Proskauer

Regulation Round Up

Regulatory & Compliance on **December 2022**

December 2022 – UK and EU Regulatory Newsletter

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

Key developments in December 2022:

22 December

Commission Implementing Regulation (EU) 2022/1994 was published in the Official Journal of the European Union, amending the implementing technical standards ("**ITS**") laid down in Commission Implementing Regulation (EU) 2021/1451 relating to own funds, asset encumbrance, liquidity and global systemically important institution reporting.

The Financial Conduct Authority ("**FCA**") published a statement on further extending supervisory flexibility over 10% depreciation notifications to investors.

21 December

The European Securities and Markets Authority ("**ESMA**") published its final report containing draft technical standards on the notifications for cross-border marketing and cross-border management under the UCITS Directive (2009/65/EC) and the Alternative Investment Fund Managers Directive (2011/61/EU) ("**AIFMD**").

The Joint Committee of the European Supervisory Authorities ("**ESAs**") published an updated version of its Q&As (JC 2017 49) on the key information document ("**KID**") requirements for packaged retail and insurance-based investment products ("**PRIIPs**"), as laid down in Commission Delegated Regulation (EU) 2017/653.

The Register of Overseas Entities (Verification and Provision of Information) (Amendment) Regulations 2022 were published and laid before Parliament.

The Council of the EU published Presidency compromise text (16099/22) on the proposed Regulation amending the Markets in Financial Instruments Regulation (600/2014) (“**MiFIR**”).

The Council of the EU published Presidency compromise text (16102/22) on the proposed Directive amending the MiFID II Directive (2014/65/EU) "(“**MiFID II**”).

The European Banking Authority (“**EBA**”) published a final report (EBA/RTS/2022/12) on draft regulatory technical standards (“**RTS**”) on the identification of a group of connected clients under Article (4)(1)(39) of the Capital Requirements Regulation (575/2013) (“**CRR**”).

20 December

The European Commission published a draft Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Climate Delegated Act (*(EU) 2021/2139*) establishing technical screening criteria for economic activities that contribute substantially to climate change mitigation or climate change adaptation and do no significant harm to other environmental objectives.

The European Commission a draft Commission Notice on the interpretation and implementation of certain legal provisions of the Disclosures Delegated Act ((EU) 2021/2178) under Article 8 of EU Taxonomy Regulation ((EU) 2020/852) (the “**Taxonomy Regulation**”) on the reporting of Taxonomy-eligible and Taxonomy-aligned economic activities and assets.

The Council of the EU published a press release announcing it has agreed its general approach on the proposed Regulation amending the Central Securities Depositories Regulation (*909/2014*) (“**CSDR**”). It also published the text of the general approach (15985/1/22).

ESMA published a final report (ESMA74-362-2281) containing guidelines for reporting trades in derivatives and obligations for trade repositories under the European Market Infrastructure Regulation (*648/2012*) (“**EMIR**”).

19 December

The European Commission adopted a Delegated Regulation (C(2022) 9649) that amends the list of high-risk third countries with strategic anti-money laundering and counter-terrorist financing deficiencies produced under Article 9(2) of the Fourth Money Laundering Directive ((*EU) 2015/849)*.

Commission Implementing Regulation (EU) 2022/2453, which amends the ITS laid down in Implementing Regulation (EU) 2021/637 as regards the disclosure of ESG risks, was published in the Official Journal of the European Union.

The PRA and the FCA jointly published a consultation paper (CP15/22/CP22/28) on the ratio between fixed and variable components of total remuneration (the "**bonus cap**")

ESMA published an opinion on amendments to Commission Delegated Regulation (EU) 2017/587 (RTS 1) and Commission Delegated Regulation (EU) 2017/583 (RTS 2), made under MIFIR. The proposed amendments relate to certain reporting fields, flags and transitional provisions.

The Bank of England published its 2022 annual report on its supervision of financial market infrastructures (FMIs), covering the period from 15 December 2021 to 16 December 2022.

The European Central Bank ("**ECB**") published a report on good practices for climate stress testing.

16 December

The Financial Stability Board ("**FSB**") published a progress report on the transition from LIBOR and other benchmarks.

The FCA published Handbook Notice 105, which sets out changes to the FCA Handbook made by the FCA board on 24 November 2022 and 9 and 15 December 2022.

The BCBS published its work programme for 2023-24.

ESMA published its first set of Q&As (ESMA70-460-189) relating to the implementation of the Regulation on a pilot regime for market infrastructures based on distributed ledger technology (*(EU) 2022/858*) ("**DLT Pilot Regime Regulation**").

ESMA published an updated version of its Q&As on market structures topics (ESMA70-872942901-38) under MiFID II and MIFIR.

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

15 December

The PRA and FCA published a joint policy statement (PRA PS11/22 / FCA PS22/16) on margin requirements for non-centrally cleared derivatives: amendments to the binding technical standards in the UK onshored version of Commission Delegated Regulation (EU) 2016/2251, which supplements UK EMIR (*648/2012*).

ESMA published a draft final report (ESMA70-460-206) on guidelines on standard forms, formats and templates to apply for permission to operate a distributed ledger technology market infrastructure under the DLT Pilot Regime Regulation.

UK Finance published a report on the future regulation of unbacked cryptoassets in the UK.

14 December

The House of Commons published a written statement made by Andrew Griffith, Economic Secretary to HM Treasury, about the development of a UK green taxonomy.

