions for open publicly offered real estate funds (*Entwurf der überarbeiteten Musterbausteine für Kostenklauseln Offener Immobilien-Publikums-Sondervermögen*)
- Draft of the updated template modules on cost provisions for open publicly offered investment funds excluding real estate assets funds (*Entwurf der überarbeiteten Musterbausteine für Kostenklauseln offener Publikumsinvestmentvermögen (ohne Immobilien-Sondervermögen)*)

Date of publication: 14/03/2023

##### **BaFin: Application of updated ESMA Guidelines on stress test scenarios under the MMF Regulation (*Anwendung der aktualisierten ESMA Leitlinien für Stresstestszenarien nach der Geldmarktfondsverordnung*)**

Status: Final

BaFin has announced that it will apply the ESMA Guidelines on stress test scenarios under the Money Market Funds (MMF) Regulation as published in its German translation on 27 January 2023. These Guidelines aim to maintain a common, consistent and coherent application of Article 28 MMF Regulation. In particular, the Guidelines set common reference parameters for the stress test scenarios pursuant to Article 28(7) MMF Regulation.

Date of publication: 09/03/2023

#### (ii) EU

##### **ESMA: Speech on macro-prudential supervision of investment funds**

Status: Final

ESMA has published a speech by Chair Verena Ross on the macro-prudential supervision of investment funds. Points of interest include: (i) Ms Ross cautions that the risks faced by liability-driven investment funds (LDIs) are not specific or unique to them – any leveraged entity with concentrated directional exposures could be subject to similar stress, especially if large shocks materialise very quickly. An exogenous event can trigger simultaneous peripheral events, which may become correlated and therefore systemic. It is crucial to identify, monitor and address the remaining vulnerabilities in the asset management sector, and identify the possible channels of contagion to the rest of the financial system; (ii) Ms Ross considers that open-ended funds need particular attention with regard to liquidity and leverage risk. On one side asset managers need to prepare for further and prolonged adverse events. On the other side supervisors need to step up their efforts in assessing risks and to take adequate actions in response to the risks identified. ESMA expects managers to monitor the alignment of their funds' investment strategy, their liquidity profile and their redemption policy. In addition, managers should put in place accurate assessment and strong

controls around the management of liquidity risk. These obligations should also be regularly monitored through the ongoing supervision by NCAs. Ms Ross believes that regulators could consider running formal sector-wide stress tests to identify pockets of vulnerabilities; and (iii) Ms Ross states that the vulnerabilities that surfaced during the pandemic, have demonstrated that legislative changes to enhance the resilience of the money market fund sector are needed sooner rather than later. ESMA also welcomes the review of the UCITS Directive, which foresees the creation of an EU-wide reporting regime for UCITS.

Date of publication: 21/03/2023

## Publication of the ELTIF Regulation 2.0

Status: Published in the OJ

Date of entry into force: 09/04/2023

Date of application: 10/01/2024

The Regulation (EU) 2023/606 amending Regulation (EU) 2015/760 as regards the requirements pertaining to the investment policies and operating conditions of European long-term investment funds (ELTIF) and the scope of eligible investment assets, the portfolio composition and diversification requirements and the borrowing of cash and other fund rules has been published in the OJ. The Amending Regulation aims to make the ELTIF regime more flexible and more attractive by: (i) broadening the scope of eligible assets for ELTIFs; (ii) relaxing investment limits; (iii) relaxing borrowing rules; (iv) relaxing rules regarding the marketing to retail investors; and (v) establishing an optional liquidity window mechanism for redemptions, for cases where investors need to exit early. The Regulation aims to increase the uptake of long-term investment vehicles and make them more appealing to investors.

Date of publication: 20/03/2023

## ESMA: Q&A on the application of the EuSEF and EuVECA Regulations

Status: Final

ESMA has updated its Q&A on the application of the EuSEF and EuVECA Regulations. In particular, a new question on investment in another qualifying venture capital fund/qualifying social entrepreneurship fund has been added.

Date of publication: 10/03/2023

## 9. Special rules for real estate financing and covered bonds

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### 9.1 Covered bonds

#### (i) **Germany**

**BaFin: Reporting requirements within the covered bonds reporting regulation (*Vorgaben für Meldungen im Rahmen der Pfandbrief-Meldeverordnung*)**

**Status: Final**

BaFin has published information on the essential regulations regarding reporting requirements under the Pfandbrief reporting regulation (*Pfandbrief-Meldeverordnung – PfandMeldeV*). This includes information on electronic submission as well as the data format.

