

A&O SHEARMAN



Regulatory monitoring: EU Version

NEWSLETTER

JUNE 2024

Contents

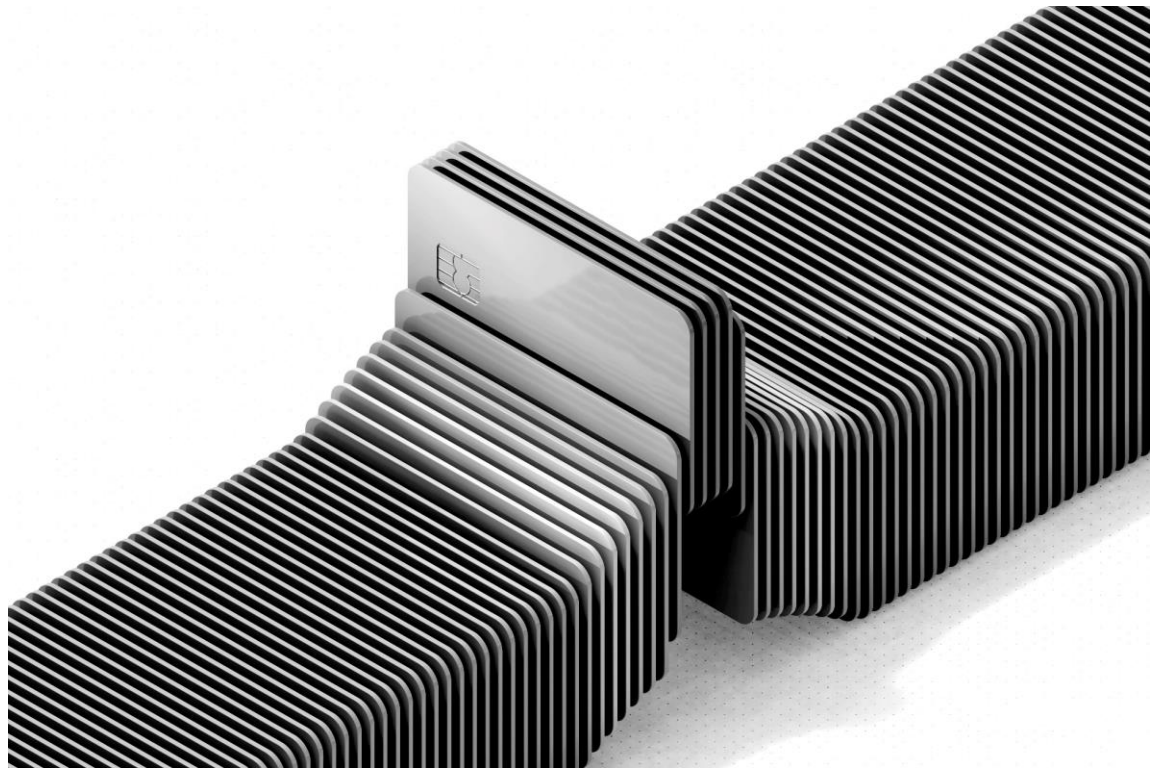
1. Bank regulation	9
1.1 Prudential regulation	9
a) General	9
Regulation (EU) 2024/1623 amending the CRR as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (CRR 3)	9
Directive (EU) 2024/1619 amending the CRD IV as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks (CRD VI)	9
Commission Delegated Regulation (EU) 2024/1728 supplementing the CRR with regard to RTS specifying in which circumstances the conditions for identifying groups of connected clients are met	10
b) Solvency/Own funds issues	10
EBA: Final report on draft RTS on conditions and indicators that EBA shall use to determine whether extraordinary circumstances have occurred for the purposes of Articles 325az(5) and 325bf(6) CRR	10
Commission Delegated Regulation (EU) 2024/1780 supplementing the CRR with regard to RTS specifying the conditions under which institutions are allowed to calculate KIRB in relation to the underlying exposures of a securitisation transaction	10
EBA: Final report on draft RTS amending Delegated Regulation on mapping of derivative transactions to risk categories, on supervisory delta formula for interest rate options and on determination of long or short positions in the Standardised Approach for Counterparty Credit Risk under Article 277(5) and Article 279a(3)(a) of the CRR	11
EBA: Final draft RTS on the conditions for assessing the materiality of extensions and changes to the use of alternative internal models and changes to the subset of the modellable risk factors referred to in Article 325bc under Article 325az(8)(a) of the CRR	11
EC: Speech announcing delay to Basel FRTB market risk reforms	12
Commission Delegated Regulation (EU) 2024/1085 supplementing the CRR with regard to RTS on the assessment methodology under which competent authorities verify an institution's compliance with the requirements to use internal models for market risk	12
EBA: Consultation on three sets of draft RTS on the framework for operational risk loss under CRR III	12

	Corrigendum to Commission Delegated Regulation (EU) 2024/857 supplementing CRD IV with regard to RTS specifying a standardised methodology and a simplified standardised methodology to evaluate the risks arising from potential changes in interest rates that affect both the economic value of equity and the net interest income of an institution's non-trading book activities	13
c)	Securitisation	13
	EBA: Opinion on the Consob decision to grant the permission referred to in Article 26e(10) of the Securitisation Regulation	13
	Commission Delegated Regulation (EU) 2024/1703 amending Delegated Regulation (EU) 2020/1732 as regards harmonisation of certain aspects of fees charged by the ESMA to securitisation repositories	14
	Commission Delegated Regulation (EU) 2024/1700 supplementing Regulation (EU) 2017/2402 with regard to RTS specifying, for STS non-ABCP traditional securitisation, and for STS on-balance-sheet securitisation, the content, methodologies and presentation of information related to the principal adverse impacts of the assets financed by the underlying exposures on sustainability factors	14
	IOSCO: Report on leveraged loans and CLOs – good practices for consideration	14
d)	Risk management/SREP/Pillar 2/Outsourcing/NPL	15
	ECB: Guide on outsourcing cloud services to cloud service providers	15
e)	Cyber security	15
	EC: Draft Implementing Regulation supplementing the NIS2 Directive	15
	ESAs: MoU on with the ENISA to strengthen cooperation and information exchange	15
f)	Disclosure	16
	EBA: Final report on draft ITS on public disclosures by institutions of the information referred to in titles II and III of part eight of the CRR	16
	EBA: Final report on draft Pillar 3 ITS on amendments due to CRD VI and CRR 3	16
1.2	Recovery and resolution	16
	EBA: Update on the report on the monitoring of additional Tier 1, Tier 2 and TLAC/MREL eligible liabilities instruments of EU institutions	16
	Council of the EU: Agreement of its position on the bank crisis management and deposit insurance framework	17
	Commission Implementing Regulation (EU) 2024/1618 amending Implementing Regulation (EU) 2021/763 laying down ITS for the application of the CRR and BRRD with regard to the supervisory reporting and public disclosure of the MREL	17
	SRB: Annual report 2023	18
	SRB: Report on the Bail-in as part of the SRM's toolkit	18
	SRB: Development of new expectations on valuation capabilities	18

	SRB: Booklet on the resolution planning cycle 2024	18
1.3	Stress tests/Macroprudential topics	19
	ECB: Governing Council statement on macroprudential policies	19
2.	Investment firms regulation	20
	Commission Delegated Regulation (EU) 2024/1771 on supplementing the IFR with regard to RTS specifying the details of the scope and methods for prudential consolidation of an investment firm group	20
	EBA/ESMA: Discussion paper on investment firms' prudential framework	20
3.	Market regulation/ Conduct rules	21
3.1	General	21
	ESMA: Overview of planned consultation papers for 2024	21
3.2	Benchmarks	21
	Commission Delegated Regulation (EU) 2024/1705 amending Delegated Regulation (EU) 2022/805 as regards harmonisation of certain aspects of fees charged by the ESMA to certain benchmark administrators	21
	EC: Report on the extension of empowerment to adopt delegated acts under BMR for further five-year period	21
3.3	Capital markets union	22
	EC: Speech announcing delay to Basel FRTB market risk reforms	22
3.4	Credit rating agencies	22
	Commission Delegated Regulation (EU) 2024/1706 amending Delegated Regulation (EU) No 272/2012 as regards harmonisation of certain aspects of fees charged by the ESMA to credit rating agencies	22
3.5	Market abuse	23
	EC: Report on the delegation of power to adopt delegated acts conferred on the Commission pursuant to the MAR and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC	23
3.6	MiFID/MiFIR	23
	Council of the EU: Agreement on negotiating mandate on retail investment package	23
	EC: Consultation on draft Delegated Regulation as regards OTC derivatives identifying reference data under MiFIR	24
	IOSCO: Report on market outages	24
3.7	Packaged retail and insurance-based investment products (PRIIPs)	25

	Council of the EU: Agreement on negotiating mandate on retail investment package	25
3.8	Securities financing transactions	25
	Commission Delegated Regulation (EU) 2024/1704 amending Delegated Regulation (EU) 2019/360 as regards harmonisation of certain aspects of fees charged by the ESMA to trade repositories under SFTR	25
4.	Market infrastructure	26
4.1	EMIR	26
	Commission Delegated Regulation (EU) 2024/1702 amending Delegated Regulation (EU) No 1003/2013 as regards harmonisation of certain aspects of fees charged by the ESMA to trade repositories under EMIR	26
5.	Anti-money laundering	27
	EBA: Statement welcoming the entry into force of the framework establishing the AML/CFT authority	27
	Regulation (EU) 2024/1620 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010	27
	Regulation (EU) 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AML Regulation)	27
	Directive (EU) 2024/1640 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849 (MLD6)	28
	Directive (EU) 2024/1654 amending Directive (EU) 2019/1153 as regards access by competent authorities to centralised bank account registries through the interconnection system and technical measures to facilitate the use of transaction records	28
6.	Institutional supervisory framework	29
	ECB: Opinion on a proposal for a Regulation on certain reporting requirements in the fields of financial services and investment support	29
	Council of the EU: Agreement on position for a regulation on certain reporting requirements in the fields of financial services and investment support	29
	FSB: Plenary June 2024 meeting	29
7.	Investment funds	31
7.1	Product regulation	31
	a) AIF	31