ESMA published a supervisory briefing (ESMA35-36-2780) setting out guidance on the supervision of cross-border activities of investment firms under MiFID II.

The BCBS published its third evaluation report (BCBS544), together with a technical annex, providing its first holistic evaluation of the impact and efficacy of the implemented Basel III reforms.

The EBA published a consultation paper (EBA/CP/2022/15) on draft guidelines on overall recovery capacity in recovery planning.

ESMA published a statement (ESMA35-43-3444) to provide clarity to market participants on best execution reporting.

The FCA published a notice of first decision issued to ICE Benchmark Administration Ltd under Article 21(3) of the UK Benchmarks Regulation ((EU) 2016/1011), compelling it to publish three-month sterling LIBOR after end-December 2022.

The FSB published a report setting out its assessment of the effectiveness of the FSB's recommendations on liquidity mismatch in open-ended funds.

13 December

The FCA published a discussion paper (DP22/6) on the future disclosure framework for retail investments.

The Bank of England published the financial policy summary and record of the meetings of its Financial Policy Committee on 28 November and 8 December 2022.

The FCA published a press release announcing the launch of a new advisory committee to the FCA's Board to work on ESG issues and published its terms of reference.

The EBA published a roadmap (EBA/REP/2022/30) outlining the objectives and timeline for delivering mandates and tasks in the area of sustainable finance and ESG risks.

12 December

The FCA updated its webpage on the Regulatory Initiatives Grid to announce a revised version will be published in 2023, following the Edinburgh Reforms.

The ECB published its supervisory priorities for the Single Supervisory Mechanism for 2023-25.

The ESAs published their joint advice to the European Commission on the review of the securitisation prudential framework.

The FCA published a webpage containing the results of a multi-firm review on how financial services firms are designing and embedding diversity and inclusion strategies.

The FCA published Primary Market Bulletin No 42, which provides FCA observations on climate-related disclosure requirements, the NSI Act and UK MAR, enquiries into unlawful disclosure of inside information, dealing with cash shells including SPACs and digital reporting.

The FCA updated its webpage on the Climate Financial Risk Forum to announce a third set of guides on addressing climate-related financial risks has been published.

9 December

HM Treasury published a summary of a wide-ranging set of reforms of the financial services sector, referred to as the "**Edinburgh Reforms**". As part of this, HM Treasury published a policy statement on building a smarter financial services framework for the UK that sets out its approach to the repeal of financial services retained EU law.

HM Treasury published a consultation paper on its plans to repeal the UK PRIIPs Regulation (*1286/2014*) and replace it with a new framework for retail disclosure, as part of the Edinburgh Reforms.

The Financial Services and Markets Bill 2022-23 has had its first reading in the House of Lords. A revised text of the Financial Services and Markets Bill, as introduced to the House of Lords, has also been published.

HM Treasury published remits and recommendations for the FCA and PRA.

The FCA published a document on its approach to implementing the outcomes of the Future Regulatory Framework Review.

HM Treasury published a call for evidence on the Short Selling Regulation Review as part of the Edinburgh Reforms.

The Department for International Trade launched a consultation ahead of negotiations for a new free trade agreement ("**FTA**") with South Korea. The new agreement will build on the existing UK-South Korea FTA, which largely replicates the European Union-South Korea FTA.

The FCA updated its webpage for wholesale investment firms applying for authorisation.

8 December

ESMA published a peer review report (ESMA42-111-7468) into the handling by national competent authorities of firms' relocation to the EU in the context of Brexit.

The FCA published a new webpage relating to its request for information under section 165 of the Financial Services and Markets Act 2000 to firms with appointed representatives.

The BCBS published a document (BCBS543) containing responses to FAQs on climate-related financial risks.

7 December

The Financial Services and Markets Bill 2022-23 has completed its report stage and third reading in the House of Commons.

The FCA published the minutes of the FCA board meeting that was held on 28 October 2022.

The Council of the EU published a press release announcing that it has adopted a position on the proposed AML Regulation (2021/0239(COD)) and the proposed Sixth Money Laundering Directive (2021/0239(COD)).

The European Commission published the texts of legislative proposals that it has adopted concerning reforms to EU clearing systems.

The European Commission published three legislative proposals in connection with its Capital Markets Union commitment to simplify EU listing rules.

The Council of the EU published an information note (15768/22) on the proposed Regulation amending the ELTIF Regulation ((EU) 2015/760).

6 December

The EBA published a consultation paper (EBA/CP/2022/13) on draft guidelines on policies and controls for the effective management of money laundering and terrorist financing risks when providing access to financial services and on revisions to its guidelines on money laundering and terrorist financing risk factors.

The FCA launched a consultation (CP22/27) on introducing a gateway for firms who approve financial promotions.

5 December

The FCA published a portfolio letter (dated 2 December 2022) setting out its supervisory strategy for financial advisers and intermediaries.

European Parliament published a speech (22/7520) given by Mairead McGuinness, European Commissioner for Financial Services, Financial Stability and Capital Markets Union on sustainable finance initiatives

2 December

The FCA published its 38th quarterly consultation paper (CP22/26), inviting comments on proposed changes to the FCA Handbook

1 December

The House of Commons Treasury Committee published the FCA and PRA responses to its request for increased efforts towards operational resilience.

The Financial Markets Law Committee published a response to the FCA's consultation on guidance on the trading venue perimeter (CP22/18).

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