Proskauer

Regulation Round Up

Regulatory & Compliance on **July 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 July 2023:

31 July

ESG: The European Commission adopted a Commission Delegated Regulation, setting out the first set of European Sustainability Reporting Standards ("**ESRS**"), together with a Q&A (see press release). The ESRS specify the information that companies are required to report in accordance with the Accounting Directive (2013/34/EU) as amended by the Corporate Sustainability Reporting Directive (2022/2464/EU) ("**CSRD**"), including at least the information that financial market participants need in order to comply with the disclosure obligations of the Sustainable Finance Disclosure Regulation (2019/2088/EU) ("**SFDR**").

28 July

FSMA 2023: In a letter from the Chair of the House of Lords Economic Affairs Committee, Andrew Bailey (Governor of the Bank of England) is requested to explain how the Bank of England expects to carry out its additional regulatory and supervisory responsibilities under the Financial Services and Markets Act 2023 ("**FSMA 2023**").

LIBOR Transition: The Financial Stability Board ("**FSB**") published a press release reflecting on the LIBOR transition and setting out some key messages for firms relating to post transition.

Securitisation: The Prudential Regulation Authority ("**PRA**") published a consultation paper (CP15/23) on proposed new rules to replace retained EU law requirements in the provisions of the UK Securitisation Regulation.

Systemic Importance: The PRA published a consultation paper (CP16/23) on updating UK technical standards on the identification of global systemically important institutions.

FCA Handbook: The Financial Conduct Authority ("**FCA**") published Handbook Notice 111, which sets out changes to the FCA Handbook.

25 July

Investment Firms Regulation: The European Banking Authority ("**EBA**") published a consultation paper (EBA/CP/202/16) on draft guidelines on the application of the group capital test for investment firm groups under the Investment Firms Regulation ((EU) 2019/2033) ("**IFR**").

21 July

Capital Requirements: The EBA published a report (EBA/Rep/2023/23) on the monitoring of Additional Tier 1, Tier 2 and instruments eligible for total loss absorbing capacity and minimum requirement for own funds and eligible liabilities.

20 July

MMF Regulation: The European Commission published a report (COM(2023) 452) on the adequacy of the Regulation on money market funds ((EU) 2017/1131) ("**MMF Regulation**") from a prudential and economic point of view.

AIFMD II: The Council of the EU published a press release announcing that it has reached political agreement with 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).

Cryptoassets: The House of Commons Treasury Committee published HM Treasury's response to its report on regulating cryptoassets.

ESG: The Financial Reporting Council ("**FRC**"), in its role as The Secretariat to the UK Sustainability Disclosure Technical Advisory Committee, issued a call for evidence to collect views to inform the proposed endorsement of the International Financial Reporting Standards Foundation's Sustainability Disclosure Standards in the UK.

EMIR: The European Securities and Markets Authority ("**ESMA**") published a final report (ESMA91-1505572268-3217) on amendments to the regulatory technical standards ("**RTS"**) in Commission Delegated Regulation ((EU) 153/2013), which include requirements for central counterparties (**"CCPs"**) that aim to limit the procyclicality of margin requirements under the European Market Infrastructure Regulation (648/2012) ("**EMIR**").

18 July

Risk Management: The Financial Markets Standards Board ("**FMSB**") published for consultation a transparency draft of a statement of good practice for the application of a model risk management framework to electronic trading algorithm.

Margin Requirements: The PRA and FCA published a joint consultation paper (CP13/23) on changes to the UK bilateral margin requirements for non-centrally cleared derivatives under UK EMIR.

AIFMD Penalties: ESMA published its annual report (ESMA34-1985693317-1074) on penalties and measures issued under the AIFMD.

17 July

Cryptoassets: The FSB published its final framework for the regulation of cryptoasset activities.

Financial Promotions: The FCA published a guidance consultation (GC23/2) on financial promotions on social media.

14 July

Conduct: The House of Commons Treasury Committee published a press release announcing the launch of an inquiry into sexism in the City.

FCA Objectives: The FCA published a statement on its new secondary international competitiveness and growth objective.

Securitisation: ESMA published an updated version of its Q&As (ESMA33-128-563) on the EU Securitisation Regulation.

13 July

ESG: The FSB published a progress report on promoting climate-related disclosures.

12 July

Cryptoassets: ESMA published a consultation paper (ESMA74-449133380-425) on its first set of regulatory technical standards ("**RTS**") and implementing technical standards ("**ITS**") under the Regulation on markets in crypto-assets ((EU) 2023/1114) ("**MiCA**").

Artificial Intelligence: The FCA published a speech given by Nikhil Rathi, FCA Chief Executive, on the FCA's emerging regulatory approach to artificial intelligence and Big Tech.