Date of publication: 30/03/2023



# 10. Special topics

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## 10.1 Covid-19

### (a) Other

#### (i) International

##### **BCBS: Report on Central bank asset purchases in response to the Covid-19 crisis**

Status: Final

The BCBS has published a report on Central bank asset purchases in response to the Covid-19 crisis. This report examines the experience of central banks in many small open and emerging market economies that conducted asset purchases for the first time during the Covid-19 crisis as well as in large advanced economies that expanded or reintroduced purchases. It sets out that large-scale asset purchases by central banks in response to the Covid-19 pandemic were broadly successful in addressing disruptions in monetary policy transmission and providing additional stimulus.

Date of publication: 17/03/2023

## 10.2 FinTech/Digital finance

#### (i) EU

##### **ESMA: Q&A on the implementation of the DLT Pilot Regime Regulation**

Status: Final

ESMA has updated its Q&A on the implementation of the DLT Regulation, adding a question on the calculation of the tentative market capitalisation of DLT shares within the topic of DLT financial instruments.

Date of publication: 31/03/2023

##### **ESMA: Q&A on the European crowdfunding service providers for business Regulation (ECSPR)**

Status: Final

ESMA has updated its Q&A on the European crowdfunding service providers for business Regulation (ECSPR). It updated question 3.14 within the general provisions, which determines if a MiFID firm benefiting of the exemption set out in Article 3(i) of PSD2 and authorised under the ECSPR can perform payment services under Article 10 of the ECSPR in relation to its activities as Crowdfunding Service Provider (CSP) using such exemption.

Date of publication: 10/03/2023

##### **ESMA: Guidelines on standard forms, formats and templates to apply for permission to operate a DLT market infrastructure**

Status: Published

Date of application: 23/03/2023

ESMA has published the official translations of the Guidelines on the standard templates, forms and formats to apply for permission to operate a DLT market infrastructure under the DLT Pilot Regulation on its website.

Date of publication: 08/03/2023

## 10.3 Sustainable finance

### (i) Germany

#### **BaFin: Updated Q&A on the Sustainable Finance Disclosure Regulation (*Aktualisierte Fragen und Antworten zur Offenlegungsverordnung*)**

Status: Final

BaFin has updated its Q&A on the Sustainable Finance Disclosure Regulation, adapting it to the new [Delegated Regulation \(EU\) 2023/363](#) which was published on 17 February 2023. In particular, it has added a new question no. 5 which takes into account the extended information on fossil fuel and nuclear energy investments within the scope of the taxonomy, as amended in the annexes II to V of the of the RTS.

Date of publication: 05/03/2023

### (ii) EU

#### **ESMA: Q&A on SFTR data reporting**

Status: Final

ESMA has updated its Q&A on SFTR data reporting by adding a new question no. 155 on reporting of the jurisdiction of the issuer in the fields 2.53 and 2.92 for reporting.

Date of publication: 31/03/2023

#### **ECB: Speech on stepping up the management of climate and environmental risks**

Status: Final

The ECB has published a speech given by Frank Elderson, Member of the Executive Board of the ECB and Vice-Chair of the Supervisory Board of the ECB, on 2023 being a key milestone in stepping up the management of climate and environmental (C&E) risks. Mr Elderson explains that the results are mixed, as to where banks stand in integrating C&E risks into their strategy and risk management. While banks have made some progress, Mr Elderson emphasised that overall risk management capabilities are still insufficient, adding there is still a material gap between where banks currently stand and the ECB's supervisory expectations.

Three examples of practices banks need to improve on are: (i) stress testing; (ii) identification of C&E risks; and (iii) broader environmental risks. By the end of 2024, the ECB expects all banks under its supervision to be fully aligned with its expectations, stating that after 2024, a limbo of identifying a risk as material but not adequately addressing it will no longer be tolerated. The ECB will be closely monitoring banks' progress, and, if necessary, will use all measures in its toolkit to ensure compliance with its expectations, including imposing periodic penalty payments and setting Pillar 2 capital requirements as part of the annual Supervisory Review and Evaluation Process.

Date of publication: 27/03/2023

#### **EC: Proposal for a Directive on substantiation and communication of explicit environmental claims (Green Claims Directive)**

Status: Draft

The EC has published a proposal for a Directive on substantiation and communication of explicit environmental claims (Green Claims Directive). This proposal aims to provide consumers with more clarity, stronger reassurance that when something is sold as green, it actually is green, and better quality information to choose environment-friendly products and services. Businesses should also benefit, as those that make a genuine effort to improve the environmental sustainability of their products will be more easily recognised and rewarded by consumers and able to boost their sales – rather than face unfair competition. This way,

the proposal is expected to help establish a level playing field when it comes to information about environmental performance of products.

