Proskauer

Regulation Round Up

Regulatory & Compliance on **November 2020**

30 November

The Prudential Regulation Authority ("**PRA**") published a statement about its forthcoming policy statement on implementing the CRD V Directive ((EU) 2019/878).

HM Treasury updated its webpage on a call for evidence relating to its review of Solvency II for insurance firms. The deadline for responding to the call for evidence has been extended to 19 February 2021.

27 November

The Financial Conduct Authority ("**FCA**") has published Handbook Notice 82.

26 November

A draft version of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2020 was published, together with a draft explanatory memorandum .

The FCA published a speech by Jonathan Davidson, FCA Executive Director of Supervision: Retail and Authorisations, on the business of social purpose.

Commission Implementing Decision (EU) 2020/1766 on the temporary equivalence of the UK's regulatory framework for central securities depositories under the Central Securities Depositories Regulation (909/2014) ("**CSDR**") has been published in the Official Journal of the EU.

25 November

The Financial Markets Law Committee responded to a call for evidence on UK's future international regulatory co-operation strategy.

The House of Commons European Scrutiny Committee published its 29th report of the 2019-21 session.

The Bank of England (“**BoE**”) announced future changes to firms' submission of statistical data.

Financial Services Compensation Scheme (“**FSCS**”) published its outlook newsletter and provides an overview of the levy position.

City of London Corporation announced the launch of a new Taskforce to improve socio-economic diversity in financial and professional services sectors.

The Bearer Certificates (Collective Investment Schemes) Regulations 2020 (SI 2020/1346) were published, with an explanatory memorandum.

European Parliament adopted the first reading position on the proposed Directive amending MiFID II Directive (EU/2014/65) (“**MiFID II**”).

European Securities and Markets Authority (“**ESMA**”) published a public statement (ESMA70-155-8842) on the impact of the end of the Brexit transition period on the derivatives trading obligation under Article 28 of the Markets in Financial Instruments Regulation (EU/600/2014) (“**MiFIR**”).

24 November

The FCA published a press release in which it sets out the benefits of RegData, its new data collection platform.

The European Commission and the Financial Services Agency of Japan published a joint statement on the second meeting of the joint EU-Japan Regulatory Forum, which took place on 20 November 2020.

The Asset Management Taskforce published a report on integrating stewardship into investment process.

23 November

The FCA updated its webpage on the digital sandbox pilot.

The Financial Stability Board (“**FSB**”) published a report on the implications of climate change for financial stability.

The FCA updated its webpage on the Financial Services Register to confirm that the directory persons data submitted by dual-regulated firms under the Senior Managers and Certification Regime ("**SM&CR**") is now live.

The FCA updated its webpage on its business interruption insurance test case.

ESMA published a final report (ESMA70-156-3883) on regulatory technical standards supplementing the European Market Infrastructure Regulation on derivatives, central counterparties and trade repositories (EU/648/2012) ("**EMIR**"), on the clearing obligation regarding intragroup transactions, and novations from UK to EU counterparties.

The FCA published a speech by Richard Monks, FCA Director of Strategy, on building trust in sustainable investments.

The FCA updated its webpage on reporting simple, transparent and standardised securitisations.

The Islamic Finance Standards Board ("**IFSB**") published the following sets of FAQs relating to four of its standards:

- ???Guiding principles on corporate governance for institutions offering only Islamic financial services (IIFS) (IFSB-3).
- ???Guiding principles on governance for Islamic collective investment schemes (ICIS) (IFSB-6).
- ???Standard on risk management for tak??ful undertakings (IFSB-14).
- ???Technical note on financial inclusion and Islamic finance (TN-3).

20 November

The FCA published a press release announcing that it, HM Treasury and BoE intend to convene a working group to facilitate investment in productive finance.

Treasury Committee launched a further inquiry into future of UK's financial services post-Brexit.

European Commission published a consultation on the Delegated Regulation on climate change mitigation and adaptation under Regulation on the establishment of a framework to facilitate sustainable investment (EU/2020/852) ("**Taxonomy Regulation**"). It has also published a press release on the consultation and updated its webpage on the EU taxonomy for sustainable activities.

The FCA updated its Q&As about conduct risk during LIBOR transition.

Commission Delegated Regulation (EU) 2020/1732, which supplements Regulation (EU/2017/2402) ("**Securitisation Regulation**") on fees charged by ESMA to securitisation repositories, was published in the Official Journal of the EU.

19 November

The FCA published a consultation paper on proposed policy changes to the way it will raise regulated fees and levies rates for 2021/22 (CP20/22).

The Financial Ombudsman Service ("**FOS**") published issue 155 of ombudsman news.

