

A&O SHEARMAN



Regulatory monitoring: EU Version

NEWSLETTER

DECEMBER 2024

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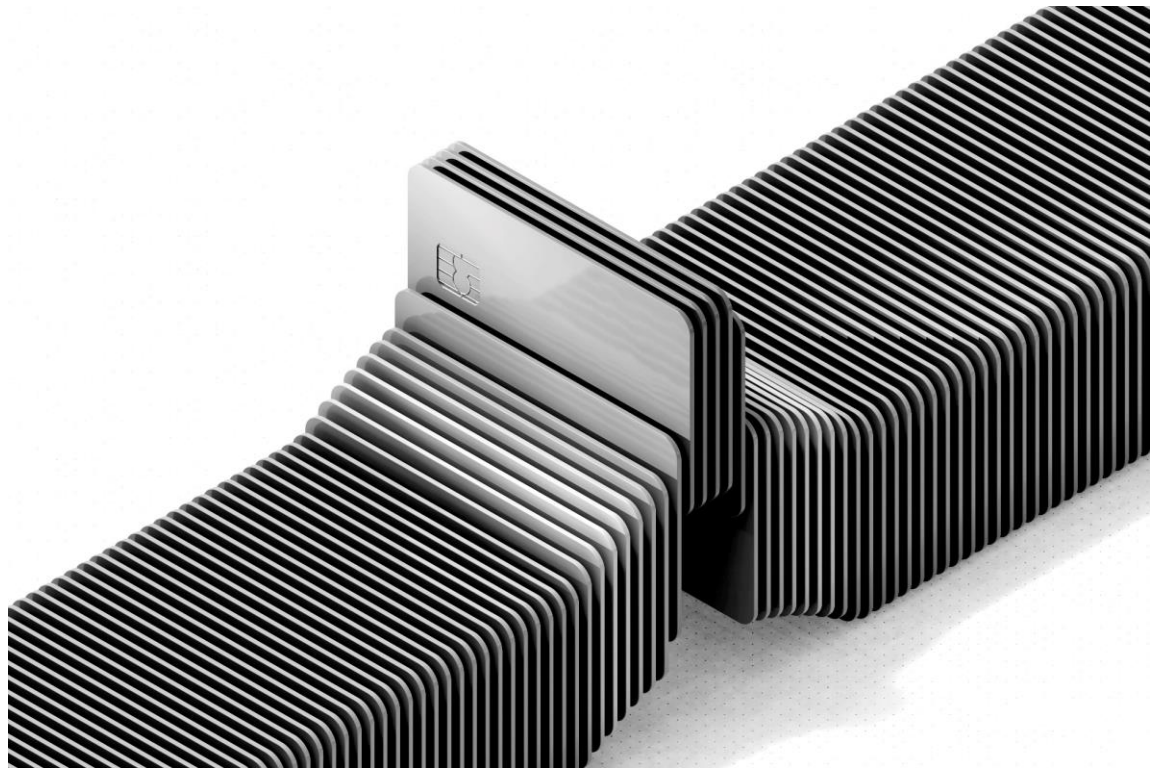
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FEATURES

HORIZON SCANNING/REGULATORY MONITORING

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

FINANCIAL REGULATORY LAW SOURCEBOOK

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

IMPLEMENTATION MANAGEMENT

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

CHANGE ANALYSIS AND PREVIEW OF RULES

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

1. Bank regulation

1.1 PRUDENTIAL REGULATION

a) General

(i) International

FSB: Plenary December 2024

Status: Final

The FSB has set out the outcomes of its Plenary that met on 3 and 4 December. Points of interest include: (i) climate-related financial risks – the Plenary discussed progress in the four areas of the roadmap for addressing climate-related financial risks as well as EMDE-specific climate vulnerabilities and ways to help address those vulnerabilities. The FSB will issue its next report on progress with the roadmap in mid-2025; (ii) non-bank financial intermediation (NBFi) – the FSB will shortly publish its final policy recommendations on measures to enhance liquidity preparedness of non-bank market participants for margin and collateral calls and will be launching a consultation on proposed policy recommendations to monitor and address financial stability risks from NBFi leverage. The Plenary agreed to steps for how to overcome data issues that are hampering efforts to further improve the ability of authorities to effectively assess vulnerabilities stemming from the non-bank sector and to calibrate appropriate policies; (iii) 2025 work programme – the FSB agreed the work programme and confirmed the extension of Klaas Knot's term as FSB Chair until 1 July 2025. The finalised work programme will be published in early 2025.

Date of publication: 04/12/2024

b) Solvency/Own funds issues

(i) EU

EBA: Final draft RTS on the exemption from residual risk add-on own funds requirements for a certain type of hedges under Article 325u(4a) CRR II

Status: Final

The EBA has published final draft RTS on the conditions for determining whether an instrument attracting residual risk acts as a hedge. The RTS are part of the Phase 1 deliverables of the EBA roadmap on the implementation of the EU banking package in the area of market risk. The EU Banking Package introduces a provision in the residual risk add-on (RRAO) framework allowing the exemption from the RRAO charge for those instruments bearing residual risks that are, in turn, used to hedge instruments bearing residual risks. These RTS specify when an instrument qualifies as a hedge for the purpose of the exemption and when not.

The EBA will submit the final draft RTS to the EC for endorsement, after which they will be subject to scrutiny by the EP and the Council. If neither object, the Delegated Regulation containing the RTS will be published in the OJ.

Date of publication: 17/12/2024

EBA: Consultation on draft RTS amending Delegated Regulation (EU) No 529/2014 supplementing the CRR with regard to RTS for assessing the materiality of extensions and changes of the IRBA

Status: Consultation

Deadline for the submission of comments: 10/03/2024

The EBA has launched a public consultation on its draft RTS clarifying and enhancing the conditions for assessing material model changes (MMC) and extensions following a review of the related Delegated Regulation. This review aimed to align the existing RTS with the amendments brought in by the CRR 3, and to introduce amendments to enhance the supervisory effectiveness of the approval process for model changes.

Date of publication: 09/12/2024

EBA: Final draft RTS on long and short positions for the thresholds calculation in market and counterparty credit risk

Status: Final

The EBA has finalised its draft RTS on the method for identifying the main risk driver of a position and for determining whether a transaction represents a long or a short position under Article 94(1) CRR, as amended by CRR3. The proposed general method to identify the main risk drivers hinges on sensitivities defined under the market risk standardised approach or on add-ons defined under the standardised approach for counterparty credit risk (SA-CCR). For the determination of the direction of the positions, the methodology is aligned with the one set out in the RTS on SA-CCR. A simplified method has also been included, covering relatively simple instruments, such as fixed-rate bonds, floating-rate notes, stocks, forwards, futures, simple swaps and plain vanilla options.

The EBA will submit the final draft RTS 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: 06/12/2024

c) Securitisation

(i) EU

ESMA: Feedback on review of securitisation disclosure templates

Status: Final

ESMA has published a feedback statement summarising the responses it received to its consultation on the securitization disclosure templates under the Securitisation Regulation. The publication provides a detailed analysis of stakeholder feedback on the costs and benefits of revising the existing disclosure framework, in line with the four potential implementation options proposed in the CP.

Overall, respondents acknowledge the need for further improvements to the securitisation transparency regime but recommend postponing the template review due to concerns about its timeline in relation to a broader SECR review. In their responses stakeholders asked ESMA to prioritise short-term solutions that address the most pressing industry challenges, such as regulatory compliance costs, and the need for a simplified template for private securitisations.

Date of publication: 20/12/2024

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

(i) EU

ECB: SREP results 2024 and supervisory priorities 2025-2027

Status: Final

The ECB has published the results of its Supervisory Review and Evaluation Process (SREP) for 2024 and its supervisory priorities for 2025-27. The SREP found that ECB-supervised euro area banks had strong capital and liquidity positions and remained resilient in 2024. The average overall SREP score remained stable at 2.6. Geopolitical risks (e.g., the conflict in the Middle East, the Russia-Ukraine war and US/China tensions over Taiwan) persist and are often not priced in on financial markets until they materialise, meaning the ECB is prioritising strengthening resilience to geopolitical shocks. The ECB also calls for heightened vigilance due to the weakening macroeconomic outlook and structural changes in the economy.

The ECB's supervisory priorities for 2025-27 include: (i) banks should strengthen their ability to withstand immediate macro-financial threats and severe geopolitical shocks; (ii) banks should remedy persistent material shortcomings in an effective and timely manner; and (iii) banks should strengthen their digitalisation strategies and tackle emerging challenges stemming from the use of new technologies. Each priority targets a specific set of vulnerabilities in the banking sector, referred to as "prioritised vulnerabilities", for which the ECB has a set of strategic objectives and developed work programmes.

Date of publication: 17/12/2024

Directive (EU) 2024/2994 amending the UCITS Directive, CRD and IFD as regards the treatment of concentration risk arising from exposures towards CCPs and of counterparty risk in centrally cleared derivative transactions

Status: Published in the OJ

Date of entry into force: 24/12/2024

Date of application: 25/06/2026

The EMIR 3 Directive has been published in the OJ. For more information, please see section 4.1 below.

Date of publication: 04/12/2024

(ii) International

BCBS: Final Guidelines for counterparty credit risk management

Status: Final

The BCBS has published the final version of its Guidelines for counterparty credit risk (CCR) management, replacing its 'Sound Practices for Banks' Interactions with Highly Leveraged Institutions' (originally published in January 1999). The Guidelines provide a supervisory response to the significant shortcomings that have been identified in banks' management of CCR, including the lessons learned from recent episodes of non-bank financial intermediary (NBFI) distress. The Guidelines include the need to: (i) conduct comprehensive due diligence both at initial onboarding and on an ongoing basis; (ii) develop a comprehensive credit risk mitigation strategy to manage counterparty exposures effectively; (iii) measure, control and limit CCR using a wide variety of complementary metrics; and (iv) build a strong CCR governance framework. Banks and supervisors are encouraged to take a risk-

based and proportional approach in the application of the Guidelines. The BCBS will continue to monitor implementation of the Guidelines on an ongoing basis.

