Proskauer

Regulation Round Up

Regulatory & Compliance on **May 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 May 2023:

31 May

LIBOR Transition: The FCA published a notice under Article 23B(2) of the UK Benchmarks Regulation ((EU) 2016/1011) ("**UK BMR**") providing for the effective date of the prohibition on use of one-month US Dollar LIBOR, three-month US Dollar LIBOR and six-month US Dollar LIBOR (the US Dollar LIBOR Versions). This is accompanied by a further notice setting out proposed modifications to the application of the UK BMR and BMR Delegated Regulations to the US Dollar LIBOR Versions pursuant to Annex 4 of the UK BMR.

30 May

BMR: The European Securities and Markets Authority ("**ESMA**") published a final report (ESMA81-393-644) on amendments to Commission Delegated Regulation (EU) 2018/1646 supplementing the Benchmarks Regulation ((EU) 2016/1011) ("**BMR**") with regard to regulatory technical standards ("**RTS**") on the information that EU benchmark administrators must provide in applications for authorisation and registration.

CRD IV: The European Banking Authority ("**EBA**") published a consultation paper (EBA/CP/2023/10) on draft RTS on general conditions of the functioning of supervisory colleges under Articles 51(4) and 116(4) of the CRD IV Directive (2013/36/EU) and draft implementing technical standards ("**ITS**") on the operational functioning of supervisory colleges under Articles 51(5) and 116(5) of CRD IV.

26 May

Insider Dealing: The Insider Dealing (Securities and Regulated Markets) Order 2023 was published alongside an explanatory memorandum.

CCPs: HM Treasury published a policy paper on amendments to the Financial Services and Markets Bill 2022-23 relating to overseas central counterparties ("**CCPs**").

AIFMD: The European Securities and Markets Authority ("**ESMA**") published an updated version of its Q&A (ESMA34-32-352) relating to the application of the Alternative Investment Fund Managers Directive (2011/61/EU) ("**AIFMD**").

AML: The Joint Money Laundering Steering Group ("**JMLSG**") published a press release announcing its consultation on proposed amendments to chapter 5 of Part I of its anti-money laundering ("**AML"**) and counter-terrorist financing ("**CTF**") guidance for the financial services sector.

25 May

Cryptoassets: The European Systemic Risk Board ("**ESRB**") published a report on the systemic implications of, and policy options for, cryptoassets and decentralised finance ("**DeFi**").

Investment Firms Directive: The European Commission adopted a Delegated Regulation (C(2023) 3282 final) supplementing the Investment Firms Directive ((EU) 2019/2034) ("**IFD**") with regard to RTS specifying the measurement of risks or elements of risks not covered or not sufficiently covered by the own funds requirements set out in Parts Three and Four of the Investment Firms Regulation ((EU) 2019/2033) ("**IFR**") and the indicative qualitative metrics for the amounts of additional own funds.

Unregulated products: ESMA published a statement (ESMA35-36-2813) on the risks arising from the provision of unregulated products and services by investment firms.

24 May

Market Outages: ESMA published a final report (ESMA70-156-6458) on market outages. The final report contains ESMA's feedback to responses received on its September 2022 consultation paper on proposed guidance on market outages.

AIFMD/UCITS: ESMA published the final report (ESMA34-45-1802) on its common supervisory action ("**CSA**") with national competent authorities ("**NCAs**") across the EU on supervision of the asset valuation rules under the UCITS Directive (2009/65/EC) ("**UCITS**") and the AIFMD.

23 May

Cryptoassets: The International Organization of Securities Commissions ("**IOSCO**") published a consultation report (CR01/2023) on policy recommendations for crypto and digital asset markets.

ELTIF: ESMA published a consultation paper (ESMA34-13000232-124) on draft RTS under Regulations 9(3), 18(6), 19(5), 21(3) and 25(3) of the Regulation on European Long-Term Investment Funds ((EU) 2015/760) ("**ELTIF Regulation**") as amended by Regulation (EU) 2023/606.

Qualifying Holding Procedures: The European Central Bank ("**ECB**") published the final version of its guide on qualifying holding procedures, together with a feedback statement to its September 2022 consultation on a draft of the guide

19 May

UK-EU Regulatory Co-operation: HM Treasury published the text of the draft version of the memorandum of understanding ("**MoU**") on UK-EU regulatory cooperation in financial services. The European Commission published a press release announcing that it has adopted this draft MoU.

New FCA Objective: The FCA updated its regulatory framework reforms webpage to provide information about its new secondary international competitiveness and growth objective.

18 May

SFDR: The ESAs published a set of consolidated Q&As (JC 2023 18) on the Sustainable Finance Disclosure Regulation ((EU) 2019/2088) ("**SFDR**") and on Commission Delegated Regulation (EU) 2022/1288, which supplements the SFDR with regard to RTS on content and presentation of information.