FSCS and Serious Fraud Office agreed on a memorandum of understanding.

The FCA published a new webpage for investment managers, clarifying the process for reporting income for FSCS levy calculations.

ESMA published a speech by Verena Ross, ESMA Executive Director, on future challenges for fund managers.

18 November

The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (SI 2020/1301) were published, together with an explanatory memorandum.

The FSB published its ninth report on the implementation of its resolution reforms.

The FCA published a press release warning firms of the need to be responsible when handling client data.

The Committee on Economic and Monetary Affairs published a report on a proposed Directive amending MiFID II.

17 November

The FSB published a letter to G20 leaders on ongoing COVID-19 work and future initiatives, a report on financial stability impact and policy responses, and a report setting out the findings of its holistic review of the March 2020 market turmoil.

16 November

The Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2020 (SI 2020/1274) (2020 Regulations) were published, together with an explanatory memorandum.

HM Treasury published a statement made jointly with the FCA and the Prudential Regulation Authority ("**PRA**") on the introduction of the Investment Firms Prudential Regime ("IFPR") and the implementation of Basel standards reflecting the CRR II Regulation (EU/2019/876) ("CRR II"). Please also refer to the Proskauer update on this topic.

The Payment Services and Electronic Money (Amendment) Regulations 2020 (SI 2020/1275) were published, together with an explanatory memorandum.

13 November

The FCA published a statement providing an update on work that it intends to either stop or postpone in the light of the ongoing impact of COVID-19 and economic conditions.

The PRA and the BoE updated their webpage on their temporary transitional power to announce the publication of revised versions of the following guidance documents on their use of the transitional directions:

- ???PRA Rulebook.
- ???Capital Requirements Regulation.
- ???The Solvency 2 and Insurance (Amendment) (EU Exit) Regulations 2018.
- ???The Securitisation Regulation.
- ???Guidance on the BoE's use of the transitional direction as FMI competent authority.

The FSB published its annual report on the implementation and effects of the G20 financial regulatory reforms.

The PRA published a statement on the application of its temporary transitional power (TTP) to legislation relating to the implementation of the CRD V Directive (EU/2019/878) ("**CRD V**") and the Bank Recovery and Resolution Directive (EU/2014/59) ("**BRRD**").

UK Finance published a white paper on sustainable finance.

ESMA published a press release on the identification of its EU strategic supervisory priorities for national competent authorities (NCAs).

The BoE published information on the Climate Biennial Exploratory Scenario, which it plans to launch in June 2021.

12 November

ESMA published a report on the European Systemic Risk Board's recommendation on liquidity risk in investment funds (ESMA34-39-1119).

ESMA published its third annual report (ESMA34-45-934) on penalties and measures issued under the UCITS Directive (2009/65/EC) in 2019, and its first annual report (ESMA34-32-548) on penalties and measures issued under the Alternative Investment Fund Managers Directive (EU/2011/61) ("**AIFMD**") in 2018 and 2019.

11 November

The FCA updated its webpage on firms' preparations for the end of the transition period to set out considerations for EEA firms conducting business in the UK.

The FCA published Primary Market Bulletin 31.

The European Court of Auditors published a report on the Capital Markets Union ("**CMU**").

The UK Government announced its long-awaited and far-reaching proposed reforms to its existing powers to scrutinise foreign investment in the UK. Please also refer to the Proskauer update on this topic.

10 November

The following equivalence directions relating to the equivalence of EEA member states were published on legislation.gov.uk:

- ???The Benchmarks Regulation Equivalence Directions 2020.

- The Central Securities Depositories Regulation Equivalence Directions 2020.
- The Credit Rating Agencies Regulation Equivalence Directions 2020.
- The Short Selling Regulation Equivalence Directions 2020.
- The European Market Infrastructure Regulation (Article 2A) Equivalence Directions 2020.
- The European Market Infrastructure Regulation (Article 13) Equivalence Directions 2020.
- The Capital Requirements Regulation Equivalence Directions 2020.
- The Solvency 2 Regulation Equivalence Directions 2020.

ESMA has published an updated:

- Statement on issues affecting reporting under EMIR (648/2012) and the Regulation on reporting and transparency of securities financing transactions (EU/2015/2365) ("**SFTR**") (ESMA74-362-881).
- Statement on the use of UK data in ESMA databases and performance of MiFID II calculations (ESMA70-155-10958).
- Statement on ESMA's data operational plan (ESMA65-8-7497).

9 November

HM Treasury Rishi Sunak, Chancellor of the Exchequer, made a statement in the House of Commons on financial services and a related guidance document was published.