Date of publication: 11/12/2024

e) Cyber security

(i) EU

ESAs: Report on key findings from the 2024 dry run exercise on reporting registers of information under DORA

Status: Final

The ESAs have published a summary report with the key findings from the 2024 Dry Run exercise on reporting the registers of information under DORA. The quality of data observed in the registers submitted by almost 1,000 financial entities across the EU was in line with the ESAs' expectations, considering the 'best effort' nature of the exercise. The ESAs are confident that the objective of having registers of sufficient quality in 2025 that would allow for the designation of critical third-party service providers is not out of reach, subject to some additional efforts from the industry. The ESAs advise that all industry stakeholders carefully consider the report and all supporting materials to aid in preparing to report the registers in 2025.

Date of publication: 17/12/2024

ESAs: Joint statement urging financial entities to ensure timely compliance with DORA

Status: Final

The ESAs have published a joint statement on the application of DORA. The ESAs emphasise that as DORA does not provide for a transitional period, it is important for financial entities to adopt a robust, structured approach in order to meet their obligations in a timely manner. DORA, and the technical standards and Guidelines supplementing it, applies from 17 January 2025. Financial entities are expected to identify and address in a timely manner gaps between their internal setups and the DORA requirements. Financial entities should also prepare for the new reporting obligations. In particular, financial entities need to have their registers of ICT third-party providers' contractual arrangements available for competent authorities early in 2025, as the latter will have to report them to the ESAs by 30 April 2025. The ESAs note that competent authorities will supervise compliance with the DORA requirements in a risk-based manner considering the risk profile, size, complexity and scale of financial entities. The ESAs invite ICT third-party service providers, which consider they may meet the criticality criteria published in May, to assess their operational setup against DORA requirements. The first designation of critical third-party service providers is expected to take place in H2, 2025.

Date of publication: 04/12/2024

Commission Implementing Regulation (EU) 2024/2956 laying down ITS for the application of DORA with regard to standard templates for the register of information

Status: Published in the OJ

Date of entry into force: 22/12/2024

The Commission Implementing Regulation 2024/2956 laying down ITS for the application of DORA with regard to standard templates for the register of information, has been published in the OJ. Under Article 28(3) of DORA, as part of their ICT risk management framework, financial entities must maintain and update at entity level, and at sub-consolidated and consolidated levels, a register of information for all contractual arrangements on the use of ICT

services provided by ICT third-party service providers. These ITS set out the standard templates for the register of information.

The EC had rejected the ESA's draft ITS in September on the basis that financial entities should have the choice of using either EU unique identifiers (EUIDs) or legal entity identifiers (LEIs). The ESAs published an opinion in October setting out their concerns for introducing the EUID as an identifier for these purposes. Nonetheless, the Implementing Regulation refers to financial entities using a valid and active LEI or EUID.

Date of publication: 02/12/2024

Council of the EU: Adoption of new laws to strengthen cyber security capacities in the EU

Status: Adopted by the Council of the EU

The Council of the EU has adopted two new laws aimed at strengthening the EU's solidarity and capacity to detect, prepare for and respond to cybersecurity threats and incidents: (i) the Cyber Solidarity Act; and (ii) the Cybersecurity Act. They mainly aim to: (i) support detection and awareness of significant or large-scale cybersecurity threats and incidents; (ii) bolster preparedness and protect critical entities and essential services, such as hospital and public utilities; (iii) strengthen solidarity at EU level, concerted crisis management and response capabilities across member states; and (iv) contribute to ensuring a safe and secure digital landscape for citizens and businesses.

Date of publication: 02/12/2024

f) Supervisory reporting

(i) EU

Commission Implementing Regulation (EU) 2024/3117 laying down ITS for the application of the CRR with regard to supervisory reporting of institutions and repealing Commission Implementing Regulation (EU) 2021/451

Status: Published in the OJ

Date of entry into force: 28/12/2024

Date of application: 28/06/2025

The Commission Implementing Regulation (EU) 2024/3117 laying down ITS for the application of the CRR with regard to supervisory reporting of institutions and repealing Commission Implementing Regulation (EU) 2021/451 has been published in the OJ. This document aims to implement the changes necessary to keep the supervisory reporting framework relevant and meaningful and aligned with CRR III, which implements the latest Basel III reforms. The ITS update the EBA supervisory reporting framework by including new or amended CRR III requirements on the output floor, credit risk, market risk, CVA risk, leverage ratio and on the transitional treatment of exposures to crypto-assets. They will allow supervisors to have sufficient comparable information to monitor compliance by institutions with CRR III requirements, thus further promoting enhanced and consistent supervision. On operational risk, these ITS also include some minimum reporting requirements.

Date of publication: 27/12/2024

EBA: Technical package for the 4.0 reporting framework

Status: Final

The EBA has published the final technical package for version 4.0 of its reporting framework, which will apply as of the first half of 2025. The package marks the transition to the new Data Point Model (DPM) semantic glossary and introduces the enhanced capabilities of the DPM 2.0 model. It provides the standard specifications that include the validation rules, the DPM and the XBRL taxonomies to support the following reporting obligations: (i) reporting of information by issuers of asset-referenced tokens (ARTs) and electronic money tokens (EMTs); (ii) new Implementing Technical Standards (ITS) amending the supervisory reporting framework (COREP templates) to implement the most immediate changes driven by the EU Banking Package (Capital Requirements Regulation - CRR3 and Capital Requirements Directive - CRDVI) published on 19 June in the Official Journal; (iii) minor amendments to reporting obligations by class 2 investment firms (COREP templates), in alignment with the CRR3/CRDVI changes; and (iv) updated requirements for the registers of information under the Digital Operational Resilience Act (DORA) following the adoption by the EU Commission of the Commission Implementing Regulation (EU) 2024/2956 with regard to standard templates for the register of information.

Date of publication: 19/12/2024

g) Disclosure

(i) EU

Commission Implementing Regulation (EU) 2024/3172 laying down ITS for the application of the CRR with regard to public disclosures by institutions of the information referred to in Part Eight, Titles II and III CRR, and repealing Commission Implementing Regulation (EU) 2021/637

Status: Published in the OJ

Date of entry into force: 20/01/2025

Date of publication: 01/01/2025

The Commission Implementing Regulation (EU) 2024/3172 laying down ITS for the application of the CRR with regard to public disclosures by institutions of the information referred to in Part Eight, Titles II and III CRR, and repealing Commission Implementing Regulation (EU) 2021/637 has been published in the OJ. It 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. The Implementing Regulation aims to provide institutions with a comprehensive integrated set of uniform disclosure formats. The repeal of the Implementing Regulation (EU) 2021/637 is intended to make the technical standards more user-friendly for institutions.

Date of publication: 31/12/2024

1.2 RECOVERY AND RESOLUTION

(i) EU

EBA: Response on the treatment of some legacy instruments of Banque Fédérative du Crédit Mutuel

Status: Final

The EBA has published a response to a letter from a law firm regarding the intention of Banque Fédérative du Crédit Mutuel (BFCM), based in France, to keep some legacy instruments in its balance sheet without any regulatory value.

It has determined that, while the instruments have been rightfully disqualified from all layers of capital and eligible liabilities under applicable grandfathering provisions, they still rank *pari passu* with fully eligible own funds instruments, creating undue complexity within the balance sheet of the issuer and raising concerns in terms of ranking. Therefore, it is the EBA's view that BFCM should target the redemption of these instruments.

In addition, the EBA recalls that the options contained in its [Opinion on legacy instruments](#) were meant for institutions to explore how to dispose of remaining legacy instruments to clean their capital structure and ensure a clear subordination ranking within and between regulatory stacks, while preventing unnecessary complexity. Keeping legacy instruments in the balance sheet was considered to be a last resort option, in cases where the other options provided in the Opinion were not available for institutions. In this regard, it has always been the EBA's expectation that legacy instruments should be phased out.

Date of publication: 20/12/2024

EBA: Handbook chapter on independent valuers for resolution purposes

Status: Final

The EBA has published a Handbook on independent valuers for resolution purposes. The Handbook enhances convergence by providing best practices, high-quality methodologies and processes for the selection and appointment of independent valuers for resolution purposes, as well as examples on the application of these methodologies under some scenarios.

Date of publication: 19/12/2024

(ii) Eurozone

SRB: Public consultation on the operational guidance for banks on resolvability self-assessment

Status: Consultation

Deadline for the submission of comments: 07/02/2025

The SRB has launched a consultation on operational guidance for banks on resolvability self-assessment. The SRB is seeking feedback on its revised approach for assessing banks' resolvability, reflecting the capabilities banks are expected to meet in the steady-state, now that the Expectations for Banks have been fully phased-in. The SRB is strengthening its resolvability assessment methodology, based on lessons learnt from crisis cases, best practices implemented by the industry and the testing of banks' capabilities, reflected in the harmonised resolvability self-assessment template to be completed by banks under the SRB's direct remit. This template aims to help banks report on their resolvability in a harmonised way, enabling the SRB to better compare results and safeguard a level playing field, but also to support the multi-annual testing programme that will start from 2026 onwards. The self-assessment template breaks down the seven dimensions of the Expectations for Banks, which are further substantiated by a set of capabilities that banks are expected to meet in order to demonstrate resolvability. Capabilities are grouped in three levels, where capabilities between levels one and three represent core capabilities necessary to support the execution of a bank's resolution strategy. The new approach adds an additional fourth level, aiming to introduce more advanced capabilities developed by banks beyond those outlined in the previous levels. In the coming months, the SRB will further clarify its expectations in selected areas of the Expectations for Banks, notably as regards resolvability testing, liquidity and funding in resolution, operational continuity in resolution, valuation, communication, management information systems for bail-in execution, separability and business reorganisation post-bail-in. The SRB intends to publish the final self-assessment template during 2025.

Date of publication: 03/12/2024

(iii) International

FSB: 2024 resolution report

Status: Final

The FSB has published its resolution report for 2024. The report takes stock of the FSB resolution-related work of the past year as well as of the progress made by FSB members in implementing resolution reforms and enhancing resolvability across the banking, financial market infrastructure, and insurance sectors. It also sets out the FSB's 2025 priorities in the resolution area and outlines the work the FSB is undertaking to address the remaining lessons from the 2023 bank failures and to advance the resolution framework for insurers and central counterparties. Ensuring an effective resolution framework for the banking sector has been a significant focus for the FSB. The bank failures in 2023 provided several lessons for resolution planning and for the broader elements of the crisis management framework for banks. In the coming year, the FSB will continue to address areas that remain outstanding, specifically: (i) advancing the work on operationalising the use of transfer tools in resolution; (ii) sharing information and enhancing monitoring of implementation of public sector backstop funding mechanisms; (iii) supporting the work on open bank bail-in execution and securities law compliance building on the 2024 technical work; and (iv) promoting cross-border cooperation and information sharing with authorities outside of crisis management groups.

