

Join EVIALEBA Monthly Compliance Zoom Meeting;


0830 Wednesday 02nd December 2020

[Virtual Meeting via ZOOM](#)

[Meeting ID: 879 5357 0624](#)

i. Matters arising

a. Latest FCA Policy Development updates:

- i. No MarketWatch since [#65](#)
- ii. [CP20/22: Regulatory fees and levies: policy proposals for 2021/22](#) (see below)
- iii. Brexit -  [Notes; FCA MiFID Onshoring Round Table 1400 Tuesday 17th November 2020.pdf](#) on 17th November 2020
 1. [Recording](#)
- iv. [Nikhil Rathi discusses the FCA's pandemic response and his vision for the future](#)
 1. *'The FCA has to carry on doing what I think it did very well during the height of the crisis in March and April, which is listen and respond with pace and agility as new challenges emerge.'*
 2. Addressing the growing risk of firm failures as the pandemic continues, he says: *'We cannot stop some of the firms that are under FCA oversight from failing. We are not nor should we be a zero-failure regulator'. But he stresses that in those circumstances, the FCA will work to ensure that risks are managed and consumers are adequately protected.'*
 3. Looking further ahead, he emphasises the importance of data: *'We have to become more of a data-led regulator, data information intelligence is at the absolute core of what we do right across the organisation...'*
 4. He concludes the interview by outlining his vision for a post-Brexit world. *'We will continue to work hard on new areas of finance, particularly supporting innovation and fintech to make sure that the regulatory framework continues to adapt to the significant changes that we're seeing around us'.*
- v. [Nihil Rathi in front of the TSC](#); oral evidence session 04th November: Work of the Financial Conduct Authority – [no fireworks](#)
- vi. [Andrew Bailey in Front of the TSC](#); oral evidence session on Nov 23rd: Bank of England Monetary Policy Reports
- vii. [Benchmarks Regulation and proposed amendments under the Financial Services Bill \[PDF\]](#); 18/11/2020 A background to the Benchmarks Regulation and amendments proposed by the Government under the Financial Services Bill (FS Bill) to give us enhanced powers.
 1. [Consultation on proposed policy with respect to the designation of benchmarks under new Article 23A \[PDF\]](#); 18/11/2020; *With this document we aim to consult on our proposed policy approach. This paper outlines the factors we propose to take into consideration when deciding whether we should designate a critical benchmark,*
 2. [Consultation on proposed policy with respect to the exercise of the FCA's powers under new Article 23D \[PDF\]](#); *The purpose of this*

document is to consult on our proposed policy approach to the FCA's powers under Article 23D to impose requirements on the administrator of a critical benchmark

viii. [CP20/20: Our approach to international firms](#)

- b. FCA Third stage CP for new basis for MTFs and OTFs; Regulatory fees and levies: policy proposals for 2021/22 - The FCA have moved to the third stage of their more fundamental review and published consultation paper [CP20/22](#) - in which Chapter 4 presents those proposals for this third stage to introduce income to calculate periodic fees for firms that operate MTFs and OTFs.**
- i. **Q7: Do you have any comments on our proposed basis for calculating fees for firms operating MTFs and OTFs from 2021/22?**

Current fees structure		Proposed fees structure	
Basis	2020/21 fee rates	Basis	Indicative 2021/22 fee rates
MTF or OTF operator that has a named individual fixed portfolio supervisor	£350,225	Annual income (AI) up to and including £100,000	£1,151
All other MTF or OTF operators (i.e. those supervised by a team of flexible portfolio supervisors)	£33,028	AI over £100,000 (£/£ thousand or part thousands of income)	minimum fee £2,586

- ii. MTF and OTF regulated activities are covered by a sub-set of the market infrastructure provider B fee-block and currently pay flat periodic fees. The previous consultations as outlined in the CP.
- iii. Chapter 4 sets out our proposals for the third stage of our consultation to introduce income to calculate periodic fees for firms that operate Multilateral Trading Facilities (MTFs) and Organised Trading Facilities (OTFs). MTF and OTF regulated activities are covered by a sub-set of the market infrastructure provider B fee-block
- iv. The proportion of the topline £8.2 mm allocated to the MTF and OTF sub-set feeblock was £1.8m and is currently recovered from individual fee-payers within this sub-set through flat periodic fees. Flat periodic fees do not take account of the scale of the regulated business they undertake
- v. This includes the A.13 fee-block (Advisors, arrangers, dealers and brokers) in which most of the firms operating MTFs and OTFs also pay fees.
- vi. Proposals
1. a £100,000 threshold for determining the level of MTF and OTF annual income at which the operating firm will only pay the MTF/OTF minimum fee

2. a minimum fee aligned to the minimum used for the 'A' fee-blocks, £1,151 in 2020/21
 3. firms reporting MTF and OTF annual income above £100,000 will pay a variable fee rate for every £1,000 or part £1,000 of reported annual income above £100,000
 4. a valuation date based on the annual income for the financial year ended in the calendar year ending 31 December before the following fee year to which the fees relate.
 5. *For example, in the case of MTF/OTF fees for 2021/22, reference to 31 December would mean annual income for their financial year ending in calendar year ending 31 December 2020*
- vii. This third stage consultation provides indicative fee rates to enable firms to assess the impact of introducing income for calculating their individual MTF and OTF fees. Under the proposed fee structure, they now overall expect:
1. 40 firms will pay lower fees ranging from £1,151 to £30,245 compared to currently £33,028
 2. 9 firms will be higher fees ranging from £41,184 to £339,877 compared to currently £33,028
- viii. The CP on page 2 sets out details for how to respond. As you may recall we did not get any member views to the prior policy related proposals in Policy Statement PS19/19 chapter 3 (July 2019), which included moving to the concept of worldwide revenues, we think largely because they did not involve any quantum data.
1. This consultation closes 22 January 2021.
 2. Depending on the responses to this third-stage consultation, the FCA may consult on the actual fee rates to recover our 2021/22 annual funding requirement allocated to the MTF/OTF sub-set of the B fee-block in our April 2021 fees' rates consultation paper.
 3. Those variable fee-rates will be based on the income data reported by firms operating MTFs and OTFs for their financial year ending in calendar year ending 31 December 2020 and therefore will also contribute to producing a different fee-rate to the indicative fee-rate in table 4.1.
- ix. Other parts:
1. Chapter 2 sets out proposals to revalorise and simplify all FCA authorisation application fees and introduce some new transaction fees.
 2. Chapter 3 proposes the structure of periodic fees for cryptoasset businesses.

- c. Guidelines on the MiFID II/ MiFIR obligations on market data & FCA extends deadline for call for input on accessing and using wholesale data;**
- i. *ESMA; Making data available free of charge 15 minutes after publication*

#	Question	Context	Response
---	----------	---------	----------

23

Which elements for post- and pre-trade data publication should be required?

In particular, are flags a useful element of the publication?

Should there be any differences between the different types of trading systems?

Is the first best bid and offer sufficient for the purpose of delayed pre-trade data publication?

Entity type	Access	Completeness	Format	Timeliness
RMs	4.43	3.78	3.65	3.57
MTFs	4.25	3.69	3.40	3.27
OTFs	3.90	4.00	3.70	3.80
APAs	4.50	4.21	3.86	4.21
Average	4.27	3.92	3.65	3.71

There seems to be a gap between the regulatory expectations and the publication practices with respect to completeness of data. Therefore, ESMA considers it useful to clarify in Guideline 14 that in case of post-trade data all elements included in the Level 1 and 2 texts, including flags, should be subject to the publication. ESMA would be interested to receive feedback from data users whether flags are indispensable.

107. In terms of pre-trade data, given the technical challenges of the publication, which result from high volume of data at the order level, and also limited value added for data users, ESMA suggests in Guideline 14 to discharge the reporting entities from publishing more than one current best bid and offer in the delayed data publication. ESMA is seeking further feedback from data users whether they agree with this proposal, and whether any differentiation should be made depending on the type of trading system.

