Proskauer

Regulation Round Up

Regulatory & Compliance on **December 2023**

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

Key developments in December 2023:

21 December

UK / Swiss Regulatory Co-operation: The UK and Swiss governments signed an agreement on mutual recognition in financial services, the Berne Financial Services Agreement.

SME Test: The delegated directive amending the Accounting Directive ((EU) 2013/34) to adjust the size criteria (balance sheet and net turnover) for micro, small, medium-sized ("**SMEs**") and large companies by 25% to account for inflation has been published in the Official Journal.

Securitisation: The European Securities and Markets Authority ("**ESMA**") published a consultation paper (ESMA12-2121844265-3053) on the securitisation disclosure templates under Article 7 of the EU Securitisation Regulation (2017/2402).

ESG: The European Commission published a draft notice that sets out additional guidance responding to frequently asked questions on the interpretation and implementation of certain legal provisions of the Disclosures Delegated Act ((EU) 2021/2178) made under Article 8 of the EU Taxonomy Regulation ((EU) 2020/852) on the reporting of Taxonomy-eligible and Taxonomy-aligned economic activities and assets.

20 December

ESG: The Council of the European Union published a press release announcing that it has agreed its negotiating mandate on the proposed Regulation on the transparency and integrity of environmental, social and governance ("**ESG**") rating activities (2023/0177(COD)).

FCA Regulation Round-up: The UK Financial Conduct Authority ("**FCA**") published its regulation round-up for December 2023.

Financial Policy Committee: The Bank of England published a letter from Andrew Bailey, Bank of England Governor, to Jeremy Hunt, Chancellor of the Exchequer, responding to a November 2023 letter setting out the remit and recommendations for the Financial Policy Committee ("**FPC**") for 2023/24.

Primary Markets: The FCA published a consultation paper (CP23/31) seeking views on proposals for significant reform to the UK listing regime, summarising feedback received in response to CP23/10 and setting out detailed proposals, including the first tranche of the new UK Listing Rules.

Bonds / Derivatives: The FCA published a consultation paper (CP23/32) on improving transparency for bond and derivative markets.

Open-ended Funds: The Financial Stability Board ("**FSB**") published a policy paper setting out revised policy recommendations to address structural vulnerabilities from liquidity mismatch in open-ended funds.

19 December

FSMA: The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) (No 2) Order 2023 (SI 2023/1411) was published, amending the exemptions available from the restriction on communicating financial promotions applicable to high-net-worth individuals and self-certified investors. Please refer to our dedicated article on this topic here.

Primary Markets: The FCA published Primary Market Bulletin 46, which addresses specific questions raised by stakeholders in relation to market abuse and ESG.

ELTIF Regulation: ESMA published its final report on draft Regulatory Technical standards ("**RTS**") under the Regulation on European Long-Term Investment Funds ((EU) 2015/760) (the "**ELTIF Regulation**") as amended by Regulation (EU) 2023/606. Please refer to our dedicated article on the amended ELTIF Regulation here.

Decentralised Finance: IOSCO published a final report (FR/14/2023) setting out its policy recommendations for decentralised finance ("**DeFi**"). It has also published an umbrella note (OR02/2023) explaining the interoperability between the DeFi recommendations and the complementary final crypto and digital asset recommendations published in November 2023.

18 December

Short Selling: The FCA published an updated version of its webpage on the notification and disclosure of net short positions.

ESG: HM Treasury and the Department for Energy Security and Net Zero published a webpage with information about the Transition Finance Market Review.

EMIR: The UK Prudential Regulatory Authority ("**PRA**") and FCA published a joint policy statement (PRA PS18/23 / FCA PS23/19) on changes to the UK bilateral margin requirements for non-centrally cleared derivatives under UK EMIR (648/2012).

15 December

ESG: ESMA published a consultation (ESMA32-992851010-1016) on draft guidelines on enforcement of sustainability information.

MiFID II / MiFIR: ESMA published an updated version of its Q&As on investor protection and intermediaries under the Markets in Financial Instruments Directive (2014/65/EU) ("**MiFID II**") and the Markets in Financial Instruments Regulation (600/2014) ("**MiFIR**").

FCA Handbook: The FCA published Handbook Notice 114, which sets out changes to the FCA Handbook made by the FCA board on 23 November 2023, and on 4 and 14 December 2023.