Date of publication: 05/12/2024

2. Investment firms regulation

(i) EU

ESAs: Report on key findings from the 2024 dry run exercise on reporting registers of information under DORA

Status: Final

The ESAs have published a summary report with the key findings from the 2024 dry run exercise on reporting the registers of information under DORA. For more information, please see section 1.1e) above.

Date of publication: 17/12/2024

Directive (EU) 2024/2994 amending the UCITS Directive, CRD and IFD as regards the treatment of concentration risk arising from exposures towards CCPs and of counterparty risk in centrally cleared derivative transactions

Status: Published in the OJ

Date of entry into force: 24/12/2024

Date of application: 25/06/2026

The EMIR 3 Directive has been published in the OJ. For more information, please see section 4.1 below.

Date of publication: 04/12/2024

ESAs: Joint statement urging financial entities to ensure timely compliance with DORA

Status: Final

The ESAs have published a joint statement on the application of DORA. For more information, please see section 1.1e) above.

Date of publication: 04/12/2024

EBA: Final draft ITS amending Commission Implementing Regulation (EU) 2021/2284 with regard to the reporting of information on certain K-factor requirements

Status: Final

The EBA has published amendments to its final draft ITS on the supervisory reporting and disclosures of investment firms. Minor changes to the ITS were required to reflect the CRR3 reforms introduced in the ITS on supervisory reporting of credit institutions, since the ITS are closely linked to the ITS for credit institutions and, in some case, investment firms can use the provisions of CRR. Minor technical amendments have also been made. The amendments cover supervisory reporting requirements on counterparty credit risk, market risk (K-NPR) and credit valuation adjustment risk.

Later in December, the EBA will publish a technical package, which includes the data point modelling, validation rules and taxonomy, that shall be used by investment firms to submit this supervisory reporting information to supervisors. The amendments are expected to be applicable from 1 January 2025.

Date of publication: 03/12/2024

Commission Implementing Regulation (EU) 2024/2956 laying down ITS for the application of DORA with regard to standard templates for the register of information

Status: Published in the OJ

Date of entry into force: 22/12/2024

The Commission Implementing Regulation 2024/2956 laying down ITS for the application of DORA with regard to standard templates for the register of information, has been published in the OJ. For more information, please see section 1.1e) above.

Date of publication: 02/12/2024



3. Market regulation/ Conduct rules

3.1 GENERAL

(i) EU

ESMA: Feedback statement on the criteria to assess CTP applicants

Status: Final

ESMA has published a feedback statement providing an overview of responses received from stakeholders to its public consultation on the future selection of consolidated tape providers (CTPs). ESMA provides a detailed summary of the feedback collected for each of the selection criteria: (i) governance and organisation requirements; (ii) costs, fees and revenue redistribution; (iii) the ability to process data and dissemination speed; (iv) data quality, modern interface and record-keeping; and (v) resilience, cyber-risk and energy consumption.

The final technical specifications will be made publicly available, together with general tendering specifications on the approach and standardised forms, at the launch of each selection procedure. ESMA will launch the selection procedures for the bonds CTP on 3 January 2025, and for the equity CTP in June 2025.

Date of publication: 16/12/2024

ESMA: Speech on vision for securities markets in 2030

Status: Final

ESMA has published a speech by Verena Ross, ESMA Chair, on ESMA's vision for securities markets in 2030. Points of interest include, first, in relation to pre-trade transparency waivers, ESMA sees a growth of frequent-batch auctions and of dark-lit sweep orders. Both seem to be accelerated by the rise in closing auctions, and can be seen as blurring the lines between lit and dark trading. Secondly, ESMA is confident that by 2030 an EU consolidated tape will be established. As already announced, ESMA will be launching the selection for the bonds consolidated tape provider on 3 January 2025 and intends to do so for equities in June 2025. Thirdly, Ms Ross suggests that trading venues and especially large pan-EU groups could promote national hubs to support local entrepreneurs in early stages of development with the goal of bringing them, within a reasonable time, to primary markets. Once those companies are mature enough to embrace public markets, the creation of SME pan-European segments would, in ESMA's view, play a key role in offering visibility at the international level and attracting a diversified pool of investors. Finally, Ms Ross explains that the multi-faceted role of exchanges, not just for trading but for listing and corporate governance, was considered when ESMA presented its recommendations on breaking down the fragmentation of European markets. In her view, one aspect of reducing barriers should be moving towards central EU supervision where appropriate and ESMA has noticed some political appetite for such EU-level supervision for cross-border systemically important infrastructure players.

Date of publication: 04/12/2024

3.2 BENCHMARKS

(i) EU

ESMA: Consultation on Guidelines on internal controls for benchmark administrators, CRAs and market transparency infrastructures

Status: Consultation

Deadline for the submission of comments: 19/03/2025

ESMA has published a consultation on draft Guidelines on internal controls for Benchmark Administrators (BMAs), Credit Rating Agencies (CRAs) and Market Transparency Infrastructures (MTIs which include Trade Repositories, Data Reporting Services Providers and Securitisation Repositories). The Guidelines outline ESMA's expectations for the components and characteristics of an effective internal control system. The proposed Guidelines build on the internal control Guidelines currently in place for CRAs and extend them to BMAs, and MTIs. They also revise ESMA's expectations considering the growing impact of technology on supervised entities' operations, including in terms of managing technology risk from external and internal sources, and the integration of new technologies into supervised entities' internal controls. In addition, the draft Guidelines explain in greater detail how ESMA applies proportionality in its expectations regarding the internal controls for a supervised entity.

ESMA expects to publish a final report by Q4 2025.

Date of publication: 19/12/2024

Council of the EU/EP: Provisional agreement on Regulation amending the BMR

Status: Draft

The Council of the EU and the EP reached a provisional agreement on the proposed Regulation amending the BMR. The proposed Regulation will amend the scope of the benchmark rules, the use of benchmarks provided by a third-country administrator, and certain reporting requirements. The Council and EP agreed: (i) to reduce the regulatory burden on administrators of non-significant benchmarks by removing them from the scope of current rules; (ii) that only those benchmarks defined as critical or significant, EU Paris-aligned benchmarks, EU Climate Transition benchmarks, and certain commodity benchmarks should remain in scope. In addition, there will be the option for out-of-scope administrators to opt-in voluntarily under certain conditions; (iii) to add further qualitative criteria to the calculation methodology for significant benchmarks; (iv) to grant extended competence to ESMA, in respect of supervising the endorsement of administrators; (v) that supervised entities would only be allowed to use EU and third-country benchmarks that claim to take ESG factors into account in their methodology if the benchmark administrator discloses certain information; and (vi) to keep a specific exemption regime for spot foreign exchange benchmarks in the rules.

The provisional agreement needs to be confirmed by both institutions before being prepared for formal adoption. Once formally adopted, the final text will be published in the OJ, enter into force, and apply from 1 January 2026.

Date of publication: 12/12/2024

3.3 CAPITAL MARKETS UNION

(i) EU

ESMA: Consultation on technical advice on Listing Act implications

Status: Consultation

Deadline for the submission of comments: 13/02/2025

ESMA has launched a consultation on technical advice required following changes to MAR and MiFID II as a result of the Listing Act. Regarding MAR, ESMA is invited to provide technical advice in relation to the disclosure of inside information in a protracted process, and conditions to delay the disclosure of inside information. ESMA is also providing information on the revenues of trading venues with a cross-border activity above 50% in the context of the Cross Market Order Book mechanism to exchange order data. Regarding MiFID, ESMA is providing technical advice on the delegated acts regarding requirements for a multilateral trading facility (MTF) (or an MTF segment) to be registered as a Small and Medium Enterprises Growth Market (SME GM). In line with the objectives of the Listing Act, ESMA's technical advice aims to ensure that the EU's regulatory framework promotes better access to public capital markets for EU companies, especially SMEs, by reducing the administrative burden of listing while ensuring integrity and confidence in capital markets.

ESMA aims to deliver its technical advice to the EC before the set deadline or 30 April 2025.

Date of publication: 12/12/2024

3.4 CREDIT RATING AGENCIES

(i) EU

ESMA: CRA market share report 2024

Status: Final

ESMA has published the 2024 edition of its CRA Market Share Report. Under Article 8d of the CRA Regulation, ESMA is required to publish an annual list of registered CRAs and the types of credit ratings they issue, together with a calculation of CRAs' revenues from credit rating activities and ancillary services at group level. Article 8d also requires issuers or related third parties, who intend to appoint two or more CRAs to rate an issuance or entity, to consider appointing at least one CRA with no more than 10% of the total market share in the EU. Where an issuer or related third party does not choose to appoint a CRA with a less than 10% total market share in such cases, the CRA Regulation requires this decision to be documented. The obligations of Article 8d are supervised and enforced at national level by the relevant sectoral competent authorities. The purpose of Article 8d is to increase competition in the credit rating industry by encouraging issuers or related third parties to consider the appointment of smaller CRAs. Notable sections of the report include: (i) section 7 which provides a list of registered CRAs indicating total market share for each; (ii) section 8 which identifies the different types of credit ratings offered by each CRA; and (iii) section 9 which provides a breakdown of credit ratings by asset class.

Date of publication: 19/12/2024

ESMA: Consultation on Guidelines on internal controls for benchmark administrators, CRAs and market transparency infrastructures

Status: Consultation

Deadline for the submission of comments: 19/03/2025

ESMA has published a consultation on draft Guidelines on internal controls for Benchmark Administrators (BMAs), Credit Rating Agencies (CRAs) and Market Transparency Infrastructures (MTIs which include Trade Repositories, Data Reporting Services Providers and Securitisation Repositories). For more information, please see section 3.2 above.

Date of publication: 19/12/2024

ESMA: Final Report on technical advice on revisions to Commission Delegated Regulation (EU) 447/2012 and Annex I of CRA Regulation

Status: Final

ESMA has published technical advice on revisions to Delegated Regulation (EU) 447/2012 and Annex I of the CRA Regulation. The proposed amendments are intended to ensure the better traceability on the incorporation of ESG factors in credit rating methodologies and better disclosure of the relevance of ESG factors to individual credit rating actions. The proposals address the need to update several provisions of Delegated Regulation (EU) No 447/2012 to reflect ESMA's supervisory observations. The technical advice includes ESMA's final proposals following the conclusion of the consultation conducted by ESMA and explains how this feedback has been considered in developing the final technical advice. In addition, Annex III provides ESMA's proposed amendments to Delegated Regulation (EU) No 447/2012 and Annex I of the CRA Regulation.