	Council of the EU: Agreement on negotiating mandate on retail investment package	31
b)	UCITS	31
	Council of the EU: Agreement on negotiating mandate on retail investment package	31
8.	Special rules for real estate financing and covered bonds	32
8.1	Mortgage credits	32
	EBA: Final report on Guidelines amending EBA Guidelines on arrears and foreclosure	32
9.	Special topics	33
9.1	FinTech/Digital finance	33
	EBA/ESMA: Guidelines on suitability of management body members and shareholders for entities under MiCA	33
	Commission Delegated Regulation (EU) 2024/1772 supplementing DORA with regard to RTS specifying the criteria for the classification of ICT-related incidents and cyber threats, setting out materiality thresholds and specifying the details of reports of major incidents	33
	Commission Delegated Regulation (EU) 2024/1773 supplementing DORA with regard to RTS specifying the detailed content of the policy regarding contractual arrangements on the use of ICT services supporting critical or important functions provided by ICT third-party service providers	34
	Commission Delegated Regulation (EU) 2024/1774 supplementing DORA with regard to RTS specifying ICT risk management tools, methods, processes, and policies and the simplified ICT risk management framework	34
	EBA: Final draft RTS, ITS and Guidelines under the MiCA Regulation	34
	EBA: Final draft RTS and Guidelines under the MiCA Regulation	35
	EBA: Final draft RTS and Guidelines on governance, conflicts of interest, and remuneration under the MiCA Regulation	36
	ESAs: MoU on with the ENISA to strengthen cooperation and information exchange	36
9.2	AI	37
	EC: Consultation on AI in the financial sector	37
	BCBS: Report on AI and the economy regarding implications for central banks	37
9.3	Sustainable finance	38
	ESAs: Joint Opinion on the assessment of the SFDR	38
	Council of the EU: Adoption of its position on the Green Claims Directive	38
	ESAs: Two reports on greenwashing	38



More information
under reggateway.com

RegGateway

The All-in-One solution for regulatory monitoring & compliance

FEATURES

HORIZON SCANNING/REGULATORY MONITORING

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

FINANCIAL REGULATORY LAW SOURCEBOOK

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

IMPLEMENTATION MANAGEMENT

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

CHANGE ANALYSIS AND PREVIEW OF RULES

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

1. Bank regulation

1.1 PRUDENTIAL REGULATION

a) General

(i) EU

Regulation (EU) 2024/1623 amending the CRR as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (CRR 3)

Status: Published in the OJ

Date of entry into force: 09/07/2024

Date of application: 01/01/2025

The Regulation (EU) 2024/1623 amending the CRR as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (CRR 3) has been published in the OJ. CRR III implements the final Basel III standards in the EU and, generally speaking, will apply from 1 January 2025, although certain provisions will apply from 9 July. Provisions which apply from 9 July include: (i) changes to certain definitions and the addition of definitions, including specific to crypto-assets; (ii) additional mandates for the EBA and EC (iii) a new Article 104c on the treatment of foreign exchange risk hedges of capital ratios; (iv) the addition of exposures to ESG risks and crypto-asset exposures to the list of items institutions are to report to their competent authorities under Article 430 CRR; (v) a new Article 451b on disclosure of crypto-asset exposures and related activities; (vi) changes to dates in Articles 500 and 500a; and (vii) a new Article 501d setting out transitional provisions on the prudential treatment of crypto-assets. Note the delay to the market risk reforms announced by the EC.

Date of publication: 19/06/2024

Directive (EU) 2024/1619 amending the CRD IV as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks (CRD VI)

Status: Published in the OJ

Date of entry into force: 09/07/2024

Date of application: 10/01/2026

The Directive (EU) 2024/1619 amending the CRD IV as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks (CRD VI) has been published in the OJ. Member states are required to adopt and publish the laws, regulations and administrative provisions necessary to comply with CRD VI by 10 January 2026 and to apply those measures from 11 January 2026, with the exception of new Article 21c, the requirement to establish a branch for the provision of banking services by third-country undertakings, and the replacement Title VI on the prudential supervision of third-country branches which shall apply from 11 January 2027. The third country branch reporting requirements under Articles 48k and 48l will apply from 11 January 2026, however.

Date of publication: 19/06/2024

Commission Delegated Regulation (EU) 2024/1728 supplementing the CRR with regard to RTS specifying in which circumstances the conditions for identifying groups of connected clients are met

Status: Published in the OJ

Date of entry into force: 08/07/2024

The Commission Delegated Regulation (EU) 2024/1728 supplementing the CRR with regard to RTS specifying in which circumstances the conditions for identifying groups of connected clients are met has been published in the OJ. The definition of a group of connected clients in the CRR makes it possible to identify two or more natural or legal persons who are so closely linked by idiosyncratic risk factors, that it is prudent to treat them as a single risk. Consequently, the purpose of these RTS is to set out clear circumstances where interconnections between clients by means of a control relationship and/or an economic dependency relationship lead to a single risk and thus a requirement to group those clients.

Date of publication: 18/06/2024

b) Solvency/Own funds issues

(i) EU

EBA: Final report on draft RTS on conditions and indicators that EBA shall use to determine whether extraordinary circumstances have occurred for the purposes of Articles 325az(5) and 325bf(6) CRR

Status: Final

The EBA has published a final report on draft RTS clarifying the conditions and indicators that EBA shall use to determine whether extraordinary circumstances have occurred for the purposes of Articles 325az(5) and 325bf(6) CRR, in order to continue the use of internal models and disregarding certain overshootings in accordance with the Fundamental Review of the Trading book (FRTB) framework. Under the CRR, competent authorities may permit institutions to derogate from certain requirements for the use of internal models in accordance with the FRTB, or apply a softer version of those requirements, under extraordinary circumstances. The occurrence of extraordinary circumstances will be determined by the EBA, which must issue an Opinion to that effect. These RTS set out the conditions and indicators that the EBA shall use to determine whether extraordinary circumstances have occurred.

Date of publication: 28/06/2024

Commission Delegated Regulation (EU) 2024/1780 supplementing the CRR with regard to RTS specifying the conditions under which institutions are allowed to calculate K_{IRB} in relation to the underlying exposures of a securitisation transaction

Status: Published in the OJ

Date of entry into force: 15/07/2024

The Commission Delegated Regulation (EU) 2024/1780 supplementing the CRR with regard to RTS specifying the conditions under which institutions are allowed to calculate the capital requirements of the securitised exposures (K_{IRB}) in relation to the underlying exposures of a securitisation transaction, has been published in the OJ. Under the CRR, institutions may calculate their risk-weighted exposure amounts in relation to a securitisation position using the Internal Ratings Based Approach (SEC-IRBA). Prior permission to use IRBA, including own estimates of Loss Given Default ('LGD') and conversion factors, shall be required for each exposure class and for each rating system and for each approach to estimating LGDs and conversion factors used. These RTS specify the conditions that allow institutions to calculate K_{IRB} in accordance with the purchased receivables approach under Article 255 CRR.

Date of publication: 25/06/2024

EBA: Final report on draft RTS amending Delegated Regulation on mapping of derivative transactions to risk categories, on supervisory delta formula for interest rate options and on determination of long or short positions in the Standardised Approach for Counterparty Credit Risk under Article 277(5) and Article 279a(3)(a) of the CRR

Status: Final

The EBA has published its final draft amending RTS on the standardised approach for counterparty credit risk. The RTS form part of the new roadmap on the Banking Package. The amendments made by CRR III expand the EBA mandate to specify the formula to calculate the supervisory delta of options under the standardised approach for counterparty credit risk framework. Alongside the supervisory delta formula for interest rate options compatible with negative interest rates, the mandate now also requires the specification of the supervisory delta formula for commodity options compatible with negative commodity prices. The draft amended RTS specify: (i) the method for identifying transactions with only one material risk driver or with more than one material risk driver and for identifying the most material of those risk drivers; (ii) the formulas to calculate the supervisory delta of call and put options mapped to the interest rate or commodity risk categories compatible with negative interest rates or commodity prices, and the supervisory volatility suitable for those formulas; and (iii) the method for determining whether a transaction is a long or short position in the primary risk driver or in the most material risk driver in the given risk category.

The draft RTS will now be submitted to the EC for endorsement after which they will be subject to scrutiny by the EP and the Council before being published in the OJ.

Date of publication: 24/06/2024

EBA: Final draft RTS on the conditions for assessing the materiality of extensions and changes to the use of alternative internal models and changes to the subset of the modellable risk factors referred to in Article 325bc under Article 325az(8)(a) of the CRR

Status: Final

The EBA has published its final draft RTS on the conditions for assessing the materiality of model extensions and changes, as well as changes to the subset of modellable risk factors, applicable under the Fundamental Review of the Trading Book (FRTB) rules. With the submission of these final draft RTS to the EC, the EBA completes its roadmap on market and counterparty credit risk approaches published on 27 June 2019.

In line with the Capital Requirements Regulation (CRR), the final draft RTS differentiate between material extensions and changes under the internal models approach (IMA), to be approved by competent authorities (CA), and non-material extensions and changes, to be notified to CAs four weeks in advance. This last category is further divided into two sub-categories: extensions and changes notified with additional information, and extensions and changes with basic information.

For the categorisation of extensions and changes to the relevant categories and sub-categories, the final draft RTS set out a combination of qualitative and quantitative conditions. In particular, the quantitative conditions aim at assessing the effect of the extension or change on the IMA own funds requirements and on the relevant components of the FRTB IMA (Expected Shortfall, Stress Scenario Risk Measure and Default Risk Charge), before and after the planned extension or change. The final draft RTS also include guiding principles that institutions should follow in the categorisation process, provisions on the implementation of extensions and changes and documentation requirements.

