Proskauer

Regulation Round Up

Regulatory & Compliance on **July 2021**

30 July

The Basel Committee on Banking Supervision ("**BCBS**") published a report jointly with the World Bank setting out the findings from a global survey on proportionality in banking regulation and supervision.

The Prudential Regulation Authority ("**PRA**") has voluntarily published banking supervisory disclosures for the period to end-2020, in line with its previous obligations under Article 143 of the CRD IV Directive (2013/36/EU) ("**CRD IV**") and Commission Implementing Regulation 650/2014.

The Financial Conduct Authority ("**FCA**") announced that it has resumed work on its market study to examine the credit information market.

Regulation (EU) 2021/1230 on cross-border payments in the EU was published in the Official Journal of the EU.

29 July

European Central Bank (ECB) recommendation ECB/2021/31 repealing the European Central Bank ("**ECB**") recommendation ECB/2020/35 on banks' dividend distributions during the COVID-19 pandemic, with effect from 30 September 2021, was published.

The PRA updated its webpage on its June 2021 consultation paper setting out proposed rules relating to the implementation of prudential standards agreed by the BCBS for non-performing loan securitisations (CP10/21).

The FCA published a consultation paper on issuing statutory notices and a new approach to decision makers (CP21/25).

European Securities and Markets Authority ("**ESMA**") published an updated version of its Q&As (ESMA70-145-114, version 21) on the Benchmarks Regulation ((EU) 2016/1011) ("**BMR**").

ESMA published an updated version of its Q&As on the implementation of the CRA III Regulation (462/2013) (ESMA33-5-87).

28 July

The European Banking Authority ("EBA") published its final report (EBA/GL/2021/08) setting out guidelines on the monitoring of the threshold and other procedural aspects for establishing an intermediate EU parent undertaking under Article 21b of the CRD IV.

The FCA updated its webpage on the Investment Firms Prudential Regime ("**IFPR**") and made available further new MIFIDPRU forms.

ESMA published its annual report (dated 23 July 2021) (ESMA70-156-4596) following a review of the regulatory technical standards supplementing the Markets in Financial Instruments Regulation (EU/600/2014) ("MiFIR") set out in Commission Delegated Regulation (EU) 2017/583.

27 July

The European Supervisory Authorities ("**ESAs**") (that is, the EBA, ESMA and EIOPA) added an update to the webpage hosting their joint supervisory statement on the application of the Sustainable Finance Disclosure Regulation (*(EU) 2019/2088*) ("**SFDR**").

The European Commission launched a consultation on guidance on the rules applicable to the use of public-private partnerships in the framework of preventing and fighting money laundering and terrorist financing.

ESMA published the tenth version of its questions and answers on the Prospectus Regulation.

The FCA published a policy statement on its proposed changes to the Listing Rules for certain special purpose acquisition companies, with final amendments to the Listing Rules and its technical note.

26 July

ESMA published an internal Commission Decision (C(2021) 4858 final) and annex containing a set of answers about the application of the SFDR, which the European Commission adopted on 6 July 2021.

The FCA published a portfolio strategy letter updating platforms on its focus over the coming months on priority areas of harm.

European Banking Authority ("**EBA**") published a consultation paper (EBA/CP/2021/30) on draft regulatory technical standards on criteria for the identification of shadow banking entities under Article 394(4) of the Capital Requirements Regulation (575/2013) ("**CRR**").

The FCA published its second policy statement on the implementation of the Investment Firms Prudential Regime (PS21/9).

23 July

The European Commission published a letter dated 8 July 2021, which confirms that the date of application of regulatory technical standards under the SFDR has been delayed until 1 July 2022.

The FCA published Handbook Notice 90.

The Financial Ombudsman Service ("**FOS**") published a press release announcing that its board has commissioned a periodic independent review of the FOS.

The European Commission published a roadmap relating to guidance on the rules applicable to the use of public-private partnerships in the framework of preventing and fighting money laundering and terrorist financing.