In light of complaints re delayed data, ESMA considered it useful to better explain and expand the content of the abovementioned Q&As into the proposed Guidelines. Furthermore, guidelines are a stronger Level 3 instrument available to ESMA and are translated into all EU languages. As the Guidelines will replace the Q&A, for clarity, ESMA plans to withdraw the Q&As immediately after the publication of the Guidelines.

Q&A 9a clarified that the market data provided free of charge 15 minutes after publication should replicate the information published on an RCB and be made available directly to end users.

Q&A 9b specified that trading venues, APAs and CTP may not impose redistribution fees on redistributors or third parties, unless where redistributors/third parties charge for the distribution of data and or commercialise value-added services created from such data.

Q&A 10 clarified which types of practices of trading venues and APAs are not considered as compliant with the regulatory requirements. Furthermore, the Q&A explained that APAs and trading venues should adapt the format in which the data is provided to the needs of users. When the data is accessed in large amounts and

Pre-Trade should only be published where there is a CLOB for liquid instruments.

Yes, flags a very useful element of the post trade publication





Yes, Pre-Trade data should only be published where there is a CLOB system. Even then the notion of delayed pre-trade data becomes counter intuitive if the consequent trades are already available.

		<p>on a regular basis, the information has to be provided on a machine-readable basis to ensure that it can be accessed through robust channels allowing for automatic access.</p> <p>There have been some concerns raised about the clarity of the current guidance which requires data to be published for at least 24 hours. ESMA therefore suggests clarifying in the guidance that the data of the given trading day should be available until the end of the following trading day in case of post-trade data. In case of pre-trade delayed data, ESMA proposes that the data should be published until more recent data is available, i.e. without the need to maintain historical information.</p>	
24	<p><i>Which use cases of post- and pre-trade delayed data are relevant to you as a data user?</i></p> <p><i>What format of data provision is necessary for these use cases, and especially for pre-trade delayed data?</i></p>	<p>Delayed data: There was agreement between roundtable participants that currently there are only limited use cases for delayed pre-trade data and that this should therefore not be the focus for ESMA's work. Concerning post-trade delayed data, representatives of trading venues and data users expressed opposing views. Trading venue representatives pointed to the very few users accessing data made available via websites and defended the practice of charging for delayed data when users distribute it for a charge or when it is used for commercial purposes ('value-added'). Data users complained about trading venues and APAs making the data available for only a limited period of time and considered that trading venues were excessively charging for delayed data that used to be free of charge under MiFID I. Furthermore, data users considered that website data is only of very limited use since it is not aggregated and checking every trading venue's website would be very burdensome. Therefore, data is generally accessed via data vendors.</p> <p>Another aspect of the delayed data publication is data format. This area also leaves some space for improvement, as 29 entities (38%) do not publish post-trade data in a machine-readable format while 42 trading venues do not publish pre-trade data in a machine-readable format. For 39 entities (51%) there is no possibility to automatize the data extraction. Moreover, data is not always provided for all financial instruments (or classes of financial instruments), but as ISIN by ISIN search. This is the case of 23 entities (30%) for post-trade data and 42 entities (55%) for pre-trade data.</p>	<p>Pre-trade delayed data are relevant to those conducting TCA analysis and other studies of market liquidity. Everyone else would view the venue trading screen for live pricing.</p> <p>Post-trade delayed data is clearly relevant to everyone.</p> <p>The standard formats currently specified are adequate.</p>


25	<p><i>Do you agree with the definitions of data-distribution and value-added services provided in Guideline 16? Please explain.</i></p>	<p>Guideline 16 sets out certain situations where it appears justified that data providers should be paid for their data provision. Should this to further define the concepts of “value-added services” and “data distribution”. This was considered necessary since in practice certain data providers considered any use of delayed data by commercial users as a “value added service” for their business, and therefore subject to a fee. ESMA disagrees with this broad interpretation and suggest limiting the definition of “value-added services” to those activities where a product created on a basis of delayed data is sold for a fee.</p>	<p>Makes little clarity</p>
26:	<p><i>Do you have any further comment or suggestion on the draft Guidelines? Please explain.</i></p>		<p>Focus needs to remain on the low latency post trade data.</p>
27:	<p><i>What level of resources (financial and other) would be required to implement and comply with the Guidelines and for which related cost (please distinguish between one off and ongoing costs)?</i></p> <p><i>When responding to this question, please provide information on the size, internal set-up and the nature, scale and complexity of the activities of your organisation, where relevant.</i></p>	<p>In order to comply with the set of guidelines, total costs are the sum of:</p> <ul style="list-style-type: none"> • revenues given up • costs borne to set up systems • Costs borne to carry on systems • Costs to run separate processes and compliance in EU and in UK 	

- ii. *On 1 September, the FCA extended the deadline to its open call for input on accessing and using wholesale data until 7 January 2021.*
- iii. It notes that the roundtables that had been due to be held at the end of April have also been postponed. The FCA will confirm timings for the rescheduled roundtables later in the year as well as the timings for the Feedback Statement.
- iv. The Call for input aims to identify possible issues caused by the changing use and value of data and decide whether the FCA needs to do further work to assess or address harm. [Read more](#)

d. UK Government

- i.  [UK Chancellor opens new chapter in Brexit negotiations _ Compliance .pdf](#)
- ii.  [UK Chancellor statement to the House – Financial Services; 9 November 2020.pdf](#)
 1. [FCA responds to Treasury announcement on equivalence](#)
 2. [FCA responds to Chancellor's statement on future of UK financial services](#)
- iii.  [UK Government updates anti-money laundering legislation in preparation for the upcoming conclusion of the Brexit transition period _ Financial services_ Regulation tomorrow.pdf](#)
- iv.  [HMT; FINAL_TCFD_ROADMAP; 09Nov2020.pdf](#)


e. ESMA / EBA

- i.  [esma_wp_4_2020_hft_and_ghost_liquidity.pdf](#)
- ii. [ESMA adds UK venues to opinions on third-country trading venues](#)
- iii. [ESMA Publishes Shortlist of Candidates for Position of Chair](#)
- iv. [ESMA Sets Out Its Final View on the Derivatives Trading Obligation \(DTO\)](#)
- v. [ESMA Publishes First Overview of the Size and Structure of EU Securities Markets](#)
- vi. [EU Derivative Clearing Showed Strong Growth In 2019](#)
- vii. [ESMA Issues Latest Double Volume Cap Data](#)
- viii. [ESMA Releases Report on Post Trade Risk Reduction Services](#)
- ix. [ESMA Issues Latest Double Volume Cap Data](#)
- x. [ESMA Updates Q&A on Benchmarks Regulation](#)
- xi. [ESMA Consults on MIFID II/ MIFIR Obligations on Market Data](#)

f. Consultation Responses

- i. [EVIA Response to ESMA CP; MiFIR review report on the obligations to report transactions and reference data; 20 November 2020.pdf](#)
- ii. [EVIA Response to ESMA Consultation Paper on MiFID II MiFIR review on the functioning of Organised Trading Facilities \(OTF\); 25 November 2020.pdf](#)
- iii. [Joint Associations Letter on the BMR third country regime_20112020.pdf](#)

g. IFPR – IFR

- i. IFR no news
- ii. IFPR: (Back to December 2021 now)
 1. CBA - Call with FCA Quentin Lloyd & Alison Wade on 17th Nov
 2.  [EVIA Collected Responses to FCA IFPR Questionnaire.pdf](#)
 3. FCA-IFPR-CBA-Survey FCA-IFPR-CBA-Survey@fca.org.uk - We just wanted to follow up on our discussion regarding the deadline to submit

responses to the survey. We have decided to extend this to the 18th of January, which should hopefully give firms more time.

- iii. [Joint statement on the implementation of prudential reforms in the Financial Services Bill](#)

h. PTNGU: US Rule Finalisation started in October and ClarusFT study on volumes

- i. [ClarusFT; Anonymous Trading on SEFs; Chris Barnes; November 24, 2020.pdf](#)

i. AML / KYC

- i. **JMLSG Update:** note from Carol Smit at the JMLSG, they are considering a possible press-release and/or FCA/HMT liaison relating to gaps that may be consequential from Brexit (depending on the profile / risk / objective). If you have any potential gaps (eg: STRs, AML, KYC, monitoring) risks or other points that need to be brought up in the JMLSG meeting please do feed them in.

