Proskauer

Regulation Round Up

Regulatory & Compliance on **March 2023**

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

Key developments in March 2023:

31 March

SFTR: The European Securities and Markets Authority ("**ESMA**") published an updated version of its Q&As (ESMA74-362-893) on complying with reporting requirements under the Regulation on reporting and transparency of securities financing transactions ((EU) 2015/2365) ("**SFTR**").

Benchmark Regulations: ESMA published an updated version of its Q&As (ESMA70-145-114) on the Benchmarks Regulation ((EU) 2016/1011) ("**BMR**").

EMIR: ESMA published an updated version of its Q&As (ESMA70-1861941480-52) on the implementation of the European Market Infrastructure Regulation (648/2012/EU) ("**EMIR**").

Distributed Ledger Technology: ESMA published an updated version of its Q&As (ESMA70-460-189) relating to the implementation of the Regulation on a pilot regime for market infrastructures based on distributed ledger technology ("**DLT**") ((EU) 2022/858).

MiFID II / MiFIR: ESMA published an updated version of its Q&As (ESMA70-872942901-35) on transparency topics under the MiFID II Directive (*2014/65/EU*) ("**MiFID II**") and the Markets in Financial Instruments Regulation (*600/2014*) ("**MiFIR**").

MiFIR Data Reporting: ESMA published an updated version of its Q&As (ESMA70-1861941480-56) on data reporting under MiFIR.

FCA Handbook: The Financial Conduct Authority ("**FCA**") published Handbook Notice 108, which sets out changes to the FCA Handbook made by the FCA board.

Basel Framework: The Basel Committee on Banking Supervision ("**BCBS**") published document setting out various technical amendments and FAQs to help promote consistent interpretation of the Basel framework.

AML: The European Banking Authority ("**EBA**") published two final reports (here and here) on guidelines produced under Articles 17 and 18(4) of the Fourth Money Laundering Directive (*2015/849*) ("**MLD4**") to clarify regulatory expectations and tackle unwarranted derisking.

30 March

MiFIR Derivatives Trading: ESMA published a statement (ESMA70-156-6473) on the application of the derivatives trading obligation under Article 28 of MiFIR to certain credit default swaps.

ESG: The UK Government published its updated Green Finance Strategy, which sets out the Government's plans for action across a wide range of areas.

Payments: The Payment Systems Regulator ("**PSR**") published its annual plan and budget for 2023/24, together with a related factsheet.

SMCR: The FCA and the Prudential Regulation Authority ("**PRA**") published a joint discussion paper (FCA DP23/3 / PRA DP1/23) on reviewing operational aspects of the Senior Managers and Certification Regime ("**SMCR**"). Alongside this, HM Treasury has published a call for evidence on the legislative aspects of the regime.

ESG: HM Treasury published a consultation paper on a proposed future regulatory regime for ESG ratings providers under the Financial Services and Markets Act 2000 ("**FSMA**").

29 March

Artificial Intelligence: The Department for Science, Innovation and Technology has published the artificial intelligence ("**AI**") white paper: a pro-innovation approach to AI regulation, to guide the regulation of AI in the UK, aiming to improve public trust and drive responsible innovation.

AML: The EBA published a consultation paper (EBA/CP/2023/05) on proposed changes to the guidelines on the risk-based supervision of credit and financial institutions' compliance with anti-money laundering ("**AML**") and counter-terrorist financing ("**CTF**") obligations, produced under Article 48(10) of MLD4.

Financial Policy: The Bank of England published the financial policy summary and record of the meeting of its Financial Policy Committee.

ESG: The FCA published a press release providing an update on its consultation paper (CP22/20) on sustainability disclosure requirements ("**SDR**") and investment labels (please find our article on this here).

Capital Markets Reform: The FCA published a speech by Nikhil Rathi, FCA Chief Executive, on reform of the capital markets ecosystem.

EU Stress Testing: The EBA published a speech by José Manuel Campa, EBA Chair, on EU-wide stress testing.

AIFMD II: The Council of the EU published an information note containing a table comparing the negotiating positions taken by the European Commission, the Council of the EU and the European Parliament on the proposed Directive amending the Alternative Investment Fund Managers Directive (2011/61/EU) ("**AIFMD**") and the UCITS Directive (2009/65/EC) relating to delegation arrangements, liquidity risk management, supervisory reporting, provision of depositary and custody services, and loan origination by alternative investment funds (2021/0376 (COD)) ("**AIFMD II**").

28 March

ESG: The Taskforce on Nature-related Financial Disclosures ("**TNFD**") published the fourth and final beta version of its disclosure framework.

AML/CTF: The European Parliament published a press release announcing that its Committee on Economic and Monetary Affairs ("**ECON**") and its Committee on Civil Liberties, Justice and Home Affairs ("**LIBE**") have adopted their position on three pieces of draft legislation relating to strengthening and modernising the EU AML and CTF. These include the proposed AML Regulation and Sixth Money Laundering Directive ("**MLD6**").

EMIR Refit: ESMA published a consultation paper (ESMA74-362-2724) on amendments to its guidelines on position calculation.

Derivatives: ESMA published a statement (ESMA35-43-3547)addressing investor protection concerns raised by derivatives on fractions of shares.

27 March

MiFID II: ESMA published a final report (ESMA35-43-3448) following its review of the guidelines on product governance requirements under MiFID II.

Cryptoassets: A draft version of the Financial Services and Markets Act 2000 (Financial Promotion) Amendment) Order 2023 was published, together with a draft explanatory memorandum. This relates to the regulation of certain cryptoasset financial promotions.

