Proskauer

Regulation Round Up

Regulatory & Compliance on **December 2021**

Welcome to the Regulation Round Up, a regular bulletin highlighting the latest developments in UK and EU financial services regulation.

22 December

The Association of Financial Markets in Europe ("**AFME**") published guidance on cash penalties under Regulation 909/2014 (Central Securities Depository Regulation (CSDR)) Settlement Discipline Regime that will be introduced on 1 February 2022.

21 December

The EU Council adopts negotiating mandate on the resilience of critical entities.

The Financial Conduct Authority ("**FCA**") published an IFPR newsletter reminding current non-CRR firms about the notification deadline under transitional regime of the prudential sourcebook for MiFID Investment Firms ("**MIFIDPRU**").

20 December

Commission Delegated Regulation (EU) 2021/2268 amending the regulatory technical standards in relation to packaged retail and insurance-based investment products ("**PRIIPS**") pursuant to Regulation (EU) 2017/653 ("**PRIIPs KID Delegated Regulation**") was published in the Official Journal of the European Union.

The European Commission and EU Platform on Sustainable Finance published further information to support disclosures under Article 8 of the Regulation on the establishment of a framework to facilitate sustainable investment (EU/2020/852) ("**Taxonomy Regulation**"):

- FAQs: How should financial and non-financial undertakings report Taxonomy-eligible economic activities and assets in accordance with the Taxonomy Regulation Article 8 Disclosures Delegated Act?,

- Platform considerations on voluntary information as part of Taxonomy-eligibility reporting, and
- EU taxonomy NACE alternate classification mapping.

The European Banking Authority ("**EBA**") published a consultation that seeks comments on draft implementing technical standards on amending Commission Implementing Regulation (EU) 2016/2070 with regard to benchmarking of internal models used in credit risk and market risk.

The European Securities and Markets Authority ("**ESMA**") published a statement clarifying the practical implementation of Regulation (EU) 909/2014 ("**CSDR**") settlement discipline regime.

ESMA provided a summary of the conclusions from its assessment of Tier 2 central counterparties ("**CCPs**") established in the UK.

ESMA published final guidelines on the delineation and reporting of available financial means of deposit guarantee schemes.

17 December

The FCA published two policy statements (one and two) on enhancing climate-related disclosures rules by asset managers, life insurers and FCA-regulated pension providers (PS21/24). For further details please refer to our separate update on this topic.

ESMA published an updated version of its Q&As (ESMA34-32-352) on the application of the Alternative Investment Fund Managers Directive (*2011/61/EU*) ("**AIFMD**").

The FCA published Handbook No Notice 94, which sets out changes to the FCA Handbook made by the FCA board on 25 November 2021 and 16 December 2021.

The Prudential Regulation Authority ("**PRA"**) issued a policy statement (PS28/21) providing feedback to the responses it received to its consultation (CP18/21) on remuneration and the identification of material risk takers.

16 December

ESMA published a report (in parts one and two) on the conclusions from its assessment of third-country central counterparties (Tier 2 CCPs) established in the UK.

EBA published revised guidelines on supervision of credit and financial institutions' compliance with AML/CFT obligations.

The Financial Stability Board ("**FSB**") published its 2021 global monitoring report on non-bank financial intermediation ("**NBFI**").

The PRA published an inventory of senior manager responsibilities under the Senior Managers and Certification Regime ("**SM&CR**").

The EU Council published the final compromise text (14993/21) of the proposed Regulation on a pilot regime for market infrastructures based on distributed ledger technology ("**DLT**") (2020/0267(COD)).

15 December

HM Treasury published a consultation on proposed reforms to the exemptions under the Financial Promotions Order for high net worth individuals and sophisticated investors from the financial promotion restriction. This is intended to help SMEs raise finance from sophisticated private investors, or 'business angels', without the cost of having to comply with the financial promotions regime.

ESMA issued a statement that they will take over the competencies and duties relating to supervisory and enforcement activity providers ("**DRSPs**") from the National Competent Authorities in the field of certain data reporting services providers.

The Committee on Economic and Monetary Affairs of the EU Parliament ("**ECON**") published a draft report on 'daisy chain' proposal.

The EBA published its final report on its feasibility study of an integrated reporting system.

The Critical Benchmarks (References and Administrators' Liability) Bill has received Royal Assent and has become an Act of Parliament.

The PRA published a policy statement (PS27/21) on minor changes to its policy on designating investment firms.

The European Commission published a communication on a strategy on supervisory data in EU financial services (COM(2021) 798 final).

13 December

The EBA published its final report on the draft regulatory technical standards ("**RTS**") amending the RTS on credit risk adjustments in the context of the calculation of the risk weight of defaulted exposures under the standardised approach of credit risk.

10 December

Delegated Regulation (EU) 2021/2178 supplementing Article 8 of the Taxonomy Regulation by specifying the content and presentation of information and specifying the methodology to comply with that disclosure obligation has been published.

The FCA published a feedback statement (FS21/12) and technical notice on the legacy use of synthetic LIBOR.

The EBA launched a consultation on its draft RTS specific liquidity measurement requirements for investment firms and draft guidelines on liquidity requirements exemptions for small and non-interconnected investment firms.

The FSB launched a survey on the effect of existing national and regional frameworks on cross-border data flows.

The Financial Services and Markets Act 2000 (Consequential Amendments of References to Rules) Regulations 2021 (SI 2021/1388) have been made and laid before Parliament.

The PRA and FCA have issued a Dear CEO Letter on their supervisory review of global equity finance businesses.

9 December

Delegated Regulation (EU) 2021/2139 ("**Taxonomy Delegated Act**") establishing technical screening criteria for determining whether an economic activity qualifies as environmentally sustainable under the Taxonomy Regulation has been published. Delegated Regulation (EU) 2021/2139 enters into force on 29 December 2021 and applies from 1 January 2022.

The Working Group on Euro Risk-Free Rates published a statement reminding market participants to cease entering into new contracts that use EONIA and EUR, GBP, CHF, JPY and USD LIBORs as soon as practicable and in general terms by 31 December 2021.

8 December

The EBA published for consultation draft RTS on the information that European crowdfunding service providers have to provide to investors under the Crowdfunding Regulation (EU) 2020/1503.

The International Organization of Securities Commissions ("**IOSCO**") published a consultation on the use of innovation facilitators in growth and emerging markets, drafted by the FinTech.

7 December

Three Commission Delegated Regulations setting out RTS relating to the Investment Firms Directive (EU/2019/2034) ("IFD"): on remuneration, risk-takers and criteria for subjecting certain firms to CRR have been published. (One, two and three).

ESMA published its guidelines on methodology, oversight function and record keeping under the EU Benchmarks Regulation ("**BMR**").

The ECON adopted its report on the EU Commission's proposed directive on digital operational resilience for the financial sector ("**DORA**").

The ECB published its supervisory priorities for 2022-24, based upon its assessment of the risks and vulnerabilities faced by supervised institutions in the current economic, regulatory and supervisory environment.

6 December

FCA published discussion paper (DP21/5) on the review of its financial services compensation framework.

3 December

The Bank of England ("BoE") published a policy statement offering an overview of the revised approach to setting the minimum requirement for own funds and eligible liabilities ("**MREL**").

FCA published a consultation paper (CP21/34) on improving the appointed representatives' regime and proposes stronger requirements on oversight of appointed representatives.

The FCA published its Quarterly Consultation No 34.

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