1. **As per ongoing discussions, JMLSG continues to think about a possible press release relating to Brexit.** We recognise that this a 'moving' issue and we may only have further clarity later in December. It would be useful if trade associations could highlight any potential issues that they have identified so far. For example, UKF has flagged certain sections in the Guidance regarding FTR payment information exemptions (1.13 and 1.14 in Part III), which would not be accurate in the event of a no deal. This will be on the agenda for discussion at the next Board meeting (9th December), so it would be appreciated if you would give this some thought.
2. Carol Smit; Draftsman and Company Secretary; The Joint Money Laundering Steering Group (JMLSG)


ii. UK Government updates anti-money laundering legislation in preparation for the upcoming conclusion of the Brexit transition period

1. The changes which took effect from 6 October 2020 are predominantly to provide clarification as follows:
 - a. When the customer is the beneficiary of a life insurance policy, the new obligations elaborate that firms must "consider the nature and identity of the beneficiary of the policy when assessing whether there is a high risk of money laundering or terrorist financing" and then use this to determine the nature of controls to be put in place to manage and mitigate the risks identified
 - b. Credit or financial institutions maintaining correspondent relationships from a third country must apply additional enhance due diligence (EDD) measures only where these relationships involve the execution of payments.
 - c. With respect of the use of electronic identification in Know Your Customer (KYC) checks, the new regulation clarifies that the source of this information should provide the firm with comfort




“to a degree that is necessary for effectively managing and mitigating any risk of money laundering and terrorist financing”.

2. The key changes which come into force on 6 April 2021 relate to provisions for trusts (including additional trusts to be included on the trust register) following the UK Government’s technical consultation earlier this year)
3. Finally, on 10 March 2022, regulations extending the existing obligation to report discrepancies in beneficial ownership registers will come into force in relation to trusts.

j. Market Conduct Fines

- i. [FCA fines TFS-ICAP £3.44 million for market misconduct](#) ( [tfs-icap-2020.pdf](#))
- ii. [FCA bans three individuals from working in the financial services industry for non-financial misconduct](#)
- iii. [FCA warns firms to be responsible when handling client data](#)
- iv. [FCA charges Richard Jonathan Faithfull with one offence of money laundering](#)
- v. [Stephen Allen pleads not guilty to conspiracy to pervert the course of justice](#)

k. Energy & ACER

- i.  [REMITQuarterly_Q3_2020_1.0.pdf](#)
 - ii. Please see recap/follow-up note from ACER below. Are there comments beyond those in that meeting that need to feed into the TRUM request for comments?
 - iii.  [20201120_Open-Letter-on-impact-of-Covid-19-on-compliance-deadlines-under-REMIT-1.pdf](#)
1. **Proposal [operating MIC]**
 1. The List of OMPs should be a list of distinct legal entities and not a list of segments
 2. Could the operating MIC be provided by all OMPs (*reported records can still contain other codes*)
 3. Action: ACER will reach out to every listed OMP and ask to provide the operating MIC and to review the current listing
 4.  [ACER_REMIT_TRUM_Annex II_Examples_v4_for cons.pdf](#)
 2. **Approaching DQ in the systematic way DQ indicators thresholds** (*4[https://documents.acer.remit.eu/category/acer-staff-letters/2020/]th Open Letter on REMIT data quality -> ACER has observed incompleteness and inconsistency in data sets referring to particular OMPs*)
 1. Reporting of inaccurate Transaction timestamps
 2. Inaccuracy of reported quantity and amount related fields when compared with each other and the reported delivery profile (*including inaccurate delivery profile definition*)
 3. Spread and swap contract reporting
 4. Beneficiary ID and Trading capacity of the market participant reporting (hereinafter Trading capacity)
 3. **ACER's perspective on How to continuously improve from the OMP perspective?**

1. *Make sure accuracy controls are in place*
2. *Business or system changes should not lead to non-compliant transaction reporting*
3. *Make sure TRUM compliance is assured at the source of the data*
4. *Awareness raising among clients*
4. **TRUM Annex II revision**
 1. Update and align the content with the last version of TRUM 4 0 (e.g cardinality fields)
 2. Discussion around 3.18 / 3.22 Sleeves was postponed - LEBA pre-letter to ACER noting that it was better as it was
 3. Include new examples on SIDC and SDAC reporting
 4. Include additional examples (e.g within day contracts, day after markets, sleeve trades, vertically implied orders, etc based on ACER analysis and on the interaction with NRAs and stakeholders)
 5. Provide the description of each example (today provided only for Table 2 examples)
 6. Fix inconsistencies and typos in the existing examples
 7. Provide more examples on lifecycle events
 8. Inputs and feedback will be collected via the dedicated survey until the end of 2020
 9. In case of specific issues, or need for additional clarifications, OMPs might be contacted bilaterally
 10. The outcome of the consultation will be shared by the end of February 2021
 11. TRUM Annex II 4 0 and TRUM 4 1 to be published by the end of March 2021

j. FSB / IOSCO

1. [Regulatory and Supervisory Issues Relating to Outsourcing and Third-Party Relationships: Discussion paper](#); *Public consultation on the FSB's discussion paper.*
2. [The implications of climate change for financial stability](#); *Report analyses the potential cross-border transmission and amplification of climate-related risks and sets out next steps.*
3. [Reforming Major Interest Rate Benchmarks: 2020 Progress report](#); *Annual report sets out progress in implementing interest rate benchmark reforms and stresses need for increased action in 2021.*
4. [Holistic Review of the March Market Turmoil](#); *Analysis of market reaction to COVID-19 and the FSB's work programme to address non-bank financial intermediation risks.*
 1. [IOSCO Annual Meeting addresses the impact of COVID 19 and other critical matters on securities markets](#)
5. [FSB Chair's letter to G20 Leaders: November 2020](#); *FSB Chair Randal K. Quarles' letter to the G20 Leaders ahead of their November virtual summit.*
6. [COVID-19 pandemic: Financial stability impact and policy responses](#); *Update to G20 Leaders on the impact of COVID-19 on the financial system.*
7. [Guidance on Financial Resources to Support CCP Resolution and on the Treatment of CCP Equity in Resolution](#); *Final guidance on financial resources for CCP resolution.*
8. [Implementation and Effects of the G20 Financial Regulatory Reforms: 2020 Annual Report](#); *2020 annual report to the G20 on the implementation and effects*


of the financial regulatory reforms. [2020 list of global systemically important banks \(G-SIBs\)](#) - Thirty banks identified as G-SIBs through the annual identification process