Date of publication: 20/06/2024

EC: Speech announcing delay to Basel FRTB market risk reforms

Status: Final

The EC has published a speech by Mairead McGuinness, European Commissioner for Financial Services, Financial Stability and Capital Markets Union (CMU). Ms McGuinness discusses the importance of continuing to make progress on the Banking Union and CMU. Topics on the EC's agenda to continue development include analysing the EU securitisation market. The EC will launch a public consultation in the autumn on how to make the market more attractive to issuers and investors. Ms McGuinness also announces a delay to the date of application of the BCBS' fundamental review of the trading book (FRTB) market risk reforms by one year, until 1 January 2026. Ms McGuinness explains that it is now clear there will be a delay in the US in implementing the reforms and therefore a delay in the EU is necessary to ensure a global level playing field. The delay will be adopted by way of a delegated act, which will take a minimum of three months.

Date of publication: 18/06/2024

Commission Delegated Regulation (EU) 2024/1085 supplementing the CRR with regard to RTS on the assessment methodology under which competent authorities verify an institution's compliance with the requirements to use internal models for market risk

Status: Published in the OJ

Date of entry into force: 07/07/2024

The Commission Delegated Regulation (EU) 2024/1085 supplementing the CRR with regard to RTS on the assessment methodology under which competent authorities verify compliance with the requirements to use internal models for market risk has been published in the OJ. The RTS identify all elements that are to be assessed by the competent authority when granting the approval to use an internal model approach to compute the own funds requirements for market risk. They are constituted by three main chapters: (i) assessment of qualitative requirements; (ii) assessment of the internal risk-measurement model used to compute the expected shortfall measure; and (iii) the stress scenario risk measure, assessment of the internal default risk model used to compute the additional own funds requirement for default risk. The RTS also specify concrete assessment techniques.

An exception on the date of entry into force applies for Article 18(1)(a) (as regards the environmental risk), Article 18(1)(c)(vii) and Article 18(2)(b)(v), which will apply from 1 January 2025; and Article 21(1)(b), which will apply from 1 January 2026.

Date of publication: 17/06/2024

EBA: Consultation on three sets of draft RTS on the framework for operational risk loss under CRR III

Status: Consultation

Deadline for the submission of comments: 06/09/2024

The EBA has launched a consultation on a package of draft RTS that aim to standardise the collection and the record of operational risk losses and to provide clarity on the exemptions for the calculation of the annual operational risk loss and on the adjustments to the loss data set that banks must perform in case of merged or acquired entities or activities. The package consists of: (i) draft RTS on establishing a risk taxonomy on operational risk, which provide a list of operational risk event types, categories and attributes that institutions must use when recording operational risk loss events, in line with the current framework and the international standards; (ii) draft RTS on the conditions under which it would be unduly burdensome for an institution to calculate the annual operational risk loss, which detail cases when it would be disproportionate for an institution to promptly calculate the annual operational risk loss. In such cases, the draft RTS allow for a temporary waiver from the requirement to

calculate the annual operational risk loss; and (iii) draft RTS on the adjustments to an institution's loss data set following the inclusion of losses from merged or acquired entities or activities, which provide indications on the currency and the risk taxonomy to be used when incorporating the loss data set of merged entities or activities.

The EBA intends to finalise the draft RTS by the end of 2024.

Date of publication: 06/06/2024

Corrigendum to Commission Delegated Regulation (EU) 2024/857 supplementing CRD IV with regard to RTS specifying a standardised methodology and a simplified standardised methodology to evaluate the risks arising from potential changes in interest rates that affect both the economic value of equity and the net interest income of an institution's non-trading book activities

Status: Published in the OJ

The corrigendum to Commission Delegated Regulation (EU) 2024/857, which supplements CRD IV with regard to RTS specifying a standardised methodology and a simplified standardised methodology to evaluate the risks arising from potential changes in interest rates that affect both the economic value of equity and the net interest income of an institution's non-trading book activities, has been published in the OJ. The Delegated Regulation was published in the OJ on 24 April and has applied since 14 May. The corrigendum amends the formula in paragraph 2 of Article 19 of the Delegated Regulation relating to the calculation of the contribution of the projected risk-free interest rate on the reinvestment or refinancing of notional repricing cash flows.

Date of publication: 31/05/2024

c) Securitisation

(i) EU

EBA: Opinion on the Consob decision to grant the permission referred to in Article 26e(10) of the Securitisation Regulation

Status: Final

The EBA has published an Opinion addressed to Consob, the Italian Securities Commission, in response to the Competent Authority's notification of its decision to grant the permission referred to in Article 26e(10) of the Securitisation Regulation, which specifies the eligibility criteria for high-quality collateral for on-balance-sheet securitisations to qualify as Simple, Transparent, and Standardised (STS). The EBA has assessed the evidence provided by the Consob, namely the current classification of Italian credit institutions and the composition of the Italian synthetic securitisation market. On the basis of the evidence provided, the EBA is of the opinion that, due to the objective impediments related to the credit quality step (CQS) assigned to Italy, the use of a partial waiver to allow collateral in the form of cash on deposit with the originator, or one of its affiliates, qualifying for CQS 3 is justified.

Date of publication: 27/06/2024

Commission Delegated Regulation (EU) 2024/1703 amending Delegated Regulation (EU) 2020/1732 as regards harmonisation of certain aspects of fees charged by the ESMA to securitisation repositories

Status: Published in the OJ

Date of entry into force: 08/07/2024

The Commission Delegated Regulation (EU) 2024/1703 amending Delegated Regulation (EU) 2020/1732 as regards harmonisation of certain aspects of fees charged by the ESMA to securitisation repositories has been published in the OJ. This Delegated Regulation supplements the Securitisation Regulation. The EC aims to harmonise and simplify technical aspects of ESMA's fee collection system so that fee collection is less complex and more uniform across sectors.

Date of publication: 18/06/2024

Commission Delegated Regulation (EU) 2024/1700 supplementing Regulation (EU) 2017/2402 with regard to RTS specifying, for STS non-ABCP traditional securitisation, and for STS on-balance-sheet securitisation, the content, methodologies and presentation of information related to the principal adverse impacts of the assets financed by the underlying exposures on sustainability factors

Status: Published in the OJ

Date of entry into force: 08/07/2024

The Commission Delegated Regulation (EU) 2024/1700, supplementing Regulation (EU) 2017/2402 with regard to RTS specifying, for simple, transparent and standardised (STS) non-ABCP traditional securitisation, and for STS on-balance-sheet securitisation, the content, methodologies and presentation of information related to the principal adverse impacts of the assets financed by the underlying exposures on sustainability factors, has been published in the OJ. It aims to standardise the type and presentation of information an originator may opt to disclose about the adverse impacts of assets financed by underlying exposures, on the environment and other sustainability factors. The Delegated Regulation also seeks to ensure as much consistency as possible with the ESAs' work in respect of sustainability-related disclosures in financial services under the SFDR.

Date of publication: 18/06/2024

(ii) International

IOSCO: Report on leveraged loans and CLOs – good practices for consideration

Status: Final

IOSCO has published its final report on good practices for the leveraged loan and collateralised loan obligation (CLO) markets. The report: (i) provides an overview of the leveraged loan and CLO markets and their evolution since the global financial crisis; (ii) explains why the vulnerabilities identified in the leveraged loan and CLO markets could impact IOSCO's objectives; and (iii) describes twelve good practices grouped into five themes: (a) origination and refinancing based on a sound business premise; (b) EBITDA and loan documentation transparency; (c) strengthening alignment of interest from loan origination to end investors; (d) addressing interests of different market participants throughout the intermediation chain; and (e) disclosure of information on an ongoing basis.

Date of publication: 03/06/2024

d) Risk management/SREP/Pillar 2/Outsourcing/NPL

(i) EU

ECB: Guide on outsourcing cloud services to cloud service providers

Status: Consultation

Deadline for the submission of comments: 15/07/2024

The ECB has launched a consultation on a draft Guide on outsourcing cloud services to cloud service providers. The Guide aims to clarify both the ECB's understanding of related legal requirements, including those under DORA and CRD IV, and its expectations for the banks it supervises. The Guide sets out detailed supervisory expectations, drawing on risks and best practices observed in the context of ongoing supervision and dedicated on-site inspections. It covers topics including: (i) the governance of cloud services; (ii) the availability and resilience of cloud services; (iii) ICT security, data confidentiality and integrity; (iv) exit strategy and termination rights; and (v) oversight monitoring and internal audits.

Date of publication: 03/06/2024

e) Cyber security

(i) EU

EC: Draft Implementing Regulation supplementing the NIS2 Directive

Status: Consultation

Deadline for the submission of comments: 25/07/2024

The EC has launched a consultation on the draft Implementing Regulation supplementing the NIS2 Directive. This Directive strengthens cybersecurity risk-management measures and streamlines incident-reporting obligations for a large number of operators across the EU. Given the cross-border nature of some operators from the digital sectors, NIS2 requires the Commission to align the rules at EU level. This act aims to facilitate that, as well as specifying the cases when an incident must be considered significant.

Date of publication: 27/06/2024

ESAs: MoU on with the ENISA to strengthen cooperation and information exchange

Status: Final

The ESAs have announced that they have concluded a multilateral MoU to strengthen cooperation and information exchange with the European Union Agency for Cybersecurity (ENISA). The multilateral MoU formalises the ongoing discussions between the ESAs and ENISA to strengthen their cooperation as a result of the Directive on measures for a high common level of cybersecurity (NIS2 Directive) and DORA. The MoU sets out the framework for cooperation and the exchange of information on tasks of mutual interest, including policy implementation, incident reporting, and oversight of critical ICT third-party providers. It will also promote regulatory convergence, facilitate cross-sectoral learning and capacity building on areas of mutual interest, and information exchange on emerging technologies. The multilateral MoU is valid for three years and will automatically renew for additional three-year periods unless a party provides written notice of termination at least two weeks before the date of the automatic renewal.

Date of publication: 05/06/2024

f) Disclosure

(i) EU

EBA: Final report on draft ITS on public disclosures by institutions of the information referred to in titles II and III of part eight of the CRR

Status: Final

The EBA has published a final report containing the final draft ITS on public disclosures by institutions of the information referred to in titles II and III of part eight of the CRR. The new ITS implements the CRR III prudential disclosures by including new requirements on output floor, credit risk, market risk, CVA risk, operational risk and a transitional disclosure on exposures to crypto-assets. They aim to provide institutions with a comprehensive integrated set of uniform disclosure formats. The EBA explains that the ITS will ensure that market participants have sufficient comparable information to assess the risk profiles of institutions and understand compliance with CRR III requirements. Later this year, the EBA intends to complement these ITS with the CRR III disclosure requirements that are not directly linked to Basel III implementation, in particular the extension of the disclosure requirements on ESG risks to all institutions in accordance with the proportionality principle, and new disclosure requirements on shadow banking. The ITS are designed to repeal Implementing Regulation (EU) 2021/637, with a view to make the technical standards more user-friendly for institutions.