AIFMD: The European Commission has adopted delegated legislation (here and here) relating to cross-border marketing and management notifications relating to the Alternative Investment Fund Managers Directive (2011/61/EU) ("**AIFMD**").

ESG: The Council of the EU and the European Parliament announced they have reached provisional agreement on the proposed Corporate Sustainability Due Diligence Directive, specifically referring to how the financial sector will be impacted. Please refer to our dedicated article on this topic here.

14 December

ESG: ESMA published a statement (ESMA34-472-373) providing an update on its adoption of guidelines on funds' names using ESG or sustainability-related terms. Please refer to our dedicated article on this topic here.

MiFID II: ESMA published a discussion paper on investor protection topics linked to digitalisation under MiFID II.

13 December

Capital Markets: ESMA published the terms of reference for its task force on the effectiveness of EU capital markets.

ESG: The Network for Greening the Financial System published a technical document containing recommendations on the development of scenarios for assessing nature-related economic and financial risks.

ESG: The EU Platform on Sustainable Finance published a draft report and call for feedback on proposals for EU Taxonomy-aligning benchmarks.

ESG: ESMA announced that, in 2024, it will launch and carry out a common supervisory action with national competent authorities on the integration of sustainability in firms' suitability assessment and product governance processes and procedures under MiFID II.

12 December

Basel 3.1: The PRA published a policy statement (PS17/23) on the first set of near-final rules on the implementation of the Basel 3.1 standards.

08 December

Investment Advice: The FCA and HM Treasury published a joint discussion paper (DP23/5) setting out proposals to help people make more informed investment and pensions decisions. The proposals form part of the joint advice guidance boundary review.

ESG: The European Parliament published the report (A9-0417/2023) of its Economic and Monetary Affairs Committee ("**ECON**") on the European Commission's legislative proposal for a Regulation on the transparency and integrity of ESG rating activities (2023/0177(COD)).

Growth / Competitiveness: HM Treasury published a response to its call for proposals on measuring success in relation to the secondary growth and competitiveness objectives for the FCA and the PRA.

PRA Policy: The PRA published a consultation paper (CP27/23) on its approach to policy.

Edinburgh Reforms: The House of Commons Treasury Committee published a report (HC 221) on the progress of the Edinburgh Reforms.

07 December

Cryptoassets: The EBA published a consultation paper (EBA/CP/2023/37) on draft RTS specifying the requirements for policies and procedures on conflicts of interest for issuers of asset-referenced tokens under the Regulation on markets in cryptoassets ((EU) 2023/1114) ("**MiCA**")

06 December

Money Market Funds: The FCA published a consultation paper (CP23/28) on updating the regime for money market funds ("**MMFs**"). HM Treasury also published a policy note on the UK MMF framework together with a draft version of the Money Market Funds Regulations 2024.

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

Financial Stability: The Bank of England published the Financial Stability Report for December 2023 and the financial policy summary and record of the meeting of its FPC on 21 November 2023.

05 December

Remuneration: the FCA and the PRA jointly published a policy statement (PS16/23) on remuneration and enhancing proportionality for small firms.

Shadowing Banking: The PRA published a consultation paper (CP23/23) on the identification and management of step-in risk, shadow banking entities and groups of connected clients.

ESG: ECON voted to adopt a draft report on the European Commission's legislative proposal for a Regulation on the transparency and integrity of ESG rating activities.

04 December

Digital Pound: The House of Commons Treasury Committee published a report on the digital pound (a retail central bank digital currency in the UK).

ESG: The ESAs published a final report (JC 2023 55) on draft RTS on the review of principal adverse impacts and financial product disclosures in Commission Delegated Regulation (EU) 2022/1288, which supplements the Sustainable Finance Disclosure Regulation ((EU) 2019/2088) ("**SFDR**"). Please refer to our dedicated article on this topic here.

Commodity Derivatives: The FCA published a consultation paper (CP23/27) on reforming the commodity derivatives regulatory framework.

Overseas Funds Regime: The FCA published a consultation paper (CP23/26) on implementing the overseas funds regime.

ESG: IOSCO published a final report (FR12/23) on supervisory practices to address greenwashing.

01 December

Quarterly Consultation Paper: The FCA published its 42nd quarterly consultation paper (CP23/25).

Sanctions: The FCA published a Memorandum of Understanding it has entered into with the Office of Financial Sanctions ("**OFSI**").

Related Professionals

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  Partner
- **Richard Bull**
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- **Oliver R. Howley**
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