Foreign Subsidies: The EU Foreign Subsidies Regulation (EU) 2022/2560 ("**EUFSR**") started to apply. As of this date, the Commission can start ex officio investigations into financial contributions granted by non-EU governments to companies active in the EU where there is a possibility that a foreign subsidy is distorting the internal market. The notification obligation for concentrations and public procurement above certain thresholds will start to apply from 12 October 2023.

11 July

MIFID II: ESMA published its final report (ESMA35-36-2848), which includes draft RTS, following a review under Article 34 of the MiFID II Directive (2004/65/EU) ("**MIFID II**") relating to the provision of investment services across the EU.

Digital Securities: HM Treasury published a consultation paper on proposals for a Digital Securities Sandbox.

PRIIPS Regulation: HM Treasury published the response to its December 2022 consultation paper in which it set out its intention to repeal the retained EU law version of the PRIIPs Regulation (1286/2014) and sought views on a new framework for retail disclosure.

Consumer Credit: HM Treasury published a response to its initial consultation on reforming the Consumer Credit Act 1974.

Regulatory Framework: HM Treasury published a plan for delivery in relation to its policy approach to building a smarter regulatory framework for financial services that is tailored to the UK.

FSMA 2023: The Financial Services and Markets Act 2023 (Commencement No 1) Regulations 2023 (SI 2023/779) were published on legislation.gov.uk.

Short Selling: HM Treasury published a response to its call for evidence on the Short Selling Regulation Review.

MiFID II: ESMA published a supervisory briefing setting out supervisory expectations by ESMA and national competent authorities on understanding the definition of "advice" under MiFID II.

Investment Research Review: HM Treasury published a report containing the outcomes of the UK Investment Research Review

Securitisation: HM Treasury has published a near-final version of the Securitisation Regulations 2023, together with a policy note.

Securitisation: The European Commission adopted a delegated regulation (C(2023) 1563 final) supplementing the EU Securitisation Regulation ((EU) 2017/2402) with regard to regulatory technical standards (RTS) specifying in greater detail the risk retention requirements for originators, sponsors, original lenders and servicers. This follows a consultation in June 2021 and publication of draft RTS by the European Banking Authority in April 2022.

10 July

EUFSR: The Commission adopted Implementing Regulation (EU) 2023/1441 under the EUFSR. This sets out the procedures for notifying concentrations and public procurement bids that meet the thresholds for review, as well as the procedural rules on preliminary reviews and in-depth investigations in cases of suspected distortive foreign subsidies.

7 July

FSMA 2023: The text of the Financial Services and Markets Act 2023 was published on legislation.gov.uk.

ESG: The European Commission's Recommendation ((EU) 2023/1425) on facilitating finance for the transition to a sustainable economy was published in the Official Journal of the European Union.

6 July

ESG: ESMA published a press release announcing the launch of a common supervisory action with national competent authorities on sustainability-related disclosures and the integration of sustainability risks in the investment fund sector.

Liquidity Management: The FCA has published the findings of its multi-firm review of liquidity management frameworks, alongside a related Dear CEO letter it has sent to firms in the asset management sector.

5 July

Liquidity Management: The FSB published a consultation report on addressing structural vulnerabilities from liquidity mismatch in open-ended funds

Conduct: The House of Commons Treasury Committee has published a letter from Nikhil Rathi, FCA Chief Executive, in which he outlines the FCA's approach to non-financial misconduct.

4 July

Liquidity Management: The European Systemic Risk Board published a compliance report (ESRB/2017/6) on its recommendation relating to liquidity and leverage risks in investment funds.

Cryptoassets: The FCA published a letter it has sent to cryptoasset firms warning them that they must get ready for changes to the financial promotions regime that come into force on 8 October 2023.

3 July

Marketing: ESMA published its second report (ESMA34-45-1814) on marketing requirements and marketing communications under the Regulation on the cross-border distribution of collective investment undertakings.

LIBOR: The FCA published a press release confirming that the USD LIBOR panel ended on 30 June 2023. Overnight and 12-month USD LIBOR settings have now permanently ceased.

Consumer Duty: The House of Commons Treasury Committee has published a letter it has sent to Nikhil Rathi, FCA Chief Executive, about banks' savings rates.

1 July

State aid: The amendments to the EU State aid General Block Exemption Regulation entered into force. This declares specific categories of State aid compatible with the Treaty on the Functioning of the European Union without prior notification and approval by the European Commission, provided that the aid fulfils certain conditions. The areas covered by the amendments are focused on aid for the green and digital transition; the amendments also include streamlined conditions for risk finance aid for SMEs and start-ups, as well as for financial products supported by the InvestEU Fund.

Related Professionals

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- **Andrew Wingfield**
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- **Oliver R. Howley**
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