Date of publication: 21/06/2024

EBA: Final report on draft Pillar 3 ITS on amendments due to CRD VI and CRR 3

Status: Final

The EBA has published a final draft ITS on public disclosures by institutions that implement the changes in the Pillar 3 disclosure framework introduced by CRR 3, which stem from the latest Basel III reforms. The ITS implement the CRR III prudential disclosure requirements by including new requirements on output floor, credit risk, market risk, CVA risk, operational risk and a transitional disclosure on exposures to crypto-assets. In addition, they aim to provide institutions with a comprehensive, integrated set of uniform disclosure formats. The ITS repeal the Commission Implementing Regulation (EU) 2021/637 on public disclosures, with a view to enabling the EBA to comply with its mandate to develop IT solutions, making the technical standards more user-friendly for institutions. Later in 2024, the EBA will complement these ITS with the CRR III disclosure requirements that are not directly linked to Basel III implementation, in particular the extension of the disclosure requirements on ESG risks to all institutions in accordance with the proportionality principle, and new disclosure requirements on shadow banking.

Date of publication: 21/06/2024

1.2 RECOVERY AND RESOLUTION

(i) EU

EBA: Update on the report on the monitoring of additional Tier 1, Tier 2 and TLAC/MREL eligible liabilities instruments of EU institutions

Status: Final

The EBA has published an updated report on the monitoring of AT1, Tier 2 and TLAC as well as the MREL instruments of EU institutions. The update provides new guidance on the prudential valuation of non-CET1 instruments and on other aspects related to the terms and conditions of the issuances. The report builds upon the

2023 update with substantial amendments made. Among the matters discussed, the report: (i) clarifies that the prudential valuation of capital instruments should reflect their actual loss absorbency capacity, meaning that such instruments should be measured on the basis of the amount of CET1 capital that would be generated in the event of a write-down or conversion, being the carrying amount with no adjustment; (ii) addresses the approaches followed by some institutions to timely reflect from a prudential perspective FX effects on AT1 instruments classified as equity and stresses the need to ensure a consistent application over time when these approaches are used; (iii) specifies the conditions under which different loss absorbency and trigger levels can operate simultaneously within the same institution, with the need in particular to fully adhere to the EBA existing guidance and AT1 standardised templates; and (iv) considers issuances governed by third-country law (including English law) and the Article 55 BRRD requirement. The EBA also sets out considerations on own funds and eligible liabilities instruments with ESG features. Going forward, the EBA will continue to monitor the quality of the AT1, Tier 2 and TLAC/MREL instruments and stands ready to provide additional guidance where necessary.

Date of publication: 27/06/2024

Council of the EU: Agreement of its position on the bank crisis management and deposit insurance framework

Status: Draft

The Council of the EU has agreed on a negotiating mandate on the review of the crisis management and deposit insurance (CMDI) framework for banks. The review includes a comprehensive set of measures designed to strengthen the existing EU crisis management framework, and in particular to improve the resolution process for small and medium-sized banks. It also constitutes an immediate step towards the further completion of the Banking Union, as agreed by the Eurogroup in June 2022.

The EP already adopted its position in the first reading on 24 April 2024. In combination with this agreement by the Council, this paves the way to interinstitutional negotiations in view of reaching an agreement in early second reading. Once an agreement is reached, it will have to be formally adopted before becoming law.

Date of publication: 19/06/2024

Commission Implementing Regulation (EU) 2024/1618 amending Implementing Regulation (EU) 2021/763 laying down ITS for the application of the CRR and BRRD with regard to the supervisory reporting and public disclosure of the MREL

Status: Published in the OJ

Date of entry into force: 27/06/2024

Date of application: 27/12/2024

The Commission Implementing Regulation that amends Implementing Regulation (EU) 2021/763, which lays down ITS on supervisory reporting and public disclosure of the minimum requirement for own funds and eligible liabilities (MREL) and the total loss absorbency requirement (TLAC), has been published in the OJ. The amendments include: (i) reflecting the requirement that intermediate entities in a resolution group deduct investments in eligible liabilities instruments of entities belonging to the same resolution group (the "daisy chain" framework); (ii) reflecting the impact of the prior permission regime for buying back eligible liabilities instruments issued by the reporting entities and groups on public disclosures and reporting; and (iii) other minor updates to the ITS and the accompanying technical package to address some identified issues.

Date of publication: 07/06/2024

(ii) Eurozone

SRB: Annual report 2023

Status: Final

The SRB has published its Annual Report for 2023. The report details the work of the SRB and highlights the progress made in making the European banking sector more resolvable and resilient. It details that the year 2023 saw key milestones met: the SRF reached its target level, all banks under the SRB's remit met their MREL requirements at the due date and the SRB's second resolvability assessment confirmed that banks have made material progress towards their resolvability. The SRB also developed its new strategy – SRM Vision 2028 – which will shape the Single Resolution Mechanism for the next five years.

Date of publication: 28/06/2024

SRB: Report on the Bail-in as part of the SRM's toolkit

Status: Final

The SRB has published a document for banks, investors and other stakeholders on executing its bail-in decision, as well as links to national resolution authorities' mechanics for bail-in, in line with EBA guidelines. The document focuses on the bail-in tool and the application of write-down and conversion powers in support of any resolution tool. It aims to outline elements of relevance for bail-in execution in the banking union that are of a general nature or fall under the responsibility of the SRB. It is to be read in conjunction with any existing or future publications from the NRAs outlining the bail-in exchange mechanic at national level. It is structured around the different stylised phases of a resolution process, describing the roles of the SRB, the NRAs, the bank, as well as other stakeholders, throughout these phases in relation to bail-in.

Date of publication: 26/06/2024

SRB: Development of new expectations on valuation capabilities

Status: Final

The SRB has announced that it is developing and updating its expectations for banks on valuation capabilities. Bank valuation is a key tool for effective resolutions, with three reports that determine whether the bank is failing or likely to fail (valuation 1), provide input into the use of bail-in and other resolution tools (valuation 2), and to ensure that creditors would not be worse off than if the bank went into insolvency (valuation 3). The SRB will produce new expectations on valuation capabilities, including: (i) banks under its remit setting up permanent valuation data repositories; (ii) an enhanced and streamlined SRB valuation data set taking current regulatory initiatives into account e.g. the Integrated Reporting Framework project; and (iii) valuation playbooks. In 2025, the SRB intends to consult on valuation capabilities expectations to gather views from the industry and other stakeholders on the approach as a continuation of and update to the current SRB valuation framework.

Date of publication: 20/06/2024

SRB: Booklet on the resolution planning cycle 2024

Status: Final

The SRB has launched the resolution planning cycle (RPC) for banks under its remit in April, with more than 100 resolution plans expected to be adopted. The booklet informs stakeholders about the SRB's resolution planning activities and describes the main processes and phases of the current RPC. Resolution plans include the preferred

resolution strategy, the minimum requirements for own funds and eligible liabilities (MREL) and the resolvability assessment. The plans are prepared by the SRB in cooperation with the National Resolution Authorities (NRAs) and updated on an annual basis taking into account changes in the market and in banks themselves, to make sure that there are ready-to-go plans that can be immediately operational if needed. Countries outside the Banking Union enjoy observer status in the preparation.

In line with the SRM's new strategy, Vision 2028, this year the SRB will have a greater focus on testing banks' resolvability and the operationalisation of the resolution strategies defined in the resolution plans.

Date of publication: 14/06/2024

1.3 STRESS TESTS/MACROPRUDENTIAL TOPICS

(i) EU

ECB: Governing Council statement on macroprudential policies

Status: Final

The Governing Council of the ECB has published a statement following the meeting of its Macroprudential Forum on 19 June 2024. Since the Governing Council statement issued in November 2022, many countries participating in European banking supervision have continued with the implementation or adjustment of their capital-based and/or borrower-based macroprudential measures. The Governing Council calls on national macroprudential authorities to maintain current capital buffer requirements. The euro area financial cycle is contracting in an orderly manner and the banking system has so far proven resilient; vulnerabilities in the financial system have eased but are still elevated.

Date of publication: 28/06/2024

2. Investment firms regulation

(i) EU

Commission Delegated Regulation (EU) 2024/1771 on supplementing the IFR with regard to RTS specifying the details of the scope and methods for prudential consolidation of an investment firm group

Status: Published in the OJ

Date of entry into force: 15/07/2024

The Commission Delegated Regulation (EU) 2024/1771 supplementing the IFR with regard to RTS specifying the details of the scope and methods for prudential consolidation of an investment firm group has been published in the OJ. The RTS set out details on the scope and method for prudential consolidation, consolidated own funds requirements, methods for the recognition in consolidated own funds of minority interest and additional Tier 1 and Tier 2 instruments, and the consolidated fixed overheads requirement permanent minimum capital requirement, and K-factor requirement.

Date of publication: 25/06/2024

EBA/ESMA: Discussion paper on investment firms' prudential framework

Status: Consultation

Deadline for the submission of comments: 03/09/2024

The EBA and ESMA have launched a consultation on a joint discussion paper on the potential review of the investment firms' prudential framework under the IFR and IFD. The paper aims at gathering early stakeholder feedback to inform the response to the EC's call for advice. The EBA notes that it is of the overall opinion that the current framework reaches the original general objectives, providing a robust and risk-sensitive prudential framework tailored to the size, activities and complexity of the MiFID investment firms. Nonetheless, it notes that market participants and supervisors highlighted a number of issues or areas of potential improvements of the prudential framework that may lead to changes to either the IFR and IFD or to the related delegated regulations. Among other things, the discussion paper considers: (i) the implications of the adoption of the new EU Banking package (CRD VI and CRR III) concerning the trading book, the fundamental review of the trading book and credit valuation adjustments; (ii) prudential consolidation and a possible extension to crowdfunding and crypto-asset service providers; (iii) aspects related to remuneration in relation to investment firms, AIFMs and UCITS management companies, including the scope of application, remuneration policies, the requirements on variable remuneration, their oversight, disclosure and transparency; (iv) the treatment of firms currently non-prudentially regulated and active in commodity markets; (v) the categorisation of investment firms; and (vi) reviewing the existing K-factors to cover risks currently only addressed under the Pillar 2 framework or as possible alternatives to existing K-factors.