Date of publication: 18/12/2024

3.5 MIFID/MIFIR

(i) EU

ESMA: Consultation on EU code of conduct for issuer-sponsored research

Status: Consultation

Deadline for the submission of comments: 18/03/2025

ESMA has launched a consultation on draft RTS to establish an EU code of conduct for issuer-sponsored research. When final, the RTS will supplement MiFID II, as amended by the Listing Act Directive, which provides that investment firms distributing to clients or potential clients research that is paid for, fully or partially, by an issuer, is labelled as issuer-sponsored research. Only research that is prepared in accordance with an EU code of practice may be labelled issuer-sponsored research.

The code of conduct sets out standards of independence and objectivity for research providers and specifies procedures and measures for the effective identification, prevention, and disclosure of conflicts of interest, with a view to enhance the trust in and use of issuer-sponsored research. In its proposals ESMA indicates that: (i) issuers and research providers should only enter into an agreement where the minimal initial term of the contract is two years and where, at minimum, 50% of the annual remuneration is paid upfront; (ii) research providers should establish, implement and maintain an effective conflicts of interest policy; and (iii) research that is fully paid for by the issuer should be made public immediately. Investment firms will also be expected to ensure that all issuer-

sponsored research that they produce or intend to distribute to (potential) clients complies with the code of conduct.

The consultation is primarily aimed at research providers, issuers, investment firms, and investors. ESMA expects to publish a final report and submit the draft technical standards to the EC for endorsement by 5 December 2025.

Date of publication: 18/12/2024

ESMA: Final report on technical standards on CTPs and DRSPs

Status: Final

ESMA has published a final report on new and revised technical standards for consolidated tape providers (CTPs) and other data reporting services providers (DRSPs) under MiFIR II. The report covers the final RTS applicable to CTPs on: (i) data quality and reporting (changes to ESMA's original proposal have been made regarding input data formats, CTPs' responsibilities on input data quality and latency requirements); (ii) revenue redistribution and authorisation (refinements from ESMA's original proposal have been made to allow greater flexibility to the CTP when applying the revenue distribution scheme); and (iii) clock synchronisation (which largely align with ESMA's original proposal). The report also includes revised Technical Standards on the authorisation of DRSPs (which were largely as consulted on).

The final report has been submitted to the EC, which has three months to decide whether to endorse the proposed amendments to the RTS.

Date of publication: 16/12/2024

ESMA: Final report on equity transparency under MiFID II

Status: Final

The ESMA has published a final report, setting out proposals for amendments related to equity transparency under MiFID II. The report includes proposals for the amendment of the RTS as well as the technical advice on the provisions on equity transparency, covering: (i) changes to the definition of a liquid market for equity instruments. The new liquidity assessment for shares is now solely based on the market capitalisation instead of the free-float; (ii) specification of information to be disclosed for pre-trade transparency purposes, which is also of relevance for the equity consolidated tape; (iii) review of the pre-trade transparency requirements for systematic internalisers, including the calibration of two quoting sizes; and (iv) post-trade transparency reports, including flags for equity instruments. In addition, the proposals include changes related to the discontinuation of reporting of data for the purpose of transparency calculations. Going forward, ESMA will perform these calculations using transaction data reported under Article 26 of MiFIR.

The final report has been submitted to the EC, which has three months to decide whether to endorse the proposed amendments to the RTS. Similar amendments will be proposed in early 2025 for the volume cap mechanism.

Date of publication: 16/12/2024

ESMA: Final report on MiFIR review of RTS 2 on transparency for bonds, structured finance products and emission allowances and RTS on reasonable commercial basis

Status: Final

ESMA has published its final report, covering mandates under the MiFIR Review for the review of the RTS on transparency requirements for bonds, structured finance products and emission allowances and the RTS on the “reasonable commercial basis” upon which firms should provide market data.

Regarding the non-equity transparency requirements set out in Commission Delegated Regulation (EU) 2017/583 (RTS 2), the draft RTS propose amendments to: (i) the pre-trade transparency requirements, in particular in relation to the definition and characteristics of central limit order books and periodic auctions; (ii) the pre-trade waiver regime; (iii) the deferral regime for bonds, structured finance products and emission allowances; and (iv) specific transparency fields and flags. The draft RTS on reasonable commercial basis cover the obligation to make pre- and post-trade data available on a reasonable commercial basis. They include requirements on the calculation of fees, cost and margins of market data, non-discriminatory access, unbiased and fair contractual terms and the content, format and terminology of the market data policies.

The final report has been submitted to the EC, which has three months to decide whether to endorse the proposed RTS. ESMA intends to publish another consultation paper addressing the transparency mandate for derivatives in early 2025.

Date of publication: 16/12/2024

ESMA: Final report on the amendments to certain technical standards for commodity derivatives

Status: Final

ESMA has published a final report on proposed amendments to certain MiFID II technical standards in relation to commodity derivatives in response to amendments introduced by the MiFID Review. The final report details the proposed changes to Commission Delegated Regulation (EU) 2022/1299 (RTS on position management controls), Commission Implementing Regulation (EU) 2017/1093 (ITS 4), and Article 83 on position reporting in Commission Delegated Regulation (EU) 2017/565.

Changes relating to commodity derivatives introduced by the MiFID Review include: (i) extending position management controls to trading venues which trade derivatives on emission allowances; (ii) amending the scope of position reporting by excluding emission allowances; and (iii) introducing a new obligation to publish a second weekly position report for trading venues trading options.

The final report has been submitted to the EC, which has three months to decide whether to endorse the proposed amendments to the technical standards.

Date of publication: 16/12/2024

(ii) International

ISDA: Paper on Compliance Requirements under MiFIR

Status: Final

The ISDA published a paper on compliance with requirements relating to MiFIR post-trade transparency (PTT) reporting of single-name CDS (SN CDS) that reference G-SIBs. A significant proportion of these products have only become subject to MiFIR transparency this year, due to changes resulting from the EU MiFID Review and the new

MiFIR Article 8a2(b). ISDA highlights that trading in these products is concentrated in a handful of market standard reference entities that directly represent the core banking entities of those GSIBs and illustrates this by mapping the relevant legal entity identifiers (LEIs) against the G-SIBs, creating a list of market standard reference entities. ISDA does not propose maintaining such a list on an ongoing basis, but suggests that publication of a G-SIB LEI list for the purposes of MIFIR transparency would support consistent compliance in the market. Ideally, ESMA would make a list of G-SIB LEIs available to market participants in guidance or RTS.

Date of publication:: 09/12/2024



4. Market infrastructure

4.1 EMIR

(i) EU

ESMA: Consultation on Guidelines on internal controls for benchmark administrators, CRAs and market transparency infrastructures

Status: Consultation

Deadline for the submission of comments: 19/03/2025

ESMA has published a consultation on draft Guidelines on internal controls for Benchmark Administrators (BMAs), Credit Rating Agencies (CRAs) and Market Transparency Infrastructures (MTIs which include Trade Repositories, Data Reporting Services Providers and Securitisation Repositories). For more information, please see section 3.2 above.

Date of publication: 19/12/2024

EBA: No action letter on application of EMIR3 with respect to initial margin model authorisation

Status: Final

The EBA has published a no action letter stating that competent authorities (CAs) should not prioritise any supervisory or enforcement action in relation to the processing of applications for initial margin (IM) model authorisation received as a result of the entry into force of EMIR 3. This law requires that counterparties apply for authorisation to their CAs before using, or adopting a change to, a model for initial margin calculation. Compliance with this requirement immediately after EMIR 3 enters into force may cause difficulties for CAs and counterparties until the EBA has established its central validation function and the draft RTS and Guidelines setting out key requirements have been published.

The no action letter sets a registration process for counterparties in scope of IM model authorisation for any first application submitted after EMIR 3 enters into force and for subsequent changes to such IM models. As per the no action letter, however, CAs should not prioritise the processing of such applications, until the draft RTS on Initial Margin Model Validation (IMMV) and the Guidelines on application and authorisation process mandated under EMIR 3 come into application.

Date of publication: 17/12/2024

ESMA: Supervisory briefing on NCAs' supervision of CCPs' ongoing monitoring of operational capacity of clearing members

Status: Final

ESMA has published a supervisory briefing to provide guidance to NCAs as regards the review of CCPs' ongoing monitoring of operational capacity of clearing members under Article 37(2) of EMIR. The 2022 CCP peer review on due diligence of clearing members identified that CCPs assess operational capacity when clearing members are initially admitted but do not always focus on continuous monitoring. The briefing describes common expectations of NCAs' supervisory activities, including that they ensure their supervised CCPs continue to: (i) monitor the adequacy of their IT systems; (ii) ensure their clearing members have access to CCP payment systems and services; (iii)

ensure their clearing members have the resources and expertise required to use the service; and (iv) ensure they have effective operational risk management and business continuity tools.

Date of publication: 17/12/2024

Regulation (EU) 2024/2987 amending EMIR, CRR and the MMF Regulation as regards measures to mitigate excessive exposures to third-country CCPs and improve the efficiency of Union clearing markets

Status: Published in the OJ

Date of entry into force: 24/12/2024

Date of application: 24/12/2024

The EMIR 3 Regulation has been published in the OJ. It amends EMIR and applies from 24 December, except for the amendments to the calculation of the clearing thresholds for financial counterparties (FCs) and non-financial counterparties (NFCs) which will only apply once the related RTS enter into force. The EMIR 3 Regulation makes changes across the cleared and uncleared markets, including, but not limited to: (i) introducing new exemptions from the clearing obligation for OTC derivatives: (a) that are initiated and concluded as the result of an eligible post-trade risk reduction exercise; and (b) with a third-country pension scheme arrangement that meets certain conditions; (ii) making permanent the exemption from bilateral margin requirements for single-stock options and equity index options; (iii) imposing new requirements for initial margin models validation for in-scope counterparties; (iv) allowing clearing members and their NFC clients to post letters of credit (referred to as bank guarantees or public guarantees) as collateral, provided that they are unconditionally available upon request within the liquidation period; and (v) reducing the burden for EU CCPs seeking authorisation or an extension of an authorisation, including improving the functioning of the college system and sharing of information through a central database.