PRIIPS: The ESAs published a set of consolidated Q&As (JC 2023 22) on the Regulation on key information document requirements for packaged retail and insurance-based investment products (1286/2014) (the "**PRIIPs Regulation**") and related Delegated Acts.

17 May

Cryptoassets: The House of Commons Treasury Committee published a report on regulating cryptoassets.

Risk Management: The PRA published a policy statement on model risk management principles for banks (PS6/23), together with the final text of a new supervisory statement (SS1/23).

AIFMD/UCITS: ESMA published an opinion (ESMA34-45-1747) to the European Commission on undue costs of UCITS and alternative investment funds.

Investment Firms Directive: The European Commission adopted a Delegated Regulation (C(2023)3157) on RTS on specific liquidity measurement under the IFD.

Non-Bank Financial Intermediation: The FCA published a speech given by Ashley Alder, FCA Chair, on the drive for data in non-bank financial intermediation.

AML: The European Commission adopted a Delegated Regulation (C(2023) 3247) that amends the list of high-risk third countries with strategic AML and CTF deficiencies produced under Article 9(2) of the Fourth Money Laundering Directive ((EU) 2015/849) ("**MLD4**").

16 May

Global Markets: The FCA published a speech by Sarah Pritchard, FCA Executive Director of Markets and Executive Director of International, on meeting the challenge in changing global markets.

MiCA: The Council of the EU published a press release announcing it has adopted the proposed Regulation on markets in cryptoassets ("**MiCA**").

MiFID II: Commission Delegated Regulation (EU) 2023/960 amending Delegated Regulation (EU) 2017/588 (RTS 11), which contains RTS supplementing the MiFID II Directive (2014/65/EU) ("**MiFID II**"), was published in the Official Journal of the European Union.

MiFIR: Commission Delegated Regulations (EU) 2023/945 and (EU) 2023/944, which relate to transparency requirements for equity and non-equity instruments under the Markets in Financial Instruments Regulation (600/2014) ("**MiFIR**"), have been published in the Official Journal of the European Union.

15 May

ETF Regulation: IOSCO published a final report (FR07/23) on good practices relating to the implementation of its Principles for the Regulation of Exchange Traded Funds ("**ETFs**").

Investment Firms Regulation: The EBA published a final report (EBA/RTS/2023/03) on RTS on the scope and methods of consolidation of an investment firm group under Article 7(5) of the IFR.

11 May

Leverage: The PRA published a policy statement on risks from contingent leverage (PS5/23).

EMIR: A corrigendum to Commission Implementing Regulation (EU) 2022/1860 laying down ITS under EMIR (648/2012) ("**EMIR**") with regards to the standards, formats, frequency and methods and arrangements for reporting, was published in the Official Journal of the European Union.

10 May

Consumer Duty: The FCA published a speech given by Sheldon Mills, Executive Director of Competition and Consumers, on the new consumer duty.

Silicon Valley Bank: The House of Lords Economic Affairs Committee published a letter (dated 27 April 2023) from Andrew Griffiths, Economic Secretary, HM Treasury, concerning the resolution of Silicon Valley Bank UK Ltd ("**SVB UK**").

9 May

Senior Managers Regime: The PRA published a policy statement (PS4/23) on moving forms relating to the senior managers regime ("**SMR**") from the PRA Rulebook to the Connect system and extending the length of employment history required in the form A (long form).

New FCA/PRA Objective: HM Treasury published a call for proposals on measuring success in relation to the new secondary growth and competitiveness objectives for the FCA and the PRA to be introduced under the Financial Services and Markets Bill 2022-23 ("**FSM Bill**").

5 May

Climate Change: ESMA published a speech (ESMA30-1668416927-2473) given by Natasha Cazenave, ESMA Executive Director, on ESMA's role in enabling the transition to a low carbon economy.

3 May

Cryptoassets: The International Regulatory Strategy Group ("**IRSG**") published its response to HM Treasury's consultation on the UK regulatory approach to cryptoassets.

CCP Resolution: The European Commission has adopted two Delegated Regulations (here and here) on RTS supplementing the Regulation on the recovery and resolution of CCPs ((EU) 2021/23).

Secondary Markets: The FCA published a policy statement (PS23/4) setting out final rules to improve the functioning of equity secondary markets.

Related Professionals

- **John Verwey**
  Partner
- **Andrew Wingfield**
  Partner
- **Richard Bull**
  Partner
- **Oliver R. Howley**
  Partner
- **Mary Wilks**
  Partner
- **Michael Singh**
  Associate
- **Sulaiman I. Malik**
  Associate