ii. Notable Links


1. [OTC-Derivatives-Compliance-Calendar-01December2020.pdf](#)
2. [EVIA Response to ESMA CP; MiFIR review report on the obligations to report transactions and reference data; 20 November 2020.pdf](#)
3. [EVIA Response to ESMA Consultation Paper on MiFID II_MiFIR review on the functioning of Organised Trading Facilities \(OTF\); 25 November 2020.pdf](#)
4. [Joint Associations Letter on the BMR third country regime_20112020.pdf](#)
5. [Key-Trends-in-the-Size-and-Composition-of-OTC-Derivatives-Markets-in-the-First-Half-of-2020.pdf](#)
6. [SSMA-Recommendation-on-bond-market-transparency-Nov-2020.pdf](#)
7. [public_register_for_the_trading_obligation.pdf](#)
8. [KempLittle - Culture, conduct and Covid- 19; managing standards and surveillance in a remote working environment.docx](#)
9. [UK Government updates anti-money laundering legislation in preparation for the upcoming conclusion of the Brexit transition period_ Financial services_ Regulation tomorrow.pdf](#)
10. [AFME Letter to EU and ECON regarding CMU Forward plan; 01Dec2020.pdf](#)
11. [broadridge-the-growing-need-to-invest-in-derivatives-post-trade.pdf](#)
12. [ClarusFT; Anonymous Trading on SEFs; Chris Barnes; November 24, 2020.pdf](#)
13. [LCH_The_Future_Impact_of_UMR.pdf](#)
14. [FCA FIRDs&FITRs First Industry Roundtable; 17Nov20.m4a](#)
15. [EVIA OTF CP Zoom Meeting #7; \[Wednesday 25th @ 1100\]; Join Zoom Meeting; <https://us02web.zoom.us/j/88904580619>](#)
16. [FCA MiFID Onshoring Round Table 1400 Tuesday 17th November 2020.pdf](#)
17. [Reverse solicitation on MiFIR under Brexit – some thoughts.pdf](#)
18. [ClarusFT; SOFR Swaps on SEFs; Amir Khwaja; November 18, 2020.pdf](#)
19. [Brexit_ Towards the End of the Transition Period – International Swaps and Derivatives Association.pdf](#)
20. [ISDA - BMR third country regime_20112020_FINAL.pdf](#)
21. [esma_wp_4_2020_hft_and_ghost_liquidity.pdf](#)
22. [FIA SEF Tracker Overview \(October 2020\).pdf](#)
23. [Trayport-Commodities-Report-Oct-2020.pdf](#)
24. [FX trade volume report October 2020.pdf](#)
25. [AFME_TechnologyInnovation_FINAL.pdf](#)
26. [esma70-156-2477_cp_guidelines_on_market_data.pdf](#)
27. [Oktris Web Portal Launch – includes Oktris FIRDS; 06112020.pdf](#)
28. [EVIA LEBA Monthly Compliance Meeting Agenda; Wednesday 04th November 2020.pdf](#)
29. [OTC-Derivatives-Compliance-Calendar-2020-11-1.pdf](#)
30. [Code circulation 16th October 2020.pdf](#)
31. [CPR Brussels engagement - readout \[external\].pdf](#)

-
32. [UK fires warning shot at Brussels over post-transition share trading _ Financial Times.pdf](#)
 33. [The Swap Episode 4: What Next for US Financial Markets Regulation?](#)
 34. [ISDA In Review – November 2020](#)
 1. [ISDA Statement on IBA, UK FCA and Federal Reserve Board Announcements on US Dollar LIBOR Consultation](#)
 2. [IQ in Brief: Trading Book Capital](#)
 3. [ISDA Statement on IBA and UK FCA Announcements on LIBOR Consultations](#)
 4. [ISDA Response to ESMA Consultation on Fees for Benchmark Administrators Under BMR](#)
 5. [ISDA Response to “Draft Guidelines on common procedures and methodologies on supervisory review and evaluation process of CCPs under Article 21 of EMIR”](#)
 6. [Legal Guidelines for Smart Derivatives Contracts: Foreign Exchange \(FX\) Derivatives](#)
 7. [ISDA-Clarus RFR Adoption Indicator: October 2020](#)

iii. **Brexit MA.**

- a. Brexit - [Summary of FCA Trade Association roundtable](#) on 23rd October 2020
 - i. [Recording](#)
- b.  [Note of Meeting with UK MIS on Brexit Negotiations State of Play & Policy Wishlists 1300 Tuesday 20th October 2020.pdf](#)
- c.  [HMT response to HL EU Services Sub-Committee on post-Brexit relationship in financial services; 08Oct2020.pdf](#)
- d.  [eu_exit_remit_comms_- oct_20_update_0.pdf](#)
- e.  [Stock exchanges prepare to activate their Brexit contingency plans _ Financial Times.pdf](#)
- f.  [Post-Brexit-the-way-ahead-in-international-capital-markets-081020.pdf](#)
- g.  [london-recharged-our-vision-for-london-in-2025.pdf](#)

iv. **MiFID2.2/ MiFIR**


- a. [FCA announces benefits of new data collection platform RegData](#)
 - i. RegData will replace Gabriel as the FCA’s data collection platform. RegData is informed by user feedback, is faster, easier to use and built with flexible technology, making it possible to fix issues quicker and to make ongoing improvements to user experience.
 - ii. RegData is central to our [Data Strategy](#) which sets out our plan to harness the power of data and advanced analytics to transform financial regulation.
- b. [FCA statement on the share trading obligation](#) / [FCA sets out its approach to the share trading obligation](#)
- c. [FCA responds to Treasury announcement on equivalence](#) / [FCA responds to Chancellor's statement on future of UK financial services](#)
- d. [EVIA Response to ESMA CP; MiFIR review report on the obligations to report transactions and reference data; 20 November 2020.pdf](#)
- e. [EVIA Response to ESMA Consultation Paper on MiFID II MiFIR review on the functioning of Organised Trading Facilities \(OTF\); 25 November 2020.pdf](#)
- f.  [AFME Letter to EU and ECON regarding CMU Forward plan; 01Dec2020.pdf](#)

-
- i. **Market Structure:** A strong and competitive trading ecosystem is vital to support equity markets and enhance the attractiveness of EU financial centres.
 - ii. We agree that robust price formation and market liquidity is best protected by a wide diversity of trading mechanisms which is key for ensuring market resilience.
 - iii. A diverse and well-regulated capital market, with a range of trading mechanisms and not being reliant upon one category of trading venue, better supports the needs of investors and consumers' pensions and savings.
 - iv. Financial markets policy should be driven by robust data analysis and focus on bringing benefits to end investors and issuers.
 - v. **MiFID:** To promote competitive European capital markets that foster innovation it will be important to reassess the benefits and costs of the share trading obligation and double volume caps and preferably revoke these requirements.
 - vi. We support the CMU Action Plan action to establish an effective and comprehensive post-trade consolidated tape.
 - vii. A well-designed consolidated tape infrastructure would not solve the data cost issue, but it has the potential to democratise access to European markets by providing all investors with a comprehensive and standardised view of the European trading environment.
 - viii. It is also essential to tackle persistent problems regarding the high cost of market data, a significant market failure harming investors, consumers, and investment firms in the single market.
 - ix. This could be addressed by implementing ESMA's recommendations and considering further Level 1 solutions.
 - x. Transparency requirements for fixed income instruments should continue to be calibrated for different types of financial instruments and take into account different market liquidity profiles.
 - xi. The value of banks' risk-intermediated trading in the heterogenous fixed income markets must be recognised to avoid negative impacts on liquidity provision.
 - xii. It is essential to have a well-calibrated deferrals regime that reflects the risk taken on by market makers when providing liquidity.
 - xiii. Standardised information that is not adapted to the needs of professional clients and eligible counterparties, who are sophisticated and have negotiating power, should not be required as it creates costs without any appreciable benefit.
 - xiv. **CSDR:** It is vital to revisit the settlement discipline regime ahead of its implementation and the mandatory obligation on investors to execute buy-ins in the review of the CSD Regulation.
 - xv. The current requirement will harm market liquidity, especially in times of stress, such as the periods of volatility seen this year in the context of the Covid-19 pandemic.
 - xvi. **Banking Prudential/Trading book:**
 - xvii. On the market risk framework / FRTB, there is a need for a globally consistent implementation to avoid fragmenting connected markets and limiting investor access.