The EMIR 3 Regulation also brings into force the controversial mandate for EU counterparties to hold "active accounts" at EU CCPs for some products and for counterparties trading over a certain threshold in those products to clear some products through an EU CCP. This is intended to incentivise the development of clearing in the EU and reduce exposures to and usage by EU entities of third-country CCPs. ESMA is currently consulting on the proposed technical standards that will detail the scope and operation of the active account requirement.

Date of publication: 04/12/2024

Directive (EU) 2024/2994 amending the UCITS Directive, CRD and IFD as regards the treatment of concentration risk arising from exposures towards CCPs and of counterparty risk in centrally cleared derivative transactions

Status: Published in the OJ

Date of entry into force: 24/12/2024

Date of application: 25/06/2026

The EMIR 3 Directive has been published in the OJ. It amends the CRD and IFD to reinforce the new active account requirement, including by requiring credit institutions and investment firms to: (i) have robust governance arrangements to manage the concentration risk arising from exposures towards CCPs; and (ii) develop plans and targets to monitor and address concentration risk arising from exposures to CCPs offering services of substantial systemic importance. A competent authority will be empowered, where it considers that there is excessive concentration risk arising from exposures towards a CCP, to require the firm to reduce exposures towards that CCP or to realign exposures across their clearing accounts in accordance with the EMIR 3 active account requirement.

The EMIR 3 Directive also amends the UCITS Directive, which imposes regulatory limits on counterparty risk for OTC derivative transactions, irrespective of whether the derivatives have been centrally cleared. The EMIR 3 Directive removes those counterparty risk limits when the counterparties clear through CCPs that are authorised or recognised under EMIR.

Date of publication: 04/12/2024

4.2 SETTLEMENT FINALITY/FINANCIAL COLLATERAL

(i) EU

FSB: Final report on liquidity preparedness for margin and collateral calls

Status: Final

The FSB published a final report on liquidity preparedness for margin and collateral calls. The report sets out policy recommendations to enhance the liquidity preparedness of non-bank market participants for margin and collateral calls in centrally and non-centrally cleared derivatives and securities markets (including securities financing such as repo). The FSB has analysed recent incidents of liquidity stress, as well as completed a survey of financial authorities and feedback from industry stakeholder outreach events. Together, the FSB has found there is need for policy adjustments to deal with liquidity strains in the NBFI sector arising from spikes in margin and collateral calls during times of market stress. The findings suggest that whilst margin and collateral calls are a necessary protection against counterparty risk, they can also amplify the demand for liquidity by market participants if they are unexpected in times of stress and affect a large enough part of the market. The increase in such calls can impact market participants differently depending on the size of positions and level of liquidity preparedness. The FSB identified liquidity risk management and governance weaknesses of some market participants as key causes of their inadequate liquidity preparedness for margin and collateral calls. The FSB's eight policy recommendations in this report cover: (i) liquidity risk management and governance; (ii) stress testing and scenario design; and (iii) collateral management practices of non-bank market participants, focussing on liquidity risks arising from spikes in margin and collateral calls, including under extreme but plausible stressed conditions. The FSB explains that the recommendations should be applied proportionately to the underlying risks of different non-bank market participants.

Date of publication: 10/12/2024

4.3 STOCK EXCHANGES

(i) International

GFXC: Agreement on final changes to the FX Global Code and plans publication of revised materials

Status: Final

The Global Foreign Exchange Committee (GFXC) has published a press release confirming it has agreed final changes to the FX Global Code (the Code). The Code was last updated in July 2021, and the updated Code will be published in early January 2025. The press release notes that the FX Settlement Risk Working Group and the FX Data Working Group presented their final proposals which had been modified to address comments received from Local FX Committees, and the GFXC membership expressed strong support for the amendments. The amendments aim to strengthen the Code's guidance on FX settlement risk and to increase transparency around certain types of FX transactions and the use of client-generated data on electronic trading platforms. The updated

Code will be published alongside a paper summarising the outcomes of the three-year review preceding the update, and the feedback on the earlier proposals to amend the Code.

Date of publication: 11/12/2024

IOSCO: Final report on evolution in the operation, governance and business models of exchanges: regulatory implications and good practices

Status: Final

IOSCO has published its final report on the evolution in the operation, governance, and business models of exchanges. The Report focuses on equity exchanges but IOSCO considers that it may be of relevance to other types of trading venues and trading in other classes of financial instruments. In the report IOSCO describes and analyses the changes in the structure and organisation of exchanges and, in particular, their business models and ownership structure. IOSCO then outlines the impact of these changes on market structure, emphasising the shift from traditional models to more competitive, cross-border, and diversified operations, whereby exchanges have become part of larger corporate groups, leading to resource-sharing and process consolidation. Finally, IOSCO discusses regulatory considerations and potential risks and challenges and outlines good practices that regulators may consider in the supervision of exchanges, particularly when they provide multiple services and/or are part of an exchange group.

The good practices are complemented by a non-exhaustive list of regulatory and supervisory tools currently used in IOSCO jurisdictions to address the issues under discussion, which may serve as examples to other regulators.

Date of publication: 29/11/2024

5. Anti-money laundering

(i) EU

EBA: Report on the functioning of AML and CFT colleges in 2023

Status: Final

The EBA has published its fourth report on the functioning of AML/CFT colleges. The report sets out findings and observations from EBA staff's monitoring of AML/CFT colleges in 2023, which suggest that, overall, competent authorities continued to improve the effectiveness of AML/CFT colleges. However, the EBA identified two key areas in which the progress made by competent authorities was seen as insufficient: (i) implementing the risk-based approach to the organisation of colleges – the EBA found that the functioning of colleges was not sufficiently adapted to the risks to which the firms were exposed and to their specificities. This meant that competent authorities could not allocate their resources in a sufficiently strategic manner; and (ii) ensuring that discussions on the need for a common approach are meaningful and systematic. One of the main purposes of AML/CFT colleges is to allow competent authorities to identify common ML/TF risks and AML/CFT issues, and to coordinate the actions they take to address those risks and issues. The EBA found that few colleges had meaningful discussions on these aspects. The report includes targeted recommendations to help competent authorities improve in these two key areas.

In addition, through its thematic monitoring of colleges, the EBA identified a number of ML/TF risks to which firms of the banking, payment and e-money sectors with a technology-oriented business model could be particularly exposed. The Report encourages competent authorities to take these risks into consideration when supervising such firms.

Date of publication: 16/12/2024

EBA: Consultation on draft RTS amending Commission Delegated Regulation (EU) 2018/1108 on the criteria for the appointment of central contact points forelectronic money issuers and payment service providers and with rules on their functions under Article 45(10) of the MLD4

Status: Consultation

Deadline for the submission of comments: 04/02/2025

The EBA has launched a consultation on the proposed extension of the Delegated Regulation 2018/1108 on the criteria for the appointment of central contact points to crypto-asset service providers (CASPs) authorised under the MiCA Regulation. The Delegated Regulation, supplement MLD4, which provides that where PSPs, EMIs and CASPs operate establishments in other Member States, the host member state may require PSPs, EMIs and CASPs to appoint a central contact point in the host Member State to facilitate AML/CFT supervision. The proposed amendments reflect the extension of the scope of MLD4 to cover CASPs by the Wire and Crypto-asset Transfer Regulation. Since the same considerations apply to EMIs and PSPs as they do to CASPs, the EBA proposes to retain the current structure and approach, while also introducing new provisions for CASPs where this is necessary in light of their business model and operation.

The EBA expects to publish a final report in Q2, 2025.

Date of publication: 04/12/2024

6. Payments

6.1 PAYMENT SERVICES/E-MONEY

(i) EU

ESAs: Report on key findings from the 2024 dry run exercise on reporting registers of information under DORA

Status: Final

The ESAs have published a summary report with the key findings from the 2024 dry run exercise on reporting the registers of information under DORA. For more information, please see section 1.1e) above.

Date of publication: 17/12/2024

EC: Letter to EBA and ESMA on the interplay between MiCA Regulation and PSD2

Status: Final

The EBA has published a letter from the EC (dated 6 December) to the EBA and ESMA regarding the interplay between the MiCA Regulation and PSD2. The EC notes the diverging interpretations among member states about the interplay between the MiCA Regulation and PSD2 and asks the EBA, with ESMA, to explore the possibility of issuing an 'no action letter' on the enforcement of PSD2 authorisation requirements as regards services with EMTs provided by CASPs (or by entities benefiting from the transitional period under Article 143(3) of the MiCA Regulation) that may be inadvertently caught by PSD2. Where dual authorisation would nevertheless be required, the EC invites the EBA, with ESMA, to explore whether the PSD2 authorisation process could be streamlined in order to reduce the operational burden on institutions.

The EBA responded (in a letter dated 10 December) that it agrees with the concerns, and is assessing the issues in co-ordination with ESMA, to determine the best options going forward. The EBA aims to publish a response by April 2025.

Date of publication: 10/12/2024

Council of the EU: Agreement of negotiating mandate on FIDA

Status: Draft

The Council of the EU has agreed its negotiating mandate on the proposed Regulation on a framework for Financial Data Access (FIDA). FIDA aims to introduce harmonised rules for data access rights to sets of data beyond that currently provided through PSD2 and Open Banking. The Council largely supports the EC's initial proposal, following a step-by-step approach for the implementation of the regime. However, the Council highlights the following amendments: (i) clarification of the scope by defining what specific data sets, products or sectors the rules should cover and apply to, as well as a timeframe for the data sharing obligations to kick-in; (ii) providing data sharing schemes with the ability to introduce a time limit to the customer data to be shared if it is not readily available in digital form; (iii) reinforcing the rules governing third country financial information service providers, which are entities that are authorised to access and use customer data to offer services like financial advice and personal financial management; and (iv) requiring entities that qualify as gatekeepers to be strictly regulated and supervised in order to ensure fair competition.

The Council can start triologue negotiations with the EP and the EC.

Date of publication: 04/12/2024

ESAs: Joint statement urging financial entities to ensure timely compliance with DORA

Status: Final

The ESAs have published a joint statement on the application of DORA. For more information, please see section 1.1e) above.

