Proskauer

Regulation Round Up

February 2019

1 February

The Financial Conduct Authority ("**FCA**") published a press release announcing that it has agreed with the European Securities and Markets Authority ("**ESMA**") and other European Union securities regulators memoranda of understanding ("**MoU**") to cover co-operation and the exchange of information in the event that the United Kingdom ("**UK**") leaves the European Union ("**EU**") without a withdrawal agreement and implementation period.

The FCA published a statement on Brexit and its approach to using its transitional powers. The FCA intends to use these powers broadly to ensure that firms and other regulated entities can generally continue to comply with their regulatory obligations as they did prior to Brexit.

The European Commission adopted a Delegated Regulation supplementing the European Social Entrepreneurship Funds ("**EuSEF**") Regulation (EU/346/2013) with regard to conflicts of interest, social impact measurement and information to investors.

The FCA published a policy statement (PS19/3) on general standards and communication rules for the payment services and e-money sectors.

The European Securities and Markets Authority ("**ESMA**") published a statement on how derivatives data reported under Article 9 of EMIR should be handled in the event of a no-deal Brexit.

HM Treasury and the Office of Financial Sanctions Implementation ("**OFSI**") published general guidance relating to financial sanctions after Brexit.

4 February

The European Commission adopted a Delegated Regulation supplementing the European Venture Capital Funds ("**EuVECA**") Regulation (EU/345/2013) with regard to conflicts of interest.

The FCA published a policy statement (PS19/4) on further remedies following its recent asset management market study.

The Payments Systems Regulator ("**PSR**") published a consultation paper (CP19/1) on varying specific direction 4 on competitive procurement of central infrastructure.

ESMA published an updated version of its Q&A on data reporting under the Markets in Financial Instruments Regulation (EU/600/2014) ("**MiFIR**").

ESMA published a press release announcing that it and the Bank of England have reached an agreement on memorandums of understanding relating to the recognition of UK central counterparties and UK central securities depositories in the event of a hard Brexit.

5 February

HM Treasury published a draft version of the Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019.

The Prudential Regulation Authority ("**PRA**") published a consultation paper (CP3/19): Solvency II: longevity risk transfers: simplification of pre-notification expectations.

ESMA published a consultation paper relating to draft guidelines on liquidity stress tests of investment funds applicable to alternative investment funds and UCITs.

ESMA published a statement on the impact on its databases of a no-deal Brexit, focusing on the implications for transparency calculations relating to Directive 2014/65/EU ("**MiFID II**") and MiFIR. The FCA subsequently published a statement welcoming ESMA's approach in this regard.

6 February

The FCA updated its webpage in relation to its discussion paper (DP18/5) on a duty of care for financial services firms and potential alternative approaches.

ESMA published a MiFID II supervisory briefing on the supervision of non-EU branches of EU firms providing investment services and activities.

7 February

The European Banking Authority ("**EBA**") published a new webpage relating to its working group on application programming interfaces with regard to the second Payment Services Directive (EU/2015/2366) ("**PSD2**").

8 February

The Joint Committee of European Supervisory Authorities ("**ESAs**") published a final report on proposed amendments to Commission Delegated Regulation (EU) 2017/653 on key information documents for packaged retail and insurance-based investment products ("**PRIIPs**").

ESMA published a list of the thresholds below which an offer of securities to the public does not need a prospectus in the various member states of the EU.

12 February

The Financial Stability Board published its 2019 work programme.

13 February

The European Commission adopted a Delegated Regulation which supplements the Fourth Money Laundering Directive (EU/2015/849).

The PRA published a policy statement (PS13/9) on changes to periodic and transaction fees for insurers and designated investment firms.

The FCA published a speech on improving compliance with regard to the market abuse regime.

14 February

The Credit Rating Agencies (Amendments etc) (EU Exit) Regulations 2019 were published .

The Financial Conglomerates and Other Financial Groups (Amendment etc) (EU Exit) Regulations 2019 were published.

