Proskauer

Regulation Round Up

Regulatory & Compliance on **December 2019**

2 December

The Financial Conduct Authority ("**FCA**") updated the following webpages:

- webpage on its July 2018 discussion paper on price discrimination in the cash savings market (PD18/6); and
- webpage on its April 2019 feedback statement following its earlier discussion paper on a new duty of care and potential alternative approaches (FS19/2).

The European Securities and Markets Authority ("**ESMA**") published guidance on its registration process for companies that intend to apply to become securitisation repositories under the Securitisation Regulation (2017/2402/EU).

The FCA published a press release reminding solo-regulated MiFID investment firms and MiFID optional exemption firms (except credit institutions) that, from 9 December 2019, they must use a new form to submit information to the FCA when appointing non-SMF directors to, or withdrawing them from, their management body.

3 December

The Office of the Complaints Commissioner published a final report (dated 7 November 2019), with the FCA's response, relating to a complaint arising from the failure of the FCA to provide details of the statutory timeframe relating to an application for authorisation.

The Office of the Complaints Commissioner published a final report (dated 6 November 2019) regarding a complaint about the handling by the FCA of an inquiry about the definition of the term "legal mortgage" as referred to in PERG 4.4.16 of the FCA Handbook.

ESMA published an updated version of its Q&As on the Benchmarks Regulation (2016/1011/EU).

4 December

ESMA published a press release announcing that it had updated its Q&As on the application of the Alternative Investment Fund Managers Directive (2011/61/EU) ("**AIFMD**").

ESMA published an updated version of its Q&As on investor protection and intermediaries topics under Directive 2014/65/EU ("**MiFID II**") and Regulation 600/2014/EU ("**MiFIR**").

5 December

The FCA, the Prudential Regulation Authority ("**PRA**") and the Bank of England published a shared policy summary and co-ordinated consultation papers on new requirements to strengthen operational resilience in the financial services sector.

The PRA published a consultation paper on outsourcing and third party risk management (CP30/19).

The following legislative acts were published in the Official Journal of the European Union:

- Regulation 2019/2033/EU on the prudential requirements of investment firms ("**IFR**"); and
- Directive 2019/2034/EU on the prudential supervision of investment firms ("**IFD**").

ESMA published a consultation paper setting out draft guidelines on internal controls for credit rating agencies.

6 December

The European Banking Authority ("**EBA**") published its action plan on sustainable finance.

The FCA published its 26th quarterly consultation paper (CP19/33).

ESMA published an updated version of its Q&As on data reporting under MiFIR.

9 December

The EBA published its final report on updated guidelines on harmonised definitions and templates for funding plans of credit institutions.

The following Regulations were published in the Official Journal of the European Union:

- Regulation 2019/2088/EU on sustainability-related disclosures in the financial services sector ("**Disclosure Regulation**"); and
- Regulation 2019/2089 in relation to EU climate transition benchmarks, EU Paris-aligned benchmarks and sustainability-related disclosures for benchmarks ("**Low Carbon Benchmarks Regulation**").

The FCA published a press release announcing the extension of the senior managers and certification regime ("**SMCR**") to approximately 47,000 solo-regulated firms, replacing the approved persons regime for those firms. The FCA describes the extension as a key step to creating a culture across financial services where individuals step forward to take accountability for their own actions and competence.

The Financial Stability Board ("**FSB**") published a report assessing BigTech market developments and the potential implications for financial stability.

The FSB published a report on the financial stability implications of third-party dependencies in cloud services.

10 December

ESMA published its final report on draft regulatory technical standards on costs disclosure requirements applicable to ELTIF managers under Article 25(3) of the Regulation on European long-term investment funds (2015/760/EU) ("**ELTIF Regulation**").

The following Commission Implementing Regulations under Solvency II were published in the Official Journal of the European Union:

- Commission Implementing Regulation (2019/2102/EU) and
- Commission Implementing Regulation (2019/2103/EU).

11 December

The Financial Action Task Force ("**FATF**") published a speech outlining some key areas of its focus.

ESMA published a briefing on implementing the recognition regime under Article 32 of the Benchmarks Regulation (2016/1011/EU) ("**BMR**").

ESMA published an updated version of its Q&As on the Benchmarks Regulation (2016/1011/EU).