-
- xviii. Furthermore, some remaining calibration issues should be considered to avoid significant increases to capital that banks are required to hold against market-making positions (e.g. treatment of Collective Investment Undertakings, risk factor modellability standards and floor of the default risk charge that impacts government bond trading), with beneficial results also in terms of liquidity of markets themselves.
 - xix. On SA-CCR, urgent action is needed to address various design and calibration issues before the rules become applicable in mid-2021.
 - xx. In particular, the EU should remove the "alpha factor" for transactions with end-users, as other major jurisdictions have done (e.g. the US).

v. Benchmarks and LIBOR Topics

- a. [FCA response to IBA's proposed consultation on intention to cease US\\$ LIBOR](#)
- b. [FCA consults on new benchmarks powers](#)
- c. *... and noting that ECON finally passed the third countries extension yesterday (having inserted their firebreak end 2023) - so wrt the use of benchmarks and settlement prices to swaps, UK/EU both fungible to each other and 3rd Countries for the foreseeable*
 - i. On 30 November 2020, the EU Parliament and Council [reached agreement](#) on [Commission-proposed](#) amendments to the [BMR](#). In anticipation of LIBOR's end' 2021 demise, the amendments give the Commission to power to propose replacement for the benchmark categories:
 - ii. "critical" benchmarks, which influence financial instruments and contracts with an average value of at least €500 billion and could thus affect the stability of financial markets across Europe;
 - iii. benchmarks with no, or very few, appropriate substitutes whose cessation would have a significant and adverse impact on market stability;
 - iv. third country benchmarks whose cessation would significantly disrupt the functioning of financial markets or pose a systemic risk for the financial system in the Union.
 - v. Parliament and Council strike a deal on the orderly termination of benchmarks - [ECON](#)
 - vi. Negotiators agreed on provisions to ensure EU financial market stability, ahead of the expected cessation of the London Interbank Offered Rate (LIBOR) in 2021.
 - vii. [Caroline Nagtegaal](#) (Renew, NL), the lead MEP on behalf of the Economic and Monetary Affairs committee, said: "I am pleased that Parliament's negotiating team has today reached a deal with the Council on this very important file. All the institutions stepped up their efforts to come to a swift agreement to ensure that the phasing out of widely-used benchmarks does not threaten financial stability within the European Union."
 - viii. Key elements of the deal - if necessary, the European Commission will be granted power to replace:

-
- ix. “critical” benchmarks, which influence financial instruments and contracts with an average value of at least €500 billion and could thus affect the stability of financial markets across Europe;
 - x. benchmarks with no, or very few, appropriate substitutes whose cessation would have a significant and adverse impact on market stability;
 - xi. third country benchmarks whose cessation would significantly disrupt the functioning of financial markets or pose a systemic risk for the financial system in the Union
 - xii. EU market participants will be able to use benchmarks administered in a country outside the EU until the end of 2023. The Commission will be empowered to adopt a delegated act by 15.06.2023 to prolong this extension by maximum two years until 31/12/2025, but such an extension will have to be duly motivated. The Commission will also prepare the report on legislative review by 15.06.2023 (accompanied where appropriate and motivated, by a legislative proposal).
 - xiii. Next steps; Technical work on the text is now being carried out by the services of the three institutions. Thereafter, the agreement must be approved by the Economic and Monetary Affairs Committee and the Parliament as a whole.
- d. [ECB: Third roundtable on euro risk-free rates on 14 December 2020](#)
 - i. On this occasion, the focus of the event will be the fallbacks for EURIBOR, where working group on euro risk-free rates members will guide
 - ii. the audience through the recently launched public consultations on [EURIBOR fallback trigger events](#) and [€STR-based EURIBOR fallback rates](#).
 - e.  [ISDA - BMR third country regime_20112020_FINAL.pdf](#)
- vi. **SFTR**
 - a. [First edition of the ICMA ERCC's Repo and Collateral Newsletter – read about our work and other market news](#)
- vii. [US, No-Action, Interpretative Letters, Other Written Communications, and Advisories](#)
 - a. CFTC’s Market Participants Division and Division of Market Oversight have [extended](#) previously granted temporary no-action letter for UK trading venues to ensure continuity of derivatives trading between the UK and U.S. clients after the end of a transitional period.
 - b. CFTC Exempts Additional Singapore Recognized Market Operators from SEF Registration Requirements
 - i. The Commission today announced that it unanimously approved an amended order that exempts eight Recognized Market Operators (RMOs) authorized within Singapore from CFTC swap execution facility (SEF) registration requirements. The exempted RMOs are BGC Partners (Singapore) Ltd., Euronext Markets Singapore Pte Ltd., GFI Group Pte Ltd., ICAP (Singapore) Pte Ltd., Nittan Capital Singapore Pte Ltd., Refinitiv Transaction Services Pte Ltd., TFS Currencies Pte Ltd., and Tullett Prebon (Singapore) Limited.

-
- ii. Section 5h(g) of the Commodity Exchange Act (CEA) provides that the CFTC may grant such an exemption if it finds that a foreign SEF is subject to comparable, comprehensive supervision and regulation by the appropriate governmental authorities in the facility's home country. The CFTC may likewise revoke exempt status when a facility is no longer authorized and/or in good standing in its home country.
 - iii. On March 13, 2019, the CFTC issued an order determining that the Monetary Authority of Singapore (MAS) regulatory framework for Approved Exchanges (AEs) and RMOs satisfies the standard in CEA section 5h(g) to exempt a SEF from registration with the CFTC. [See CFTC Press Release No. [7887-19](#)] Under the order, MAS is empowered, on an ongoing basis, to request such exemption for facilities meeting certain legal requirements within Singapore. MAS also agreed to notify the CFTC when an AE or RMO no longer satisfies those requirements, and to request the non-compliant facility be removed from exempt status.
 - iv. This amendment brings the total number of [exempted AEs and RMOs](#) to 13.
 - v. CFTC Exempts Additional Singapore Recognized Market Operators from SEF Registration Requirements; Commission Tuesday announced that it unanimously approved an amended order that exempts eight Recognized Market Operators (RMOs) authorized within Singapore from CFTC swap execution facility (SEF) registration requirements. The exempted RMOs are BGC Partners (Singapore) Ltd., Euronext Markets Singapore Pte Ltd., GFI Group Pte Ltd., ICAP (Singapore) Pte Ltd., Nittan Capital Singapore Pte Ltd., Refinitiv Transaction Services Pte Ltd., TFS Currencies Pte Ltd., and Tullett Prebon (Singapore) Limited. [/jline.ws/3oVsueQ](#)
 - vi. Statement of Chairman Heath P. Tarbert in Support of Final Amendments to the Part 50 Clearing Requirements; I am pleased to support today's final rule amending the CFTC's Part 50 rules, which implement the swap clearing requirement of section 2(h)(1) of the Commodity Exchange Act (the Clearing Requirement). The final rule concurrently achieves two ends—it demonstrates the CFTC's evolving philosophy on comity and deference towards our international counterparts while alleviating unnecessary regulatory burdens on small domestic institutions that look nothing like Wall Street banks. [/jline.ws/388U0jo](#)
- c. [CFTC Staff Letter No. 20-35](#); Letter Type: No-Action; Division: DMO; Regulation Parts: [43.2](#) - Tags: Block Trades, SEF; Issuance Date: 11/13/2020 ; Description: Extension of No-Action Relief for Swap Execution Facilities from Certain "Block Trade" Requirements in Commission Regulation 43.2 - Dorothy DeWitt**
- i. This letter responds to a request from the Wholesale Markets Brokers' Association, Americas ("WMBAA") to the "DMO". In particular, WMBAA requested that the Division extend the relief provided in CFTC Staff Letter No. 17-60.
 - ii. CFTC Staff Letter No. 17-60 provides that the Division will not recommend enforcement action against a "SEF" that has rules and/or procedures that provide for the use of the SEF's non-order book trading systems or platforms to facilitate the execution of block trades for swaps that are intended-to-be-cleared ("ITBC"), and thus are not compliant with Commission regulation 43.2, provided that certain conditions set forth in the letter are met.
 - iii. The relief was provided in part to allow the Division to assess swap block trades, including the potential of a permanent solution for SEFs from the