Date of publication: 04/12/2024

Commission Implementing Regulation (EU) 2024/2956 laying down ITS for the application of DORA with regard to standard templates for the register of information

Status: Published in the OJ

Date of entry into force: 22/12/2024

The Commission Implementing Regulation 2024/2956 laying down ITS for the application of DORA with regard to standard templates for the register of information, has been published in the OJ. For more information, please see section 1.1e) above.

Date of publication: 02/12/2024

6.2 PAYMENT AND SETTLEMENT SYSTEMS

(i) EU

FSB: Recommendations related to data flows and regulation and supervision of cross-border payments

Status: Final

The FSB has published two final reports on recommendations to promote greater alignment in data frameworks related to cross-border payments, and consistency in the regulation and supervision of bank and non-bank payment service providers. The first report sets out final recommendations for promoting alignment and interoperability across data frameworks applicable to cross-border payments. The recommendations fall into four broad categories: (i) addressing uncertainty about how to balance regulatory and supervisory obligations; (ii) promoting the alignment and interoperability of regulatory and data requirements related to cross-border payments; (iii) mitigating restrictions on the flow of data related to payments across borders; and (iv) reducing barriers to innovation. The second report sets out recommendations for regulating and supervising bank and non-bank PSPs offering cross-border payment services to strengthen consistency in a way that is proportionate to the risks associated with such activities. The FSB explains that this approach aims to reduce the prospect of regulatory arbitrage by establishing a level playing field that takes into account differences in business models and risk profiles. In addition to the two reports, the FSB also published overviews of the consultation responses, setting out the main changes made to the final report in order to address comments raised in the public consultation.

- ♦ [Final Report on Recommendations to Promote Alignment and Interoperability Across Data Frameworks Related to Cross-border Payments](#)
- ♦ [Overview of Responses to Recommendations to Promote Alignment and Interoperability Across Data Frameworks Related to Cross-border Payments](#)

- ♦ Final Report on Recommendations for Regulating and Supervising Bank and Non-bank PSPs Offering Cross-border Payment Services
- ♦ Overview of Response to Recommendations for Regulating and Supervising Bank and Non-bank PSPs Offering Cross-border Payment Services

Date of publication: 12/12/2024



7. Banking union

7.1 SINGLE SUPERVISORY MECHANISM (SSM)

(i) EU

ECB: Supervisory priorities 2025-27

Status: Final

The ECB has published its supervisory priorities for 2025 to 2027 for the SSM. The medium term priorities are reviewed annually based on a comprehensive assessment of the main risks and vulnerabilities for supervised entities. They take account of the outcome of the Supervisory Review and Evaluation Process (SREP) and of the progress as compared with the previous years' priorities. The supervisory priorities for 2025-27 focus on banks' resilience to immediate macro-financial threats and severe geopolitical shocks (Priority 1), the importance of timely remediation of known material shortcomings (Priority 2) and the need to tackle challenges stemming from digital transformation and new technologies (Priority 3). Each priority targets a specific set of vulnerabilities in the banking sector for which the ECB has developed dedicated strategic objectives and work programmes.

Date of publication: 17/12/2024

8. Institutional supervisory framework

(i) EU

EC: Political agreement on proposed Regulation to facilitate data sharing and reduce redundant reporting in EU financial services

Status: Final

The EC has announced that a political agreement was reached by the EP and the Council of the EU on the proposed Regulation amending the ESRB Regulation, EBA Regulation, EIOPA Regulation, ESMA Regulation and InvestEU Regulation as regards certain reporting requirements in the fields of financial services and investment support. The agreed targeted amendments to the regulatory framework will facilitate the sharing of information between supervisors and avoid duplicative data requests to financial market participants. The amendments will also foster the re use of data for research and innovation purposes and reduce the frequency of reporting on the InvestEU programme. The EP also published a press release, noting that: (i) the scope of the original EC proposal has been enlarged and now includes not only the ESAs, but also the SRB, AMLA and the ESRB. In addition, the Single Supervisory Mechanism (SSM) has been brought within scope. These authorities will be required to regularly review relevant reporting and disclosure requirements to remove any that are obsolete, disproportionate or duplicative; (ii) the authorities in scope will strive to follow the "report once" principle, meaning that information from financial institutions or other reporting entities is only reported once to one of the authorities. They will share and re-use this information while safeguarding data protection, professional secrecy and intellectual property. The authorities will be required to designate a permanent single contact point for entities to indicate double, obsolete or redundant reporting and disclosure requirements; and (iii) building on the sectoral work by the ESAs to integrate reporting, within five years the authorities will prepare a report on the feasibility and cost benefit analysis of a cross-sectoral integrated reporting system. The agreed legislative text (not yet published) will now be finalised before formal adoption.

Date of publication: 18/12/2024

ESRB: Report by the high-level group on the ESRB review

Status: Final

The ESRB has published a report, produced by the High-Level Group on the ESRB Review, setting out strategic advice on the future of the ESRB. The report relates to the EC's forthcoming review of the ESRB and the Group examined the ESRB's work and its experiences over the past decade, including the regulations underpinning its functions. It also conducted a survey to elicit views from the members of the Advisory Technical Committee. The Group agrees that the ESRB has been successful in fulfilling its mandate of macroprudential oversight. It has contributed significantly to the EU's macroprudential policy for banks, expanded the macroprudential framework to include non-banks and addressed new and cross-cutting systemic risks such as climate change and cyber threats. Although the ESRB's primary responsibility is crisis prevention rather than crisis management, it remains flexible enough to coordinate rapid responses to challenging macro-financial environments. The Group firmly believes that the comparative advantage of the ESRB lies in its unique position to monitor and assess systemic risks and vulnerabilities across the entire financial system and the whole of the EU. The report also sets out a list of recommendations to enhance the ESRB's macroprudential oversight, focusing on: (i) the holistic assessment of

systemic risk; (ii) understanding the role of the non-bank sector in the intermediation system, as well as its connections to the traditional banking sector; (iii) data access framework and knowledge sharing; and (iv) governance and resource requirements. As most of these recommendations can be implemented without legislative changes, the decision lies with the ESRB's General Board.

Date of publication: 18/12/2024



9. Investment funds

9.1 PRODUCT REGULATION

a) AIF

(i) EU

ESMA: Q&As on application of Guidelines on funds' names using ESG or sustainability-related terms

Status: Final

ESMA has published three sets of Q&As to provide further detail on the Guidelines on funds' which use ESG or sustainability-related terms in their names. The Guidelines relate to requirements under the UCITS Regulation, AIFMD and Cross-Border of Investment Funds Regulation to act honestly and fairly in conducting their business and to ensure marketing communications are fair, clear and not misleading.

The Q&As clarify that: (i) investments issued under the European Green Bonds Regulation will not be caught by the investment restrictions which prevent funds that use ESG-related terms from investing in certain companies (e.g., those involved in controversial weapons activities, tobacco production and coal or lignite mining). For other green bonds, fund managers may use a look-through approach to assess the underlying activities financed by the instruments; (ii) national regulators may not find that funds that contain less than 50% of sustainable investments are "meaningfully investing in sustainable investments" (which the Guidelines view as a necessary commitment for funds using "sustainable" terms); and (iii) controversial weapons, specifying that the reference for the exclusion related to controversial weapons should be the one referred to in SFDR principal adverse impact indicator 14. The Q&As have been published separately for UCITS and AIFs but are identical in content.

Date of publication: 13/12/2024

ESMA: Consultation on the draft RTS on open-ended loan-originating AIFs

Status: Consultation

Deadline for the submission of comments: 12/03/2025

ESMA has published a consultation paper on draft RTS on open-ended loan originating Alternative Investment Funds (AIFs) under the revised AIFMD. Under the revised AIFMD, AIFMs are required to ensure any loan-originating AIFs it manages are closed-ended, but there is a carve out for open-ended loan-originating AIFs where the AIFM is able to demonstrate that the AIF's liquidity risk management system is compatible with its investment strategy and redemption policy. The draft RTS set out the requirements for loan-originating AIFs to maintain an open-ended structure as per this carve out, and include: (i) a sound liquidity management system; (ii) the availability of liquid assets and stress testing; and (iii) an appropriate redemption policy having regard to the liquidity profile of loan-originating AIFs.

ESMA intends to finalise the draft RTS by Q3/Q4 2025.

Date of publication: 12/12/2024

b) UCITS

(i) EU

ESMA: Q&As on application of Guidelines on funds' names using ESG or sustainability-related terms

Status: Final

ESMA has published three sets of Q&As to provide further detail on the Guidelines on funds' which use ESG or sustainability-related terms in their names. For more information, please see section 9.1a) above.

Date of publication: 13/12/2024

Directive (EU) 2024/2994 amending the UCITS Directive, CRD and IFD as regards the treatment of concentration risk arising from exposures towards CCPs and of counterparty risk in centrally cleared derivative transactions

Status: Published in the OJ

Date of entry into force: 24/12/2024

Date of application: 25/06/2026

The EMIR 3 Directive has been published in the OJ. For more information, please see section 4.1 above.

Date of publication: 04/12/2024

9.2 PRUDENTIAL REGULATION

a) Compliance

(i) EU

ESRB: Response to the EC's consultation assessing the adequacy of macroprudential policies for NBFIs

Status: Final

The ESRB has published its response to the EC's targeted consultation on macro-prudential policies for non-bank financial intermediaries (NBFIs). The ESRB provides a conceptual framework that combines the prevailing focus on entities with a focus on activities, with the aim of taking a system-wide approach to macroprudential policy. The ESRB encourages the EC to make use of this system-wide approach in its regular reviews of legislation or when considering new legislation. The ESRB calls on the EC to close known gaps in the regulatory framework and to facilitate data sharing across authorities.

Specifically, in the near term, the ESRB requests include: (i) to address vulnerabilities in EU money market funds and to progress the work on addressing vulnerabilities in investment funds; (ii) to implement proposals and recommendations by international bodies on margining to ensure liquidity preparedness for margin calls; and (iii) to clarify the regulatory perimeter for crypto-activities in the MiCA Regulation and to harmonise the classification of crypto-assets across Member States.

In the medium term, the ESRB suggestions for the EC include: (a) to consider how reciprocity under Article 25 of the AIFMD could be implemented; (b) to review existing arrangements for policy cooperation across the EU and to assess and work on the conditions for enabling the ESAs to supervise the most systemically relevant cross-border

actors in financial markets; and (c) to enhance transparency in asset management activities and better incorporate a macroprudential perspective in associated regulation.