The discussion paper will also be accompanied with a data collection which will supplement the feedback received as part of the consultation on this discussion paper. The EBA and ESMA plan to publish a final report by December.

Date of publication: 03/06/2024

3. Market regulation/ Conduct rules

3.1 GENERAL

(i) EU

ESMA: Overview of planned consultation papers for 2024

Status: Final

ESMA has updated its overview of planned consultation papers. The table provides an overview of its planned consultations for 2024. These relate to topics including: MiCAR, the MiFID/MiFIR review, UCITS, DORA, EMIR and AIFMD. Notable changes since the version published in January include a delay from Q1 to Q3 for the consultation on guidelines on the due diligence requirements under the Securitisation Regulation and a delay from Q1 to Q4 for the consultation on Guidelines on internal controls for ESMA supervised entities. Other consultations anticipated in H2 include: (i) technical standards and Guidelines on liquidity management tools under AIFMD and UCITS Directive; (ii) Guidelines on classification of crypto-assets under MiCAR; (iii) RTS on order execution policy under MiFID II/MiFIR; (iv) technical standards under the CSDR; and (v) on the active account requirement under EMIR.

Date of publication: 26/06/2024

3.2 BENCHMARKS

(i) EU

Commission Delegated Regulation (EU) 2024/1705 amending Delegated Regulation (EU) 2022/805 as regards harmonisation of certain aspects of fees charged by the ESMA to certain benchmark administrators

Status: Published in the OJ

Date of entry into force: 08/07/2024

The Commission Delegated Regulation (EU) 2024/1705 amending Delegated Regulation (EU) 2022/805 as regards harmonisation of certain aspects of fees charged by the ESMA to certain benchmark administrators has been published in the OJ. This harmonisation and simplification of technical aspects of ESMA's fee collection system aims to make fee collection less complex and more uniform across sectors.

Date of publication: 18/06/2024

EC: Report on the extension of empowerment to adopt delegated acts under BMR for further five-year period

Status: Final

The EC has published a report addressed to the EP and Council on the delegation of power to adopt delegated acts conferred on the EC pursuant to the BMR. Under Article 49(1) of the BMR the Commission was empowered to adopt delegated acts for five years, which could be extended for a further five years unless the EP or Council

opposed no later than three months before the end of each period. Initially, the five-year period ran from 30 June 2016 until 30 June 2021. Regulation (EU) 2019/2089 amended Article 49(2) of the BMR extending the empowerment to 10 December 2024, and imposed a requirement on the EC to prepare a report on the delegation of power. The report aims to fulfil that requirement. The report sets out the Delegated Acts the EC has made under the BMR, as well as empowerments that have not yet been exercised. Regarding the delegated acts that would apply to third-country benchmarks, the EC notes that the transitional period for third-country benchmarks has been extended several times, most recently to the end of 2025, and therefore adoption of those delegated acts would be premature. The UK extended the transitional period for third-country benchmarks to the end of 2030. Regarding the delegated acts that would review the quantitative thresholds between critical, significant and nonsignificant benchmarks, the EC has not been made aware of any practical difficulties arising from the existing thresholds that indicate that a revision is needed. The EC also points to the current legislative proposal to amend the BMR which may impact the scope of or need for the delegated acts. The EC notes that, given the information provided in the report, there is a clear need for a tacit extension of the delegation of power for a further five years.

Date of publication: 12/06/2024

3.3 CAPITAL MARKETS UNION

(i) EU

EC: Speech announcing delay to Basel FRTB market risk reforms

Status: Final

The EC has published a speech by Mairead McGuinness, European Commissioner for Financial Services, Financial Stability and CMU. For more information, please see section 1.1b) above.

Date of publication: 18/06/2024

3.4 CREDIT RATING AGENCIES

(i) EU

Commission Delegated Regulation (EU) 2024/1706 amending Delegated Regulation (EU) No 272/2012 as regards harmonisation of certain aspects of fees charged by the ESMA to credit rating agencies

Status: Published in the OJ

Date of entry into force: 08/07/2024

The Commission Delegated Regulation (EU) 2024/1706 amending Delegated Regulation (EU) No 272/2012 as regards harmonisation of certain aspects of fees charged by the ESMA to credit rating agencies has been published in the OJ. This harmonisation and simplification of technical aspects of ESMA's fee collection system aims to make fee collection less complex and more uniform across sectors.

Date of publication: 18/06/2024

3.5 MARKET ABUSE

(i) EU

EC: Report on the delegation of power to adopt delegated acts conferred on the Commission pursuant to the MAR and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC

Status: Draft

The EC has published a report, addressed to the EP and the Council, on the delegation of power to adopt delegated acts conferred on the EC under MAR. Under Article 35(2), the power to adopt delegated acts is conferred on the EC for an initial period of five years, ending on 31 December. In the report, the EC explains why it considers that there is a clear need for the extension of this empowerment for a further period of five years. This is due to there being delegated acts that have not yet been adopted by the EC – those under Articles 6(6) (extending the exemption from MAR to certain third-country designated public bodies that have entered into an agreement under the EU ETS Directive) and Article 38 (adjusting certain thresholds relating to reporting thresholds) of MAR. The EC provides reasons as to why these have not yet been adopted and refers to the Listing Act legislative proposal for a Regulation containing amendments to MAR, in which co-legislators have agreed to renew the delegation of powers for a period of five years.

Date of publication: 17/06/2024

3.6 MIFID/MIFIR

(i) EU

Council of the EU: Agreement on negotiating mandate on retail investment package

Status: Draft

The Council of the EU has announced that it had agreed its negotiating position on the retail investment package, and published the relevant texts. The package consists of an amending Directive, known as the Omnibus Directive, which revises existing rules set out in MiFID II, the Insurance Distribution Directive, the UCITS Directive, the AIFMD, and Solvency II, as well as an amending Regulation, which revises the PRIIPs Regulation.

The main changes proposed by the Council are: (i) the removal of the Commission's proposed ban on 'inducements' received for execution-only sales, as a ban is already in place for independent investment advice and portfolio management with limited exceptions; and (ii) a new concept of 'value for money' to ensure that investment products are offered to retail clients only if they offer good value for money. Manufacturers and distributors would be required to assess whether costs and charges related to a product are justified and proportionate with regard to their performance, other benefits and characteristics, their objectives and, if relevant, their strategy. The Council agreed that ESMA and EIOPA should develop EU supervisory benchmarks, but suggested that instead of mandatory benchmarks integrated in manufacturer's and distributors' product governance process, there would be a supervisory tool, developed in a way that helps national competent authorities detect investments products that fail to offer value for money.

The EP has already agreed its negotiating mandate on the package, and so interinstitutional negotiations can begin. Several of the changes to improve the MiFID II and PRIIPS regimes reflect changes that have already been made or announced in the UK under its Smarter Regulatory Framework.

Date of publication: 12/06/2024

EC: Consultation on draft Delegated Regulation as regards OTC derivatives identifying reference data under MiFIR

Status: Consultation

Deadline for the submission of comments: 10/07/2024

The EC has launched a consultation on a draft Delegated Regulation supplementing MiFIR as regards OTC derivatives identifying reference data to be used for the purposes of the transparency requirements laid down in Article 8a(2), and Articles 10 and 21 of MiFIR. Following the MiFIR Review, MiFIR now clarifies that the pre- and post-transparency requirements for non-equity instruments applies to both exchange-traded and OTC derivatives. The post-trade disclosure obligation for investment firms was also amended. Now that obligation no longer applies to derivatives "traded on a trading venue", but it does apply to OTC derivatives traded either on their own account or on behalf of clients, although the transaction reporting obligation applies to both types of derivatives. The draft Delegated Regulation sets out the identifying reference data to be used for OTC interest rate swaps and OTC credit default swaps for the transparency requirements. It also provides the full set of relevant identifying reference data that needs to be assigned to a given ISO 6166 ISIN for OTC interest rate swaps and OTC credit default swaps. In addition, the draft Delegated Regulation defers the date of application to 1 September 2025. The deferral is intended to allow enough time for the revision of the ISIN template and the implementation of the necessary adjustments to IT systems, while taking into consideration the timeline prescribed by the MiFIR review for the launch of the OTC derivatives consolidate tape tender process. The EC consulted on the appropriate identifying reference data to be used for the transparency reporting of OTC derivatives within the scope of Article 8a(2) MiFIR in November. After reviewing the responses received, the EC explains that the Delegated Regulation seeks to strike a balance between allowing for the use of the same identifier for transparency and transaction reporting purposes, ensuring continuity of use for identifying reference data for the purposes of transaction reporting.

Subject to no objections from the Council or EP, the draft Delegated Regulation will enter into force on the twentieth day following its publication in the OJ and apply from 1 September 2025.

Date of publication: 12/06/2024

(ii) International

IOSCO: Report on market outages

Status: Final

IOSCO has published its final report on market outages. The report: (i) examines key findings from recent market outages on listing trading venues in IOSCO jurisdictions; and (ii) builds on past IOSCO work on operational resilience and business continuity planning to identify good practices for listing trading venues that may enhance market-wide resilience in the event of a market outage. The good practices include: (a) establish and publish an outage plan; (b) implement a communication plan, which provides, through an appropriate communication channel, initial notice (as soon as practicable) of the outage to market participants and the general public and, thereafter, regular updates to all market participants on the status of the outage and the recovery pathway; (c) communicate information relevant to the reopening of trading in a timely and simultaneous manner to all market participants, providing clarity on the status of orders and ensuring an adequate period of notice before the resumption of trading; (d) ensure the processes and procedures that trading venues will follow to operate a closing auction and/or to establish alternative closing prices are published in the outage plan and communicated to all market participants during an outage; and (e) conduct and share with the relevant regulators a lessons-learned exercise of the market outage and adopt a post-outage plan, with clearly defined timelines and allocation of responsibilities for remediation, designed to reduce the likelihood of future incidents and to improve the ability of the trading venue to effectively respond to outages.