- requirement in Commission regulation 43.2 that a swap block trade must “[o]ccur[] away from the registered [SEF’s]... trading system or platform.”
- iv. On September 17, 2020, the Commission adopted a final rule (the “Part 43 Real-time Public Reporting Rules”) amending certain real-time public swap reporting and dissemination requirements.
 - v. Real-Time Public Reporting Requirements, www.cftc.gov/media/4776/federalregister091720a/download
 - vi. In particular, the Part 43 Real-time Public Reporting Rules amended the definition of “block trade” to allow block trades for ITBC swap blocks to be executed on a SEF’s non-order book trading systems or platforms codifying the relief provided in CFTC Staff Letter No. 17-60.
 - vii. As defined in the WMBAA letter and as used in this letter “Implementation Date” means the compliance date when revisions to Commission regulation 43.2 redefining “block trade” that were approved by the Commission on September 17, 2020 are implemented. WMBAA Letter at 1.
 - viii. Division staff notes that the term “Compliance Date” set forth in the Part 43 Real-time Public Reporting Rules means 18 months after the “Effective Date” for most of the Part 43 Real-Time Public Reporting Rules except in the case of new §§ 43.4(g) and 43.6 and the new block and cap sizes, which have a compliance date of 30 months after the effective date.
 - ix. Upon the Implementation Date of the amended definition of “block trade,” the relief provided CFTC Letter No. 17-60 will no longer be necessary. DMO staff notes that once a final rule becomes effective market participants may comply with those rules.
 - x. However, until such time, WMBAA represents that “to avoid any market disruptions pending the Implementation Date [of the Part 43 Real-time Public Reporting Rules], market participants will continue to require a solution to transact block trades on a SEF.”
 - xi. As such, WMBAA believes CFTC Letter No. 17-60 should be extended to allow SEFs and market participants to continue operating under the status quo until the Implementation Date of the amended definition of “block trade” in the Part 43 Real-time Public Reporting Rules.
 - xii. The Division notes that while block trades may not be facilitated through a SEF’s order book functionality, pursuant to this no-action relief, SEFs are permitted to use request-for-quote (“RFQ”) functionalities to facilitate the execution of a block trade. The Division notes also that a block trade executed through a SEF’s RFQ functionality pursuant to this no-action relief would not be subject to the minimum participant requirement set forth in Commission regulation 37.9(a)(3). Finally, the Division notes that trades above the minimum block size may occur on the SEF’s order book; however, they will not receive treatment as block trades and will not be afforded a reporting time delay
 - xiii. To comply with the requirements set forth in the block trade definition in Commission regulation 43.2. Specifically, the block trade must:
 - xiv. 1. involve a swap that is listed on a registered SEF;
 - xv. 2. be executed pursuant to the SEF’s rules and procedures;
 - xvi. 3. meet the notional or principal amount at or above the appropriate minimum block size applicable to the swap; and
 - xvii. 4. be reported to a swap data repository pursuant to the SEF’s rules and procedures and the Commission’s rules and regulations.

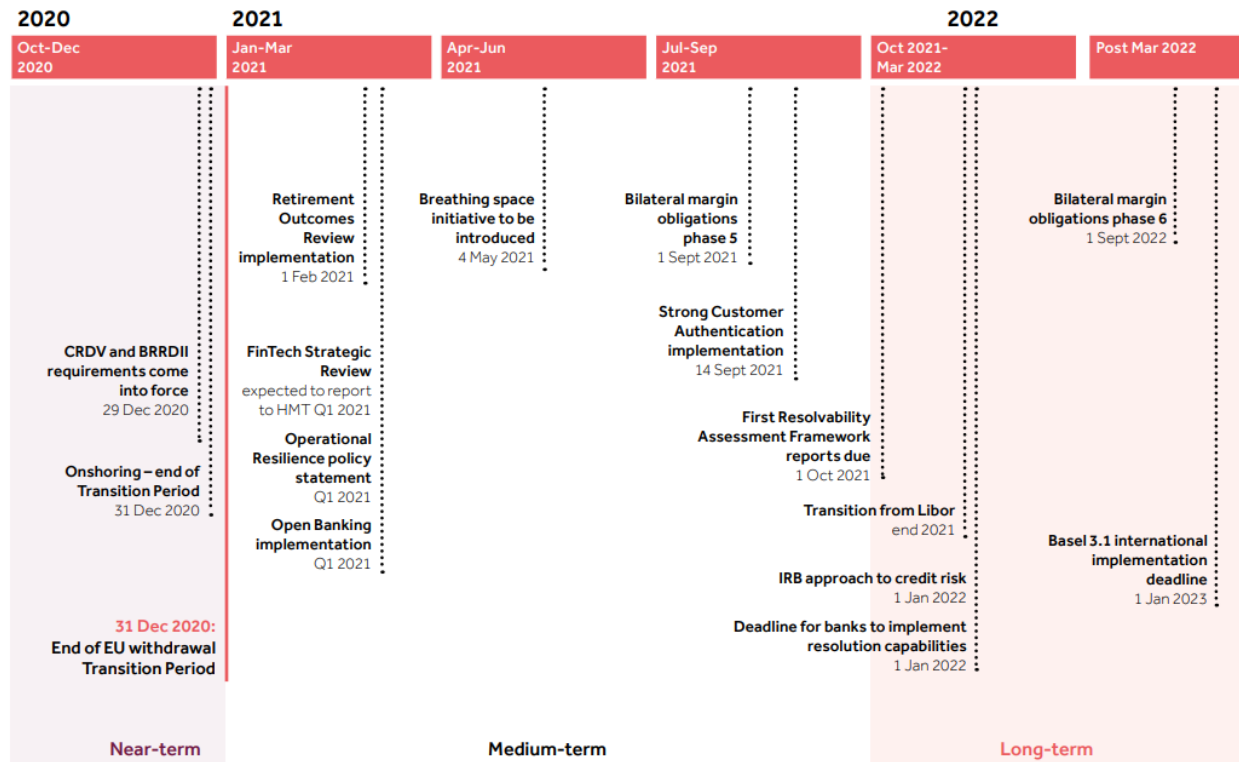
- xviii. The futures commission merchant (“FCM”) completes the pre-execution credit check pursuant to Commission regulation 1.73 at the time the order for a block trade enters the SEF’s non-order book trading system or platform;¹⁴ and
- xix. The block trade is subject to void ab initio requirements where the swap is rejected on the basis of credit.
- xx. Among other things, SEFs must facilitate pre-execution screening by each Clearing FCM on an order-by order basis. Staff confirms that if a SEF permitted the execution of an intended to be cleared swap, whether on or subject to the rules of a SEF, without a pre-execution credit check, it would be in violation of Commission regulation 37.702(b). Specifically, in the case of block trades, where counterparties use the SEF’s credit check functionality, as currently allowed, the execution of that transaction must happen after the credit check on SEF. If parties want to execute a block trade away from a SEF, the parties to the trade must obtain a credit check before this execution.
- xxi. Therefore, WMBAA requests that the Division extend CFTC Letter No. 17-60 until the earlier of December 30, 2022 or the Implementation Date of the of Part 43 Real-time Public Reporting Rules.

viii. Compliance Horizon Topics: Table

Compliance Horizon Topics:	Topics
Venue Compliance	MiFID2/R Refit Process [ESMA / NCAs]
	MiFID2.2 Review [FISMA]
	Reference Data: FIRDs/ FITRs/
	ANNA-DSB
	Reporting/ Reference Data:
	EMIR, Margin and Post-Trade
	CSDR Implementation
	SFTR Implementation
	CFTC
	AML_KYC Subgroup
	ACER Topics
Off Venue Compliance	FX Spot:
	Money Markets: Code of Conduct 3 year Review
	Role of Agency
	Exchange Block Rules
	Benchmarks
	Commodities Topics
	CBDCs, Crypto-Assets and Stablecoins
Conduct / People	Work from Home Office Supervision

	Fines /investigations
	Broker Gifts and Entertainment
	FMSB
	Training / Apprenticeships
Operational Risk / Prudential	IFR Level 2
	Pillar 2 Add-ons
RegTech, FinTech & CyberCrime Topics	
EVIA/LEBA Weekly Roundups for November 2020	<ol style="list-style-type: none"> Weekly update on Key Regulatory Topics; Week 47; 23rd November 2020 to 30th November 2020.pdf or here Weekly update on Key Regulatory Topics; Week 46; 16th November 2020 to 21st November 2020.pdf or here Weekly update on Key Regulatory Topics; Week 45 - 09th November 2020 to 14th November 2020.pdf or here Weekly update on Key Regulatory Topics (Week 44; 02nd November 2020 to 07th November 2020) or here