Date of publication: 22/03/2023

### **ESMA: SMSG advice on additional questions relating to greenwashing**

Status: Final

ESMA has published advice it received from the SMSG on additional questions relating to greenwashing. The advice revolves around the term “greenwashing”, its definition and alignment with how it is used in the broader economy.

Date of publication: 16/03/2023

### **EC: Proposal of a reform of the EU electricity market design to boost renewables, better protect consumers and enhance industrial competitiveness**

Status: Final

The EC has proposed to reform the EU’s electricity market design, with the aim of accelerating a surge in renewables and the phase-out of gas, make consumer bills less dependent on volatile fossil fuel prices, better protect consumers from future price spikes and potential market manipulation, and make the EU’s industry clean and more competitive. The proposed reform revises several pieces of EU legislation, including the Electricity Regulation, the Electricity Directive, and the REMIT Regulation. It also introduces measures that incentivise longer-term contracts with non-fossil power production and bring more clean flexible solutions into the system to compete with gas. The reform aims to decrease the impact of fossil fuels on the consumer electricity bills, as well as ensure that the lower cost of renewables gets reflected. The commission also believes the proposed reform will boost open and fair competition in the European wholesale energy markets by enhancing market transparency and integrity.

The proposed reform will now be put before the European Parliament and the Council.

Date of publication: 14/03/2023

### **ESAs/ECB: Joint statement on disclosure on climate change for structured finance products**

Status: Final

The ESAs and the ECB have published a joint statement on disclosure on climate change for structured finance products. The statement explains that the ESAs and the ECB are committed to contributing to the transition towards a more sustainable economy with their respective mandates. With the increasing focus on financial products meeting ESG standards within the EU, it has also become a priority for structured finance products to disclose climate-related information on the underlying assets. As such, ESMA, with the contribution of the ESAs, is working towards enhancing disclosure standards for securitised assets by including new, proportionate and targeted climate change-related information. The ESAs and the ECB are also calling on issuers, sponsors and originators of such assets at EU level to proactively collect high-quality and comprehensive information on climate-related risks during the origination process.

Date of publication: 13/03/2023

### **EC: Request for ESAs, ECB and ESRB to conduct climate risk scenario analysis**

Status: Final

ESMA has published a letter from the EC, requesting that the ESAs, in cooperation with the ECB and the ESRB, conduct a one-off climate risk scenario analysis to assess the resilience of the financial system on the way to the EU’s 2030 climate targets. The EC requests both: (i) an assessment of the extent to which early climate-risk related shocks could already generate significant stress for the financial system as a whole in the period up to 2030; and (ii) an assessment of the materialisation of climate-risk related shocks in an adverse macrofinancial scenario. The EC requests that the one-off exercise goes beyond the usual climate stress tests, as a cross-sectoral exercise looking also at contagion and second-round effects. As part of this work, the EC would also appreciate any insights into the financial system’s capacity to support green investments under stress. The EC requests that any policy-relevant conclusions are provided no later than Q1 2025.

Date of publication: 09/03/2023



### **(iii) International**

#### **IOSCO: Report on international work to develop a global assurance framework for sustainability-related corporate reporting**

**Status: Final**

IOSCO has published a report on international work to develop a global assurance framework for sustainability-related corporate reporting. It aims to: (i) encourage timely and high-quality profession-agnostic standard-setting outcomes responsive to the public interest; (ii) call for early engagement with preparers, investors and providers; and (iii) support capacity building across the entire sustainability reporting ecosystem.

Date of publication: 28/03/2023

#### **TNFD: Nature-related risk & opportunity management and disclosure framework**

**Status: Final**

The Taskforce on Nature-related Financial Disclosures (TNFD) has published its fourth and final beta framework for nature-related risk management and disclosure. This latest framework enables market participants to view a full representation of the framework, including the TNFD's proposed approach to disclosure metrics. Feedback from market participants and other stakeholders has broadly endorsed the three core elements of the draft framework: the core concepts and definitions; the proposed risk and opportunity assessment approach (LEAP); and the draft disclosure recommendations aligned with those of the TCFD. The TNFD has only made minor adjustments to its proposed risk and opportunity assessment process and reduced its proposed recommended disclosures from 15 to 14 based on feedback. In addition to these changes, the TNFD has also outlined its approach to disclosure metrics, proposing a tiered approach of leading indicators. Following a final 60-day consultation process, from 30 March to 1 June, the TNFD's final recommendations based on final feedback and pilot testing (v1.0) will be published in September.

Date of publication: 28/03/2023

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