UK government's Task Force on Climate-related Financial Disclosures published an interim report and a roadmap on mandatory climate-related disclosures.

HM Treasury published a summary of responses, together with its own responses, to its consultation paper on market access arrangements for financial services between the UK and Gibraltar.

The Financial Services Bill 2019-21 had its second reading in the House of Commons.

The BoE published a speech by Andrew Bailey, BoE Governor, about tackling climate change and regulatory expectations.

The FCA published a speech by Nikhil Rathi, FCA Chief Executive, about rising to the climate challenge.

The Council of the EU published a cover note attaching the European Commission's staff working document (SWD (2020) 261 final) on its evaluation of the Distance Marketing Directive (EC/2002/65) ("**DMD**").

Both the FCA and PRA published updated information about the COVID-19 pandemic and workplace arrangements.

The FSB published a discussion paper on regulatory and supervisory issues relating to outsourcing and third-party relationships.

The European Banking Authority ("EBA") published a press release reminding financial institutions of the need for readiness in view of the Brexit transition period ending on 31 December 2020.

ESMA published a consultation paper (ESMA34-39-926) on draft guidelines for funds' marketing communications under Article 4 of the Regulation on the cross-border distribution of collective investment undertakings (EU/2019/1156) ("**Cross-Border Regulation**").

ESMA published a decision on MiFIR assessments of third country trading venues (ESMA70-155-11210).

6 November

The FCA published a new webpage providing links to dedicated Brexit websites hosted by financial regulators in EEA member states.

ESMA published a consultation paper (ESMA70-156-2477) on draft guidelines on obligations relating to market data under the MiFID II and MiFIR.

ESMA published an updated version of

- its Q&As on investor protection and intermediaries (ESMA35-43-349) under MiFID II and the MiFIR.
- its Q&As (ESMA70-145-114, version 17) on the Benchmarks Regulation (EU/2016/1011) ("**BMR**").

- its Q&As (ESMA74-362-893) designed to provide greater clarity to market participants on how to comply with their reporting requirements under the SFTR.

ESMA published updated guidance (ESMA70-155-10587) on the Annex to its opinion determining transparency for third-country trading venues.

5 November

ESMA published a consultation paper (ESMA30-379-325) setting out draft advice to the European Commission on Article 8 of the Taxonomy Regulation specifying the content, methodology and presentation of the key performance indicators that non-financial undertakings and asset managers are required to disclose.

UK Finance published a document containing information to assist financial institutions and other firms comply with UK sanctions legislation both in the UK or overseas.

ESMA published a webpage with official translations, including the English version (ESMA34-39-992), of its guidelines on performance fees in UCITS and certain types of alternative investment funds ("**AIFs**").

The FCA published a policy statement summarising feedback received on its consultation paper CP20/12 and setting out its decision regarding the proposed delay to the implementation of the mandatory European Single Electronic Format requirements for annual financial reporting under the Transparency Directive.

ESMA published a final report (ESMA70-156-3729) to the European Commission on internalised settlement under the Central Securities Depositories Regulation (909/2014) (CSDR).

Pay.UK published a paper providing an overview of the UK consumer protection landscape relating to disputed transactions.

4 November

The EBA published an opinion (EBA/Op/2020/18) on how prudential supervisors should take money laundering and terrorist financing risks into account in the supervisory review and evaluation process ("**SREP**").

The FCA published a statement about its approach to the share trading obligation under MiFIR after the end of the transition period.

The FCA published a speech given by Jonathan Davidson, FCA Executive Director of Supervision: Retail and Authorisations, on the FCA's expectations around forbearance, operational challenges and the importance of vulnerability in the credit market in the light of the COVID-19 pandemic.

FCA started a consultation and draft guidance to enhance support to consumer credit borrowers.

3 November

The EBA published a discussion paper (EBA/DP/2020/03) (dated 30 October 2020) on incorporating environmental, social and governance ("**ESG**") risks into the governance, risk management and supervision of credit institutions and investment firms.

The House of Lords EU Services Sub-Committee published a call for evidence relating to its ongoing inquiry into financial services after Brexit.

The FCA published a policy statement (PS20/13) on amendments to the open banking identification requirements ("**eIDAS certificate**"). The FCA has also published a statement about the changes in PS20/13.

HM Treasury clarified the UK's approach to the Regulation on European crowdfunding service providers in a letter.

2 November

The FCA updated its webpage on its business interruption insurance test case (claim number FL-2020-000018) to announce that the Supreme Court has granted permission to appeal the High Court judgment of the test case.

The FCA published a call for input on its review into change and innovation in the unsecured credit market.

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