While the good practices were primarily developed for equities listing trading venues, IOSCO is of the view that some of these good practices may have relevance more broadly, for example, in the context of non-listing trading venues and derivatives markets. It also recognises that, given the range of potential scenarios under which a market outage may occur, it is within individual trading venues' discretion whether and, if so, how to adopt the good practices.

Date of publication: 05/06/2024

3.7 PACKAGED RETAIL AND INSURANCE-BASED INVESTMENT PRODUCTS (PRIIPS)

(i) EU

Council of the EU: Agreement on negotiating mandate on retail investment package

Status: Draft

The Council of the EU has announced that it had agreed its negotiating position on the retail investment package, and published the relevant texts. For more information, please see section 3.6 above.

Date of publication: 12/06/2024

3.8 SECURITIES FINANCING TRANSACTIONS

(i) EU

Commission Delegated Regulation (EU) 2024/1704 amending Delegated Regulation (EU) 2019/360 as regards harmonisation of certain aspects of fees charged by the ESMA to trade repositories under SFTR

Status: Published in the OJ

Date of entry into force: 08/07/2024

The Commission Delegated Regulation (EU) 2024/1704, amending Delegated Regulation (EU) 2019/360 as regards harmonisation of certain aspects of fees charged by the ESMA to trade repositories under SFTR, has been published in the OJ. This harmonisation and simplification of technical aspects of ESMA's fee collection system aims to make fee collection less complex and more uniform across sectors.

Date of publication: 18/06/2024

4. Market infrastructure

4.1 EMIR

(i) EU

Commission Delegated Regulation (EU) 2024/1702 amending Delegated Regulation (EU) No 1003/2013 as regards harmonisation of certain aspects of fees charged by the ESMA to trade repositories under EMIR

Status: Published in the OJ

Date of entry into force: 08/07/2024

Date of application: 01/01/2025

The Commission Delegated Regulation (EU) 2024/1702 amending Delegated Regulation (EU) No 1003/2013 as regards harmonisation of certain aspects of fees charged by the ESMA to trade repositories under EMIR has been published in the OJ. This harmonisation and simplification of technical aspects of ESMA's fee collection system aims to make fee collection less complex and more uniform across sectors.

Date of publication: 18/06/2024

5. Anti-money laundering

(i) EU

EBA: Statement welcoming the entry into force of the framework establishing the AML/CFT authority

Status: Final

The EBA has published a press release welcoming the entry into force of the new EU framework establishing the AMLA. In addition to the press release, the EBA also published a factsheet on how it is preparing for AMLA. Going forward, the EBA will retain its AML/CFT powers and mandates until December 2025 to minimise disruption and provide continuity, it will also continue working closely with AMLA. In particular, after transferring the powers that are specific to AML/CFT to AMLA, the EBA will remain responsible for addressing ML/TF risk across its prudential remit. The EBA will also be providing the Commission, as per their request, with technical advice on important aspects of the future EU AML/CFT framework to ensure that AMLA can begin to operate efficiently and effectively as of its establishment. The EBA plans to provide this advice in October 2025. In the press release the EBA also sets out its AML and CTF priorities for 2024/25, which include: (i) a methodology for selecting financial institutions for direct EU-level AML/CFT supervision; (ii) a common risk assessment methodology; (iii) information necessary to carry out customer due diligence; and (iv) criteria to determine the seriousness of a breach of AML/CFT provisions.

Date of publication: 26/06/2024

Regulation (EU) 2024/1620 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010

Status: Published in the OJ

Date of entry into force: 26/06/2024

Date of application: 01/07/2025

The Regulation (EU) 2024/1620 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 has been published in the OJ. The Regulation aims to create a central authority, which will coordinate national supervisors and enhance cooperation among financial intelligence units.

Date of publication: 19/06/2024

Regulation (EU) 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AML Regulation)

Status: Published in the OJ

Date of entry into force: 09/07/2024

Date of application: 10/07/2027

The Regulation (EU) 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing has been published in the OJ. It aims to prevent AML/CFT through directly applicable rules, including in the areas of Customer Due Diligence and Beneficial Ownership.

Date of publication: 19/06/2024

Directive (EU) 2024/1640 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849 (MLD6)

Status: Published in the OJ

Date of entry into force: 09/07/2024

Date of application: 10/07/2025

The Directive (EU) 2024/1640 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849 has been published in the OJ. It contains provisions that will be transposed into national law, such as rules on national supervisors and Financial Intelligence Units in Member States.

Date of publication: 19/06/2024

Directive (EU) 2024/1654 amending Directive (EU) 2019/1153 as regards access by competent authorities to centralised bank account registries through the interconnection system and technical measures to facilitate the use of transaction records

Status: Published in the OJ

Date of entry into force: 09/07/2024

Date of application: 10/07/2027

The Directive (EU) 2024/1654 amending Directive (EU) 2019/1153 as regards access by competent authorities to centralised bank account registries through the interconnection system and technical measures to facilitate the use of transaction records has been published in the OJ. The amending Directive aims to ensure more effective investigations into illicit finances by making it easier to retrieve data across borders from centralised bank registries. It mandates EU Member States to ensure that the information from centralised registries is available through an access point to be developed and operated by the EC.

Date of publication: 19/06/2024

6. Institutional supervisory framework

(i) EU

ECB: Opinion on a proposal for a Regulation on certain reporting requirements in the fields of financial services and investment support

Status: Draft

The ECB has published an Opinion on the proposed Regulation amending the ESRB Regulation, the EBA Regulation, EIOPA Regulation, ESMA Regulation and InvestEU Regulation as regards certain reporting requirements in the fields of financial services and investment support. The ECB welcomes the aim of the proposed regulation to streamline reporting requirements, avoid double reporting of supervisory data and reduce the administrative burden on financial institutions. However, the ECB recommends that the scope of the information to be shared under the regulation should be further specified. It feels that it is currently otherwise unclear whether it would be limited to regular reporting or also whether it would cover vertical, decentralised and unstructured information received by the ECB. The ECB also feels that the regulation may have an effect on supervisory effectiveness. For example, the obligation to check whether given information is already available to other authorities before seeking it from financial institutions could jeopardise the ECB's ability to take action in a timely manner. The proposed regulation also includes provisions that conflict with provisions in other legislation that regulates the exchange of information between authorities, and which creates legal uncertainty. The ECB further recommends consolidating projects and tools before expanding efforts on the new initiatives such as establishing the proposed Single Integrated Reporting System (SIRS).

Date of publication: 25/06/2024

Council of the EU: Agreement on position for a regulation on certain reporting requirements in the fields of financial services and investment support

Status: Draft

The Council of the EU has reached an agreement on a proposal, amending the ESRB Regulation, EBA Regulation, EIOPA Regulation, ESMA Regulation and InvestEU Regulation, to simplify certain reporting requirements in the field of financial services and investment support, which aims to update existing rules on data sharing between the ESAs and other financial sector authorities with the aim to reduce administrative burden for authorities in the financial sector.

Date of publication: 19/06/2024

(ii) International

FSB: Plenary June 2024 meeting

Status: Final

The FSB Plenary met in Toronto. They discussed topics including: (i) financial stability outlook – although there has been some improvement in the macroeconomic outlook, there are still a number of vulnerabilities in the financial system that require close monitoring. These include some asset prices appearing to have high valuations, interest

rates remaining at higher levels than in recent years in a number of jurisdictions and leverage in non-bank financial institutions; (ii) lessons from the March 2023 banking turmoil – the Plenary discussed the progress made on the key international work following up on the turmoil, including work on public sector backstop funding mechanisms as a last resort, examining interest rate and liquidity risk in the financial system, and exploring vulnerabilities associated with depositor behaviour in light of new technologies and social media; (iii) non-bank financial intermediation – the FSB is due to launch a consultation on its evaluation of the effects of the G20 financial regulatory reforms on securitisation in July; (iv) implementation of the FSB's global regulatory framework for crypto-asset activities – the FSB will continue to closely monitor implementation of its July 2023 recommendations and will also undertake further work to consider the challenges posed by crypto-assets in emerging market and developing economies; and (v) nature-related risks – the Plenary discussed the FSB's draft stocktake on supervisory and regulatory initiatives related to nature-related financial risks, which is due to be published in July.

Date of publication: 14/06/2024



7. Investment funds

7.1 PRODUCT REGULATION

a) AIF

(i) EU

Council of the EU: Agreement on negotiating mandate on retail investment package

Status: Draft

The Council of the EU has announced that it had agreed its negotiating position on the retail investment package, and published the relevant texts. For more information, please see section 3.6 above.

Date of publication: 12/06/2024

b) UCITS

(i) EU

Council of the EU: Agreement on negotiating mandate on retail investment package

Status: Draft

The Council of the EU has announced that it had agreed its negotiating position on the retail investment package and published the relevant texts. For more information, please see section 3.6 above.

Date of publication: 12/06/2024

8. Special rules for real estate financing and covered bonds

8.1 MORTGAGE CREDITS

(i) EU

EBA: Final report on Guidelines amending EBA Guidelines on arrears and foreclosure

Status: Final

The EBA has published a final report on the Guidelines amending EBA Guidelines on arrears and foreclosure, following the changes introduced in the Mortgage Credit Directive (MCD). The EBA assessed the impact of the recent revision of Article 28(1) of the MCD and concluded that, in order to adhere to the principle that EBA Guidelines must not repeat, amend or contradict requirements set out in Level 1 legislation, the EBA Guidelines on arrears and foreclosure needed to be amended. Guideline 4 on 'resolution process' has therefore been removed from the EBA Guidelines on arrears and foreclosure, as its content is now embedded in binding Union Law. The aggregate requirements set out in the MCD and the EBA Guidelines have remained unchanged.