Date of publication: 04/12/2024

(ii) International

FSB: Consultation report on leverage in NBFI

Status: Consultation

Deadline for the submission of comments: 28/02/2025

The FSB has published a consultation report on policy measures to address leverage in non-bank financial intermediation (NBFI) where it can create financial stability risks. They aim to help authorities and market participants to monitor vulnerabilities from NBFI leverage, contain NBFI leverage where it may create risks to financial stability, and mitigate the impact of these risks.

The nine policy recommendations cover: (i) risk identification and monitoring; (ii) addressing data challenges; (iii) public disclosures; (iv) addressing NBFI leverage in core financial markets; (v) using a wide range of measures to address such financial stability risk; (vi) counterparty credit risk management; (vii) the adequacy of private disclosure practices between leveraged non-bank financial entities and leverage providers; (viii) addressing incongruences in the regulatory treatment of NBFI leverage by adopting the principle of “same risk, same regulatory treatment”; and (ix) enhancing cross-border cooperation and coordination.

The FSB notes that market structures, legal frameworks, and financial stability risks related to leverage vary across jurisdictions and so a combination of policy measures may be most effective. The final report will be published in mid-2025.

Date of publication: 18/12/2024

10. Special rules for real estate financing and covered bonds

10.1 MORTGAGE CREDITS

(i) EU

EC: Suspension of review of EU mortgage credit rules

Status: Final

The EC has updated its webpage on the review of mortgage credit rules, stating that the initiative has been suspended. The EC consulted on the review in November 2021, aiming to assess how to: (i) ensure that consumers are provided with simplified, timely and relevant information; (ii) adapt the rules to the digital environment; and (iii) foster cross-border provision of mortgage credit. The consultation closed in February 2022, and the responses can be found on the webpage. The EC explains that despite suspending the initiative the feedback given in the past remains available for future reference. The EC also notes that the initiative might be resumed at a later stage with possibly a slightly different scope or abandoned completely depending on the circumstances.

Date of publication: 18/12/2024

11. Special topics

11.1 FINTECH/DIGITAL FINANCE

(i) EU

ESMA: Statement on MiCA transitional measures

Status: Final

ESMA has published statement on MiCA transitional measures, which grants CASPSs that offered their services prior to 30 December additional time (until 1 July 2026 or until they are granted or refused an authorisation, whichever is sooner) to transition from compliance with the current regulatory framework to compliance with the MiCA Regulation. Under the MiCA Regulation, individual member states have complete discretion not to apply the transitional regime or to reduce its duration in view of fostering financial stability and investor protection. This has resulted in Member States reducing the transitional period in their jurisdictions to different lengths. CASPs will therefore face different transitional periods depending on the Member State or Member States in which they are active. Given the disruption this may cause, ESMA expects CASPs to make all possible effort to be compliant and undertake all possible steps to avoid detriment to their clients, market participants and the integrity of the market, while also adhering to applicable AML and CFT requirements. In the statement, ESMA also reminds NCAs that when they process authorisations of CASPs they should ensure they are fully aware of the CASP's activities outside the home member state and possible implications on the cross-border provision of services in host member states. The home NCA is expected to engage in early and continuous dialogue with relevant host member states to mitigate disruptions, as far as possible, in services that could cause harm to CASPs' clients.

In addition to the statement, ESMA also produced a [list of grandfathering periods](#) decided by Member States under the MiCA Regulation, which illustrates how member states have reduced the transitional periods by differing lengths.

Date of publication: 19/12/2024

EC: Adoption of Delegated Regulations on RTS on assessing proposed acquisitions of qualifying holdings in ART issuers and CASPs under the MiCA Regulation

Status: Adopted by the EC

The EC has adopted the following Delegated Regulations supplementing MiCAR: (i) Delegated Regulation supplementing the MiCA Regulation with regard to RTS specifying the detailed content of information necessary to carry out the assessment of a proposed acquisition of a qualifying holding in an issuer of an ART; and (ii) Delegated Regulation supplementing the MiCA Regulation with regard to RTS specifying the detailed content of information necessary to carry out the assessment of a proposed acquisition of a qualifying holding in a CASP. The next step is for the Delegated Regulations to be published in the OJ, after which they will enter into force on the twentieth day following their publication.

- ♦ [Delegated Regulation assessing proposed acquisitions of qualifying holdings in ART issuers](#)
- ♦ [Delegated Regulation assessing proposed acquisitions of qualifying holdings in CASPs](#)

Date of publication: 18/12/2024

EBA: Final report on Guidelines on templates to assist competent authorities in performing their supervisory duties regarding issuers' compliance under Titles III and IV of the MiCA Regulation

Status: Final

The EBA has published its final Guidelines on templates to assist competent authorities in performing their supervisory duties regarding and asset-referenced tokens (ARTs) and e-money tokens (EMTs) issuers' compliance under Titles III and IV of the MiCA Regulation. The Guidelines aim to close the reporting data gaps identified by the EBA, enhancing supervisory convergence, facilitating a common supervisory approach across Member States as well as ensuring a level playing field in the single market. The Guidelines will equip competent authorities with sufficient comparable information to supervise compliance of issuers of ARTs and EMTs with the MiCA Regulation requirements. They will also ensure that the EBA has the necessary information to conduct the annual significance assessment under the MiCA Regulation. The Guidelines also include common templates and instructions that issuers should use to collect the data they need from relevant cryptoasset service providers. The EBA also published a visual explainer providing guidance on which templates should be submitted by the different types of issuers. The Guidelines will apply two months after publication on the EBA website of the translations in the EU official languages.

Date of publication: 18/12/2024

EC: Adoption of Delegated Regulation on sustainability indicators under the MiCA Regulation

Status: Final

The EC has adopted a Delegated Regulation supplementing the MiCA Regulation with regard to RTS specifying the content, methodologies and presentation of information in respect of sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts.

Under MiCA issuers of cryptoassets must disclose the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanisms used to issue a cryptoasset in the white papers for asset-referenced tokens (ARTs), for e-money tokens (EMTs) and for crypto-assets other than ARTs and EMTs. Cryptoasset service providers must publish on their website information concerning the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue each cryptoasset in relation to which they provide services. These RTS specify these requirements further.

The Delegated Regulation will be published in the OJ and enter into force 20 days after publication.

Date of publication: 17/12/2024

ESMA: Final report on last package of technical standards and Guidelines under the MiCA Regulation

Status: Final

ESMA has published the last package of draft RTS and Guidelines under the MiCA Regulation. The package contains: (i) RTS on market abuse that specify systems and procedures to prevent and detect market abuse in cryptoassets, the template for reporting suspected market abuse and coordination procedures between competent authorities for detecting and sanctioning cross-border market abuse situations; (ii) Guidelines on reverse solicitation that confirm the reverse solicitation exemption should be interpreted narrowly – it only applies where the client is the exclusive initiator of the service – and should be regarded as the exception and not be used to circumvent MiCA requirements; (iii) Guidelines on suitability that specify how cryptoasset service providers (CASPs) providing advice on cryptoassets or portfolio management of cryptoassets have to give suitable recommendations to their clients or make suitable investment decisions on their behalf. These rules are aligned

with the MiFID II requirements; (iv) Guidelines on cryptoasset transfer services that aim at ensuring investor protection for clients transferring cryptoassets, by specifying the policies and procedures that CASPs should have in place; (v) Guidelines on qualification of cryptoassets as financial instruments which provide conditions and criteria for the qualification of cryptoassets as financial instruments, offering clarity on the delineation between the respective scopes of MiCA and other sectoral regulatory frameworks (notably MiFID II); and (vi) Guidelines on the maintenance of systems and security access protocols that apply to offerors and persons seeking admission to trading who are not subject to the same operational resilience standards under MiCA and DORA as their CASP and issuer counterparts.

The Guidelines will be translated into the official EU languages and published on the ESMA website. They will apply from three months after the publication of the translations. The final reports with the draft RTS have been submitted to the for adoption.

- ♦ [Final report reverse solicitation Guidelines](#)
- ♦ [Final report investor protection Guidelines](#)
- ♦ [Final report maintenance of systems Guidelines](#)
- ♦ [Final report draft RTS on market abuse](#)
- ♦ [Final report financial instrument qualification Guidelines](#)

Date of publication: 17/12/2024

ESAs: Report on key findings from the 2024 dry run exercise on reporting registers of information under DORA

Status: Final

The ESAs have published a summary report with the key findings from the 2024 dry run exercise on reporting the registers of information under DORA. For more information, please see section 1.1e) above.

Date of publication: 17/12/2024

EC: Adoption of further Delegated Regulations under the MiCA Regulation

Status: Final

On 16 December, the EC adopted three Delegated Regulations supplementing MiCAR with regards to RTS specifying: (i) the data necessary for the classification of cryptoasset white papers and the practical arrangements to ensure that such data is machine-readable; (ii) the minimum content of the governance arrangements on the remuneration policy of issuers of significant asset-referenced or e-money tokens; and (iii) the procedure and timeframe for an issuer of asset-referenced tokens or of e-money tokens to adjust the amount of its own funds.

The Delegated Regulations will be published in the OJ and enter into force 20 days after publication.

- ♦ [RTS on cryptoasset white papers](#)
- ♦ [RTS on remuneration policies](#)
- ♦ [RTS on own funds adjustments](#)

Date of publication: 16/12/2024

EC: Adoption of Delegated Regulation on adjustment of own funds requirement and stress testing programmes under the MiCA Regulation

Status: Adopted by the EC

The EC has adopted a Delegated Regulation supplementing MiCAR with regard to RTS specifying the adjustment of own funds requirement and minimum features of stress testing programmes of issuers of asset-referenced tokens (ARTs) or of e-money tokens (EMTs).

The RTS specify: (i) the procedure and timeframe to be followed by the competent authority and the token issuer in the event that the issuer is deemed to pose a higher degree of risk and needs to adjust to higher own funds requirements; (ii) the steps needed for the competent authority to produce the assessment of higher degree of risk and for the token issuer to submit a plan to adjust its own funds; and (iii) the minimum requirements for token issuer's stress testing programmes from a capital and liquidity prospective, setting minimum frequencies and considering proportionality. The Council and the EP will now scrutinise the Delegated Regulation. If neither objects, it will be published in the OJ and enter into force 20 days after publication.

