

Regulation Round Up

Regulatory & Compliance on September 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 September 2023:

29 September

Consumer Duty: The Financial Conduct Authority (“FCA”) published a [portfolio letter](#) that it sent to all platform service providers setting out an update of its view of the key harms in that sector, its expectations of firms and a summary of its key priorities for the sector and supervisory work programme for the next two years.

FCA Handbook: The FCA published [Handbook Notice 112](#), which sets out changes to the FCA Handbook.

Cryptoassets: The European Banking Authority (“EBA”) published [technical advice](#) for the European Commission relating to delegated acts to be adopted under the Regulation on markets in cryptoassets ((EU) 2023/1114) (“MiCA”).

28 September

ESMA Work Programme: The European Securities and Markets Authority (“ESMA”) published its [work programme](#) for 2024 (ESMA22-50751485-1368), which sets out ESMA's objectives and outputs for each of its strategic priorities.

ESG: The Joint Committee of the European Supervisory Authorities (“ESAs”) published its [second annual report](#) (JC 2023 42) on the extent of voluntary disclosure of principal adverse impact (“PAI”) under Article 18 of the Sustainable Finance Disclosure Regulation ((EU) 2019/2088) (“SFDR”). Please refer to our dedicated article on this topic [here](#).

FCA Regulation Round-up: The FCA published its [regulation round-up](#) newsletter for September 2023.

Ring-fencing Regime: HM Treasury and the Prudential Regulation Authority (“**PRA**”) published consultation papers ([here](#) and [here](#)) on near-term reforms relating to the bank ring-fencing regime.

Appointed Representatives: The FCA published a [webpage](#) setting out how it is improving the appointed representatives (“**AR**”) regime through greater use of data.

Ring-fencing Regime: HM Treasury published a [summary of responses](#) to its call for evidence on aligning the bank ring-fencing and resolution regimes.

Corporate Finance: The FCA published a [portfolio letter](#) setting out its supervisory strategy for corporate finance firms.

27 September

ESG: The European Systemic Risk Board (“**ESRB**”) published its [advice](#) on the prudential treatment of environmental and social risks.

Consumer Duty: The FCA published a new [webpage](#) setting out the findings of its multi-firm review of how firms offering “restricted mass market investments” have complied with new rules on the customer journey.

Basel 3.1: The PRA published a [news release](#) for firms in relation to its intended timetable to complete its work and implement the Basel 3.1 standards in the UK.

AIFMD II: The European Parliament updated its [procedure file](#) on the proposed Directive amending the Alternative Investment Fund Managers Directive (2011/61/EU) (“**AIFMD II**”) and the UCITS Directive (2009/65/EC). The European Parliament has indicated it will consider AIFMD II during its plenary session to be held from 5 to 8 February 2024.

FX Risk: The PRA published a [consultation paper](#) (CP17/23) proposing clarifications and amendments when capitalising foreign exchange (“**FX**”) exposures under the market risk capital framework. It also sets out the process for seeking permission to exclude structural FX positions from this capital calculation.

26 September

CRR: The European Commission adopted an [Implementing Regulation](#) on amendments to Implementing Regulation (EU) 945/2014, which contains implementing technical standards (“**ITS**”) on the list of diversified indices required under the Capital Requirements Regulation (“**CRR**”) (575/2013).

Diversity & Inclusion: The FCA and the PRA published consultation papers (CP23/20 / CP18/23) ([here](#) and [here](#)) on diversity and inclusion in the financial sector. Please refer to our dedicated article on this topic [here](#).

22 September

ESG: The United Nations Environment Programme Finance Initiative published its [second biennial report](#) on progress made by the signatories to the Principles for Responsible Banking in their implementation of the Principles, together with a [factsheet](#) summarising the report.

21 September

Cryptoassets: The FCA published a [letter](#) it has sent to cryptoasset firms marketing to UK consumers, setting out a "final warning" to these firms, and those supporting them, to get ready for the cryptoassets financial promotion regime.

20 September

ESG: The draft [Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No 2\) Order 2023](#) was laid in UK Parliament.

Cryptoassets: The Joint Money Laundering Steering Group (“**JMLSG**”) published a [press release](#) announcing it has received HM Treasury ministerial approval for revisions to chapter 22 of Part II of its anti-money laundering (“**AML**”) and counter-terrorist financing guidance for the financial services sector relating to cryptoasset transfers.

ESG: The Glasgow Financial Alliance for Net Zero (“**GFANZ**”) published a [consultation](#) on defining transition finance and considerations for decarbonisation contribution methodologies.

19 September

ESG: The Taskforce on Nature-related Financial Disclosures (“**TNFD**”) released the [final version](#) of its recommendations for a disclosure framework. Please refer to our dedicated article on this topic [here](#).

CCPs: The FSB published a [consultation report](#) on proposed financial resources and tools for the resolution of CCPs.