23 March

SVB: The House of Commons Treasury Committee published letters from Andrew Griffith, Economic Secretary to HM Treasury, and Andrew Bailey, Bank of England Governor, concerning the resolution of Silicon Valley Bank UK Ltd (and its supervision prior to its resolution).

21 March

EMIR 3 Framework: The European Systemic Risk Board published a letter to each of the European Parliament and the Council of the EU about the legislative proposal amending EMIR (548/2012) intended to mitigate excessive exposures to third-country central counterparties ("**CCPs**") and improve the efficiency of EU clearing markets ("**EMIR 3**").

Investment Fund Prudential Supervision: ESMA published a speech by Verena Ross, ESMA Chair, in which she focuses on the macroprudential supervision of investment funds.

20 March

FCA Primary Market Bulletin: The FCA published its Primary Market Bulletin No 44.

ESG: The FCA published a Dear CEO letter, sent to benchmark administrators, setting out the findings of its preliminary ESG benchmarks review.

MAR: ESMA published a letter (ESMA24-436-1547) it sent to the European Parliament and the Council of the EU raising concerns about proposed changes to the Market Abuse Regulation (596/2014) ("**MAR**").

ELTIF Regulation: Regulation (EU) 2023/606 amending Regulation (EU) 2015/760 ("**ELTIF Regulation**") as regards the requirements pertaining to the investment policies and operating conditions of European long-term investment funds and the scope of eligible investment assets, the portfolio composition and diversification requirements and the borrowing of cash and other fund rules was published in the Official Journal of the European Union.

17 March

AML/CTF: The Joint Money Laundering Steering Group (JMLSG) published a press release announcing the publication of revisions to Part II of its AML and CTF anti-money laundering guidance for the financial services sector.

16 March

Payments: The FCA published a portfolio letter it has sent to payments firms.

PRIIPS: A corrigendum to Commission Delegated Regulation (EU) 2021/2268, which amends the regulatory technical standards ("**RTS**") laid down in Commission Delegated Regulation (EU) 2017/653 (the "**PRIIPs KID Delegated Regulation**"), was published in the Official Journal of the European Union.

14 March

CCP Resolution: The European Commission adopted Delegated Regulations (here and here) containing RTS supplementing the Regulation on the recovery and resolution of central counterparties ("**CCPs**") ((EU) 2021/23).

CSDR: ESMA published an updated version of its Q&As (ESMA70-156-4448) on implementation of the Central Securities Depositories Regulation (909/2014) ("**CSDR**").

SVB: The Amendments of the Law (Resolution of Silicon Valley Bank UK Limited) Order 2023 (SI 2023/319) was published, together with an explanatory memorandum.

Regulatory Capital: The PRA published a consultation paper (CP6/23) on the non-performing exposures capital deduction. The Appendices to CP6/23 have been published separately.

13 March

SVB: The Bank of England published a statement on the resolution of Silicon Valley Bank UK Ltd.

10 March

FCA Multi-Firm Review: The FCA published a webpage setting out the findings of its multi-firm review of fast-growing firms carried out during 2021 and 2022.

Regulatory Perimeter: The FCA published an updated version of its webpage on the perimeter report.

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

EuSEF / EuVECA: ESMA published an updated version of its Q&As (ESMA34-32-352) on the application of the European Social Entrepreneurship Funds Regulation (Regulation 346/2013) ("**EuSEF Regulation**") and the European Venture Capital Funds Regulation (Regulation 345/2013) ("**EuVECA Regulation**").

9 March

LTAFs: The FCA published a press release announcing the authorisation of the first long-term asset fund ("**LTAF**").

Investment Research: HM Treasury published the terms of reference for the Investment Research Review.

ESG: The Treasury Sub-Committee on Financial Services Regulations published a letter it sent to Nikhil Rathi, FCA Chief Executive, on aspects of the FCA's consultation paper on SDR and investment labels (CP22/20).

UK Short Selling Regulations: The Financial Markets Law Committee published a response to HM Treasury's call for evidence on the review of the UK Short Selling Regulation (2012/236).

CSDR Refit: ECON published the report (A9-0047/2023) it has adopted on the European Commission's legislative proposal for a Regulation amending CSDR ("**CSDR Refit**") (2022/0074(COD)).

CRR: Commission Delegated Regulation (EU) 2023/511 on RTS on the calculation of risk-weighted exposure amounts of collective investment undertakings under Article 132a(4) of the Capital Requirements Regulation (575/2013) ("**CRR**") was published in the Official Journal of the European Union.

8 March

MiFIR: ECON published the report (A9-0040/2023) it has adopted on the proposed Regulation MiFIR.

7 March

ELTIF Regulation: The Council of the EU published a press release announcing it has adopted the proposed regulation amending the ELTIF Regulation (2021/0377(COD)), designed to make these types of investment funds more attractive.

3 March

MiFID II: ECON published the report it has adopted on the European Commission's legislative proposal for a Directive amending MiFID II.

FCA Quarterly Consultation: The FCA has published its 39th quarterly consultation paper (CP23/6).

Nickel Trading: The FCA and Bank of England published statements (here and here) concerning supervisory actions taken in relation to the London Metal Exchange ("**LME**"), following LME's decision to suspend trading on its nickel market in March 2022.

CCP Recovery: Two Delegated Regulations (here and here) containing RTS supplementing the Regulation on the recovery and resolution of CCPs ((EU) 2021/23) were published in the Official Journal of the European Union.

2 March

Ring-Fencing/Resolution: HM Treasury published a call for evidence on aligning the bank ring-fencing and resolution regimes.

Benchmark Regulations: The European Commission published a call for evidence on the scope and third-country regime of the BMR.

Trade Data Review: The FCA published a report on its review of trade data and announced the launch of its wholesale data market study, publishing the terms of reference for the market study.

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