12 December

The European Central Bank ("ECB") published a speech on its banking supervision recent activities.

The FCA published an updated version of its webpage on the new anti-money laundering and counter-terrorist financing regime for cryptoassets.

The FCA published an updated version of its webpage on the SMCR.

The Basel Committee on Banking Supervision published a discussion paper on designing a prudential treatment for cryptoasset.

Regulation 2019/2099/EU ("**EMIR 2.2**") was published in the Official Journal of the European Union.

13 December

The EBA published a consultation paper in relation to benchmarking of internal models under the CRD IV Directive.

The International Association of Insurance Supervisors published a speech (dated 10 December 2019) on FinTech developments.

The International Organisation of Securities Commissions ("**IOSCO**") published its final report setting out recommendations for a "two step" framework assessing leverage in investment funds that may pose stability risks.

ESMA published a consultation paper on procedural rules for penalties imposed on third-country central counterparties, trade repositories and credit rating agencies under Regulation 648/2012/EU (as amended) ("**EMIR**").

The FCA published a policy statement (PS19/29) on making transfers simpler, which forms part of the package of remedies from the investment platforms market study.

16 December

The Joint Committee of European Supervisory Authorities ("**ESAs**") published a final report containing joined guidelines on co-operation and information exchange between national competent authorities supervising credit and financial institutions for the purposes of the Fourth Money Laundering Directive (2015/849/EU) ("**MLD4**").

The Basel Committee on Banking Supervision published a press release announcing the launch of the consolidated Basel framework.

The Bank of England published a report setting out the results of the 2019 UK banking system stress test.

The Financial Ombudsman Service published a consultation paper on its proposed plans ad budget for 2020/21.

17 December

Regulation 2019/2155/EU of the ECB amending the ECB Regulation on supervisory fees was published in the Official Journal of the European Union.

The FCA published a call for input on how open finance could transform financial services.

The FSB published its 2020 work programme, which includes a focus (amongst other things) on FinTech and cross-border payment systems.

The European Parliament published a press release announcing that it and the Council of the EU had reached political agreement on the proposed regulation on the establishment of a framework to facilitate sustainable investment.

The FCA published a policy statement (PS19/30) in which it confirms its decision to extend the remit of independent governance committees.

The PRA published a policy statement on Pillar 2 liquidity: PRA110 reporting frequency threshold (PS26/19).

The European Commission adopted a Delegation Regulation (C(2019) 8951 final) correcting the Solvency II Delegated Regulation (2015/35/EU).

18 December

The following legislative acts were published in the Official Journal of the European Union:

- Regulation 2019/2160 amending Regulation 575/2013/EU as regards exposures in the form of covered bonds; and
- Directive 2019/2162/EU amending Directives 2009/65/EC and 2014/59/EU on the issue of covered bonds and covered bond public supervision.

19 December

The PRA published a policy statement (PS27/19) on reporting updates for Capital+ and ring-fenced bodies.

The European Commission published a consultation exploring how an enhanced framework for digital operational resilience of the EU financial sector could be established.

The European Commission published a consultation seeking views on the suitability of the existing regulatory framework for cryptoassets. The consultation is open until 18 March 2020.

The European Parliament published a press release announcing that it and the Council of the EU reached political agreement on proposed legislation to crowdfunding.

20 December

The FCA published a webpage in which the FCA summarises the implications for financial services regulation if the UK leaves the EU with a withdrawal agreement on 31 January 2020 and consequently the UK enters into a transition period until at least 31 December 2020.

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 were published.

The FCA published a press release providing an update on the working group known as the Financial Services Regulatory Partners Phoenixing Group.

HM Treasury announced that Andrew Bailey has been appointed as the new Governor of the Bank of England.

HM Treasury announced that Business Secretary Andrea Leadsome approved the proposed acquisition of Cobham PLC by Advent International, subject to certain undertakings. A decision notice setting out the same was published on HM Treasury's website.

23 December

The FCA published a new webpage on the Money Laundering and Terrorist Financing (Amendment) Regulations 2019, which will come into force for most purposes on 10 January 2020.

Related Professionals

- **Andrew Wingfield**
  Partner
- **Richard Bull**
  Partner
- **John Verwey**
  Partner