Looking Forward



December 1, 2020	US	Expiration of an extension of relief from Parts 45 and 46 for swaps with non-US counterparties that are not guaranteed affiliates, or conduit affiliates, of a US person (CFTC Letter No. 17-64) (previously No. 16-79). Applies to CFTC-registered SDs and MSPs that are non-US persons established under the laws of Australia, Canada, the EU, Japan or Switzerland, and that are not part of an affiliated group in which the ultimate parent entity is a US: SD, MSP, bank, financial holding company or bank holding company.
Expected Q4 2020	US	Expected effective date for the FDIC, Federal Reserve, FCA, OCC and FHFA swap margin rules exempting interaffiliate swaps from initial margin requirements and allowing swaps to maintain legacy status when amended to replace an IBOR.
December 7, 2020	HK	AIDG 1.7 becomes effective for HKTR reporting.
December 20, 2020	EU	The three-year derogation from non-cleared margin rules for intragroup transactions concerning entities located in third-country jurisdictions where no EMIR Article 13(2) equivalence determination is in place is extended until December 20, 2020. Following this date, in the absence of an extension, intragroup transactions in derivatives in scope of the

		non-cleared margin rules, between EU entities and entities located in non-equivalent third-countries, would need to be margined in compliance with the Margin RTS (Commission Delegated Regulation (EU) 2016/2251).
December 20, 2020	EU	<p>The first three-year derogation from the clearing obligation for intragroup transactions concerning entities located in third-country jurisdictions where no EMIR Article 13(2) equivalence determination is in place expired on December 21, 2018.</p> <p>On October 31, 2018, ESMA published a statement to ask national competent authorities to not prioritize their supervisory actions towards group entities that benefit from the derogation for intragroup transactions meeting certain conditions on and after December 21, 2018, pending adoption of a Commission Delegated Regulation extending the derogation. In April 2019, ESMA has proposed extending the derogation until December 21, 2020.</p> <p>On April 29, 2019, Commission Delegated Regulation 2019/667, amending Delegated Regulation 2015/2205 was published in the Official Journal of the European Union, extending the derogation from the clearing obligation for intragroup transactions concerning third country affiliates until December 21, 2020.</p> <p>Following December 21, 2020, in the absence of another extension, intragroup transactions in G4 currency interest rate swaps or credit derivatives (where relevant) subject to the clearing obligation, between EU entities and entities located in non-equivalent third-countries, would need to be cleared through a CCP, in compliance with the relevant Clearing RTS.</p>
December 24, 2020	US	Effective date for SEC and CFTC Customer Margin for Security Futures Rules, available at: https://www.sec.gov/rules/final/2020/34-90244.pdf
December 30, 2020	EU	The European Supervisory Authorities (ESMA, EBA, EIOPA) shall submit the draft Regulatory Technical Standard (RTS) specifying the details of the content and presentation of information in relation to the principle of 'do no significantly harm' under the EU Taxonomy Regulation (Article 8).
December 30, 2020	EU	<p>The European Supervisory Authorities (ESMA, EBA, EIOPA) shall submit five Regulatory Technical Standard (RTS) to specify requirements under the sustainability-related disclosures in the financial sector (SFDR), in particular:</p> <ul style="list-style-type: none"> - RTS on website disclosure of adverse environmental sustainability impacts at entity level (Article 4); - RTS on pre-contractual disclosure for products promoting environmental and social characteristics (Article 8); - RTS on pre-contractual disclosure for products with sustainable investment objectives (Article 9); - RTS on promotion of environmental or social characteristics and sustainable investment on websites (Article 10); and - RTS on disclosure in periodic reports (Article 11).

December 30, 2020	US	Effective date for CFTC Swap Clearing Requirement Exemptions (See 85 FR 76428 (November 30, 2020)).
December 31, 2020	Global	The Financial Stability Board (FSB) recommends that regulators implement the CPMI-IOSCO Unique Transaction Identifier (UTI) Technical Guidance to take effect no later than December 31, 2020.
December 31, 2020	US	Expiration of an extension of relief to Eligible Affiliate Counterparties who do not claim the InterAffiliate Exemption from the trade execution requirement (CFTC Letter No. 17-67) (previously No. 16-80).
December 31, 2020	US	Expiration of relief to Eligible Affiliate Counterparties from the Outward-Facing Swaps Condition in the Inter-Affiliate Exemption (CFTC Letter No. 17-66) (previously No. 16-81).
December 31, 2020	EU	Date by which the European Commission has to publish a legislative proposal on the capital requirement regime for commodity trading firms.
December 31, 2020	EU	The European Commission shall adopt delegated acts to specify the technical screening criteria with respect to 'climate change mitigation' and 'climate change adaptation', with a view to ensuring its application from January 1, 2022.
December 31, 2020	UK	End of UK-EU transition period.
Q1 & Q2 2021	EU	As a result of the COVID-19 crisis, the European Commission will is now planning to publish its next banking legislative proposal (CRR III) in Q1 2021. The CRR III will transpose the market risk standards (FRTB) as a binding capital constraint, the output floor, the revised credit valuation adjustment framework, alongside operational and credit risk framework, amongst others. The proposal will also take into consideration the impact of the COVID-19 crisis on the EU banking sector
1H 2021	India	Basel III: Expected SA-CCR implementation.
1H 2021	India	Basel III: Expected implementation of standards for the capitalization of banks' exposures to CCPs.
1H 2021	Korea	Expected designation of critical benchmarks and administrators under the Financial Benchmarks Act.
January 1, 2021	US	Compliance date for FDIC, Fed, OCC, SEC, CFTC Final Rule on Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds (See 84 Fed. Reg. 61974-62277 (November 14, 2019)).
January 1, 2021	EU	The European Commission shall adopt a delegated act, identifying sectors to be excluded from the methodology of Paris-aligned benchmarks under the European Benchmarks Regulation (BMR).
January 1, 2021	Australia	Expected commencement of revised Prudential Standard APS 111 Capital Adequacy: Measurement of Capital, which establishes the criteria for ADIs' regulatory capital requirements.
January 1, 2021	HK	Effective date of the revised Financial Services Providers (FSP) List under the clearing obligation.
January 1, 2021	EU	In the context of EMIR 2.2, ESMA shall submit a draft RTS specifying the conditions under which the Union currencies that are considered as the most relevant (driving representation of central banks in the college)

		and the details of the written agreement between college members (EMIR article 18 (6)).
January 2, 2021	EU	In the context of EMIR 2.2, ESMA shall submit a draft RTS develop draft regulatory technical standards specifying the conditions under which changes to a CCP's models and parameters are significant (EMIR article 49 (5)).
January 2, 2021	EU	The three-year derogation from margin rules in respect of non-centrally cleared over-the-counter derivatives which are single-stock equity options or index option where no EMIR Article 13(2) equivalence determination is in place is extended until January 4, 2021. Following this date, in the absence of an extension, equity option transactions will be in scope of the non-cleared margin rules in compliance with the Margin RTS (Commission Delegated Regulation (EU) 2016/2251).
January 2, 2021	EU	In the context of EMIR 2.2, ESMA has to provide a draft RTS on conditions under which additional services of a CCP require a new authorization and also specifying the procedure for consulting the college established in accordance with Article 18 on whether or not those conditions are met (EMIR 2.2 article 1 (2)).
January 15, 2021	US	<p>Expiry of relief for certain members of DCMs and SEFs from time stamp requirements to facilitate separation of personnel in response to the COVID-19 pandemic (See CFTC Letter No. 20-02)</p> <p>Expiry of relief for FCMs and Introducing Brokers to facilitate physical separation of personnel in response to the COVID-19 pandemic (See CFTC Letter No. 20-03)</p> <p>Expiry of relief for Floor Brokers to facilitate physical separation of personnel in response to the COVID 19 pandemic (See CFTC Letter No. 20-04)</p> <p>Expiry of relief for RFEDs from recording, time stamp requirements due to COVID 19 pandemic (See CFTC letter No. 20-05)</p> <p>Expiry of relief for Swap Dealers from recording, time stamp, requirements due to COVID-19 pandemic (See CFTC Letter No. 20-06)</p> <p>Expiry of relief for SEFs from recording of oral communications, audit trail, and recordkeeping requirements due to COVID-19 pandemic (See CFTC Letter No. 20-07, 20-08)</p> <p>Expiry of relief for DCMs from audit trail and related requirements due to COVID-19 pandemic (See CFTC Letter No. 20-09)</p> <p>Expiry of relief for Insured Depository Institutions from the requirement to include certain swaps when calculating if it exceeds the registration threshold for MSPs, due to COVID-19 pandemic (See CFTC Letter No. 20-10)</p> <p>For extension of this relief see CFTC NAL 20-26</p>
January 25, 2021	US	Effective date for CFTC Reporting Rules: Part 43, Real-Time Public Reporting Requirements; Part 45, Swap Data Recordkeeping and Reporting Requirements; and Part 49, Certain Swap Data Repository and Data Reporting Requirements.