Date of publication: 28/06/2024

9. Special topics

9.1 FINTECH/DIGITAL FINANCE

(i) EU

EBA/ESMA: Guidelines on suitability of management body members and shareholders for entities under MiCA

Status: Final

The EBA and ESMA have published joint Guidelines on the suitability of members of the management body, and on the assessment of shareholders and members with qualifying holdings for issuers of ARTs and CASPs, under MiCAR. The Guidelines are part of the EBA and ESMA's ongoing efforts to foster a transparent, secure, and well-regulated crypto-assets market, and complement the recently published governance package. The first set of Guidelines covers the presence of suitable management bodies within issuers of ARTs and CASPs, contributing to increase the trust in the financial system. Having robust governance arrangements in place will foster confidence in those assets and services, supporting the development of a healthy crypto-asset ecosystem. It provides common criteria to assess the knowledge, skills, experience, reputation, honesty and integrity of members of the management body, as well as if they can commit sufficient time to perform their duties to ensure a sound management of these entities. The second set of Guidelines concerns the assessment of the suitability of shareholders or members with direct or indirect qualifying holdings in a supervised entity. This assessment is a key aspect of the gatekeeping function exercised by supervisory authorities, considering the significant influence that these persons may exercise on the management of the supervised entity. It equips competent authorities with a common methodology to assess the suitability of the shareholders and members with direct or indirect qualifying holdings for the purpose of granting authorisation as issuers of ARTs or as CASPs, and for carrying out the prudential assessment of proposed acquisitions.

The Guidelines will apply two months after they have been published in all EU official languages on the EBA and ESMA websites.

Date of publication: 27/06/2024

Commission Delegated Regulation (EU) 2024/1772 supplementing DORA with regard to RTS specifying the criteria for the classification of ICT-related incidents and cyber threats, setting out materiality thresholds and specifying the details of reports of major incidents

Status: Published in the OJ

Date of entry into force: 15/07/2024

The Commission Delegated Regulation (EU) 2024/1772 supplementing DORA with regard to RTS specifying the criteria for the classification of ICT-related incidents and cyber threats, setting out materiality thresholds and specifying the details of reports of major incidents has been published in the OJ.

Date of publication: 25/06/2024

Commission Delegated Regulation (EU) 2024/1773 supplementing DORA with regard to RTS specifying the detailed content of the policy regarding contractual arrangements on the use of ICT services supporting critical or important functions provided by ICT third-party service providers

Status: Published in the OJ

Date of entry into force: 15/07/2024

The Commission Delegated Regulation (EU) 2024/1773 supplementing DORA with regard to RTS specifying the detailed content of the policy regarding contractual arrangements on the use of ICT services supporting critical or important functions provided by ICT third-party service providers has been published in the OJ.

Date of publication: 25/06/2024

Commission Delegated Regulation (EU) 2024/1774 supplementing DORA with regard to RTS specifying ICT risk management tools, methods, processes, and policies and the simplified ICT risk management framework

Status: Published in the OJ

Date of entry into force: 15/07/2024

The Commission Delegated Regulation (EU) 2024/1774 supplementing DORA with regard to RTS specifying ICT risk management tools, methods, processes, and policies and the simplified ICT risk management framework has been published in the OJ.

Date of publication: 25/06/2024

EBA: Final draft RTS, ITS and Guidelines under the MiCA Regulation

Status: Final

The EBA has published the package of technical standards and Guidelines under the MiCA Regulation on the topics of reporting, liquidity stress testing and supervisory colleges. This package completes the delivery of EBA technical standards under the MiCA Regulation. The package consists of: (i) final draft RTS on the use of asset-referenced tokens (ARTs) and electronic money tokens (EMTs) denominated in a non-EU currency as a means of exchange – these specify the methodology to be applied by issuers of ARTs and of EMTs denominated in a non-EU currency for estimating the number and value of transactions associated to uses of these tokens "as a means of exchange", for the purpose of the reporting under MiCAR; (ii) final draft ITS on the reporting obligations of issuers of ARTs and EMTs denominated in a non-EU currency, and of crypto-asset service providers (CASPs) – these provide specific templates and related instructions for the issuers of ARTs and of EMTs denominated in a non-EU currency to comply with their reporting obligations. These reporting templates will assist the significance assessment of the tokens. The draft ITS also provide templates and related instructions that CASPs must provide to issuers of ARTs and of EMTs denominated in a non-EU currency. The EBA will develop the related technical package, including the Data Point Model and validation rules, and will publish it with its 4.0 Reporting framework release; (iii) Guidelines on liquidity stress testing – these lay out the risks to be covered in the liquidity stress testing and identify the common reference parameters of the stress test scenarios to be included in the liquidity stress testing to be applied; and (iv) final draft RTS on supervisory colleges – these specify the conditions under which certain entities, such as custodians of the reserve of assets, trading platforms and CASPs providing custody and administration of crypto-assets on behalf of clients, are to be deemed "the most relevant" in their category, and the conditions under which a significant ART or EMT is to be deemed to be "used at large scale", for the purpose of determining the composition of a supervisory college under MiCAR. The EBA is required to establish such a college in accordance with MiCAR for each significant ART and significant EMT. In addition, the RTS specify the general conditions for the functioning

of supervisory colleges, including aspects related to participation in college meetings, voting procedures, exchange of information and the entrustment of tasks among college members.

The final draft ITS and RTS will be submitted to the EC for endorsement following which they will be subject to scrutiny by the EP and the Council before being published in the OJ. The Guidelines will be translated into the official EU languages and published on the EBA website. The deadline for competent authorities to report whether they comply with the guidelines will be two months after the publication of the translations.

- ◆ Final report on draft RTS on the methodology to estimate the number and value of transactions associated to uses of asset-referenced tokens as a means of exchange under Article 22(6) MiCA Regulation and of e-money tokens denominated in a currency that is not an official currency of a Member State under Article 58(3) MiCA Regulation
- ◆ Final report on draft ITS on the reporting on asset-referenced tokens under Article 22(7) MiCA Regulation and on e-money tokens denominated in a currency that is not an official currency of a Member State pursuant to Article 58(3) MiCA Regulation
- ◆ Final report on Guidelines establishing the common reference parameters of the stress test scenarios for the liquidity stress tests referred in Article 45(4) MiCA Regulation
- ◆ Final report on draft RTS on supervisory colleges under Article 119(8) MiCA Regulation

Date of publication: 19/06/2024

EBA: Final draft RTS and Guidelines under the MiCA Regulation

Status: Final

The EBA has published the package of technical standards and Guidelines under MiCAR on prudential matters, namely own funds, liquidity requirements and recovery plans. The package of EBA regulatory products includes the following: (i) final draft RTS specifying adjustment of own funds requirement and minimum features of stress testing programmes of issuers of ARTs and of EMTs subject to such requirements; (ii) final draft RTS specifying the procedure and timeframe for an issuer to adjust the amount of its own funds to 3% of the average amount of the reserve of assets when the relevant issuer is issuing an ART or EMT classified as 'significant'; (iii) final draft RTS further specifying the liquidity requirements of the reserve of assets. The draft RTS set specific minimum percentages of the reserve of assets according to daily and weekly maturities, and establish the minimum amount of deposits in each official currency referenced; (iv) final draft RTS to specify the highly liquid financial instruments having minimal market, credit and concentration risk. These draft RTS define highly liquid financial instruments, set a concentration limit by issuer of highly liquid financial instruments, taking into account the prudential framework applicable to UCITS, and provide an unwinding mechanism for secured funding, secured lending or collateral swap transactions for determining the amount of the reserve of assets; (v) final draft RTS to specify the minimum content of the liquidity management policy and procedures for identifying, measuring and managing liquidity risk of issuers of crypto-assets; and (vi) Guidelines on recovery plans specifying the format and the content of the recovery plan that issuers of ARTs and EMTs need to develop and maintain.

- ◆ Final report on Guidelines on recovery plans under Articles 46 and 55 of the MiCA Regulation
- ◆ Final report on draft RTS to specify the minimum content of liquidity management policy and procedures under Article 45(7)(b) of the MiCA Regulation
- ◆ Final report on draft RTS to specify the highly liquid financial instruments with minimal market risk, credit risk and concentration risk under Article 38(5) of the MiCA Regulation
- ◆ Final report on draft RTS further specifying the liquidity requirements of the reserve of assets under Article 36(4) of the MiCA Regulation

- ◆ Final report on draft RTS to specify the procedure and timeframe to adjust the own funds requirements for issuers of significant ARTs or EMTs subject to such requirements
- ◆ Final report on draft RTS on adjustment of own funds requirements and stress testing of issuers of ARTs and of EMTs subject to such requirements

Date of publication: 13/06/2024

EBA: Final draft RTS and Guidelines on governance, conflicts of interest, and remuneration under the MiCA Regulation

Status: Final

The EBA has published two final reports on draft RTS and a final report on draft Guidelines on governance, conflicts of interest and remuneration under MiCAR: (i) Guidelines on the minimum content of the governance arrangements for issuers of asset-referenced tokens (ARTs) – these specify further the various governance provisions in MiCAR, including clarifying the tasks, responsibilities and organisation of the management body, and the organisational arrangements of issuers, including the sound management of risks across all the three lines of defence; (ii) final draft RTS on the minimum content of the governance arrangements on the remuneration policy – these are applicable to issuers of significant ARTs and electronic money institutions issuing significant e-money tokens (EMTs), and, where Member States decide to apply Article 45(1) MiCAR, to issuers of non-significant EMTs. To ensure that remuneration policies promote the sound and effective risk management of issuers, do not create incentives to reduce risk standards and ensure the cross sectoral consistency, these final draft RTS set out a framework similar to the remuneration framework for investment firms that aims at achieving the same regulatory objectives; and (iii) final draft RTS on conflicts of interest for issuers of ARTs – these specify the requirements for policies and procedures on conflicts of interest. The final draft RTS underline that issuers of ARTs should pay particular attention to conflicts of interest that could arise in relation to the reserve of assets. Where the issuer of ARTs is a member of a group, the policies and procedures must also take into account any circumstances which may give rise to a conflict of interest due to the structure and business activities of other entities within the group.

