Proskauer

Regulation Round Up

Regulatory & Compliance on **January 2022**

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

Key developments in January 2022:

31 January

ESMA published a final report (ESMA80-416-203) setting out its guidelines on disclosure requirements for initial reviews and preliminary ratings under the CRA Regulation (1060/2009) ("**CRAR**").

The UK government published a press release and an accompanying policy paper announcing the government's intention to bring forward a "Brexit Freedoms" Bill to ensure that retained EU law can be more easily amended or repealed, and to end the special status of EU law in the UK legal framework.

The UK House of Commons European Scrutiny Committee launched an inquiry, Retained EU Law: Where next? This inquiry examines the future of retained EU law in the context of the UK government's reviews into the substance and status of retained EU law.

28 January

The Financial Conduct Authority ("**FCA**") published a new webpage to help firms decide if an individual candidate is suitably competent and capable of effectively performing the role of head of compliance or money laundering reporting officer.

27 January

The FCA published its Regulation round-up for January 2022.

The European Securities and Markets Authority ("**ESMA**") published a consultation paper (ESMA35-43-2998) on draft guidelines on certain aspects of the suitability requirements under the MiFID II Directive (2014/65/EU).

24 January

The EU Platform on Sustainable Finance published a response to the European Commission's request for feedback on a draft text of a Taxonomy Complementary Delegated Act under the Regulation on the establishment of a framework to facilitate sustainable investment (EU/2020/852) ("**Taxonomy Regulation**").

21 January

The FCA published a statement on the extension of the exemption for undertakings for the collective investment in transferable securities ("**UCITS**") funds from the requirement to provide a key information document ("**KID**") under the UK Packaged Retail and Insurance-based Investment Products ("**PRIIPs**") Regulation.

EBA issued a consultation on a revision of guidelines regarding high earners data collection exercises under the Capital Requirements Directive (2013/36/EU) ("**CRD"**) and Investment Firms Directive (EU/2019/2034) ("**IFD**").

20 January

The Commission Delegated Regulation (EU) 2022/76 setting out the regulatory technical standards on K-factor daily trading flow (K-DTF) coefficients under the Investment Firms Regulation (EU/2019/2033) ("**IFR**"), was published.

19 January

The FCA launched a consultation (CP22/2) on proposals aimed at strengthening its financial promotion rules for high-risk investments, including crypto assets. Please see our note on this update here.

The FCA has issued a revised version (FG15/8) of its guide to the FCA's powers and procedures under the Competition Act 1998.

18 January

The Single Resolution Board issued updated work priorities in the 2022 work programme.

HM Treasury has published a report that sets out the findings from its consultation on recommendations to expand the FCA's financial promotions regime to include certain types of crypto asset.

The FCA published a statement on its approach to EU firms operating in the UK under the temporary permissions regime that do not meet its expectations.

17 January

The EU Commission adopted a delegated regulation, which amends Commission Delegated Regulation (EU) 2017/583 ("**RTS 2**") regarding transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives.

The European Banking Authority ("**EBA**") confirmed that current guidelines on reporting and disclosure of exposures subject to measures applied in response to the COVID-19 will continue to apply.

EBA issued a Discussion Paper on preliminary observations on selected payment fraud data under the Payment Services Directive ("**PSD2**").

HM Treasury published a consultation which sets out the proposals relating to the Bank of England's regulation of CCPs and central securities depositories.

13 January

The FCA published a new webpage and templates relating to the MIFIDPRU Remuneration Code.

ESMA issued a Public Statement to remind firms of the MiFID II requirements on the provision of investments services to retail or professional clients by firms not situated or established in the EU.

The EBA published final resolvability guidelines and a consultation on draft transferability guidelines in relation to the resolvability assessment under the Bank Recovery and Resolution Directive ("**BRRD**").

The FCA announced that it is putting temporary measures in for the reporting of the short selling indicator while it considers policy options for the UK MiFIR transacting reporting regime.

The House of Lords Economic Affairs Committee has published a report on central bank digital currencies ("**CBDCs**").

12 January

The Prudential Regulation Authority ("**PRA**") has issued Dear CEO letters on its 2022 priorities for Insurance Supervision, international banks active in the UK and UK deposit takers.

11 January

Delegated Regulation (EU) 2022/27, which amends the Short Selling Regulation to lower the notification threshold of significant net short positions in shares from 0.2% to 0.1%, was published.

10 January

Two Delegated Regulations that set out regulatory technical standards under the Investment Firms Regulation (EU/2019/2033) ("**IFR**") were published:

- Commission Delegated Regulation (EU) 2022/25 specifying the methods for measuring the K-factors referred to in Article 15 of the IFR; and
- Commission Delegated Regulation (EU) 2022/26 specifying the notion of segregated accounts to ensure client money's protection in the event of an investment firm's failure.

The FCA published a policy statement (PS22/1) on the new structure for authorisation application fees.

7 January

The European Commission issued a draft Delegated Regulation updating the list of 'high-risk third countries' ("**EU AML List**"). These countries have been identified as having strategic deficiencies in anti-money laundering and counter terrorism financing regimes.

5 January

ESMA published its Final Report on the amendment of the Market Abuse Regulation (MAR) guidelines on delayed disclosure in relation to prudential supervision.

EBA published its Opinion on the scale and impact of de-risking in the EU and the precautions competent authorities should take to avoid unwarranted de-risking.

4 January

ESMA published a call for evidence on amendments to Markets in Financial Instruments Regulation (EU/600/2014) ("**MiFIR**") transparency and data reporting regulatory technical standards to reflect the use of distributed ledger technology.

3 January

ESMA published a final report on its Guidelines on certain aspects of the MiFID II appropriateness and execution-only requirements.

ESMA issued a letter replying to EU Commission's request for support in relation to its report on reverse solicitation required under the Regulation on the cross border distribution of funds.

1 January

The EU Commission has commenced an expert consultation on draft Delegated Act focusing on nuclear and gas activities.

The FCA issued notices under Article 23C and 23D for the UK Benchmarks Regulation covering the calculation and permitted legacy use of six sterling and Japanese yen LIBOR settings.

Related Professionals

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