The ECB published a recommendation (ECB/2021/31) that repeals its recommendation ECB/2020/35 on banks' dividend distributions during the COVID-19 pandemic with effect from 30 September 2021.

22 July

HM Treasury published its response to the December 2020 call for evidence on the overseas framework.

The EBA published a discussion paper on proportionality assessment methodology (EBA/DP/2021/03).

21 July

The FCA published a statement on information for firms that use certain exemptions to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (*SI 2005/1529*) concerning communications relating to relevant markets.

20 July

ESMA published its annual report (ESMA34-45-1269) on penalties and measures issued under the UCITS Directive (*2009/65/EC*) and its annual report (ESMA34-32-865) on penalties and measures issued under the Alternative Investment Fund Managers Directive (*2011/61/EU*) ("**AIFMD**").

HM Treasury published a consultation paper proposing a Senior Managers and Certification Regime ("**SM&CR**") for financial market infrastructures.

The FCA published a consultation paper on proposed targeted amendments to the UK PRIIPs disclosure regime (CP21/23).

19 July

ESMA published a consultation paper (ESMA35-36-2324) on draft guidelines on certain aspects of the remuneration requirements under the MiFID II Directive (2014/65/EU) ("**MiFID II**").

The FCA published a set of frequently asked questions on the fair treatment of vulnerable consumers.

The ECB has published a blog on the management of credit risk by banks in the single supervisory mechanism.

The FCA has published a Dear Chair letter addressed to the chairs of authorised fund managers containing guiding principles on design, delivery and disclosure of environmental, social and governance ("**ESG**") and sustainable investment funds.

16 July

ESMA published an updated version of its Q&As (ESMA34-32-352) on the application of the AIFMD.

ESMA published an updated version of its Q&As (ESMA34-43-392) on the application of the UCITS Directive (*2009/65/EC*).

15 July

The House of Commons Treasury Committee published its First Special Report of Session 2021-22, which contains responses to its report on net zero and the future of green finance.

The European Commission adopted a legislative proposal (COM(2021) 397) for a draft Regulation amending the PRIIPs Regulation (*1286/2014*) as regards the extension of the transitional arrangement for management companies, investment companies and persons advising on, or selling, UCITS and non-UCITS (2021/0215 (COD)).

The FCA published its 2021/22 business plan, which sets out its business priorities for the year ahead. Please also see here for our note on this business plan.

The European Commission adopted a legislative proposal (COM(2021) 399) for a Directive amending the UCITS Directive (*2009/65/EC*) as regards the use of key information documents ("**KIDs**") by management companies of UCITS (2021/0219(COD)).

The EBA published a consultation paper (EBA/CP/2021/28) proposing guidelines on the limited network exclusion under the revised Payment Services Directive (*(EU) 2015/2366*) ("**PSD2**").

14 July

The House of Commons Treasury Committee has published a letter (dated 2 July 2021) that considers the conditions for assessing a proposed change in control of a regulated firm.

The European Commission adopted a Delegated Regulation (C(2021) 5115 final), supplementing MiFID II by specifying the criteria for establishing when an activity is to be considered to be ancillary to the main business at group level.

The Council of the EU published the text (PE-CONS 34/1/21) of the proposed Regulation on cross-border payments in the EU, codifying and replacing the existing Regulation on cross-border payments (*924/2009*) (2020/0145(COD)).

13 July

The House of Commons Work and Pensions Committee published a letter (dated 11 June 2021) on reforms to financial promotions legislation by Nikhil Rathi, FCA Chief Executive.

The Bank of England ("**BoE**") and the FCA have published the conclusions of their review into UK open-ended funds.

The PRA has published a statement updating its December 2020 statement on its temporary approach to shareholder distributions by large UK banks in the light of the COVID-19 pandemic.

12 July

The European Commission has published two documents produced by the EU Platform on Sustainable Finance: a consultation paper on extending the EU taxonomy with regard to environmental objectives, and a draft report on a social taxonomy.