The Money Laundering and Transfer of Funds (Information) (Amendment) (EU Exit) Regulations 2019 were published.

15 February

The FCA published a press release announcing that it had published new and updated information relating to current account services offered by banks and building societies.

The FCA published a press release announcing that it is holding two briefings for regulated firms to give firms a clearer understanding of its approach to managing the impact of Brexit.

The European Insurance and Occupational Pensions Authority ("**EIOPA**") published a request from the European Commission for technical advice on the review of the Solvency II Directive (2009/138/EC) ("**Solvency II**").

18 February

The Interchange Fee (Amendment) (EU Exit) Regulations 2019 were published.

The FCA published a memorandum of understanding that it has entered into with the Information Commissioner's Office ("**ICO**"). This relates to arrangements between the FCA and ICO with regard to data protection.

HM Treasury issued an update to state that its asset management taskforce has been revamped.

19 February

EIOPA published its recommendations providing guidance on the treatment of UK insurance undertakings and distributors with regard to cross-border services in the EU in the event of a hard Brexit.

The Market Abuse (Amendment) (EU Exit) Regulations 2018 were published.

20 February

The Collective Investment Scheme (Amendment etc) (EU Exit) Regulations 2019 were published.

EIOPA published a framework for assessing conduct risk through the lifecycle of an insurance product.

The FCA published the final report of its wholesale insurance broker market study. The FCA noted that there was some room for improvement in this sector, but formally closed the study. The FCA warned that it will continue to monitor developments in the broker business models and the effectiveness of competition in the sector.

The PRA published a policy statement (PS4/19) on adjusting for the reduction of loss absorbency where Solvency II own fund instruments are taxed on write down.

The Investment Association published its fund communication guidance.

21 February

The Alternative Investment Fund Managers (Amendment) (EU Exit) Regulations 2019 were published.

A draft version of the Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 was published.

The Venture Capital Funds (Amendment) (EU Exit) Regulations 2019 were published.

The Long-term Investment Funds (Amendment) (EU Exit) Regulations 2019 were published.

The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 were published.

The FCA published a speech on firms' progress in transitioning from the London Interbank Offered Rate ("**LIBOR**") to overnight risk-free rates.

The FCA issued its first formal decision under its competition enforcement powers contained in the UK's Competition Act 1998, finding that three asset management firms breached competition law.

22 February

The Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2019 were published.

The Social Entrepreneurship Funds (Amendment) (EU Exit) Regulations 2019 were published.

25 February

The EBA issued its final report relating to guidelines on outsourcing.

The FCA, Bank of England and US Commodity Futures Trading Commission published a joint statement in relation to measures intended to ensure the continuity of UK-US derivatives trading and clearing activities after Brexit.

26 February

The FCA published a speech which outlines some of the challenges and concerns relating to investment research requirements under MiFID II.

HM Treasury published an updated advisory notice on money laundering and terrorist financing controls in higher risk jurisdictions.

27 February

A draft version of the Financial Services (Miscellaneous) (Amendment) (EU Exit) (No 2) Regulations 2019 was published.

28 February

The FCA published a policy statement (PS19/5) in relation to Brexit.

The FCA published two near-final directions:

- FCA transitional direction; and
- FCA prudential transitional direction.

The following near-final directions were published:

- PRA direction; and
- Bank of England direction.

The Money Market Funds (Amendment) (EU Exit) Regulations 2019 were published.

The FCA published a webpage setting out the key findings of its multi-firm supervisory review into disclosure of costs by asset managers.

The FCA published a consultation paper (CP19/10) on publishing and disclosing costs and charges to workplace pension scheme members and amendments to its Conduct of Business sourcebook.

The FCA published a feedback statement in relation to its call for input with regard to the PRIIPs Regulation (EU/1286/2014).

The FCA published a webpage with regard to the key findings of its multi-firm supervisory review of MiFID II costs and charges disclosure.

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