January 31, 2021	Hong Kong	Date by which AIs should be in a position to offer products referencing alternative reference rates to LIBOR, and by which adequate fallback provisions should be included in all newly issued LIBOR-linked contracts that will mature after 2021.
January 31, 2021	US	Compliance date for NFA Swaps Proficiency Requirements, where APs must have completed the requirements (See NFA Notice to Members I-19-09).
January 31, 2021	Malaysia	Commencement of HLA requirements for D-SIBs.
February 19, 2021	US	Expiration of an extension of relief to market participants, DCMs and SEFs from certain Part 45 reporting obligations in connection with the execution of swap transactions accepted for clearing by DCOs exempted from DCO registration or operating pursuant to no-action relief. Relief was also granted pertaining to certain data field reporting requirements in Parts 43 and 45 (CFTC Letter No. 18-03).
March 1, 2021	US; EU; Switzerland; Japan; Canada; Singapore; HK; Australia; Korea; Brazil; RSA	Three-month calculation period begins to determine whether the average aggregate notional amount of derivatives for an entity and its affiliates exceeds relevant threshold for initial margin requirements as of September 1, 2021.
March 10, 2021	EU	Requirements under EU Regulation 2019/2088 on sustainability-related disclosures in the financial sector (SFDR), in addition to those applicable from December 29, 2019, shall apply from March 10, 2021.

Longer term Highlights for the 2021 Regulatory calendar

- **Benchmark Reform**
- The ISDA Fallbacks [Protocol](#) is now open for adherence, and has got off to a promising start, with [271 adherents](#) as of writing. While the Protocol and Supplement are [efficient mechanisms](#) to amend derivative contract fallbacks, reversion to fallback is not the “officially” approved method of amendment. Applying to a wide range of Master and Credit Support Agreements, the Protocol’s coverage is extensive, if not universally supported by accompanying legal opinion. Though it seems likely that this somewhat convoluted method will suffice for adherents’ vanilla legacy derivative portfolios, the Protocol will be of no assistance for a range of more “complex” product types such as swaptions, or packages where the hedge must entirely accord with the underlying. Equally, there is no Protocol for loans or bonds; amendment for each broad product class will require careful bilateral handling, being fraught with the potential for litigation. While some vague hope of respite, in the form of a continued publication of a “synthetic” LIBOR, has been offered by the FCA in respect “difficult” legacy transactions, Regulators have been univocal in their insistence that end’ 2021 will mark the end of the IBORs. The publication of the Protocol and Supplement mark the beginning of the largest repapering exercise yet undertaken by the market.

-
- **IM Phases 5 and 6**
 - The veterans of Phases 1-4 need no reminding of the challenges represented by IM compliance and, with the exception of the Phase 1 custodian-onboarding bottleneck, the introductory phases of IM compliance have been relatively smooth going. Despite Regulatory acknowledgement and assistance via bifurcation and delay, the remaining two phases constitute a hugely significant, if not historic challenge. IM 5 and 6 differ from their antecedents primarily by the vast volume increase- 314 in-scope entities for Phase 5 and a further 775 for Phase 6. This amounts respectively to 3,616 and 5,443 counterparty relationships that require de novo documentation. The volume of Phase 5 alone represents a multiple of all other phases to date- combined. ISDA Create and online portals into the major custodians will introduce some marginal efficiencies, but compliance remains a complex task of negotiating and harmonising multiple documents. The typical new entrant IM “start to finish” time is 18 months, volume multiplication will not compress this timeline. Given the lack of experienced IM resource- 2021 should be the year of IM, regardless of what phase you expect to be. Cancellation of Phase 6, or further delay of either phase, is overwhelmingly unlikely.
 - **CSDR**
 - Delayed first by a lack of regulatory coordination, then by a one year Coronavirus delay, market participants now have at least a chance to comply. The [likely](#) 1 February 2022 deadline is outside this note’s 2021 documentation doom remit, but will impact resources earlier. Although largely operational, requiring systems upgrade and testing to avoid settlement failure and subsequent penalties and buy-ins; the [settlement discipline regime of the CSDR](#) (“SDR”) is also a significant documentation challenge. This is particularly the case for custodians- the regulation requiring bilateral amendment across the board of their clients. While a typical financial firm will only face a limited number of custodians, the SDR imposes an operational burden and another amendment straw on the 2021 camel’s back. While the latest delay has enabled the UK to kick compulsory compliance into the post-Brexit wilderness, the regulation’s extensive extra-territorial effect will compel compliance, largely regardless of location.
 - **BRRD 2**
 - The second Bank Recovery Resolution Directive (“BRRD 2”) and the accompanying second Single Resolution Mechanism Regulation, are due to be transposed into national law by 28 December 2020- temptingly close to the final Brexit date. BRRD 2 introduces an exemption where it would be legally/otherwise impracticable to include a contractual recognition of bail-in, early intervention powers for regulators and a requirement for contractual recognition of resolution stay powers- each and all will require bilateral amendment. While the BoE has indicated that UK-specific compliance will not be expected, forthcoming deadlines will apply in respect of EU counterparties with attendant repapering obligations.
 - **Brexit**
 - While we are hesitant to make any predictions about Brexit, it is clear that whatever last-minute FTA is or is not cobbled together, the parties have run out of time for a comprehensive agreement in respect of financial services. With the exception of “too big not to exempt” LCH, ESMA’s grants of equivalence are now likely to take place post-Brexit, and potentially be (even more) subject to political machination. While both UK and EU firms have prepared by setting up complementary entities and novating

contracts across as applicable, a disorderly financial Brexit poses a number of problems for 2021. A typical example is the confusion in respect of cross-border trade lifecycle events, UK entities will potentially require authorisation by national regulators, such authorisation varying by product and activity. While, not a purely documentation issue, the Brexit aftermath will add a number of stressors to an already manic 2021 legal calendar.

- **Summary**
- LIBOR's demise and IM Phase 5 would each make for a landmark year in the documentation world, in combination they represent a unique challenge. The nearest comparable is the market-wide VM repapering exercise of 2017, during which the market largely failed to comply by the deadline. The added elements of CSDR, BRRD 2 repapering, Brexit unknowns and the additional operational burdens of legislation such as the Shareholder Rights Directive 2, promise to stretch resources to the utmost. To paraphrase Donald Rumsfeld's now-immortal miscommunication, these are the "known knowns" of 2021. If 2020 has taught us anything, it should be the wisdom of having capacity enough to deal with a least a degree of the "unknown unknowns".

Join Zoom Meeting; <https://us02web.zoom.us/j/87953570624>

Meeting ID: 879 5357 0624

One tap mobile

+442030512874,,87953570624# United Kingdom

+442034815237,,87953570624# United Kingdom

Dial by your location

+44 203 051 2874 United Kingdom

Australia	+61 2 8015 6011
Austria	+43 120 609 3072
Belgium	+32 1579 5132
Denmark	+45 32 71 31 57
France	+33 1 7037 9729
Germany	+49 69 3807 9883



European
Venues &
Intermediaries
Association



London
Energy
Brokers'
Association

Ireland	+353 1 653 3898
Netherlands	+31 20 241 0288
Spain	+34 91 787 0058
Switzerland	+41 31 528 09 88
United States of America	+1 646 558 8656(New York)

Find your local number: <https://us02web.zoom.us/j/kclx3Bp3BN>