Sterling Working Group published the paper GBP LIBOR loan contracts – Timelines and considerations for borrowers, to help borrowers understand and achieve the end-of-Q3 milestone relating to actively transitioning legacy sterling LIBOR loans.

A draft version of the Capital Requirements Regulation (Amendment) Regulations 2021 was published, together with a draft explanatory memorandum.

9 July

An article was published on *Reuters.com* reporting that the date of application of regulatory technical standards under the SFDR has been delayed.

The FCA published a new webpage setting out case studies to illustrate good and bad practice when promoting financial services.

HM Treasury published a joint statement on the first India-UK Financial Markets Dialogue, having held the inaugural meeting.

8 July

The Department for International Trade announced that it had signed a new free trade agreement with the three non-EU members of the European Economic Area which are also members of the European Free Trade Association - Iceland, Norway, and Liechtenstein.

The International Regulatory Strategy Group published a report on the UK regulatory regime for overseas firms.

7 July

The FCA, PRA, and BoE published a joint discussion paper (DP21/2) setting out policy options to improve diversity and inclusion in financial services. The FCA has also published a paper providing a review of research literature that provides evidence of the impact of diversity and inclusion in the workplace. Please also see here for our note on this discussion paper.

The Financial Stability Board published a roadmap for addressing climate-related financial risks.

6 July

The European Commission adopted a Delegated Regulation (C(2021) 4987 final) supplementing Article 8 of the Taxonomy Regulation (*(EU) 2020/852*) by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of the Non-Financial Reporting Directive (*2014/95/EU*) concerning environmentally sustainable economic activities and the methodology to comply with that disclosure obligation.

The European Commission published a communication (COM(2021) 390 final) together with an annex and staff working document, on a strategy for financing the transition to a sustainable economy.

The House of Commons Treasury Committee published its Fifth Report of Session 2021-22 on future framework for regulating financial services.

The FCA published its findings, on a webpage, following a multi-firm review of the processes used by different authorised fund managers when carrying out assessments of value for the funds they operate.

5 July

The PRA published a consultation paper (CP15/21) setting out proposals making minor changes to its policy on designating investment firms.

The EBA has published final reports on technical standards relating to colleges of supervisors for investment firm groups and information exchange between competent authorities. The technical standards supplement the Investment Firms Directive ((EU) 2019/2034).

2 July

EBA published its final report (EBA/GL/2021/05) containing updated guidelines on internal governance under the CRD IV.

EBA published the final report (EBA/GL/2021/04) on its guidelines on sound remuneration policies (EBA/GL/2015/22) under the CRD IV.

The FCA published a Dear CEO letter sent to general insurance intermediaries on maintaining adequate client money arrangements.

The FCA published its 35th Primary Market Bulletin, in which it is consulting on a proposed new technical note on listing applicants with cannabis-related businesses.

1 July

Chancellor's Mansion House speech outlines the UK government's vision for new chapter for financial services.

ESMA published its first report (ESMA34-45-1219) providing an overview of marketing requirements and marketing communications under the Regulation on the cross-border distribution of collective investment undertakings (*(EU) 2019/1156*).

The House of Commons Treasury Committee published a webpage announcing the launch of a new inquiry into climate change and finance.

The ECB and the European Systemic Risk Board published a joint report on climate-related risk and financial stability, with a technical supplement focusing on data and measurement issues.

The EBA published an opinion on appropriate supervisory and enforcement practices for the process of authorising investment firms as credit institutions under Article 8a of the CRD IV (EBA/Op/2021/08).

The Financial Action Task Force published a report on opportunities and challenges of new technologies for anti-money laundering and counter-terrorist financing.

The European Systemic Risk Board published a report on systemic vulnerabilities of, and preliminary policy considerations to reform, money market funds.

HM Treasury published a consultation paper on the Wholesale Markets Review.

Related Professionals

Andrew Wingfield
Partner

Richard Bull
Partner

John Verwey
Partner

Michael Singh
Associate