14 September

ESG: The European Commission published a [targeted consultation](#) and a [public consultation](#) to seek feedback on the SFDR. Please refer to our dedicated article on this topic [here](#).

Future of Regulation: The FCA published a [speech](#) by Ashley Alder, FCA Chair, on international collaboration and the modernisation of UK financial services regulation.

13 September

SME Test: The European Commission published for consultation a proposal amending Directive (EU) 2013/34 as regards adjustments of the size criteria for micro, small, medium-sized and large companies (“**SMEs**”).

Financial Promotions: The FCA published a new [webpage](#) on applying to approve financial promotions for unauthorised persons.

12 September

Financial Promotions: The FCA published a [policy statement](#) (PS23/13) on introducing a gateway for firms that approve financial promotions.

8 September

Wholesale Banks: The FCA published a [portfolio letter](#) sent to all wholesale banks active in the UK, setting out key priorities for the sector and the supervisory work programme for the next two years.

ESG: The Green Technical Advisory Group (“**GTAG**”) published two reports ([here](#) and [here](#)) containing technical advice for HM Treasury on the data and financial products under the UK green taxonomy.

7 September

Decentralised Finance: The International Organization of Securities Commissions (“**IOSCO**”) published a [consultation report \(CR/04/2023\)](#) on policy recommendations for decentralised finance.

Artificial Intelligence: The FCA published the [minutes](#) of the FCA board meeting held on 27 July 2023, at which (among other things) it discussed the FCA's emerging approach to artificial intelligence.

ESG: The FCA published its [response](#) to the consultation on agenda priorities published by the International Sustainability Standards Board in May 2023.

Cryptoassets: The FSB published a [joint paper](#) it has developed with the International Monetary Fund (“**IMF**”) that outlines the risks and policy findings relating to cryptoassets arising from the FSB's work on financial stability risks and the IMF's work on macroeconomic and monetary issues.

Cryptoassets: The FCA published a [letter](#) it has sent to firms that intend to communicate or approve cryptoasset financial promotions ahead of the cryptoassets financial promotions regime coming into force on 8 October 2023. It outlines good and poor practice and actions the FCA is taking to support firms which includes a modification by consent. Please refer to our dedicated article on this topic [here](#).

ESG: The Network for Greening the Financial System (“**NGFS**”) published the beta version of a [conceptual framework for nature-related financial risks](#) to guide actions by central banks and supervisors.

LIBOR: The BoE published [remarks](#) by Arif Merali, Senior Advisor in the BoE's Markets directorate, at a LIBOR transition panel discussion.

6 September

FSMA: The [Financial Services and Markets Act 2000 \(Exemptions from Financial Promotion General Requirement\) Regulations 2023 \(SI 2023/966\)](#) have been published on [legislation.gov.uk](#).

Financial Stability: The FSB published a [report](#) on the financial stability implications of leverage in non-bank financial intermediation (“**NBFI**”) and a [progress report](#) to the G20 on enhancing the resilience of NBFI.

Effective Controls: The FCA published a [speech](#) given by Sarah Pritchard, FCA Executive Director of Markets and International, on calibrating controls to build confident markets.

Shadow Banking: The European Commission adopted a [Delegated Regulation](#) (C(2023) 5912 final) containing regulatory technical standards specifying the criteria for the identification of shadow banking entities referred to in Article 394(2) of the CRR.

Sanctions: The FCA published a new [webpage](#) on firms' response to increased sanctions due to the conflict in Ukraine.

5 September

PEPs: The FCA published a [press release](#) announcing the launch of a review of the treatment of domestic politically exposed persons (“**PEPs**”) by firms, together with the [terms of reference](#) for the review.

4 September

ESG: The ECB published a [speech](#) given by Frank Elderson, ECB Supervisory Board Vice-Chair and Executive Board Member, on addressing the risks of climate and environment-related litigation in the banking sector.

ESG: The NGFS published two complementary reports on climate-related litigation risks ([here](#) and [here](#)).

ESG: GTAG published two reports ([here](#) and [here](#)) containing technical advice for HM Treasury on scope and reporting under the UK green taxonomy.

EU Regulatory Framework: The European Systemic Risk Board (ESRB) published an [issues note](#) explaining how the EU regulatory framework for investment funds could enhance the prevention and mitigation of systemic risks.

1 September

Quarterly Consultation Paper: The FCA published its 41st quarterly [consultation paper](#) (CP23/18).

Merger Simplification (Antitrust): The European Commission's [2023 Merger Simplification Package](#) came into force. This involves (i) a revised Implementing Regulation with updated EU merger notification forms, (ii) a revised Notice on Simplified Procedure, which expands the circumstances in which transactions can qualify for a short form merger notification and simplified review, and (iii) a Communication on the transmission of documents to the European Commission, which provides for all submissions to be made digitally, including electronic signatures.

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