The two final draft RTS will now be submitted to the EC for endorsement after which they will be scrutinised by the EP and the Council of the EU before being published in the OJ and entering into force 20 days later.

- ◆ Guidelines on the minimum content of the governance arrangements for issuers of ARTs
- ◆ Final report on draft RTS on the minimum content of the governance arrangements on the remuneration policy under Article 45 MiCA Regulation
- ◆ Final report on draft RTS specifying the requirements for policies and procedures on conflicts of interest for issuers of ARTs under Article 32(5) MiCA Regulation

Date of publication: 06/06/2024

ESAs: MoU on with the ENISA to strengthen cooperation and information exchange

Status: Final

The ESAs have announced that they have concluded a multilateral MoU to strengthen cooperation and information exchange with the European Union Agency for Cybersecurity (ENISA). For more information, please see section 1.1e) above.

Date of publication: 05/06/2024

9.2 AI

(i) EU

EC: Consultation on AI in the financial sector

Status: Consultation

Deadline for the submission of comments: 13/09/2024

The EC has launched a consultation on the use of AI in the financial sector. The consultation aims to aid the EC in developing guidance for the financial sector across all market areas in preparation for the expected adoption of the AI Act in July. The survey covers three aspects: (i) general questions on development of AI, (ii) specific use cases in finance, and (iii) the AI Act in relation to the financial sector, focusing on the industry's needs in order to implement the upcoming AI framework. The EC has specifically requested input from those financial services companies that are actively providing or developing AI technology.

Alongside the consultation, the ESAs will run a series of workshops providing a platform for stakeholders to exchange knowledge about the latest industry developments and present their progress on ongoing projects. The workshops will take place during the Autumn with registration closing on 26 July. If sufficient progress is made, the EC intends to publish a report on the findings and analysis of main trends and issues arising with the use of AI applications in financial services.

Date of publication: 18/06/2024

(ii) International

BCBS: Report on AI and the economy regarding implications for central banks

Status: Final

The BCBS has pre-released a chapter on AI and the economy as part of the annual economic report 2024. It sets out that the rapid adoption of AI requires central banks to embrace the new technology, urging policymakers to anticipate the transformative effects of AI on the economy and to use it to sharpen their own analytical tools in pursuit of financial and price stability. This chapter lays out the implications of new AI applications for central banks. AI is poised to impact the financial system, labour markets, productivity and economic growth. With widespread adoption, it could enhance firms' ability to adjust prices faster in response to macro-economic changes with repercussions for inflation dynamics. The job of central banks as stewards of the economy will also be directly affected as frontline users of AI tools. Central bank use cases for AI include enhancing nowcasting by using real-time data to better predict inflation and other economic variables and to sift through data for financial system vulnerabilities, allowing authorities to better manage risks. Data have become an even more valuable resource with the advent of AI and will be the cornerstone of central banks' use of the technology.

Date of publication: 25/07/2024

9.3 SUSTAINABLE FINANCE

(i) EU

ESAs: Joint Opinion on the assessment of the SFDR

Status: Final

The ESAs have published a joint Opinion on the assessment of the Sustainable Finance Disclosure Regulation (SFDR), calling for a coherent sustainable finance framework that caters for both the green transition and enhanced consumer protection, taking into account the lessons learned from the functioning of the SFDR. They focus on ways to introduce simple and clear categories for financial products. The simplifications consist of two voluntary product categories, "sustainable" and "transition", that financial market participants should use to ensure consumers understand the purpose of the products. The rules for the categories should have a clear objective and criteria to reduce greenwashing risks. The ESAs recommend that the EC consider the introduction of a sustainability indicator that would grade financial products such as investment funds, life insurance and pension products.

In addition, the Opinion also covers the following areas: (i) appropriate disclosures for products outside the two categories to reduce greenwashing; (ii) improvements to the definition of sustainable investments; (iii) simplification to the way disclosures are presented to investors; (iv) other technical suggestions including on which products should fall under the scope of SFDR and on how to improve disclosures regarding the negative impact of investments on people and the environment; and (v) the need for consumer testing before putting forward any policy proposals to review the SFDR, such as to introduce a categorisation system and/or an indicator.

Date of publication: 18/06/2024

Council of the EU: Adoption of its position on the Green Claims Directive

Status: Draft

The Council of the EU has published its adopted position on the Green Claims Directive. This Directive 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.

This adopted position will form the basis for negotiations with the EP on the final shape of the Directive. Negotiations are expected to begin in the new legislative cycle.

Date of publication: 17/06/2024

ESAs: Two reports on greenwashing

Status: Final

The ESAs have published their final reports on greenwashing in the financial sector. Each ESA provides a stocktake of the current supervisory response to greenwashing risks under its remit and notes that national competent authorities (NCAs) are already taking steps in the area of supervision of sustainability-related claims. The quantitative analysis of greenwashing in the EU shows a clear increase in the total number of potential cases across all sectors. Each report provides recommendations for market participants, NCAs, the ESAs and the EC in relation

to greenwashing. The recommendations include that market participants: (i) take all necessary steps to ensure that sustainability information provided is fair, clear, and not misleading; (ii) review and adapt their governance arrangements and internal processes to build safeguards against greenwashing, take a proactive approach in addressing data challenges, and consider the extent to which external verification and alignment with market guidance would support credibility of green or sustainable products and/or targets; and (iii) take a series of measures at both the entity level and the product level to ensure that sustainability claims are accurate, substantiated, up to date, that they fairly represent the institution's overall profile or the profile of the product, and are presented in an understandable manner.

While the ESAs' reports focus on the EU's financial sector, they acknowledge that addressing greenwashing requires a global response, involving close cooperation among financial supervisors and the development of interoperable standards for sustainability disclosures. Building on the preliminary regulatory remediation actions identified in ESMA's June 2023 progress report, ESMA will publish an opinion with views on how the EU regulatory framework for sustainable finance could further facilitate the investors' journey.

- ◆ [ESMA final report on greenwashing](#)
- ◆ [EBA final report on greenwashing monitoring and supervision](#)

Date of publication: 04/06/2024

(ii) International

NGFS: 2nd edition of NGFS guide on climate-related disclosure for central banks

Status: Final

The NGFS has updated its guide on climate-related disclosure for central banks. The guide calls on central banks to disclose their climate-related risks and opportunities. The updated guide is organised around the four thematic areas identified by the Task Force on Climate-Related Financial Disclosures (TCFD) – governance, strategy, risk management and metrics and targets. It builds on and aims to complement the original TCFD recommendations, providing additional guidance for central banks. The updates include: (i) a new chapter on metrics and targets benefits from the NGFS' work on sustainable and responsible investment; (ii) additional support on the disclosure of internal operations, building on work conducted by the NGFS subgroup on greening central banks' corporate operations; and (iii) new sections on the disclosure on institutional functions, i.e. monetary policy, supervision, financial stability. Looking ahead, the NGFS will build upon the guide to further strengthen its role as a forum for central banks to share their practical experiences, and support one another in enhancing their climate-related measures.

Date of publication: 19/06/2024

Contact

Financial Services Regulatory



Dr Alexander Behrens
Key contact — Partner

Tel +49 69 2648 5730
alexander.behrens@aoshearman.com



Brice Henry
Partner — Paris

Tel +33 140065366
brice.henry@aoshearman.com



Mia Dassas
Partner — Paris

Tel +33 140065364
mia.dassas@aoshearman.com



Pien Kerckhaert
Partner — Amsterdam

Tel +31 20 674 1309
pien.kerckhaert@aoshearman.com



Sylvia Kierszenbaum
Partner — Brussels/Antwerp

Tel +32 3 287 74 10
sylvia.kierszenbaum@aoshearman.com



Axel de Backer
Partner — Brussels/Antwerp

Tel +32 3 287 7402
axel.debacker@aoshearman.com



Salvador Ruiz Bachs
Partner — Madrid

Tel +34 91 782 99 23
salvador.ruizbachs@aoshearman.com



Baptiste Aubry
Partner — Luxembourg

Tel +352 44 44 5 5245
baptiste.aubry@aoshearman.com



Carole Schmidt
Knowledge Counsel — Luxembourg

Tel +352 44 44 5 5275
carole.schmidt@aoshearman.com



Lisa Huber
Knowledge Lawyer — Germany

Tel +49 69 2648 5467
lisa.huber@aoshearman.com

For more information, please contact:

Frankfurt

Bockenheimer Landstraße 2
60306 Frankfurt am Main
Germany

Tel +49 69 2648 5000

Fax +49 69 2648 5800

Global presence

A&O Shearman is an international legal practice with nearly 4,000 lawyers, including some 800 partners, working in 29 countries worldwide. A current list of A&O Shearman offices is available at aoshearman.com/en/global-coverage.

A&O Shearman means Allen Overy Shearman Sterling LLP and/or its affiliated undertakings. Allen Overy Shearman Sterling LLP is a limited liability partnership registered in England and Wales with registered number OC306763. Allen Overy Shearman Sterling (Holdings) Limited is a limited company registered in England and Wales with registered number 07462870. Allen Overy Shearman Sterling LLP (SRA number 401323) and Allen Overy Shearman Sterling (Holdings) Limited (SRA number 557139) are authorised and regulated by the Solicitors Regulation Authority of England and Wales.

The term partner is used to refer to a member of Allen Overy Shearman Sterling LLP or a director of Allen Overy Shearman Sterling (Holdings) Limited or, in either case, an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Allen Overy Shearman Sterling LLP's affiliated undertakings. A list of the members of Allen Overy Shearman Sterling LLP and of the non-members who are designated as partners, and a list of the directors of Allen Overy Shearman Sterling (Holdings) Limited, is open to inspection at our registered office at One Bishops Square, London E1 6AD.

A&O Shearman was formed on 1 May, 2024 by the combination of Shearman & Sterling LLP and Allen & Overy LLP and their respective affiliates (the legacy firms). This content may include material generated and matters undertaken by one or more of the legacy firms rather than A&O Shearman.

© Allen Overy Shearman Sterling LLP 2024. This document is for general information purposes only and is not intended to provide legal or other professional advice. | 0424_CDD76626