Date of publication: 13/12/2024

EBA: Report on tokenised deposits

Status: Final

The EBA has published a report on tokenised deposits. The report aims to facilitate awareness and assess potential benefits and challenges in relation to tokenised deposits, including around the classification of tokenised deposits in contrast with electronic money tokens (EMTs) issued by credit institutions under the MiCA Regulation. To date, the EBA has identified very few cases of tokenised deposits but interest from credit institutions appears to be growing. Based on feedback provided by competent authorities, the report outlines preliminary observations as to potential benefits and challenges of the use of tokenised deposits, which may vary depending on design parameters. The EBA states that there is no immediate need to adjust the regulatory and supervisory framework, on account of the limited market presence of such tokens and lack of evidence to inform potential changes.

However, the EBA has established a need to: (i) support the industry and competent authorities in adopting a convergent approach to crypto-asset classification; (ii) facilitate more consistent monitoring of potential tokenised deposit use cases in the EU; and (iii) carry out further targeted analyses as to the adequacy of the regulatory framework for deposits deployed on DLT. The EBA will continue to monitor market developments and promote discussion on these points.

Date of publication: 12/12/2024

ESAs: Final report on Guidelines on templates for explanations and opinions, and the standardised test for the classification of crypto-assets, under Article 97(1) MiCA Regulation

Status: Final

The ESAs have published a final report on draft Guidelines on templates for explanations and opinions, and the standardised test for crypto-assets, under Article 97(1) of the MiCA Regulation. The Guidelines include a standardised test to promote a common approach to classification, as well as templates market participants should use when communicating the regulatory classification of a crypto-asset to supervisors. The templates provide descriptions of the regulatory classification of crypto-assets in respect of asset-referenced tokens (ARTs), and in respect of crypto-assets that are neither ARTs nor e-money tokens, to support market participants and supervisors in adopting a convergent approach to crypto-asset classification. The overall aim of the Guidelines is to promote the consistent application of the MiCA Regulation across the EU. In turn, this is intended to contribute to enhancing

protection for consumers and investors, securing a level playing field, and mitigating risks of regulatory arbitrage. These Guidelines will be translated into the official EU languages and published on the ESAs' websites. The Guidelines will then apply from three months after the publication of the translations.

Date of publication: 10/12/2024

EC: Letter to EBA and ESMA on the interplay between MiCA Regulation and PSD2

Status: Final

The EC has published a letter from the EC (dated 6 December) to the EBA and ESMA regarding the interplay between the MiCA Regulation and PSD2. For more information, please see section 6.1 above.

Date of publication: 10/12/2024

EBA/ESMA: Joint Guidelines on the assessment of the suitability of the members of the management body of issuers of asset-referenced tokens and of crypto-asset service providers

Status: Final

Date of application: 04/02/2025

The EBA and ESMA have published the official translations of their joint Guidelines on suitability assessment under the MiCA Regulation. The document contains the Guidelines in relation to suitability assessments of: (i) the members of the management body of issuers of asset-referenced tokens (ARTs) and of crypto-asset service providers (CASPs); and (ii) the suitability of the shareholders or members, whether direct or indirect, with qualifying holdings in issuers of ARTs or of CASPs.

Date of publication: 04/12/2024

EBA: Consultation on draft RTS amending Commission Delegated Regulation (EU) 2018/1108 on the criteria for the appointment of central contact points forelectronic money issuers and payment service providers and with rules on their functions under Article 45(10) of the MLD4

Status: Consultation

Deadline for the submission of comments: 04/02/2025

The EBA has launched a consultation on the proposed extension of the Delegated Regulation 2018/1108 on the criteria for the appointment of central contact points to crypto-asset service providers (CASPs) authorised under the MiCA Regulation. For more information, please see section 5 above.

Date of publication: 04/12/2024

ESAs: Joint statement urging financial entities to ensure timely compliance with DORA

Status: Final

The ESAs have published a joint statement on the application of DORA. For more information, please see section 1.1e) above.

Date of publication: 04/12/2024

ESRB: Response to the EC's consultation assessing the adequacy of macroprudential policies for NBFIs

Status: Final

The ESRB has published its response to the EC's targeted consultation on macro-prudential policies for non-bank financial intermediaries (NBFIs). For more information, please see section 9.1a) above.

Date of publication: 04/12/2024

Commission Implementing Regulation (EU) 2024/2984 laying down ITS for the application of the MiCA Regulation with regard to forms, formats and templates for the crypto-asset white papers

Status: Published in the OJ

Date of entry into force: 23/12/2024

Date of application: 23/12/2025

The Commission Implementing Regulation (EU) 2024/2984, laying down ITS supplementing the MiCA Regulation relating to the forms, formats and templates for cryptoasset white papers, has been published in the OJ. The ITS concern Article 6(11), Article 19(10), and Article 51(10) MiCA Regulation. The aim of providing standard forms, formats and templates for crypto-asset white papers is so that they can be made available in a machine-readable format and to ensure a high level of transparency and comparability of white papers. The templates provide for data fields for the information to be included in the crypto-asset white papers in accordance with the MiCA Regulation.

Date of publication: 03/12/2024

Commission Implementing Regulation (EU) 2024/2956 laying down ITS for the application of DORA with regard to standard templates for the register of information

Status: Published in the OJ

Date of entry into force: 22/12/2024

The Commission Implementing Regulation 2024/2956 laying down ITS for the application of DORA with regard to standard templates for the register of information, has been published in the OJ. For more information, please see section 1.1e) above.

Date of publication: 02/12/2024

ECB: Second progress report on digital euro preparation phase

Status: Final

The ECB has published a second progress report on the preparation phase of a digital euro, which lays the foundations for the potential issuance of a digital euro. Since the publication of the first progress report, the ECB has updated its digital euro scheme rulebook. In 2025, among other things, the ECB will: (i) publish the outcome of its call for applications for selecting potential providers of digital euro components and related services. The ECB has already invited selected bidders to tender; (ii) set out the findings from newly launched research and experimentation activities to gather insights into users' preferences and to inform decision-making for a possible digital euro; (iii) test the proposed methodology for setting digital euro holding limits, balancing user experience with monetary policy and financial stability implications.

Date of publication: 02/12/2024

11.2 SUSTAINABLE FINANCE

(i) EU

EU Platform on sustainable finance: Report on categorisation of products under SFDR

Status: Final

The EU Platform on Sustainable Finance published a report on the categorisation of products under the SFDR. The Platform recommends categorising products with the following sustainability strategies: (i) sustainable - contributions through Taxonomy-aligned Investments or Sustainable Investments with no significant harmful activities, or assets based on a more concise definition consistent with the EU Taxonomy; (ii) transition - investments or portfolios supporting the transition to net zero and a sustainable economy, avoiding carbon lock-ins, in line with the EC's recommendations on facilitating finance for the transition to a sustainable economy; and (iii) ESG collection - excluding significantly harmful investments/activities, investing in assets with better environmental and/or social criteria or applying various sustainability features. All other products should be identified as unclassified products.

The Platform recommends evaluating whether the scope of the categorisation should go beyond the current SFDR, potentially categorising all products and services under sustainability preferences in IDD/MiFID. The Platform also recommends that the EC develop a common understanding on impact investing in the EU sustainable finance framework and how it relates to the EU Taxonomy and thereafter determines how to integrate it in the categorisation scheme.

Date of publication: 17/12/2024

ESMA: Consultation on the RTS on the ESEF, defining marking up rules for sustainability reporting and revising the marking up rules for the Notes to the IFRS consolidated financial statements and, on the amendments to the RTS on the EEAP

Status: Consultation

Deadline for the submission of comments: 31/03/2025

ESMA has launched a consultation on proposals to apply the European Single Electronic Format (ESEF) to sustainability reporting. The Corporate Sustainability Reporting Directive (via amendments to the Accounting Directive and Transparency Directive) has introduced new sustainability reporting requirements for certain undertakings, which must (where applicable) be supplied in a digital format. ESMA is required to produce RTS for the establishment of an ESEF for the sustainability reporting.

The Consultation includes proposals for: (i) defining the marking up rules for sustainability reporting; with a phased implementation for European Sustainability Reporting Standards sustainability statements in three steps, each lasting two years, and a full implementation for Article 8 disclosures; and (ii) redefining the marking up approach for the Notes to the IFRS consolidated financial statements. The consultation also proposes amendments to the RTS on the European Electronic Access Point (EEAP). ESMA expects to publish a final report in Q3 2025.

Date of publication: 13/12/2024

ESMA: Q&As on application of Guidelines on funds' names using ESG or sustainability-related terms

Status: Final

ESMA has published three sets of Q&As to provide further detail on the Guidelines on funds' which use ESG or sustainability-related terms in their names. For more information, please see section 9.1a) above.

Date of publication: 13/12/2024

Regulation (EU) 2024/3005 on the transparency and integrity of ESG rating activities, and amending the SFDR and ESAP Regulation

Status: Published in the OJ

Date of entry into force: 02/01/2025

Date of application: 02/07/2026

The Regulation (EU) 2024/3005 on the transparency and integrity of ESG rating activities, and amending the SFDR and ESAP Regulation has been published in the OJ. The Regulation aims to strengthen the reliability and comparability of ESG ratings by improving the transparency and integrity of the operations that ESG ratings providers carry out and by preventing potential conflicts of interest. In particular, ESG ratings providers established in the EU will need to be authorised and supervised by ESMA. They will have to comply with transparency requirements, in particular with regard to their methodology and sources of information. The Regulation also introduces a requirement for the separation of business and activities in order to prevent conflicts of interest.

Date of publication: 12/12/2024

EC: Draft Commission notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Environmental Delegated Act, the EU Taxonomy Climate Delegated Act and the EU Taxonomy Disclosures Delegated Act

Status: Draft

The EC has published a draft notice containing a set of FAQs on the interpretation and implementation of certain legal provisions of the EU Taxonomy Environmental Delegated Act, the EU Taxonomy Climate Delegated Act and the EU Taxonomy Disclosures Delegated Act. Topics covered include: (i) the application of general taxonomy requirements and technical screening criteria for specific activities included in the Taxonomy Climate and Environmental Delegated Acts; (ii) the generic 'do no significant harm' criteria; and (iii) the reporting obligations for activities covered by the Climate Delegated Act and the Environmental Delegated Act. The EC hopes that the document will improve the usability of the framework.

The draft notice has been approved in principle by the EC and will be formally adopted once versions in all EU languages are ready.

Date of publication: 29/11/2024

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